

Prem 19/2507



SECRET

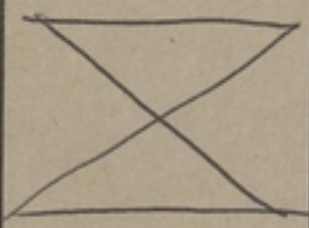
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Security of the Secret Services  
Chapman Pincher's Book 'Their Trade is Treachery' and related papers including  
Sir Roger Hollis  
The Peter Wright Case  
The Joan Miller Book 'One Girl's War'

SECURITY

Part 1: May 1979

Part 8: July 1987

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
<del>5.7.87</del>		22.9.87.					
<del>6.7.87</del>		24.9.87					
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PART \_\_\_\_\_ 8 \_\_\_\_\_ ends:-

ATT. CEN TO PM 22.9.87

PART \_\_\_\_\_ 9 \_\_\_\_\_ begins:-

NLW TO PS/LOCD ADVOCATE 23.9.87



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PRIME MINISTER

1. I judge that the public are now impressed by the successes scored by the Government in the Court of Appeal ('Independent'), the House of Lords ('Guardian/Observer'), the Hong Kong Court of Appeal ('South China Morning Post') and the New Zealand High Court ('Dominion').
2. This mood is beginning to be shared, however morosely, in the media. And the Judiciary themselves are not immune to it.
3. There is value to us in this perception of a tide flowing in the Government's favour. I hope the perception will be confirmed by the judgments to be delivered this week by the New South Wales Court of Appeal.
4. To proceed now in Scotland against a District Council and lose, even if a subsequent appeal succeeded, would be to produce a disruption of the pattern that would be as unwelcome to us as it would be welcome to (and seized upon by) our opponents.
5. A successful action in Scotland would naturally assist us in the Guardian/Observer proceedings in October in London, where the issue will be whether the injunctions against the newspapers should be made permanent. It would also assist us in opposing Derbyshire County Council's intervention in those proceedings.

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But it would not be essential to our success in either matter. Nor would it be necessary to us to show that we had tried in Scotland, albeit only to fail. Whereas, a defeat in Scotland would be highly damaging to our chances both against the newspapers and the Council. Such a defeat would far outweigh the value of a success.

6. We must of course accept the Lord Advocate's assessment of his prospects in the Scottish Courts, which I have had the advantage of discussing with him. In the light of his assessment I am reluctantly but firmly of the view that the balance of advantage to the Government lies in not taking proceedings against the District Councils in Scotland. This would remain my view even if we lost in New South Wales. From the viewpoint of the English proceedings, however, I agree with the Lord Advocate's view - see para 7 OD(DIS)(87)66 - that a publisher, a major bookshop or a newspaper would be a suitable target for proceedings in Scotland if the facts so warranted.

7. I am copying this minute to all Members of OD(DIS).

P. M.

22 September 1987



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NO5090

MR MALLABY

MR WOOLLEY

MR ADDISON

*22/9*  
*22/9*

cc PS/LPS

Mr Hogg, Treasury Solicitor's Department

Mr Battiscombe, FCO

Mr Nursaw, Home Office

Mr Howe, Ministry of Defence

Mr Saunders, Law Officers' Department

Mrs Marsh, Security Service

1. CFplcc  
OW Ingham  
2. Miss Holt.

No operational value for us at this stage for.

PQS.

NCU

22-9

PETER WRIGHT CASE: PRIME MINISTER'S QUESTIONS

As requested, I attach an update of the notes for Prime Minister's Questions.

Judgment of the Court of Appeal of New South Wales

2. The New South Wales Court of Appeal will deliver its judgment at 9.30am (12.30am London time) on Thursday 24 September. As agreed by Ministers in response to OD(DIS)(87)63, if we win the case, ie if the Court upholds the injunction against Heinemann and Wright, Government spokesmen will initially express satisfaction but say that they cannot comment in any detail until the judgment has been studied. If we lose, or there is a mixed result (eg the Court accepts our claim but fails to uphold the injunction), spokesmen will remind the press that the purpose of our action has been to uphold the principle of confidentiality and (if appropriate) that the defendants are still prevented from publishing pending our consideration of the next steps in light of a detailed study of the judgment. They will decline to be drawn on whether or not the Government will appeal to the High Court of Australia.

3. Officials will be meeting on the afternoon of 24 September to discuss our reaction to the judgment, including any recommendations to be put to Ministers on a revised public line.



Reading of extracts in European Parliament

4. Labour MEP's have succeeded in reading two very short extracts from the book into the record of the European Parliament. Following informal representations to Lord Plumb's Cabinet, eight written explanations of vote including photocopied pages from the book were ruled out of order and have been left out of the record pending a decision by the European Parliament Rules Committee.

5. Although it is arguable that publication in this country of proceedings of the European Parliament containing any material from the book could be in contempt of the injunction against newspapers, any attempt to prevent such publication would stir up a major row with the European Commission of Human Rights as well as the European Parliament. The injunction should still prevent newspapers in this country from reproducing the relevant extracts. If any newspaper nevertheless does this, it will be for the Attorney General to consider whether to institute contempt proceedings.

Defence Secretary's appearance on "Any Questions" on 25 September

6. Since the Defence Secretary is appearing on "Any Questions" on Friday 25 September, I am copying this minute to his Private Secretary (whom I shall inform at once of any changes to the public line set out in paragraph 2 above).

*B. H. Dinwiddy*

B H DINWIDDY

22 September 1987



## THE PETER WRIGHT CASE

### General line

The Government is seeking to uphold the principle that Wright, as a former member of the Security Service, owes a lifelong duty of confidentiality to the Crown. This principle is essential to the effectiveness of the Security Service. Pending the outcome of the legal proceedings, the Government cannot comment on matters at issue in the case.

### Why persist with the case? Why the further proceedings in Hong Kong and New Zealand?

This case is not a matter of keeping secret the contents of one particular book. The Government took action in Australia, in an attempt to enforce Wright's obligations, long before it knew what his book contained. Publication of the book in North America cannot in any way weaken Wright's continuing duty of confidentiality. His breach of that duty resulted in publication, and neither he nor any publisher can legitimately defend a further breach by relying on an earlier one.

### Publication in US and Canada/account of profits/withholding Wright's pension

The Government was advised that legal action to prevent publication in the United States/Canada would not succeed.

The Government has been concerned to prevent or limit publication or sale of the book wherever this has been practicable. Ultimately, we must also ensure, so far as possible, that Wright and his publishers do not profit financially from his breach of confidentiality.



Under existing regulations there is no provision for discontinuing payment of Mr Wright's pension.

#### Stocking of the book by libraries

It would be inappropriate to comment, pending the hearing in October of Derbyshire County Council's application to the High Court on whether they may lend the book.

#### Reading of extracts in European Parliament

This is a matter for the authorities of the European Parliament.

(IF PRESSED) The distribution in this country of records of the proceedings of the European Parliament is governed by longstanding regulations.

#### Comment on Wright's allegations

I have made statements on certain matters concerning security, for example my statement about Sir Roger Hollis in 1981 (Official Report 26 March 1981, col 1079) and my Parliamentary reply on 6 May 1987 on allegations about the Security Service in relation to the Government of Lord Wilson between 1974 and 1976 (Official Report, col 725). I am not otherwise prepared to comment on the welter of recent allegations and innuendo about the Security Service.

#### Wallace and Holroyd

My hon Friend the Parliamentary Under Secretary of State for the Armed Forces (Mr Roger Freeman) dealt with this matter in his reply to the hon Member for Southend East on 5 March (col 557).

#### Need for an inquiry into the Security Service

I have full confidence in the Security Service's strict adherence to the Directive under which it carries out its duties, and in its skill and loyalty in carrying out the tasks which it is called upon to undertake in the defence of our security and freedom. There are no grounds for instituting a special inquiry.



### Supervision of the Security Service

The House debated these matters on 3 December 1986. As my rt hon Friend the Home Secretary explained, the Security Service operates under the Directive issued by the then Home Secretary, Sir David Maxwell-Fyfe, in 1952. That makes the Director General personally responsible to the Home Secretary, and through him to the Prime Minister. I reaffirmed those principles, which have applied to all previous Governments since 1952, on 21 November 1979. I am fully satisfied with the present arrangements. I note the rt hon Gentleman the Member for Morley and South Leeds (Mr Rees) accepted that it was right for Ministers to have the final responsibility in these matters when he said:

"What I think all this goes to show is that the final decision where the issue is a security issue, must remain with the Home Secretary of the day".

[Adjournment debate on Mr Agee and Mr Hosenball, 3 May 1977, col 370].

### Bipartisan approach

I reaffirm the Government's total commitment to a bipartisan approach to security matters. That is the approach the Conservative Opposition adopted in 1977 when we voted with the Government in the case of Mr Agee and Mr Hosenball, and when more than 30 of the then Home Secretary's own side voted against him.

Cabinet Office

22 September 1987





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PRIME MINISTER

**THE PETER WRIGHT CASE:  
LENDING OF "SPYCATCHER" BY PUBLIC LIBRARIES**

*ATTACHED*  
In terms of the recommendation of officials at paragraph (b) of the Conclusion to the paper OD(DIS)(87)(66) I have today discussed with the Attorney General the prospect of successful action in respect of the lending of "Spycatcher" by public libraries in Scotland.

*Flaye*  
I am firmly of the opinion that the chances of obtaining interdict, and more particularly interim interdict, against those libraries in the Scottish courts are insufficient to justify instituting proceedings against them. My principal reasons for being of this opinion are summarised at paragraph 6(a) and (b) of that paper.

The Attorney General fully appreciates the difficulties which I would face in the Scottish courts and will, I understand, be writing to you.

I am copying this Minute to the members of OD(DIS) and Sir Robert Armstrong.

*David M. Cameron*  
(Private Secretary)

CAMERON OF LOCHBROOM

Approved by the Lord Advocate  
and signed in his absence

22 SEPTEMBER 1987



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VC  
file  
cc FCO + BG  
HO  
MOD CO  
LOD  
LPSO

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

22 September 1987

*Dear Alan,*

The Peter Wright case: Lending of the book by public libraries in this country

The Prime Minister has seen OD(DIS)(87)(66) which discusses the lending of "Spycatcher" by public libraries in this country.

*✓ BT*

The Prime Minister agrees that the Government should oppose Derbyshire County Council's application for a ruling. She also thinks it highly important to restrain Scottish, as well as English, libraries and would be grateful for urgent legal advice.

I am copying this letter to the Private Secretaries to members of OD(DIS) and Trevor Woolley (Cabinet Office).

*Yours sincerely  
David Norgrove.*

(DAVID NORGROVE)

*DN*

Alan Maxwell, Esq.,  
Lord Advocate's Department.

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PRIME MINISTER

THE PETER WRIGHT CASE: LENDING OF "SPYCATCHER" BY PUBLIC LIBRARIES

The Lord Advocate (at Flag A) is firmly of the opinion that the chances of obtaining an interdict, and particularly an interim interdict, against those Scottish Libraries lending "Spycatcher" are insufficient to justify instituting proceedings against them. Both he and the Attorney (at Flag B) come to the view that the balance of advantage to the Government lies in not taking proceedings against the District Councils in Scotland. The Attorney argues that a defeat in Scotland will be highly damaging to the chances of our cases in England.

This is an uncomfortable conclusion. We are likely to be in the position that Libraries in Scotland can lend out "Spycatcher" while those in England cannot. But in view of the strong legal advice, there does not seem to be any other way forward.

Agree therefore no action in Scotland to stop the Scottish Libraries lending out "Spycatcher"?

N. L. W.

Yes *not*

N. L. WICKS

22 September 1987



Terry Perks, Esq.



**CABINET OFFICE**

We spoke,

With the compliments of

Prime Minister,

23/9

70 Whitehall, London SW1A 2AS

Telephone 01 ~~233~~ 270 0071



RD

163



CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 01-233 270 0360

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B.0264

21 September 1987

*Dear Sue*

PETER WRIGHT CASE: PUBLIC LINE

Thank you for your letter of 15 September. I am also grateful for the other comments which I have received on the draft press statement enclosed with my letter of 11 September.

2. There is a difference of opinion on whether a public statement of this kind - let alone a Ministerial interview - is a good idea in principle. I doubt whether we can take the question further until we know the judgment of the New South Wales Court of Appeal. But it will be an important item on the agenda of the first meeting of OD(DIS)(O) thereafter: as you know, we envisage a meeting at 2.30 p.m. on Friday 25 September if the judgment is delivered earlier that day. In the meantime, I enclose a revised draft which takes account of the various detailed comments on the earlier one. Any further comments, before the New South Wales judgment, will of course be welcome.

*Jan*

*Christy*

C L G Mallaby

Copies to:

- D A Hogg Esq
- J Nursaw Esq CB
- M L Saunders Esq
- C C R Battiscombe Esq

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DRAFT

DRAFT PRESS STATEMENT (FOR POSSIBLE USE  
AFTER THE COURT OF APPEAL OF NEW SOUTH WALES  
DELIVERS JUDGMENT)

[Paragraph on the New South Wales Court of Appeal's judgment  
and, as appropriate, the Government's reaction].

2. The Security Service has a vital role in defending the United Kingdom against espionage, terrorism, subversion and sabotage. To do its job effectively, it depends on the confidence and co-operation of members of the public, liaison services of friendly foreign countries, and many other bodies; it is essential that the Security Service should be able to protect information given to it, as well as those who assist it. It is therefore necessary that the Government should uphold the life-long duty of confidentiality owed by Mr Wright and other members or former members of the Security Service not to disclose unless authorised any information derived from their service.



3. It was to defend this principle that the Government began its legal action in Australia long before it knew what Mr Wright's book contained. In all the cases against newspapers publishing or threatening to publish material derived from Mr Wright in this country, the courts have expressed clear support for the principle of confidentiality. So too did the Court of Appeal in Hong Kong.

4. Publication of the book in the United States and Canada, which the Government was advised could not under the law of those countries be prevented, has resulted in wide dissemination of its contents. But this is irrelevant to the principle; it cannot affect or weaken Mr Wright's continuing duty of confidentiality to the Crown. It is his breach of that duty which has resulted in publication, and neither he nor any publisher can be allowed to use publication in one country to achieve a position where his obligation cannot be enforced in other countries. Nor is his obligation lessened by his breach of it in selling information in the past.

5. The Government's first concern has been to prevent or limit the book's publication. Ultimately, it is also determined to ensure, so far as possible, that Mr Wright and his publishers do not profit financially from his breach of confidentiality.



PRIME MINISTER

THE PETER WRIGHT CASE: LENDING OF THE BOOK BY PUBLIC LIBRARIES  
IN THIS COUNTRY

The paper below reports that libraries in England and Wales  
are stocking "Spycatcher".

In England, officials advise that we should oppose Derbyshire  
County Council's (DCC) application for a ruling that it would  
not be content with our injunctions for their libraries to  
stock "Spycatcher" and offer it on loan. Agree that we should  
oppose DCC's application? Yes *ms*

In Scotland the position is more difficult. I understand that  
the Lord Advocate believes that we might be on weak grounds in  
seeking an interdict to restrain Scottish libraries from  
lending out the book; and he is to discuss the matter with the  
Attorney tomorrow morning. Obviously the scope for confusion  
is great if the Scottish libraries can lend out the book,  
while English ones cannot. As paragraph 6 of the note by  
officials says "Scotland could become an important gap in the ✓  
Government's means of restraining circulation of the book in  
the United Kingdom. Agree therefore to tell the Lord  
Advocate and the Attorney General that you think it highly  
important to restrain Scottish, as well as English, libraries,  
and to let you have urgent legal advice?

N.L.W.

*Yes ms*

N. L. WICKS

21 September 1987

JA2ATS



From: THE PRIVATE SECRETARY  
**CONFIDENTIAL**

*N OPM at this  
stage*



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

21 September 1987

*Dear Trevor,*

**STAFF COUNSELLOR FOR THE SECURITY AND INTELLIGENCE SERVICES**

Sir Robert Armstrong copied to the Home Secretary his minute of 17 September to the Prime Minister about the announcement of the appointment of a Staff Counsellor for the Security and Intelligence Services. The Home Secretary has commented that he had thought the identity of the Staff Counsellor would be made known, since it will certainly leak. I understand that this is a point Sir Brian Cubbon had independently put previously to Sir Robert.

The Home Secretary has also commented that he favours including the first paragraph in square brackets of the draft statement, but not the last.

I am copying this letter to Nigel Wicks and Tony Galsworthy.

*Yours sincerely,*

*P J C Mawer*

P J C MAWER

Trevor Woolley, Esq

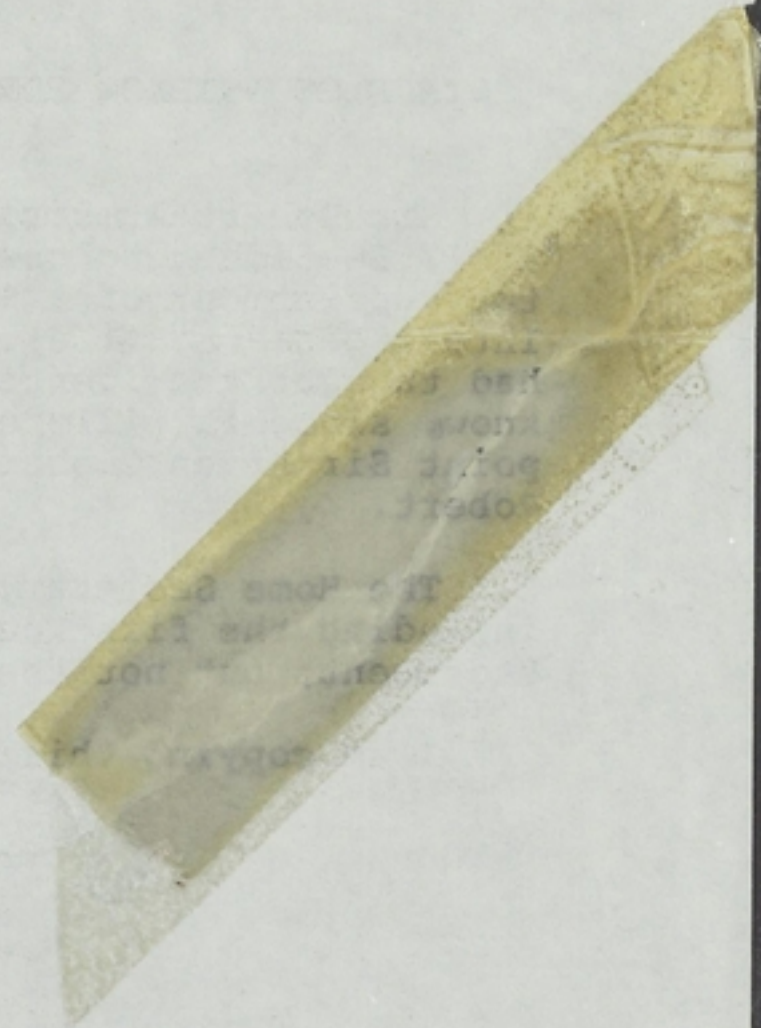
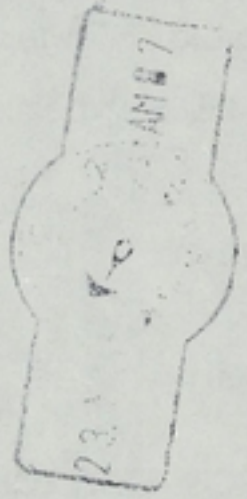
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SECURITY

WRIGHT

PT 8







File DAS  
~~Appts.~~  
CF

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

**STAFF COUNSELLOR FOR THE SECURITY AND INTELLIGENCE SERVICES**

The Prime Minister has seen your submission of 17 September in which you make proposals for giving effect to the decision to appoint a Staff Counsellor for the security and intelligence services.

The Prime Minister is generally content for you to write to Sir Philip Woodfield on the lines of the draft attached to your submission, subject to the following comment on point (h) on the third page. In that paragraph, the Staff Counsellor is required to report to the Head of each Service, and at least annually to the Secretary of the Cabinet. The Prime Minister believes that the House of Commons would think that the Staff Counsellor should also report to the relevant Secretaries of State and to the Prime Minister.

The Prime Minister has also considered the text of the draft Written Answer attached to your submission. She believes that this is much too detailed and too long, and she would like you to provide a shorter text. She thinks that the passages in square brackets should be omitted.

Could I suggest that you should let the Prime Minister have revised drafts of the letter to Sir Philip Woodfield and of the Written Answer.

I am sending a copy of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and to the Home Secretary.

N.L.W.

N. L. WICKS  
21 September 1987

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Prime Minister

I think the House would think he should also speak to the relevant S.P.M. etc.

Yes not for RTA to send to S.P. Woodfield

Ref. A087/2726

PRIME MINISTER

I think it is much too detailed too long. Exclude passages in square brackets.

2. Are you content with the draft answer;

3. Including or concluding the passages in square brackets?

At your meeting on 6 July it was decided to proceed as quickly as possible with the appointment of a Staff Counsellor for the security and intelligence services. This submission makes agreed proposals for giving effect to that decision.

N.L.U 18.9

2. For so long as there is a single Staff Counsellor for the three services, he will be appointed by the Secretary of the Cabinet, with the agreement of the Prime Minister and the Secretaries of State, and he will be paid a retainer of £5,000 a year (plus expenses) out of the Cabinet Office Vote. This figure might have to be increased in the light of the volume of work that develops.

3. Sir Philip Woodfield has agreed to accept appointment as the Staff Counsellor. I attach a draft letter of appointment, the terms of which have been agreed with the Departments and agencies concerned. Sir Philip Woodfield is content with the terms of reference and the remuneration proposed.

4. The decision to appoint a Staff Counsellor and his terms of reference and mode of operation will have to be made known to the staff of the services, and the decision is likely to become public knowledge sooner or later. It is considered best to pre-empt leaks, and possibly distorted reports, by making an announcement about the appointment. I suggest that this announcement should be made by you in a Written Answer to a Parliamentary Question when the House of Commons resumes next month. I attach an agreed draft of such an announcement. The first and last paragraphs are optional, depending on whether you want to link the announcement to what you said in the debate on the Security Commission's Report on Bettaney, and on whether you



want to specify the advantages to be derived from this appointment: on balance my judgment is that it would be useful to do so.

5. I am sending copies of this submission and of the draft letter and announcement to the Foreign and Commonwealth Secretary and the Home Secretary. If you and they are content, I will write accordingly to Sir Philip Woodfield, and arrange with your office for the placing and answering of a Written Question.

RTA

ROBERT ARMSTRONG

17 September 1987



Draft

Letter from Sir Robert Armstrong to Sir Philip  
Woodfield KCB, CBE, 5 Erskine Hill, London, NW11

Tony Duff and I (and others) have discussed with you recently the possibility of your accepting an appointment as Staff Counsellor for the security and intelligence services.

After further consultations with the heads of the agencies, and with the agreement of the Prime Minister, the Foreign and Commonwealth Secretary and the Home Secretary, I am now writing to invite you formally to accept appointment as Staff Counsellor for the security and intelligence services.

Your terms of reference will be:

- "a. to be available to be consulted by any member of the security and intelligence services who has anxieties relating to the work of his or her service;



- b. to arrange and maintain procedures which will enable you to be approached and consulted, securely and in confidence;
- c. to keep confidential the identity of individuals who approach you when they so request it, unless security considerations determine otherwise;
- d. to inquire as you see fit into all matters which are put to you, having satisfied yourself that all appropriate internal management procedures have been exhausted;
- e. to examine any internal documents (while maintaining their confidentiality) which are relevant to the questions raised in each case, having access when you wish to the management of each service (including its permanent head) in pursuit of your inquiries;
- f. to seek to resolve problems by discussion and advice;



- g. to make such recommendations to the head of the service concerned or the Secretary of the Cabinet as you consider appropriate;
- h. to report as appropriate to the head of each service, and at least annually to the Secretary of the Cabinet."

S 2 S?  
P. 4?

You will receive an annual retainer of £5,000, plus expenses necessarily incurred in the course of discharging your duties.

You will make arrangements with the head of each service to ensure that the fact of your appointment, the nature of your role and your terms of reference, and the means by which you can be approached for consultation are made known to members of the service.

It is proposed to announce your appointment in --- a statement on the lines of the draft attached, on which I should welcome your comments.



I very much hope that you will be able to let me know that you are willing to undertake this appointment on the terms and conditions proposed.

*See for comment  
on front page of  
this memorandum  
Agreed*



Draft

DRAFT STATEMENT

[In the debate which followed my announcement of the Government's acceptance of the Security Commission's recommendations in their report on the case of Michael John Bettaney, I undertook to consider a suggestion that there would be advantage in designating someone, not himself a member of the Security Service, to whom a member of the Security Service could turn if he or she had anxieties relating to the work of the Service.]

[The House will wish to know that] a Staff Counsellor for the Security and Intelligence Services has now been appointed. He is not a present or former member of the Security and Intelligence Services. He will be available to be consulted by any member of the Security and Intelligence Services who has anxieties relating to the work of his or her Service which it has not been possible to allay through the ordinary processes of management-staff relations. He will be required to keep confidential to himself the identity of individuals who approach him if



requested to do so, unless security considerations determine otherwise. He will have access to all relevant documents and to management in each Service, up to and including the permanent head of the Service. He will be able to make recommendations to the head of the Service concerned. He will also have access to the Secretary of the Cabinet if he wishes to do so, and will have the right to make recommendations to him. He will report as appropriate to the heads of the Services and will report on his activities at least annually to the Secretary of the Cabinet.

The Secretary of the Cabinet will report to me and the Secretaries of State on the working of the system and on the Staff Counsellor's activities and their implications for the agencies. The head of each agency will report periodically to the Secretary of State to whom he is responsible on the working of the system in his agency, and the Secretary of State will be able to ask the Staff Counsellor directly about any aspect of those reports.

[The Government believes that this appointment will increase confidence both inside and outside



the Security and Intelligence Services that legitimate anxieties of members of the Security and Intelligence Services about their work will not be able to be overlooked or overridden, and will reinforce public confidence in the integrity with which the Services discharge their duties.]



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INFO PRIORITY UKREP BRUSSELS

FROM UKREP BRUSSELS

MY TELNO 2823 AND TELECONS WEBB/ECD(I))/CROW:EUROPEAN PARLIAMENT  
AND SPYCATCHER

SUMMARY

1. LATEST ATTEMPT BY 8 BRITISH LABOUR MEPS TO HAVE QUOTE  
SPYCATCHER UNQUOTE INCLUDED IN RECORD OF EP PROCEEDINGS FOR 16  
SEPTEMBER MAY FAIL ON PROCEDURAL GROUNDS. FURTHER ATTEMPTS PROBABLE:  
SOME AT LEAST LIKELY TO BE SUCCESSFUL.

DETAIL

2. DURING VOTING IN THE EUROPEAN PARLIAMENT PLENARY ON THE  
MORNING OF 16 SEPTEMBER 8 BRITISH LABOUR MEPS, INCLUDING CHRISTINE  
CRAWLEY (WHO READ A PASSAGE FROM SPYCATCHER IN THE PLENARY ON  
14 SEPTEMBER ON A POINT OF ORDER) SAID THAT THEY WANTED TO MAKE  
AN EXPLANATION OF VOTE. EP PRESIDENT PLUMB IN THE CHAIR SAID THAT  
HE ASSUMED CHRISTINE CRAWLEY AND THE OTHERS WOULD SUBMIT THEIR  
EXPLANATIONS OF VOTE IN WRITING. SHE CONFIRMED THIS. ALL 8  
EXPLANATIONS OF VOTE, WHEN SUBMITTED, CONSISTED OF SHORT VERBATIM  
EXTRACTS FROM SPYCATCHER.
3. FURTHER TO OUR DISCUSSIONS WITH JONES PARRY (EP PRESIDENT'S  
CABINET) HE HAS RECOMMENDED TO PLUMB THAT THE EXPLANATIONS NOT BE  
ACCEPTED ON THE GROUNDS THAT THEY DID NOT CLARIFY THE VOTES CAST  
BY THE MEMBERS IN QUESTION ON THE SUBJECT UNDER CONSIDERATION -  
AND THAT THEY SHOULD NOT THEREFORE BE INCLUDED IN THE PRINTED RECORD  
OF PROCEEDINGS. PLUMB IS LIKELY TO ACCEPT THIS RECOMMENDATION.  
OUR CONTACTS WITH JONES PARRY HAVE BEEN ON A PERSONAL, CONFIDENTIAL  
BASIS WHICH COULD NOT READILY BE QUOTED PUBLICLY AS CONSTITUTING  
A PROTEST BY HMG TO THE EP AGAINST THE INCLUSION OF EXTRACTS FROM  
SPYCATCHER IN EP RECORDS BY THIS METHOD.
4. THE BLG MAY NOW REVERT TO READING EXTRACTS DURING DEBATES,  
AND CREATE FURTHER PUBLICITY IF/WHEN THEY PROTEST ON

*NW to rel*



CONFIDENTIAL

072147  
MDADAN 2450

DISCOVERING THAT THEIR EXPLANATIONS OF VOTE HAVE NOT BEEN INCORPORATED IN TODAY'S RECORD. FOR THE REASONS IN TUR JONES PARRY REMAINS PESSIMISTIC ABOUT THE PROSPECTS FOR SILENCING MEMBERS ATTEMPTING TO SPEAK - AND FOR OMITTING THEIR REMARKS FROM THE VERBATIM RECORD.

MCLEAN

YYYY

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ADVANCE 20

PETER WRIGHT CASE  
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MR POWELL PUSD  
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NNNN



CONFIDENTIAL



file MJZBIP

10 DOWNING STREET  
LONDON SW1A 2AA

Mrs Gausman  
to NB date

*From the Private Secretary*

✓ NCO  
17/9 16.9

SIR ROBERT ARMSTRONG

CONTROL AND OVERSIGHT OF THE SECURITY AND INTELLIGENCE SERVICES

You will recall that in your minute of 26 May you advised the Prime Minister how to respond to Sir James Callaghan's request for a meeting to discuss the targeting, structure and oversight of the Security Service. The Prime Minister accepted your advice and I spoke to Sir James in the terms of the draft letter attached to your minute.

X

I have today spoken to Sir James about the timing of his meeting with the Prime Minister and agreed with him that it should take place at 1630 hours, on 3 November, in her room at the House of Commons. Sir James still hankered after bringing Lord Allen but he quickly dropped that when I reminded him of the Prime Minister's wish that the discussion should take place between himself and herself.

I should be grateful if you could let me have a brief for the Prime Minister for the meeting. I know that the Prime Minister is interested in advice both on what points to put to Sir James and how they should be put. From my conversation with him, I expect that the points of his presentation are all in his interview on Monday's BBC programme on the Security Service.

Finally, I should add that Sir James asked whether the fact of the meeting would be publicised. I said that I was sure that the Prime Minister would not want to publicise it. But that this is something that he might raise at the meeting if he felt that he had to.

Please could I have the brief by Friday 30 October. You may, of course, wish to discuss the broad terms with the Prime Minister before then.

N.L. Wicks  
16 September 1987

CONFIDENTIAL



PRIME MINISTER

THE WRIGHT CASE

The Cabinet Office's latest information is that the Wright judgment will be given on Friday 25 September (i.e. because of the time difference we will hear around midnight 24-25 September).

Cabinet Office understand that the judges will be meeting in the next few days to decide the terms of an order which they will issue when they deliver their judgment. The Cabinet Office presume from this that at the very least we have not lost the case completely.

It has been decided today that the New Zealand case will be heard in the week beginning 23 November under their Chief Justice.

N.L.W.

*mt.*

N.L. Wicks

16 September 1987





## 10 DOWNING STREET

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

PETER WRIGHT CASE IN NEW ZEALAND

I have shown the Prime Minister your minute of today about our action to restrain publication by the New Zealand newspaper, The Dominion, of excerpts from "Spycatcher". You wished to have views today on your minute in view of our New Zealand agents' discussions tomorrow about the timing of the case.

The Prime Minister assumes that the Attorney General agrees the course of action outlined in your minute. If this is the case, she is content with the advice and course of action proposed in your minute, including foregoing an interlocutory hearing and proceeding to an early substantive hearing.

The Prime Minister has noted the point in paragraph 7 of your minute that no application for an account of profits will be included in our statement of claim in New Zealand since it is difficult to prove what profits a newspaper makes from a particular serial. She assumes, however, that we will proceed to apply for an account of profits if it can be demonstrated that Wright or anybody else would profit from any publication in New Zealand.

I am sending a copy of this letter to the Private Secretaries to the Lord President, the Secretaries of State for Foreign and Commonwealth Affairs, the Home Department and Defence, the Lord Privy Seal and the Lord Advocate, and to the Legal Secretary to the Law Officers.

*N.L.W.*

N. L. WICKS

15 September 1987



Ref. A087/2672

MR WICKS

BBC Programme on the Security Service

The BBC television programme "The State of Secrecy" was broadcast yesterday evening. It contained no hint that the BBC had had any contact with the Government in connection with the programme.

2. The programme started by listing the components of "the secret services" (MI5, MI6 and GCHQ) and identified (by name and picture) their premises, but concentrated mainly on the Security Service. It described what was officially known about the Security Service, with a number of extracts from the Denning Report intoned by Lord Denning. It listed the main causes for concern - Blunt, Hollis and the allegations about destabilising the Wilson government. It identified Peter Wright as a source of these allegations, but otherwise kept pretty clear of him and his book. It described cursorily the present arrangements for Ministerial control and oversight; the processes of oversight followed in France and in the United States (on the whole to their disadvantage); and dealt finally with the question whether the Security Service should be subject to some new form of oversight. The way in which it dealt with this question - indeed the whole programme - was more balanced than I had expected: the problem was discussed surprisingly fairly.

3. There were interviews with various former Ministers, notably Sir James Callaghan, Mr Merlyn Rees, Lord Hailsham and Mr Biffen. Among the interesting points in the programme were -



a. Mr Rees said that he had been aware when Home Secretary that the Security Service carried out illegal actions, such as breaking into premises; and that he had come to favour putting the Service on a legal footing. Sir James Callaghan said that he had never been aware as Home Secretary or Prime Minister of illegal actions by the Security Service.

b. The programme said that Ministers did not know the details of the Security Service's operations, but recognised that there was a case for saying that they should not. It was suggested - mainly by Lord Denning - that it was the Service which decided which matters should be known to Ministers. Mr Rees and Sir James Callaghan both said that they did not know all the details of what they did; but Sir James Callaghan said that he would not have expected to, and both men said that they had never been refused information for which they had asked.

c. Sir James Callaghan (as well as Mr Rees) said that he favoured an inquiry into the allegations of a plot against Lord Wilson's government. But he said that he did not know whether the story was true. His statement to the House in 1977 had covered other things as well as alleged eavesdropping in 10 Downing Street and in the Prime Minister's room at the House of Commons, though it had not covered some matters that had been alleged since then.

d. Sir James Callaghan favoured oversight of the work of the Security Service in some detail; tasking in particular should be covered, and there should be an outlet for the concerns of individual members of the Service. The oversight should not be by a Parliamentary Select Committee but by a group consisting of Privy Counsellors, people who had been concerned with security and intelligence matters and perhaps a judge, reporting in the first instance to the



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OF THE PUBLIC RECORDS ACT

Prime Minister. He argued that this would be a helpful contribution to re-establishing trust in Ministerial oversight, which he stressed as the most important objective.

e. Interviews in the programme with people concerned with security matters in other countries were generally helpful. The oversight arrangements in the United States were portrayed as ineffective and even harmful. As to France, the programme stressed the public support for covert intelligence operations, suggested that Wright would there be regarded as a traitor, and left the impression that political oversight of the services was out of the question. The oversight arrangements in Australia were portrayed, but described (rightly) as too new to be judged.

4. The programme aired the difficulties of and objections to the various possible forms of oversight, and did not come to any clear conclusion in favour of any. I think that the general impression left by the programme was probably that oversight was a good thing in principle, and that an arrangement on the lines of (d) above might be a good idea, although the difficulties that would face a permanent version of the Franks Committee on the Falkland Island affair were set out by Sir Patrick Nairne, and the question was raised whether such a group would exercise more effective oversight than Ministers already provide: that was left in the air, and none of those interviewed argued that it certainly could. Nor did any of those interviewed favour oversight by Parliamentary Select Committee. The viewer will not have received the feeling that the security services are generally irresponsible or incompetent.

5. When the BBC were planning a Panorama programme about the Wright affair, they interviewed a former superior of Wright's in the Security Service, who now lives in



France. We were concerned that the use of this interview would be a breach of confidence by [redacted] of a type similar to Wright's, though in much lesser degree. That interview was not used in last night's programme.

6. 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.

RA

ROBERT ARMSTRONG

15 September 1987

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Pme Nimitz

Provided to

A-G agrees

Ref. A087/2659

MR WICKS

- go ahead  
ntAgree generally  
with the approach  
suggested by RTA  
in this minutePeter Wright Case in New Zealand

N.C.U

15.9

On 4 August a major New Zealand newspaper, The Dominion, owned by the Murdoch group, began publishing excerpts from "Spycatcher". We obtained on the same day an interim injunction in Wellington to restrain publication of further instalments. The Dominion has said that it had the right to serialise "Spycatcher" under a standing arrangement with the Sunday Times whereby it may publish material published by the latter; the Government of course have an interim injunction restraining the Sunday Times from continuing the serialisation of "Spycatcher" which it began in July.

2. The Dominion has now applied for our interim injunction to be lifted. That application would normally be the subject of an interlocutory hearing in the next few days. The Dominion's lawyers have, however, said that they would be willing to forego an interlocutory hearing if we would agree that the substantive hearing of the case should take place in the week beginning 9 November. Such a substantive hearing would be in some sense a rehearsal for the substantive proceedings in the case against the Sunday Times here, which is not expected to come forward until next year.

3. If there is an interlocutory hearing, we shall need rapidly to put in an affidavit reaffirming the relevant parts of my affidavits in the Australian case and arguing that the publication in New Zealand of material from Wright would do damage despite the book having now been published in North



America. A draft has been prepared, to which it is proposed that I should swear. It will not of course be put in if there is no interlocutory hearing.

4. The substantive hearing in New Zealand is likely to be the first of that type to be held since those in the Australian case. It will involve many of the same features: the question of a technical admission that the contents of Wright's book are true, in order to avoid discussion of them in the hearing; arguments about discovery of documents; and (very probably) the cross-examination of a Government witness. The substantive hearing in New Zealand will also be the first since publication of Wright's book in North America, and the first substantive hearing in a case against a newspaper rather than against Wright himself or his publishers (the cases against newspapers in this country have all been on interim injunctions - or on the principle of criminal contempt - so far). It will be no easy task to win our case for a permanent injunction against The Dominion.

5. Officials have accordingly considered the possibility of not continuing with the case in New Zealand, which is not in itself as important as the ones in Australia or in this country. We are firmly of the view that this would be wrong; it would be inconsistent with the Government's position in Australia and the United Kingdom that it is Wright's duty of confidentiality that is at stake, and it could weaken our position in the United Kingdom cases and possibly in Australia. A more attractive course would be for further proceedings in New Zealand to be postponed until the Australian case has been ultimately decided, if need be in the High Court of Australia, which is the final court of appeal. Our position in New Zealand would be greatly strengthened if we won in Australia, and if we lost there we could look again at the question of not continuing the case in New Zealand. But the legal advice from New Zealand is that the New Zealand courts will not wait for the final outcome in

Probably  
R.T.A.



Australia. Officials have concluded that we are likely to have to face a substantive hearing in New Zealand before long and that the balance of argument is in favour of proceeding straight to a substantive hearing, and avoiding another interlocutory hearing, if we can reach satisfactory agreement on the terms and timing of doing so; and that, if we have to face a substantive hearing, we should fight it wholeheartedly.

6. Our lawyers in Wellington have advised that any attempt to have the substantive hearing postponed much later than the suggested date of 9 November until the New Year would alienate the court and lose us the advantage, likely otherwise to be secured, of the substantive hearing taking place before the Chief Justice, Sir Ronald Davison; he is thought likely to be much better disposed towards our case than other judges. I could not be in Wellington on 9 November, because of other engagements, and we are seeking postponement of the hearing until later than month - 16 or 23 November, so that I could be the Government witness if Ministers so decided.

7. A decision will be needed in due course about who should be the Government witness in New Zealand (and also in the cases in this country and Hong Kong). That decision would not be prejudiced by my swearing an affidavit now, if one had to be provided: my signature on an affidavit in any interlocutory hearing in New Zealand would not mean that I had to be the witness there and, if another person was chosen as our witness, we could re-submit the affidavit in his name. As in Australia, a technical admission that for the purposes of argument in the case the contents of the book are to be regarded as true might be the only way of avoiding argument and cross-examination on the contents. If such an admission was unavoidable, it should be in the same terms as in Australia, since any deviation would cause speculation and the other side would seek to exploit it. This would be a little more awkward than in the Australian case, since the Prime Minister has stated in Parliament that she



believes the Hollis allegations and the allegations about destabilising the Wilson Government to be unfounded; but we could explain any admission in public in the same way as before, ie on the lines that it is a purely technical admission, for the purposes of this hearing only, in order to exclude from the proceedings all questions of fact regarding the contents of Wright's book. We are approaching the New Zealand Government about the possibility of their giving evidence in our favour, as the Australian Cabinet Secretary did in the case in Sydney. Since it is very difficult to show what profits a newspaper makes from a particular serial, no application for an account of profits is included in our statement of claim in New Zealand, so that this element will be absent from the proceedings there. *but not the author*

8. The substantive hearing in New Zealand, despite its similarities to those in Australia, may not be quite such an event for the media (though we should not count on that: the Government will be proceeding against a newspaper, and the Sunday Times might try to "hype" it). It is liable to be shorter - lasting perhaps four or five days on present forecasts. The factual ground that is likely to be covered has been covered already in the Australian proceedings and thus will probably be less newsworthy. The New Zealand Chief Justice would be very different from Mr Justice Powell, and there is no sign that the other side will conduct the case with the aid or in the flamboyant and unscrupulous style of Mr Turnbull.

9. The Attorney General has been consulted about the views set out above and about the terms of the affidavit for any interlocutory hearing. Officials will report again when the timing of future hearings is known and will make recommendations about a Government witness, technical admissions as to fact and other matters, taking into account the judgment, expected in the near future, of the Appeal Court of New South Wales.



10. I am sending copies of this minute to the Private Secretaries to the Lord President, the Secretaries of State for Foreign and Commonwealth Affairs, the Home Department and Defence, the Lord Privy Seal and the Lord Advocate, and to the Legal Secretary to the Law Officers.

RIA

ROBERT ARMSTRONG

15 September 1987



Nigel

3rd Nov. ✓

1630

1

or 10th Nov.

1630

Tel. 10/10

PRIME MINISTER

You agreed earlier this year to see Lord Callaghan, at his request, to discuss the targetting, structure and oversight of the security services. I told Lord Callaghan and said that I would be in touch later to arrange a meeting sometime in October or November.

If you agree, I will now set it up for some time in late October/November in your room in the House for a convenient time after Questions.

We shall need to consider what to say - or rather how to put it.  
y  
yes no

N.h.W.

NIGEL WICKS

11 September 1987



CONFIDENTIAL

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MDHIAN 2524

CONFIDENTIAL  
FM KUALA LUMPUR  
TO IMMEDIATE FCO  
TELNO 393  
OF 110600Z SEPTEMBER 87

YOUR TELNO 326: SPYCATCHER

1. THIS IS WELCOME ADVICE, THE MORE SO THE CHAIN WHICH HAS BEEN SELLING SPYCATCHER (MPH BOOKSTORE) IS OWNED BY THE NEW STRAITS TIMES (NST) PRESS, WHICH IS, IN THIS CASE, THE DISTRIBUTOR. (NST) PRESS IS BIG AND WOULD BE UNLIKELY TO BACK DOWN IF THREATENED BY LEGAL ACTION. IN ADDITION, IT IS OWNED BY FLEET GROUP, THE BUSINESS ARM OF UMNO. ACTION AGAINST THE GROUP COULD HAVE UNWELCOME POLITICAL OVERTONES.
2. PUBLIC INTEREST IN THE BOOK REMAINS MINIMAL.

SPRECKLEY

YYYY

DISTRIBUTION

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PS/SIR R ARMSTRONG CAB OFF  
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053706  
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PS/HOME SECRETARY  
SIR B CUBBON PUS, HOME OFF

~~MR WICKS NO.10 DOWNING ST~~  
PRESS OFFICE NO.10 DOWNING ST

NNNN

PAGE 2  
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Prime Minister <sup>2</sup>  
to note.

Ref. A087/2598

MR WICKS

mf

NLU

11-9

BBC Programme on the Security Service

The Prime Minister agreed that I should respond to the approach for briefing made by the BBC to the Security Service by offering a "deep background" briefing myself on the issues of control and accountability.

2. I made an offer accordingly to Mr Checkland and Mr Birt, emphasising that the offer was for a briefing on a totally off the record, unattributable and "deep background" basis, and on the understanding that the fact that the briefing had taken place would not be disclosed in the programme or elsewhere. After an interval for reflection, Mr Birt accepted the invitation on that condition. Mr Mallaby and I saw the presenter of the programme, Mr David Dimbleby, and the producers, Mr Samir Shah and Mr Timothy Gardam, on Tuesday 8 September 1987 at 10.30 am.

3. I started by establishing once again the basis on which the briefing was offered and was to be conducted. They confirmed that basis, and Mr Dimbleby said that, if he was asked about the briefing which he had had in preparing the programme, he would say that those were matters that he did not discuss.

4. They explained that the programme would be broadcast on Monday 14 September at 9.30 pm and would last for 75 minutes. It was not to be specifically about the Peter Wright case, though the issues emerged out of that. It would begin by asking what the Secret Services comprised, and would look at the official documentation surrounding them (eg the reference to the Security Service in the Denning Report). It would consider how



the Services fitted into the system of Government and discuss the worries about the Security Service, starting from the Blunt revelations. It would deal with the issue of confidentiality raised by the Wright case, and would move on from there to deal with the questions of control, oversight and accountability, assessing how such systems operated in other countries.

5. I made clear that, in pursuing its action in relation to Peter Wright and his book, the Government's primary purpose was to uphold the basic principle of the duty of confidentiality owed by those who worked for the Government, and particularly for the security and intelligence agencies. Of course the continuing objective was to preserve the secrecy of security and intelligence information which ought to be kept secret; but the main concern at this stage was not the protection of the particular material in Peter Wright's book, which had now been published in the United States, but the reaffirmation of the basic principle of confidentiality. If people felt that they could publish in breach of their duty with impunity, some would be tempted to do so - including perhaps some who felt that they were traded in Peter Wright's book and thought that they should put the record straight. The Government's policy was to take action to prevent publication and uphold the principle of confidentiality when it was possible to do so; the fact that it was not possible to take legal action in all cases did not mean that the Government should not act when it was. As one of the Law Lords had made clear in the recent judgment, it could not be right that a member of one of the security and intelligence agencies should be able to circumvent his duty of confidentiality simply by publishing material in other countries. The legal proceedings now in train should eventually, when they were completed, show whether the Government needed to consider whether it was possible to find other ways of reinforcing the duty of confidentiality and preventing its breach.



6. Mr Dimbleby and his colleagues asked about the books published by Chapman Pincher and Nigel West; I responded in the standard manner, relying particularly on the distinction between insiders and outsiders.

7. It was suggested that the Government's decision to make a statement about Blunt in 1979 had created a precedent for informing Parliament about matters of security, and that this had opened the floodgates to subsequent breaches of confidentiality. I said that the Blunt statement was not a complete break with tradition: previous Prime Ministers had made statements on Burgess and Maclean and on Philby. The present Prime Minister had thought it right to make statements about Blunt, about the Hollis allegations and about one or two other security matters of particular importance. I thought that she should be given credit for this, rather than be told that this had opened the floodgates. The occasional statement in exceptional circumstances was not a reason for departing from the general practice of being very sparing with information about the security and intelligence services in order to protect their effectiveness. In any event, Parliamentary statements by the Prime Minister were quite different from unauthorised publications by members of the Security Service.

8. Mr Dimbleby asked about Wright's offer to submit his manuscript for clearance. I said that the point at issue in the Australian case was the principle of confidentiality, and the Government thought it right to argue its case on that point of principle. In any case, the statements made about this by Peter Wright and his advisers were misleading. On a number of occasions Mr Turnbull had invited the Government to go through the manuscript and suggest deletions; but he had not committed himself to accepting any deletions the Government might suggest, and had made it clear that he envisaged only a small number of



deletions. It was clear that there was no possibility of agreement to revisions on the scale that would have been required.

9. On control and oversight, Mr Dimbleby referred to two possibilities: the institution of some kind of machinery to enable members of the Security Service to raise issues of conscience and propriety with some kind of "ombudsman", and the possibility of an oversight body, for instance of Privy Counsellors, with powers to oversee the running of the agencies and to cross-question their heads.

10. I said that there was some interest in the idea of having a person outside the management of the Security Service to whom members of the Service could turn if they could not get satisfaction on issues of propriety and conscience. Apart from the value of this to the agencies, it could help to strengthen the confidence of Parliament and the public that the managements of the agencies would behave responsibly. There would be problems - for instance, of access to secret information - but I did not exclude the possibility of a development in this area.

11. I explained the nature of the present system of oversight, with its dependence upon trust as between the agencies and Ministers on the one hand and between Ministers and Parliament on the other. The present system gave Ministers a degree of access to information and a degree of frequency of contact which made for more effective oversight than would be possible with an external body meeting only once or twice a year. The closeness and frequency of contacts between Ministers and their senior advisers on the one hand and the agencies on the other had greatly increased over the last ten to twelve years. The trust that Ministers had in the Security Service and the other agencies was close, and the agencies knew that they depended on this trust for their well being: they could not afford to do things which would forfeit that trust. As to Parliament's trust



in Ministers to exercise their responsibilities in respect of the agencies, there were some Members of Parliament who made it their business to call that trust in question, but I thought that in general that trust also persisted.

12. I went on to say that, if one was talking in terms of external oversight, the Government's view was on the record in what the Prime Minister had said in the House of Commons from time to time on the subject. For such oversight to be effective, the oversight body would have to be provided with some highly sensitive information; if such information were not shared, oversight would be a sham. If on the other hand it was shared, there would be a risk that secret information would get to ears and eyes which it was desirable it should not reach, to the detriment of the effectiveness of the agencies. There was a conflict of public interest as between the value of oversight and the maintenance of the greatest possible effectiveness of the agencies. It would be possible to have an oversight body working within the system, which would report to the Prime Minister and not to Parliament: it might be easier to share secret information with such a body, but it might be less valuable in providing reassurance.

13. Mr Dimbleby was clearly interested in the idea of an oversight body on the model of the Franks Committee which looked into the Falklands affair. He envisaged a body of non-political Privy Counsellors - he said Lord Franks, Sir Patrick Nairne and one other - who could be trusted with secret information and would report to the Prime Minister. I indicated that I was not convinced that such a body would satisfy those who were clamouring for external oversight by a committee of Privy Counsellors or a Select Committee.

14. Mr Dimbleby suggested that there might be advantage in putting the Security Service on to a statutory footing and defining as lawful, if done in pursuit of its task, actions



which would otherwise be unlawful. I noted that this was already the case so far as the interception of communications was concerned. There could be problems in defining other actions to which that might apply, and there would be problems of laying down the means of authorising and controlling such actions. The agencies often needed to act both in secrecy and with speed.

15. Mr Dimbleby asked about the interception of Ministers' communications. I referred him to the assurances given by Lord Wilson in 1966, and reaffirmed by subsequent Prime Ministers, that it was not the policy to intercept the communications of Members of Parliament.

16. Mr Dimbleby asked whether there was likely to be an inquiry into the allegations about a plot to destabilise the Wilson Government. I referred him to the Prime Minister's answers in Parliament on the subject.

17. I refused to answer questions about the size and expenditure of the agencies.

18. It was suggested that the policy of secrecy surrounding the agencies encouraged public mistrust. Some information had emerged as a result of various Security Commission and other reports: would not public confidence be increased by giving more information? I said that there was a balance to be struck between public interest in knowing about the activities of the Security Service, so as to be reassured about them, and the public interest in keeping from hostile intelligence services (not just the Russians) information which might be valuable to them. It was like a jigsaw puzzle: an apparently trivial piece of information, when taken in conjunction with other pieces of information, could fill out a picture. Just as we sought every crumb of knowledge we could get about the organisation and activities of the KGB, and pieced together snippets of



information to build up as complete a picture as possible, so hostile agencies were undoubtedly doing the same in relation to the security and intelligence agencies; and the more information they could get, the easier it would be for them to neutralise or undermine the effectiveness of the agencies.

19. Mr Mallaby and I formed the conclusion that the compilers of the programme were genuinely addressing themselves to issues rather than to details of the Peter Wright case and book. It was clear that much of the material they had already got reflected points of view very different from those of the Government. I think that we were able to balance that by drawing their attention to the Government's view on a number of matters, and I hope that we may have had some effect on the balance of the programme.

20. I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary, the Home Secretary and the Attorney General.

RA

ROBERT ARMSTRONG

10 September 1987



CONFIDENTIAL

One Minute <sup>2</sup>

*[Handwritten signature]*



X is encouraging.

*[Handwritten initials]* N.H.W.  
10.9

HOME SECRETARY

PETER WRIGHT CASE

Colleagues will be aware that on 8 September the Hong Kong Court of Appeal granted our appeal against the South China Morning Post by a majority of 2 to 1 for the reinstatement of the injunction there. The newspaper has announced its desire to seek leave from the Court of Appeal there to appeal to the Privy Council. I believe that our response to the newspaper's application should be neutral, but that we should make the point to the Court that the case is only at the interlocutory stage and that the issues have already been thoroughly considered by the House of Lords at the same stage in the Observer/Guardian case.

We have now received, from Paul Friedman of White and Case, the second opinion which we sought from the United States on the possibility of bringing actions against Wright, Heinemann and Viking Penguin. We are advised that we are unlikely to succeed in any action against Viking Penguin. If, however, we achieve victory in Australia on the point of principle and obtain an account of profits against Wright and Heinemann, we are advised that we could proceed against them in the United States to enforce the Australian judgment, and to attach assets in the United States to satisfy the judgment. What we are speaking of here is Heinemann's interest in the royalties from "Spycatcher" in New York, Wright's interest in such royalties, and Wright's interest in the US copyright.

X |

I should make four points about the American advice:

- (1) The possibility of action depends upon a successful outcome in Australia;
- (2) Heinemann, and to a lesser degree Wright, will be able to argue against enforcement of the Australian judgment on the ground that it would violate the First Amendment right to freedom of speech;

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- (3) Our chances of success in the United States are said to be less against Heinemann than against Wright himself;
- (4) We may need to bring proceedings in more than one State at the same time, in that whereas action against Wright's royalties would probably have to be taken in New York action for the attachment of his copyright would have to be taken in the District of Columbia, where the US Copyright Office is situated.

In the light of (1) we should defer any decision on this matter until we have judgment from Australia.

Consideration of the subject of profits from "Spycatcher" brings me to the position of Mr Paul Greengrass, who has now admitted in at least one interview that he did ghost-write the book for Wright. The sixth re-print reads on the title page: "SPYCATCHER - the Candid Autobiography of a Senior Intelligence Officer Peter Wright with Paul Greengrass". We will have to consider bringing actions wherever appropriate against Greengrass with a view to relieving him of his profits arising from his collaboration with Wright. Counsel's advice is being sought on the subject.

I should inform colleagues that I have asked the Director of Public Prosecutions to consider whether there should be a police investigation in relation to possible breaches of the Official Secrets Act by Greengrass. I will keep colleagues informed on this matter.

In New Zealand, Wellington Newspapers are seeking to have the interlocutory injunction against them discharged, principally on the ground that we have shown no willingness to cooperate or use due diligence in having the substantive action brought on for hearing. This is of course unfounded and we will be resisting their application. There are, however, serious and difficult issues to be considered concerning evidence and discovery before the substantive action can properly be heard. I see every advantage in seeking to ensure that the hearing



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does not take place until they have been resolved. Theo Simos, our Australian Counsel, is presently in Wellington, discussing the handling of the litigation with our Agents. We will need to consider the New Zealand situation further in the light of those discussions.

I am copying this to the Prime Minister and to the other members of OD(DIS), to the Lord Advocate and to Sir Robert Armstrong.

A. M.

10 September 1987

CONFIDENTIAL





10 DOWNING STREET

LONDON SW1A 2AA

*From the Principal Private Secretary*

7 September 1987

I am sorry that I have not written before now to acknowledge your Private and Confidential letter of 2 September to the Prime Minister, but I did not see it until I returned from Scotland today. I shall, of course, draw it to the Prime Minister's attention straightaway.

N. L. Wicks

The Lord Wyatt

SP



PRIME MINISTER

pa

**THE WRIGHT CASE**

The Australian judgment is expected any  
day, though its precise timing is unclear.  
—

We will hear overnight the outcome of  
the case in Hong Kong to constrain publication  
of the Wright book.

N. L. W.

mt

N. L. WICKS

7 September 1987



CONFIDENTIAL

ra

040236  
MDHOAN 0792

CONFIDENTIAL  
FM FCO  
TO DESKBY 080030Z HONG KONG  
TELNO 2349  
OF 071700Z SEPTEMBER 87  
INFO DESKBY 072000Z OTTAWA

PERSONAL FOR GOVERNOR FROM DEP HEAD OF PUSD  
OTTAWA (PERSONAL FOR PRIVATE SECRETARY)

PETER WRIGHT CASE

1. AS YOU WILL KNOW JUDGMENT IN THE HONG KONG COURT OF APPEAL IS EXPECTED AROUND 1000 YOUR TIME TOMORROW (0200Z). HERBERT SMITH, OUR LAWYERS IN HONG KONG, HAVE BEEN ASKED TO INFORM THE NO 10 DUTY OFFICER OF THE COURT'S DECISION BY TELEPHONE. ANY LOCAL PRESS ENQUIRIES ABOUT HMG'S REACTIONS OR THE NEXT STEPS SHOULD BE REFERRED TO NO 10.
2. FOR YOUR OWN INFORMATION NO 10 ARE BEING BRIEFED TO TAKE THE FOLLOWING LINE. IF THE INJUNCTION IS UPHELD THEY WILL EXPRESS SATISFACTION BUT SAY THAT THEY CANNOT COMMENT IN DETAIL UNTIL THE JUDGMENT HAS BEEN STUDIED IN LONDON. IF IT IS NOT UPHELD THEY WILL REMIND ENQUIRERS THAT THE PURPOSE OF OUR ACTION HAS BEEN TO UPHOLD THE DUTY OF CONFIDENTIALITY AND (SUBJECT TO CONFIRMATION WITH HERBERT SMITH) THAT THE SOUTH CHINA MORNING POST ARE STILL PREVENTED FROM PUBLISHING PENDING CONSIDERATION OF THE NEXT STEPS IN THE LIGHT OF A DETAILED STUDY OF THE JUDGMENT. THEY WILL DECLINE TO BE DRAWN ON WHETHER OR NOT THE GOVERNMENT WILL APPEAL TO THE PRIVY COUNCIL.
3. IF THE COURT OF APPEAL DOES NOT UPHOLD THE INJUNCTION MINISTERS WILL NEED TO CONSIDER WHETHER TO APPEAL TO THE PRIVY COUNCIL. WE EXPECT THAT THE COURT OF APPEAL WOULD IN THAT EVENTUALITY AGREE TO MAINTAIN THE INJUNCTION IN PLACE LONG ENOUGH TO ALLOW US TIME TO CONSIDER WHETHER OR NOT TO MAKE SUCH A FURTHER APPEAL (AND HERBERT SMITH WILL BE APPLYING FOR AS MUCH TIME AS POSSIBLE FOR THIS). BUT IF THEY DO NOT OUR LAWYERS HAVE DISCRETION TO GIVE FORMAL NOTICE THAT THE GOVERNMENT MAY WISH TO APPEAL IN ORDER TO PRESERVE THE GOVERNMENT'S POSITION PENDING CONSIDERATION OF THE JUDGMENT AND OUR NEXT STEPS.

HOWE

PAGE 1  
CONFIDENTIAL



YYYY

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PRESS OFFICE NO.10 DOWNING ST

NNNN



CONFIDENTIAL

036403  
MDHIAN 1702

CONFIDENTIAL  
FM ABU DHABI  
TO IMMEDIATE FCO  
TELNO 159  
OF 050800Z SEPTEMBER 87  
INFO IMMEDIATE DUBAI

YOUR TELNO 89 TO DUBAI: SPYCATCHER.

1. I CONFIRM THAT ADVICE IN ABU DHABI TELNO 158 REFERS TO BOTH SERIALISATION AND SALES OF THE BOOK. FINAL PART OF SERIALISATION APPEARED IN GULF NEWS TODAY AS FORESHADOWED IN MY TUR.

LOCKHART

YYYY

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ADDITIONAL 15

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PRESS OFFICE NO.10 DOWNING ST



SECRET



10 DOWNING STREET

LONDON SW1A 2AA

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

BBC PROGRAMME ON THE SECURITY SERVICE

Following my conversations with Anthony Inglese and yourself, I reported to the Prime Minister the Attorney General's concern that we were missing a trick in not giving the BBC briefing on the Government's attitude to the control and accountability of the Security Service. The Attorney felt that the BBC should be given the benefit of doubt and trusted to honour the terms of such briefing. I told the Prime Minister that the Attorney would welcome a short meeting with her on Monday directly she returned from Scotland about this matter.

When I reported this to the Prime Minister, she made clear that she still doubted the need for any such briefing. The Government's views were already on the public record and the BBC could take full account of them in their broadcast. But in view of the Attorney's representations, she was prepared for you to brief the BBC about the Government's attitude on the general principles of the control and accountability of the Security Services. You should do this on the understanding that the BBC would not refer to the briefing in the programme, and would regard it simply as background. You should avoid answering detailed questions on operational matters, for example on the frequency of your discussions with the Prime Minister on such matters.

I reported this to you on the telephone from Scotland on Thursday and you undertook to speak to the BBC accordingly.

I am sending a copy of this minute to the Private Secretaries to the Home Secretary and the Attorney General.

N.L. WICKS

5 September 1987

SECRET



CONFIDENTIAL

035040  
MDHOAN 0716

CONFIDENTIAL  
FM FCO  
TO IMMEDIATE DUBAI  
TELNO 89  
OF 041900Z SEPTEMBER 87  
AND TO IMMEDIATE ABU DHABI



YOUR TELNO 124 AND ABU DHABI TELNO 158: SPYCATCHER

1. IN VIEW OF THIS ADVICE AND IN PARTICULAR THE INFORMATION FROM THE MANAGING EDITOR OF GULF NEWS THAT NO MORE INSTALMENTS OF THE BOOK ARE TO BE PUBLISHED, WE SEE NO PURPOSE IN INITIATING COURT ACTION TO RESTRAIN FURTHER SERIALISATION. NOR, IN VIEW OF THE LEGAL ADVICE FROM ABU DHABI WHICH WE TAKE TO COVER SALES OF THE BOOK AS WELL AS SERIALISATION (GRATEFUL IF THEY WOULD CONFIRM), DO WE THINK THAT IT WOULD BE WISE TO INITIATE LEGAL ACTION TO TRY TO PREVENT FURTHER SALES OF THE BOOK. WE HAVE NOTED THE POSSIBILITY OF POLITICAL ACTION WITH THE RULER OF SHARJAH (PARA 7 OF TUR) BUT HAVE CONCLUDED THAT WE SHOULD NOT PURSUE THIS COURSE IN VIEW OF THE AWKWARD PRECEDENT THAT IT MIGHT SET. GRATEFUL HOWEVER IF YOU WOULD CONTINUE TO MONITOR THE SITUATION AND LET US KNOW IF THERE IS ANY CHANGE IN GULF NEWS INTENTIONS.

HOWE

YYYY

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ADDITIONAL 30

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NNNN



pa

19 CAVENDISH AVENUE  
LONDON NW8 9JD

01-286 9020

NW  
Pine Nimitz  
to see.

N.L.W.

7.9

2nd September 1987

PRIVATE AND CONFIDENTIAL

colg

I thought you might be interested to see  
this copy of a letter from Victor Rothschild  
which I found waiting here when I came back  
from Italy.

h.w.

The Rt. Hon. Mrs Margaret Thatcher, PC, MP,  
Prime Minister  
10 Downing Street  
London SW1A 2AA

MJ

Enc:



23 ST. JAMES'S PLACE  
LONDON SW1A 1NH  
01-493 4795

28th July 1987

Private & Confidential

Dear Vladimir,

Congratulations on your article in The Times of July 22. I intended to write to you to this effect before I had read the last two paragraphs. Of course I have not read Spycatcher because, if I understand the Official Secrets Act correctly (which I certainly ought to) it would be a breach of the Official Secrets Act to read the book; (similarly, it would be a breach of the Official Secrets Act just to receive the book.) The Director of Public Prosecutions would, I imagine, be rather busy if he followed the letter of the law.

From the extracts of the book which I have read in the papers I am sure of two things. First, many things in it are completely untrue. Secondly, the principal beneficiary of the book's publication must be the Soviet Union, leaving aside what Peter Wright and perhaps his side kick Paul Greenglass may make out of it. So far as the Soviet Union is concerned there has, of course, been evolution and perhaps even breakthroughs since the times to which Peter Wright refers. Nevertheless, a Government has the duty of studying the activities of spies and subversives and the methods available to them are not likely to change all that much; opening letters, telephone-tapping, listening to people's conversations, infiltrating organisations, disseminating disinformation and communicating\*. So, to the extent that Wright in his book reveals these operations as being practised by the British the better will the Soviet Union be able to look after its agents in this country and elsewhere - elsewhere because, of course, all other countries do the same.

\* I mean intercepting and deciphering, of course.



I am sure the Government was absolutely right to try and suppress Wright's book and I can think of a few others which merit the same treatment, the obvious being those of Nigel West.

*Yes  
Victor*

Lord Rothschild



16



SECRET

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

2 September 1987

*NW* *no* *see* *o.s.*  
*CDP*  
*3/9*

*Dear Trevor*

BBC PROGRAMME ON THE SECURITY SERVICE

*at trap*

The Home Secretary has seen Sir Robert Armstrong's minute of 28 August and Mr Wick's reply of 1 September.

The Home Secretary has asked me to advise you that he has received and declined a request from the BBC to give an interview for the programme. In making the request the BBC member of staff made it clear that the presenters were keen to have an interview with someone who could speak authoritatively and knowledgeably on the subject; it was suggested that if the Home Secretary were unwilling to take part Mr Leon Brittan would be approached to see if he would give an interview.

It is unclear whether the BBC will in fact approach Mr Brittan and still less whether, if approached, he will agree to be interviewed. But if he does agree, the Home Secretary believes it would be prudent to offer him an oral briefing.

A copy of this letter goes to Nigel Wicks (No 10) and Michael Saunders (Law Officers' Department).

*Yours ever*

*William*

W R FITTALL

Trevor Woolley, Esq.,

SECRET





10 DOWNING STREET

LONDON SW1A 2AA

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

## BBC PROGRAMME ON SECURITY SERVICE

Following our talk last night and Bernard Ingham's view that there is a good case for ensuring that the makers of this programme are aware of the Government's view on control and accountability of the Security Service, I suggested to the Prime Minister that you might brief the programme maker, Mr. Timothy Gardam, about these issues on the understanding that the briefing would be strictly off the record and would not be mentioned in any way in the programme.

The Prime Minister has not agreed that you should give such a briefing. She has asked what reason there is for thinking that the Service's and the Government's viewpoint would be put across by the programme makers in any other than a highly critical way, or indeed at all. She believes that we need some earnest of good faith from the BBC on these matters. Most of the Government's views on the issue of control and accountability of the Service are on the record and already available to the BBC.

I am sending a copy of this minute to the Private Secretaries to the Home Secretary and the Attorney General.

N.L.W.

(N.L. WICKS)

2 September 1987FILE 15  
DA





File SW2ABQ  
124

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

BBC PROGRAMME ON THE SECURITY SERVICE

The Prime Minister has seen your minute of 28 August about the forthcoming BBC programme on the Security Service. She is convinced that the proposed programme is intended to cause trouble since otherwise it would not be screened. Her concerns are in no way allayed by the fact that it will include interviews with people like Christopher Andrew who she recalls from his 1985 book, wants to see full Parliamentary supervision of the Security Service. Nor is she convinced that the programme will be a balanced one. Indeed she believes that as far as the Wright episode is concerned, there is no such thing as a balanced programme. For these reasons the Prime Minister is not ready to authorise the sort of co-operation with the BBC suggested in paragraph 4 of your minute.

I am sending a copy of this minute to the Private Secretaries to the Home Secretary and the Attorney General.

(N. L. WICKS)  
1 September 1987

SECRET



PRIME MINISTER

BBC PROGRAMME ON THE SECURITY SERVICE

Robert Armstrong has discussed with Tony Duff your reaction to the suggestion in Robert Armstrong's minute below that the Security Service should give briefing to the makers of the BBC programme on the Security Service.

Tony Duff would not argue that it is essential that such briefing should be given. But he is concerned that unless someone points out to the programme's makers the case for the present system of controls and accountability, they will produce, perforce, a programme which does not put across the Service's and the Government's, point of view. Bernard Ingham sees some force in this argument. He believes that the new BBC management, of messrs Checkland and Birt, are trying to improve the Corporation's performance and responsibility. We should help them until they have shown that they were unworthy. Bernard therefore suggests that Robert Armstrong should brief the programme's makers on issues of control and accountability of the Security Service.

Robert Armstrong and Tony Duff think that this will be a good idea; and Robert is prepared to talk to the programme maker, Mr. Timothy Garden, about these issues on the understanding that his briefing would be strictly off the record and would not be mentioned in any way in the programme.

Can you agree to proceed on this basis?

N.L.U.

NLW

1 September 1987

JALBLS

What makes you think that the issues raised would be put across in any way other than a highly critical way - or at all? We need some earnest good faith. Mosty not our view are on the record.





DEPARTMENT/SERIES <i>Prem 19</i> ..... PIECE/ITEM ..... <i>2507</i> (one piece/item number)	Date and sign
Extract details:  <i>Minute dated 28<sup>th</sup> of August 1987</i>	
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010

*Seen by PAB.*

From: THE PRIVATE SECRETARY



CONFIDENTIAL

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

25 August 1987

*Dear Michael*

ATTORNEY GENERAL v SOUTH CHINA MORNING POST

This is to confirm that the Home Secretary accepts the Solicitor General's advice that we should appeal against the judgment of Mr Justice Barnett.

A copy of this letter goes to Mark Addison (No 10), the Private Secretaries to the other members of OD(DIS) and to Trevor Woolley (Cabinet Office).

*Yours ever*  
*W. R. Fittall*

W R FITTALL

Michael Saunders, Esq.,

CONFIDENTIAL



file  
CONFIDENTIAL

MJ



10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

24 August 1987

*Dear Michael*

ATTORNEY GENERAL v. SOUTH CHINA MORNING POST

This is to confirm that the Prime Minister agrees with the Solicitor General's recommendation that an appeal should be pursued in Hong Kong.

I am copying this to William Fittall (Home Office) and to the Private Secretaries of other members of OD(DIS) and to Trevor Woolley (Cabinet Office).

*25*  
*Mark Addison*

Mark Addison

Michael Saunders Esq  
Law Officers' Department.

GA

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01-936 6269

ROYAL COURTS OF JUSTICE  
LONDON WC2A 2LL

HOME SECRETARY

ATTORNEY GENERAL -v- SOUTH CHINA MORNING POST

This morning Mr Justice Barnett in the High Court of Hong Kong discharged the injunction obtained by the Attorney General. He has granted a stay of that Order until 10.00 hours (Hong Kong time) on Wednesday 26 August so that we can decide whether to appeal. We should inform our agents in Hong Kong of our decision as soon as possible.

I have seen a note of the judgment of Mr Justice Barnett prepared by our agents. The Judge followed the House of Lords in the Guardian/Observer case to the extent of recognising the need to balance the Government's right to enforce a lifelong duty of confidentiality and to prevent detriment to the Security Service by means of an injunction against the need to ensure freedom of the press. He drew a distinction, however, as to the measure of the damage sustained by publication in Hong Kong as compared to that suffered in the UK. He laid an enhanced stress on the importance of freedom of information "having regard to the unique political situation in Hong Kong". In these circumstances, he felt able to distinguish the judgment of the majority of the House of Lords in the Guardian/Observer case.

I am clearly of the opinion that we should appeal this judgment. Although our Hong Kong agents were initially somewhat pessimistic about the prospects of success in any appeal, their considered view is that the prospects are at least reasonable. It is moreover highly desirable tactically in relation to the Australian proceedings that we should not accept this adverse judgment. The reasoning of the judgment itself cannot be said to be particularly cogent. In particular, it underestimates the worldwide detriment suffered by the Security Service which influenced the majority in the House of Lords. The Judge draws what I regard as unpersuasive distinctions between the situation in Hong Kong and that in the United Kingdom. Accordingly, I would recommend that instructions be given as soon as possible to our agents in Hong Kong that an appeal should be pursued.

CONFIDENTIAL



CONFIDENTIAL



I am copying this minute to the Prime Minister and other members of OD(DIS)  
and to Sir Robert Armstrong.

*M.*

24 August 1987

CONFIDENTIAL



RESTRICTED



SLW

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

MR. MALLABY  
CABINET OFFICE

THE PETER WRIGHT CASE

The Prime Minister has seen OD(DIS)(87)63.  
She is content with the preliminary line  
set out in paragraph 1 of the paper.

I am copying this to Trevor Woolley (Cabinet  
Office).

(MARK ADDISON)  
24 August 1987

RESTRICTED

SLW



ADVANCE COPIES  
PETER WRIGHT CASE

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NEWS DEPT

MR DINWIDDY )  
PS/SIR ROBERT ARMSTRONG ) CABINET  
SIR C FIGURES ) OFFICE  
MR MALLABY )

MR INGLESE ) LAW OFFICERS DEPT  
~~MR SANDERS~~ )

MR NURSAW )  
MR MOWER ) HOME OFFICE  
SIR B CUBBON, PUS )

~~RESIDENT CLERK~~

LEGAL ADVISERS ) SECURITY SERVICES  
DIRECTOR GENERAL ) (via PUSD E203)

MR HOGG TREASURY SOLICITORS

PS/NO 10 DOWNING STREET  
PRESS OFFICE NO 10 DOWNING STREET

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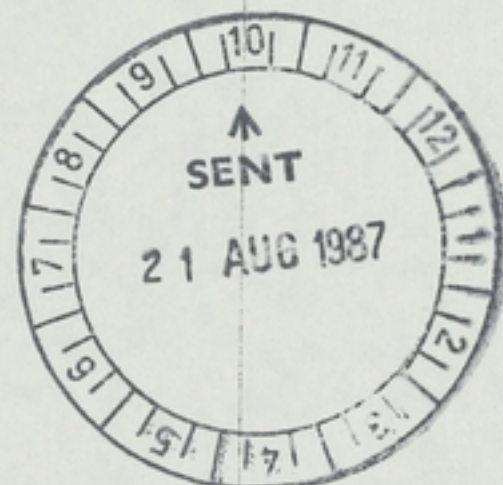
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FM NAIROBI  
TO DESKBY 210830Z FCO  
TELNO 465  
OF 210730Z AUGUST 87

YOUR TELNO 326: PETER WRIGHT BOOK: 'SPYCATCHER'

1. KIPLAGAT (PERMANENT SECRETARY, MFA) TELEPHONED DHC THIS MORNING IN HC'S ABSENCE, TO CONVEY A MESSAGE FROM PRESIDENT MOI. HE SAID THAT THE PRESIDENT WAS UNHAPPY AND CONCERNED BY THE PUBLICATION OF EXTRACTS FROM 'SPYCATCHER' IN THE NATION, AND WANTED THE BRITISH GOVERNMENT TO KNOW THAT THE KENYAN GOVERNMENT HAD HAD NO PRIOR KNOWLEDGE OF THIS PUBLICATION AND HAD CERTAINLY NOT ENCOURAGE IT. KIPLAGAT WOULD BE RINGING THE EDITOR OF THE NATION TO CONVEY THE PRESIDENT'S VIEWS TO HIM. HE WAS MOST ANXIOUS THAT THE KENYAN GOVERNMENT'S VIEWS SHOULD NOT BE MISUNDERSTOOD IN LONDON. RELATIONS BETWEEN OUR TWO COUNTRIES WERE EXTREMELY GOOD AND FRIENDLY AND PRESIDENT MOI WAS DISTURBED TO THINK THAT THIS MIGHT IN ANY WAY BE DAMAGED BY THE PUBLICATION OF THESE EXTRACTS. HE WANTED THE PRIME MINISTER TO KNOW HIS STRONG FEELINGS ON THE MATTER.

2. WHETHER BECAUSE OF THE INTERVENTION OF STATE HOUSE, OR BECAUSE THE NATION HAS IN ANY CASE COME TO THE END OF ITS SERIALISATION, TODAY'S EXTRACT FROM 'SPYCATCHER' HAS BEEN ADVERTISED AS THE FINAL INSTALMENT. WE HAVE JUST RECEIVED YOUR TUR ON WHICH WE ARE OF COURSE WILLING TO TAKE IMMEDIATE ACTION WITH OUR LEGAL ADVISERS. BUT IN THE ABOVE CIRCUMSTANCES, DO YOU WISH US TO PURSUE THESE QUESTIONS? THE KENYAN GOVERNMENT'S CONCERN APPEARS TO BE STRONG ENOUGH TO DISSUADE ANY OTHER PUBLICATION (IN A COUNTRY WHERE THE PRESS IS WELL PRACTICED IN THE ART OF SELF-CENSORSHIP) FROM FOLLOWING SUIT.

JOHNSON





Peter Wright



Fre DTS

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

12 August 1987

The Prime Minister has seen OD(DIS)(87)62 of 11 August. She does not dissent from the recommendations therein.

P A BEARPARK

Nigel Brind, Esq.



From: THE PRIVATE SECRETARY



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

11 August 1987

*nbpm*

*Dear Mark,*

PETER WRIGHT CASE

... Thank you for your letter of 10 August. I attach a copy of the letters from the Home Secretary and the Attorney General in the form in which they are now being circulated to backbenchers.

Copies of this letter and enclosures go to the Private Secretaries to members of OD(DIS) and the Attorney General, and to Trevor Woolley (Cabinet Office).

*Yours,*

A handwritten signature in dark ink, appearing to read 'P J C Mawer', with a long horizontal flourish extending to the right.

P J C MAWER

Mark Addison, Esq



From: THE RT. HON. DOUGLAS HURD, CBE, MP.



HOUSE OF COMMONS,  
LONDON, SW1A 0AA

August 1987

Dear Colleague,

THE PETER WRIGHT CASE

As we have consistently explained, the Government is seeking in the legal proceedings on Mr Peter Wright's book to uphold the principle that Mr Wright, who was a member of the Security Service from 1955 to 1976, owes a life-long duty of confidentiality to the Crown. In line with that duty, members and former members of the Security Service may not disclose, unless authorised, any information derived from their work. The application of this principle now and in the future is essential to the effectiveness of the Security Service. The effective functioning of the Security Service is in turn essential to this country's defences against terrorism, espionage and subversion. The Government case has been misrepresented as an attempt to ban a story which, it is alleged, would be embarrassing to the Government. In fact action had begun in Australia in an attempt to enforce Wright's obligations long before the Government knew what his book contained. The Government acted to defend a principle not to prevent the publication of any particular story.

That principle of confidentiality is at the heart of the Government's case in all the legal proceedings concerning the book. In the United States and Canada, the Government's advice was that under the law of those countries there was no chance of preventing publication of Wright's book through action in the courts.

The publication in the United States and Canada and the resulting dissemination of the contents of Wright's book, though very regrettable, cannot affect or weaken the principle that Wright owes a duty of confidentiality to the Crown. It is Wright's breach of that duty which has resulted in such publication and neither he nor any publisher can be allowed to defend a further breach of that duty by relying on the consequences of an earlier breach. It will have been noted that the New South Wales Court of Appeal, when reserving its judgment, has left in force undertakings to the court preventing publication even though the book had been published in the USA and copies had been brought into Australia.

/That is why





That is why it remains important for the Government to uphold the principle of confidentiality in the various legal cases. For the moment attention has concentrated on the question of publication but ultimately it will become necessary to ensure, so far as possible, that Wright and the publishers of his book or parts of it do not make profits from his breach of confidentiality. Wright must not be allowed to use publication in one country to achieve a position where his obligation cannot be enforced in other countries. Nor is his obligation to respect the confidence entrusted in him lessened by his breach of that obligation in selling information in the past.

Some critics have suggested that the Government need not have sought injunctions but could have dealt with Wright's breach of confidence by way of prosecution under the Official Secrets Act. Decisions about prosecutions under that Act are for the Attorney General but there can be nothing improper in my pointing to the fact that Wright is outside the jurisdiction of our courts and offences under that Act are not extraditable.

The injunction resulting from the ruling by the House of Lords on 30 July is attached. Three points about it should be noted:

- the Law Lords have not yet given the reasons for their ruling and it is premature to criticise the decision without knowing the reasons;
- the injunction is an interim one, to maintain the position until the question of publication of material from Wright can come to full trial and be argued on its merits;
- the injunction does not ban reporting of all proceedings on the Wright case in Australia, but only of proceedings where the first two paragraphs of the injunction would be breached by revelation of information about Wright's service which comes from him or is attributed to him; and that is limited by the three provisos at the end of the injunction.

I hope you will find this account of the Government's approach helpful. A parallel letter from the Attorney General accompanies this one.

Yours,  
Douglas.



"The Defendants and each of them be restrained until trial or further order from doing whether by himself or itself or by his or its servants or agents or any of them or otherwise howsoever the following acts or any of them that is to say:

1. disclosing or publishing or causing or permitting to be disclosed or published to any person any information obtained by Peter Maurice Wright in his capacity as a member of the British Security Service and which they know or have reasonable grounds to believe to have come or been obtained whether directly or indirectly from the said Peter Maurice Wright
2. attributing in any disclosure or publication made by them to any person any information concerning the British Security Service to the said Peter Maurice Wright whether by name or otherwise

Provided that

1. this order shall not prohibit direct quotation of attributions to Peter Maurice Wright already made by Mr Chapman Pincher in published works, or in a television programme or programmes broadcast by Granada Television;

2. no breach of this order shall be constituted by disclosure or publication of any judgment given in open court in the New South Wales proceedings 4382/85;

3. no breach of this order shall be constituted by a fair and accurate report of proceedings in: (A) either House of Parliament in the United Kingdom whose publication is permitted by that House; or (B) a Court of the United Kingdom sitting in public."





HOUSE OF COMMONS  
LONDON SW1A 0AA

7 August 1987

*Dear Colleagues:*

PETER WRIGHT CASE

Recent adverse press publicity has made it desirable for our Backbenchers to be informed of some of the wider issues in the Wright case and the cases associated with it.

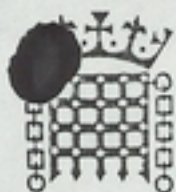
2. It will be clear by now, with the book having been published in the United States and Canada, that the purpose of the proceedings currently being brought in Australia is to uphold the principle, and enforce the duty, of confidentiality, and prevent the damage that would flow from the Government being seen to be powerless to restrain further breaches by Mr Wright of this duty, especially in this country.

CIVIL PROCEEDINGS TO ENFORCE DUTY OF CONFIDENTIALITY

3. The proceedings against Peter Wright, a retired member of the Security Service now living in Australia, and his publishers, Heinemann of Australia, were commenced in 1985, when an interlocutory injunction was obtained in New South Wales to prevent the publication by Mr Wright of information obtained by him in the course of his employment. The case came to trial in November and December of last year before Mr Justice Powell. He held against the Government.

4. Last week for 5 days the New South Wales Court of Appeal heard the Government's appeal. Judgment is expected at about the end of this month. We had a much more favourable hearing than before Mr Justice Powell. One particular piece of evidence to which the Court of Appeal attached much importance was that given by the Australian Government's Cabinet Secretary, to the effect that publication of the book in Australia would damage the Australian public interest.





5. Last year the Observer and Guardian newspapers announced that they would soon begin publishing material from what was then Mr Wright's manuscript. The Government obtained interlocutory injunctions here against both newspapers, on grounds of breach of confidence, to prevent publication of the extracts. More recently, following the publication by the Independent on 27 April this year of an account of part of the Wright book, the Observer and Guardian applied to the courts to have last year's injunction discharged on grounds of futility. By the time this particular action had reached the House of Lords the book had been published in the United States. On 30 July, however, the House of Lords, by a majority of 3 to 2, maintained last year's injunction (with one modification: the deletion of a proviso allowing reporting of material from the book if disclosed in open court in Australia, although it will remain permissible to report such material if contained in the NSW Appeal Court's judgment). The House of Lords have not yet given the reasons for their decision. These are expected to follow next month.

6. One of the Government's arguments which seems to have impressed the majority was that a green light should not be displayed to other former members of the Security Service who, from a vantage point outside the UK, might wish to make arrangements for the publication of their memoirs in the United States, for example, in the knowledge that the English courts would then decline to restrain its publication in the more lucrative UK market.

7. The amendment of the proviso to the injunction by the Lords has attracted much criticism. It is likely that it was prompted by the feeling that it would be wrong in principle, after so much consideration had been given to the matter in the courts here, for publication of extracts from the book to be permitted simply because they had been read out in open court in Australia, where our courts have no jurisdiction. But we have not yet seen their reasons, and those who are critical of what they have done ought to wait for these. In fact, it appears that very little from the book was read out in open court in Australia during the appeal hearing.

8. Both sets of proceedings referred to above - the Australian case and the domestic action against the Observer and Guardian - have been brought by the Attorney General on behalf of the Government collectively. Within the last few days the Government has also obtained interlocutory injunctions against organs in Hong Kong and New Zealand which had begun to publish extracts from Spycatcher.





## PROCEEDINGS FOR CRIMINAL CONTEMPT

9. The Parliamentary Answers set out at Annex A and B make it clear that there are certain proceedings of a criminal nature in which I act as a law enforcement officer, independently of my colleagues. These decisions are for me and me alone (although I may before reaching a decision consult my colleagues on aspects of the public interest). Proceedings for criminal contempt of court, e.g. for interference with the due administration of justice, are an example of circumstances in which I act independently.
  
10. On 27 April 1987 the Independent newspaper published a summary of part of Spycatcher. The newspaper was not subject to an injunction, unlike the Observer and Guardian, but my predecessor considered that what it had done constituted a criminal contempt of court on the ground that it impeded the course of justice in the proceedings against the Guardian and Observer. This point of law had never been directly litigated before. The Vice-Chancellor, who took the case, heard argument from Counsel on the point of law and concluded that the Independent's conduct could not be a contempt of court. The Court of Appeal reversed the Vice-Chancellor and held that in law it could be a contempt, if the newspaper intended to impede or interfere with the administration of justice, and that that intention could be inferred from all the circumstances. It is not clear yet whether the newspaper is seeking to appeal to the House of Lords on the point of law. The facts have not yet been tried.
  
11. The effect of the judgment against the Independent is that where an injunction has been obtained against one newspaper or other would-be publisher, anyone else who publishes material which is the subject of the injunction can in law be guilty of a criminal contempt of court.
  
12. On 12 July the Sunday Times published extracts from Spycatcher and I announced on the same day that I would be instituting proceedings against the newspaper for criminal contempt.
  
13. Criminal contempt proceedings have also been announced recently against the Sunday Telegraph and the News on Sunday.





## ACCOUNT OF PROFITS

14. If in the current litigation to enforce the duty of confidence the Government can show Mr Wright and his publishers have committed a breach of confidence and have profited from it, it is open to the Government to seek to recover through the courts the profits that have been made. The mechanism for doing this is to seek from the courts what is called "an account of profits". This is already being sought in the Australian case.

15. The words of the Master of the Rolls in the recent Observer/Guardian case on the subject of accounts of profits are worth bearing in mind, both generally and in particular if the book were ever to be published here:

"But there is another way in which the Government can restore the confidence of friendly foreign countries, or at least limit the loss of confidence. This ... consists of seeking in every possible way to deprive Mr Wright, and all who seek to profit from his disclosures, of any benefit which they may already have derived or which they would derive from further publication. No doubt it is with this in mind that indications have been given of an intention to seek an account and payment to the Government of all profits made by Mr Wright from his allegedly unlawful conduct. We are not at present concerned with this aspect, but let no one think that this involves a volte-face or U-turn - a change from a stance of 'Thou shalt not publish' to 'Let us go into partnership'. It is entirely consistent to seek to prevent a dishonest servant or agent from pursuing an unlawful course of conduct and, to the extent that that fails, to seek to deprive him of all benefit."

## A CONCLUDING POINT

16. Colleagues may like to bear in mind, and perhaps refer to, the following words of the Vice-Chancellor, the more telling in that they were contained in a judgment which was adverse to the Government:

"There seems to have been a temptation to treat this case as an unreasonable pursuit by the Government of unreasonable ends. That is not a view I share. The revelation of secrets of a security agent, it seems to me, are highly important and highly undesirable. I therefore think it is most regrettable, if it proves to be the case, that there is no way in which the court can preserve that confidentiality."

The Court of Appeal and the House of Lords have of course held that there is.

*Yours sincerely,*  
*Patrick*

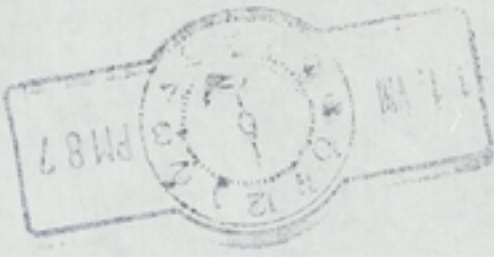
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Security

WRIGHT

PT 8





PARLIAMENTARY QUESTION FOR PRIORITY WRITTEN ANSWERON MONDAY 8th DECEMBER 1986QUESTION

163W

MR. JOHN MORRIS: To ask Mr. Attorney General, if, further to his statement of 1st December, Official Report, column 620, he will identify those of his responsibilities in respect of which there is collective responsibility.

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MEMBER'S CONSTITUENCY:

ABERAVON

(LAB)

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ANSWER

THE ATTORNEY GENERAL: In criminal proceedings the Attorney General acts wholly independently of the Government. In civil proceedings a distinction is to be drawn between proceedings in which the Attorney General is involved in a representative capacity on behalf of the Government, and action undertaken by him on behalf of the general community to enforce the law as an end in itself. In the latter capacity the Attorney General again acts, whether ex officio or ex relatione, wholly independently of the Government. In the former he is by definition representing it. In this representative capacity the Attorney General will assert the public interest as perceived by the Government as a whole. It may be for other Ministers to assert the public interest in civil matters which may concern their own Ministerial responsibilities, for example when making a claim to public interest immunity from discovery of documents. Any advice sought from the Attorney General, as the First Law Officer of the Crown, will of course be given impartially, and proceedings will only be taken in his name if he is satisfied as to the legal propriety of the action.



nd liberties of the subject. The right of access to legal advice is an important safeguard. We believe that that balance is working well.

Mr. Fraser: Will the Solicitor-General discourage the police from the practice of taking incriminating statements oral or written, first and then allowing the prisoner access to legal advice?

The Solicitor-General: I warmly welcome the hon. Gentleman to his new post. The Police and Criminal Evidence Act 1984 and the code of practice are perfectly clear as to the right to legal advice, and they should be followed.

Mr. Hind: Will my hon. and learned Friend consider a review of the procedures of the Police and Criminal Evidence Act relating to the detention of prisoners at a police station and the interviews in the light of the fact that so many hours are being spent by police officers on those statements? That task is reducing the effectiveness of policing on the streets and is causing widespread worry among the police force and the public.

The Solicitor-General: I note carefully what my hon. Friend says. Our evidence is that the Police and Criminal Evidence Act is, on the whole, working well. However, I will take my hon. Friend's remarks into account.

#### Official Secrets Act

58. Mr. Campbell-Savours asked the Attorney-General how many prosecutions under the Official Secrets Acts he has instituted in 1987.

The Attorney-General: Since becoming Attorney-General I have not consented to any such prosecution.

Mr. Campbell-Savours: If Wright's allegations have damaged the security service, which was part of Sir Robert Armstrong's case in the Australian courts, why have no prosecutions under section 2 of the Official Secrets Act been brought against *The Observer*, *The Guardian*, the *Sunday Telegraph*, *The Sunday Times*, the *Daily Mirror*, the *London Daily News* and *The London Evening Standard*? Could the answer be that the Attorney-General knows that when he brings proceedings for criminal contempt and injunctions there are no juries to adjudicate and examine those matters, whereas if he brings the case under the Official Secrets Act there will be a jury and he knows well that the courts and the juries would simply reject his whole case?

The Attorney-General: The hon. Gentleman is very ingenious at constructing any number of potential reasons — [Interruption.] — for the exercise of the discretion of the Law Officers. These are matters for discretion and, at present, I take responsibility for them.

Mr. Aitken: Given the tidal wave of legal actions that are now going on around the world on such issues as what is and is not an official secret or what the press may or may not publish, does it not worry my right hon. and learned Friend that these issues are being resolved and new law being made ostensibly by the judges while Parliament declines to reform the now discredited Official Secrets Act? Surely it is time for Parliament to make the rules and draw the lines in clear places.

The Attorney-General: My hon. Friend is aware that responsibility for any reform of the Official Secrets Act lies

with my hon. Friend the Home Secretary. Equally, he knows that the predecessor Conservative Government attempted that reform, but it did not find favour in the House of Lords. Meanwhile, the Attorney-General, as first Law Officer of the Crown, has a duty to ensure that the due administration of justice is not interfered with. The Government, collectively, have the responsibility to take such steps as seem appropriate to protect the duty of confidentiality owed by former members of the secret service.

Mr. Beith: When are the Government going to cut their losses on the Peter Wright case and recognise that the amount of material already available and the significance of the issues raised totally outweigh the Government's capacity, now virtually non-existent, to strengthen the issue of confidentiality by further legal proceedings?

The Attorney-General: I am criticised for losing in the courts—as I was by the right hon. and learned Member for Aberavon (Mr. Morris) on Newsnight last Tuesday—and I am criticised for winning, as I did in the Court of Appeal on Wednesday. I do not believe that the hon. Gentleman's question can be answered until we see whether, and if so, to what extent, the Government have lost.

Mr. Favell: Is my right hon. and learned Friend aware that Mr. Peter Wright is regarded by many people in this country as a squalid little man who has betrayed his oath and now will betray his country, and that others should be deterred from doing exactly the same thing?

The Attorney-General: I must hold to the practice of myself and my immediate predecessor of not commenting on matters that remain in issue in the Australian proceedings.

Mr. John Morris: While I would expect the Attorney-General to say that the Prime Minister has no hand in prosecutions under the Official Secrets Act, can he give the same assurance regarding the inference that, had the Court of Appeal ruled against the Government last week the Prime Minister would have instructed him to obtain an injunction against *The Sunday Times* and the further inference that could be drawn from the Treasury solicitor's call to Theodore Goddard, *The Sunday Times* solicitor? Do the inferences that the Prime Minister was involved have no basis?

The Attorney-General: I can answer that question clearly by referring the right hon. and learned Gentleman to the written answer given to him on 8 December last year by my immediate predecessor. In matters that relate to proceedings of a criminal nature, which embraces criminal contempt, proceedings and the question whether to take them are entirely a matter for the Attorney-General. The proceedings that I took on Sunday last and Thursday last week fell into that category. They were taken by me without reference to the Prime Minister or any other Minister. Civil proceedings to protect by injunction the duty of confidentiality, to which I referred this afternoon, are a matter for the Government collectively. The Prime Minister, other Ministers and myself properly have a say in those matters.





10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

MR. NIGEL NICHOLLS

CABINET OFFICE

PETER WRIGHT CASE: SALES OF THE BOOK IN BELGIUM

The Prime Minister has seen OD(DIS)(87)60, and she has noted this without comment.

The Prime Minister has also seen Christopher Mallaby's minute of 7 August to Nigel Wicks. She agrees, subject to the conditions set out in the minute, that an injunction should be sought against a Brussels bookshop, other than W. H. Smith, today.

I am copying this minute to Tony Galsworthy (Foreign and Commonwealth Office), Philip Mawer (Home Office), Michael Saunders (Law Officers' Department), Alan Maxwell (Lord Advocate's Department) and Trevor Woolley (Cabinet Office).

Man Addison

MARK ADDISON

10 August 1987





10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

10 August 1987

*Dee Philip*

PETER WRIGHT CASE

The Prime Minister has seen the text of a draft letter, attached to your letter to Nigel Wicks of 7 August, which the Home Secretary proposes to send backbenchers early this week. She thought the draft letter excellent.

I am copying this letter to the Private Secretaries to members of OD(DIS) and Trevor Woolley (Cabinet Office).

*Zo*  
*Mark Addison*

MARK ADDISON

Philip Mawer, Esq.,  
Home Office



CONFIDENTIAL

B.0253

MR WICKS

Peter Wright Case: Sales of the book in Belgium

Officials reported in OD(DIS)(87)60 this evening that we were in contact with Mr Malcolm Field, Managing Director of W H Smith, whose Brussels branch have been selling "Spycatcher".

2. He rang me back this afternoon to say that he was sympathetic to the Government's position in this matter; that W H Smith's branch in Brussels were turning down all requests from this country to supply "Spycatcher" by post; but since other bookshops in Brussels were selling the book, he could not ask his Brussels branch to withdraw it from sale.

3. The recommendation in OD(DIS)(87)60 was that we should seek an injunction against W H Smith in Brussels unless Mr Field stated clearly that the branch would stop selling the book. I suggest that we now need to seek an injunction, but that it would be preferable, in view of Mr Field's partly helpful attitude, if the injunction was sought against another bookshop.

4. Our Embassy in Brussels are checking:

- a. that other bookshops in Brussels are selling the book;
- b. that an injunction against one of them would cause others to withdraw the book from sale;
- c. that our prospects in seeking an injunction would be good (paragraph 4 of OD(DIS)(87)60).

Prime Minister  
Agree that we should seek an injunction to stop sale of the book in Belgium?

COP  
7/8.

Yes  
no

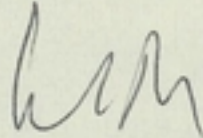
CONFIDENTIAL



CONFIDENTIAL

5. If the answer on all three points is affirmative, I recommend that an injunction be sought against a Brussels bookshop other than W H Smith on Monday 10 August.

6. I am sending copies of this minute to the Private Secretaries to the Foreign and Commonwealth Secretary, the Home Secretary, the Attorney General and the Lord Advocate, and to Sir Robert Armstrong.



C L G Mallaby

7 August 1987



RESTRICTED



Prime Minister

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

7 August 1987

COP  
7/P

Dear Nigel,

L. S. M. - Thankyou  
ms

## PETER WRIGHT CASE

I mentioned that the Home Secretary and the Attorney General had agreed in discussion earlier this week to circulate notes to the Government's supporters in Parliament reiterating the reasons for the Government's actions in the Peter Wright case. Such notes - one by the Home Secretary on the policy adopted by the Government and one by the Attorney General on his own role in the affair - would be helpful to backbenchers in responding to enquiries about the Government's position or in presenting the Government's position through the media.

I attach a "dear colleague" letter by the Home Secretary setting out the policy arguments. I understand that the Attorney General's office hope to circulate a note by him later in the day. The object is for both notes to be despatched to backbenchers early next week.

The Prime Minister and other members of OD(DIS) will wish to know what is intended. If I have not heard to the contrary by lunchtime on Monday, the letter will be despatched.

Copies of this letter and enclosure go to the Private Secretaries to other members of OD(DIS) and Sir Robert Armstrong.

Yours sincerely,

P J C MAWER

Nigel Wicks, Esq, CBE

RESTRICTED



August 1987

### THE PETER WRIGHT CASE

As we have consistently explained, the Government is seeking in the legal proceedings on Mr Peter Wright's book to uphold the principle that Mr Wright, who was a member of the Security Service from 1955 to 1976, owes a life-long duty of confidentiality to the Crown. In line with that duty, members and former members of the Security Service may not disclose, unless authorised, any information derived from their work. The application of this principle now and in the future is essential to the effectiveness of the Security Service. The effective functioning of the Security Service is in turn essential to this country's defences against terrorism, espionage and subversion. The Government case has been misrepresented as an attempt to ban a story which, it is alleged, would be embarrassing to the Government. In fact action had begun in Australia in an attempt to enforce Wright's obligations long before the Government knew what his book contained. The Government acted to defend a principle not to prevent the publication of any particular story.

That principle of confidentiality is at the heart of the Government's case in all the legal proceedings concerning the book. In the United States and Canada, the Government's advice was that under the law of those countries there was no chance of preventing publication of Wright's book through action in the courts.

The publication in the United States and Canada and the resulting dissemination of the contents of Wright's book, though very regrettable, cannot affect or weaken the principle that Wright owes a duty of confidentiality to the Crown. It is Wright's breach of that duty which has resulted in such publication and neither he nor any publisher can be allowed to defend a further breach of that duty by relying on the consequences of an earlier breach. It will have been noted that the New South Wales Court of Appeal, when reserving its judgment, has left in force undertakings to the court preventing publication even though the book had been published in the USA and copies had been brought into Australia.

/That is why



That is why it remains important for the Government to uphold the principle of confidentiality in the various legal cases. For the moment attention has concentrated on the question of publication but ultimately it will become necessary to ensure, so far as possible, that Wright and the publishers of his book or parts of it do not make profits from his breach of confidentiality. Wright must not be allowed to use publication in one country to achieve a position where his obligation cannot be enforced in other countries. Nor is his obligation to respect the confidence entrusted in him lessened by his breach of that obligation in selling information in the past.

Some critics have suggested that the Government need not have sought injunctions but could have dealt with Wright's breach of confidence by way of prosecution under the Official Secrets Act. Decisions about prosecutions under that Act are for the Attorney General but there can be nothing improper in my pointing to the fact that Wright is outside the jurisdiction of our courts and offences under that Act are not extraditable.

The injunction resulting from the ruling by the House of Lords on 30 July is attached. Three points about it should be noted:

- the Law Lords have not yet given the reasons for their ruling and it is premature to criticise the decision without knowing the reasons;
- the injunction is an interim one, to maintain the position until the question of publication of material from Wright can come to full trial and be argued on its merits;
- the injunction does not ban reporting of all proceedings on the Wright case in Australia, but only of proceedings where the first two paragraphs of the injunction would be breached by revelation of information about Wright's service which comes from him or is attributed to him; and that is limited by the three provisos at the end of the injunction.

DH



"The Defendants and each of them be restrained until trial or further order from doing whether by himself or itself or by his or its servants or agents or any of them or otherwise howsoever the following acts or any of them that is to say:

1. disclosing or publishing or causing or permitting to be disclosed or published to any person any information obtained by Peter Maurice Wright in his capacity as a member of the British Security Service and which they know or have reasonable grounds to believe to have come or been obtained whether directly or indirectly from the said Peter Maurice Wright
2. attributing in any disclosure or publication made by them to any person any information concerning the British Security Service to the said Peter Maurice Wright whether by name or otherwise

Provided that

1. this order shall not prohibit direct quotation of attributions to Peter Maurice Wright already made by Mr Chapman Pincher in published works, or in a television programme or programmes broadcast by Granada Television;

2. no breach of this order shall be constituted by disclosure or publication of any judgment given in open court in the New South Wales proceedings 4382/85;

3. no breach of this order shall be constituted by a fair and accurate report of proceedings in: (A) either House of Parliament in the United Kingdom whose publication is permitted by that House; or (B) a Court of the United Kingdom sitting in public."



Ref. A087/2408

MR POWELL

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Thank you for your note of 3 August, covering a note about the Security Service by two of its former members.

2. I should like to suggest that I should prepare a reasoned (though not too detailed) commentary on it, which you could then send to the two people concerned, with a covering letter to the effect that you had shown the note to someone familiar with, but not of, the Security Service, who had sent you a commentary on the note which you thought they would like to see.

3. If you agree with this way of dealing with it, I should like to be able to show the note to the Home Office and the Security Service, and to make sure that they were content with the commentary.

4. May I so proceed?

REA

ROBERT ARMSTRONG

6 August 1987





10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

SIR ROBERT ARMSTRONG

Thank you for your note of 6 August about the paper on the Security Service by two of its former members. I am most grateful for the suggestion that you should prepare a reasoned commentary on it which could be sent to the two people concerned. I agree that you should show the paper to the Home Office and to the Security Service. I would only ask that the latter should not contact the two authors of the paper directly about it.

Charles Powell

6 August 1987



MR. WICKS

cc: Sir Robert Armstrong

John Wakeham has sent me the attached letter  
which he has received from Chapman Pincher.

CDP

See Pincher to Wakeham  
23-7-87

CDP

6 August 1987



CONFIDENTIAL

01-936-6494

Communications on this subject should be addressed to

THE LEGAL SECRETARY  
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,  
LAW OFFICERS' DEPARTMENT,  
ROYAL COURTS OF JUSTICE,  
LONDON, W.C.2.

5 August 1987

*ms*  
Prime Minister 2

C D Powell Esq  
Private Secretary to the Prime Minister  
10 Downing Street  
LONDON S W 1

No action to be  
taken against the  
Scottish bookseller.

Dear Charles,

N. L. U attached.  
6.8

PETER WRIGHT CASE

This morning the Attorney General discussed paragraph 1 of OD(DIS)(87)58 (possible action against Edinburgh bookseller) with the Lord Advocate.

The Attorney General said that he regarded the maintenance of a common front between the two jurisdictions of Scotland and England and Wales as an important objective. For his part he would be unlikely to wish, upon the same facts occurring in England, to take proceedings for criminal contempt here. He noted that the bookseller, who was in business on his own, appeared to have obtained a single batch of 100 copies of "Spycatcher", which have now all been sold. It would be a different matter if a multiple chain store were to offer the book for sale. But if it were the fact, as he understood it was, that failure to proceed against the bookseller now would not make it more difficult to take action in Scotland, either against him (upon a repetition) or against others who might sell the book at a later date, if so advised, then the Attorney General would favour the present matter being allowed to rest.

The Lord Advocate agreed, in the circumstances, that it was not at present necessary to seek an interim interdict against the bookseller.

I am copying this to Private Secretaries to the members of OD(DIS), to Sir Robert Armstrong, Sir John Bailey, Norman Adamson and to Christopher Mallaby.

Yours sincerely,  
Anthony Inglese

A M C INGLESE

CONFIDENTIAL



CONFIDENTIAL



ROYAL COURTS OF JUSTICE  
LONDON, WC2A 2LL

5 August 1987

The Rt Hon Richard Luce MP  
Minister for the Arts  
Office of Arts and Libraries  
Great George Street  
LONDON S W 1

*Prime Minister*<sup>2</sup>

*Dear Richard:*

"SPYCATCHER" IN PUBLIC LIBRARIES

*me  
with NLW.*

*ML*

Thank you for your letter of 4 August. I have seen too a copy of the further letter from the Chief Executive of the Library Association of 4 August.

I quite understand you desire to offer a constructive reply. A difficulty, however, is that the stocking by libraries of "Spycatcher" could constitute a criminal contempt of court, in which event it would be for me in my capacity as a law enforcement officer, acting independently of my colleagues, to bring it before the courts if I considered it right to do so. Under our clearly established constitutional arrangements you are not able to speak for me on this matter.

I think, therefore, that your best course would be to tell the Chief Executive that you are not in a position to provide him with legal advice; but that he would be unwise to assume in advance of obtaining legal advice from an appropriate quarter, that it would be lawful for libraries to stock the book. I note from today's "Independent" that Derbyshire County Council have said that they will seek a declaration from the High Court that it will not be illegal to stock "Spycatcher" in their libraries. You might think it politic to draw this fact to the Chief Executive's attention, and say that his Association may wish to await the resolution of that case before taking further actions in relation to the stocking of the book.

I am copying this to the Prime Minister, Foreign Secretary, Home Secretary, Defence Secretary, Lord Privy Seal, Lord President, Lord Advocate, Scottish Secretary, Welsh Secretary and to Sir Robert Armstrong and Sir John Bailey.

CONFIDENTIAL



CONFIDENTIAL



I am also copying your letter and the Chief Executive's letters to those colleagues who will not have received them.

Jane Wm.  
Asst. Secy

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CONFIDENTIAL





*NBF*

LORD PRESIDENT OF THE COUNCIL

*out Prop*  
ENFORCING THE DUTY OF CONFIDENTIALITY

I have seen your minute of 30 July to the Prime Minister reporting the outcome of the informal meeting of Ministers on 27 July (at which I was not present) following the meeting of OD(DIS) on 16 July.

I agree generally with the lines on which our officials should proceed with further work in this area, subject to consideration of problems arising from their work.

As regards the question of injunctions and (in Scotland) interdicts, in the light of the House of Lords decision in the Peter Wright cases on 30 July, I agree that as proposed in paragraph 4, consideration should be given to the idea of an injunction or interdict binding any person having notice of it, as reliance on the concept of criminal contempt could cause difficulties in Scots law. This links up with the related question (paragraph 5) of making injunctions and interdicts apply throughout the United Kingdom. Before we take a final decision on this, it will be necessary for our officials to give more detailed consideration to (inter alia) the description of the type of order so applicable, whether it should be restricted to those affecting national security, or to those arising from breach of confidence, what courts are to have jurisdiction to enforce, vary or discharge the order, and the nature of the sanctions to be applied in the different jurisdictions in the event of an injunction or interdict pronounced in one jurisdiction being breached in another jurisdiction.

I am copying this to the Prime Minister, the other members of OD(DIS), the Lord Chancellor, the Chancellor of the Exchequer, the Minister of State, Privy Council Office, Sir Robert Armstrong and Mr Mallaby.

*Ala Maxwell*

P.P. CAMERON OF LOCHBROOM

[Approved by the Lord Advocate  
and signed in his absence]

5 AUGUST 1987



**RESTRICTED**

RESTRICTED  
 FM BRUSSELS  
 TO IMMEDIATE FCO  
 TELNO 243  
 OF 051612Z AUGUST 87

SPYCATCHER

## SUMMARY

1. PRESIDENT OF INTERNATIONAL FEDERATION OF JOURNALISTS SENDS TELEX TO ATTORNEY GENERAL CRITICISING LAW LORDS RULING.

## DETAIL

2. WE HAVE BEEN SENT A SIDE COPY OF A TELEX SENT BY THE BRUSSELS-BASED PRESIDENT OF THE INTERNATIONAL FEDERATION OF JOURNALISTS TO THE ATTORNEY GENERAL.

3. THE TEXT AS FOLLOWS: QUOTE INTERNATIONAL FEDERATION OF JOURNALISTS REPRESENTING 130,000 JOURNALISTS THROUGHOUT THE WORLD, INCLUDING NATIONAL UNION OF JOURNALISTS (GREAT BRITAIN AND IRELAND) STRONGLY PROTEST AGAINST INTOLERABLE AND ABSURD CENSORSHIP RULING ON JOURNALISTS ABOUT BRITISH GOVERNMENT'S REFUSAL TO ALLOW REPORTING OF PETER WRIGHT'S BOOK IN BRITISH MEDIA WHICH IT BELIEVES TO BE AN ATTACK ON PRESS FREEDOM (SIGNED) MJA DOORNAERT, PRESIDENT UNQUOTE.

4. THERE HAS BEEN EXTENSIVE MEDIA COVERAGE OF THE RULING AND A FAITHFUL ACCOUNT OF THE REACTION OF THE BRITISH PRESS. 'SPYCATCHER' WILL BE ON SALE IN LOCAL W H SMITHS AT END OF WEEK AND LOCAL INTEREST IS LIKELY TO REMAIN AT A HIGH LEVEL. IT WOULD BE HELPFUL TO HAVE EARLY GUIDANCE.

EVANS

BWL/NAN 3+30

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 BOYD  
 MR MCLAREN  
 MR DARWIN, LEGAL ADVISERS  
 MR GILLMORE

COPIES TO:

PS/SIR R ARMSTRONG }  
 SIR C FIGURES } CABINET OFFICE  
 MR MALLABY }  
 MR B H DINWIDDY }  
 MR J. BAILEY, TREASURY SOLICITORS  
 MR SAUNDERS } LAW OFFICERS  
 MR INGLESE } DEPT  
 PS/HOME SECRETARY  
 SIR B CUBBON, PERM. SEC, HOME OFFICE  
 MR CHILCOTT }  
 MR NURSAW } HOME OFFICE  
 MR MOWER }  
 LEGAL ADVISERS, SEC. SERVICES) VIA  
 DIRECTOR GENERAL, SEC. SERVC) PUSD E2C  
 MR WICKS, 10 DOWNING ST.  
 PRESS OFFICE, 10 DOWNING ST.

**RESTRICTED**





DEPARTMENT/SERIES ..... <i>prem 19</i> .....	Date and sign
PIECE/ITEM ..... <i>2507</i> ..... (one piece/item number)	
Extract details:  <i>Note dated 5<sup>th</sup> of August 1987</i>	
CLOSED UNDER FOI EXEMPTION ..... <i>47</i> .....	<i>AE 22/05/23</i>
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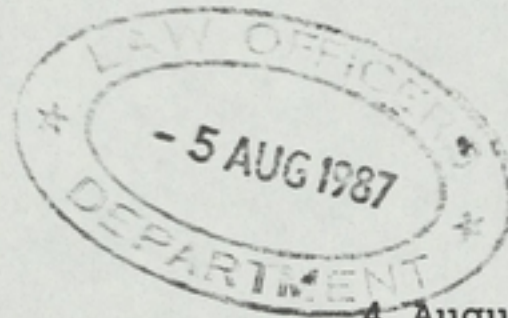


OFFICE OF ARTS AND LIBRARIES  
Great George Street  
London SW1P 3AL  
Telephone 01-270 5929

From the Minister for the Arts

C87/3360

The Rt Hon Patrick Mayhew QC MP  
Attorney General  
Law Officers Department  
Royal Courts of Justice  
London WC2A 2LL



4 August 1987

Dear Sir Patrick,

**"SPYCATCHER" IN PUBLIC LIBRARIES**

I have received the attached letter from George Cunningham Chief Executive of the Library Association urging me, as Minister responsible for superintending the public library service in England, to give a view as to whether the Government regards the stocking of this book by public libraries as lawful.

My line on this so far, and this has been agreed with your officials, has been that it is up to the individual local authorities to take their own legal advice. In my view this is not a satisfactory posture for a Minister of the Government to be taking. I understand from the report of the case before the Law Lords that your Counsel John Mummery said he believed that ordering of copies for public libraries would be contempt of court.

If you feel it is necessary to have a firm line, I should be grateful for your advice on whether I can say, in my reply to George Cunningham and in a Press statement, that the Government may take action against local authorities stocking this book. It is important that I am seen to be constructive and give guidance to libraries, and at the same time I need to make sure that my response is consistent with the Government's overall position on the publication of "Spycatcher".

Although only a few authorities have so far indicated their intention to acquire "Spycatcher", if this is not challenged others will quickly follow suit. In the case of the banning of New International publications, within a few months of the first library authorities taking action some 30 followed suit. A firm line now will weaken the resolve of all but the most obdurate of left wing authorities.

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Whilst it may normally take American library suppliers 4-5 weeks to deliver the books to libraries, there is by coincidence an alternative source of supply. In two weeks' time there will be a major international library conference with many American librarians coming over for it. We know that at least one British Librarian has arranged to receive a copy of "Spycatcher" from a colleague for his library. I am opening this conference and hosting a Government reception for the participants.

Although I investigate complaints received about individual books especially if they are alleged to be unsuitable for children, I have no power to dictate what books are stocked in public libraries, and I would not normally interfere in a library authority's choice of books. I do concern myself, however, with the effect of changes in the law on public libraries and I try to clarify uncertainties. There is no modern precedent within my sphere of responsibility for this particular situation.

I should be grateful for an urgent response.

I am sending copies of this letter to the Malcolm Rifkind and Peter Walker who have similar responsibilities; to the Treasury Solicitor; and to Sir Robert Armstrong.

Yours sincerely

*Richard Luce*

RICHARD LUCE

Approved by the Minister  
and signed in his absence)

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THE LIBRARY  
ASSOCIATION

LA

7 RIDGMOUNT STREET  
LONDON WC1E 7AE  
TEL 01-636 7543  
TELEX 21897 LALDN G

Patron: H M The Queen  
Incorporated by Royal Charter 1898 Founded 1877  
Registered Charity number 313014



GC/aif

4 August 1987

The Rt Hon Richard Luce MP  
Office of Arts and Libraries  
Government Offices  
Great George Street  
London SW1P 3AL

Dear Minister

I wrote to you on 31 July about the concern of public librarians, and indeed other librarians, with regard to the stocking and lending of Peter Wright's book "Spycatcher".

I have now been informed by several public librarians that they are proceeding to acquire copies of the book either to make available for lending or to place in their reference collections for public access.

The Library Association is extremely concerned that its members, in the proper and natural discharge of their duties under the 1964 Act, might be at risk of legal consequences. In these circumstances, The Library Association will assume that you see no objection to public libraries lending the book unless you advise me to the contrary.

I understand, incidentally, that a copy of the book is held by the library of one of our maximum security prisons and is being made available to prisoners wishing to read it.

Yours sincerely

George Cunningham  
Chief Executive

Mr Leamy  
Urgeat

Advice please. Urgeat  
We to let Cunningham  
know what is  
JW happening?



THE LIBRARY  
ASSOCIATION

LA

7 RIDGMOUNT STREET  
LONDON WC1E 7AE  
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Patron: H M The Queen  
Incorporated by Royal Charter 1898 Founded 1877  
Registered Charity number 313014



GC/aif

31 July 1987

The Rt Hon Richard Luce MP  
Office of Arts and Libraries  
Government Offices  
Great George Street  
London SW1P 3AL

Dear Minister

The Library Association is naturally receiving an increasing number of enquiries from librarians and library services about their position in relation to Mr Peter Wright's book "Spycatcher". Library services need to know whether they run any risk of legal penalties if they acquire and lend the book.

I do not of course have to tell you, as Minister for the Arts, that it is the natural and creditable instinct of librarians to acquire for their readers copies of a book which is as much the subject of public attention as this book is. In acquiring copies of the book, librarians would not only be performing their natural function but, I would say, carrying out the duty which is laid upon them by the Public Libraries and Museums Act 1964.

Last week, Mr John Cartwright MP responded to my request to table a question addressed to you for written answer in the House. Unfortunately, the Clerks of the Table Office, as is their way, rejected the question on what I regard as ill-founded procedural grounds. Under section 1 of the 1964 Act you have a duty to superintend the public library service. Given the strong natural tendency for libraries to wish to stock the book, combined with the doubts as to the legal position arising from the recent Court hearings, I would argue that you have some obligation to tender advice to public library authorities on the matter. The Court hearings are not, after all, proceedings from which the government is a detached party. The government, having initiated the moves for injunctions, must presumably have a view as to whether it regards the stocking of the book by public libraries as lawful or unlawful and, if it has such a view, it is surely incumbent upon you, exercising your duties under the Act, to pass them on to library authorities.

/Cont'd....

Ms Leamy  
11 August

Mr Poulter  
Mr Widding

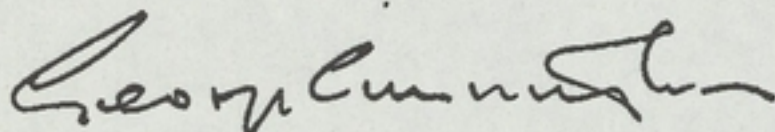
Chief Executive: George Cunningham, BA BSc (Econ)



The Library Association accordingly asks you to state to us and to library authorities your advice to authorities as to whether they risk adverse legal consequences if they stock the book.

In view of the danger of such legal consequences and the high topicality of this issue, the Association requests that it receives an extremely urgent response to this enquiry.

Yours sincerely

A handwritten signature in cursive script, appearing to read "George Cunningham".

George Cunningham  
Chief Executive



CONFIDENTIAL



PRIVY COUNCIL OFFICE  
WHITEHALL, LONDON SW1A 2AT

3 August 1987

Dear Michael

*per*

THE PETER WRIGHT CASE

The Lord President has seen a copy of the Attorney General's minute of 30 July reporting on the outcome of last week's proceedings against the Observer, the Guardian and the Sunday Times, and on the current situation in the other proceedings about the Peter Wright book. The Lord President wishes to join his colleagues in congratulating the Attorney General and the others involved in securing such a satisfactory outcome.

The Lord President has also seen and noted the Attorney General's minute of the same date about seeking an account of profits in the Wright case.

I am sending a copy of this letter to the Private Secretaries to the Prime Minister, the members of OD(DIS), the Lord Advocate and Sir Robert Armstrong.

Yours sincerely  
Nick Gibbons

N F J GIBBONS  
Asst Private Secretary

Michael Saunders Esq

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DEPARTMENT/SERIES <i>Crem 19</i> ..... PIECE/ITEM ..... <i>2507</i> (one piece/item number)	Date and sign
Extract details:  <i>Note dated 3<sup>rd</sup> of August</i>  <i>1987</i>	
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*New seen*

ADVANCE COPIES  
PETER WRIGHT CASE

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MR BOYD  
DEP HD/PUSD  
MR CAPIE PUSD  
NEWS DEPT

MR DINWIDDY )  
PS/SIR ROBERT ARMSTRONG ) CABINET  
SIR C FIGURES ) OFFICE  
MR MALLABY )

MR INGLESE ) LAW OFFICERS DEPT  
MR SAUNDERS )

MR NURSAW )  
MR MOWER ) HOME OFFICE

SIR B. CUBBON, PUS )

~~RESIDENT CLERK~~

LEGAL ADVISERS ) SECURITY SERVICES...  
DIRECTOR GENERAL ) (via PUSD E203)

MR HOGG TREASURY SOLICITORS

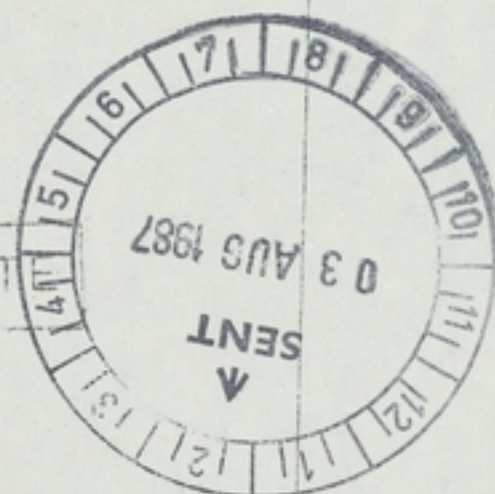
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IMMEDIATE



GREEK PUBLICATION OF SPYCATCHER EXCERPTS

1. THE PRO-GOVERNMENT 'TA NEA' NEWSPAPER TODAY PUBLISHED THE FIRST OF A NUMBER OF EXCERPTS FROM PETER WRIGHT'S BOOK 'SPYCATCHER'. THE THREE PAGE ARTICLE INCLUDES ALLEGATIONS OF THE BUGGING OF THE GREEK EMBASSY IN LONDON IN THE 1950'S.

HULSE

YYYY

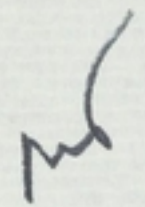
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NNNN



2

PRIME MINISTER



THE PETER WRIGHT CASE

You might like the following note on developments in Scotland, bearing in mind that the English injunctions do not run in Scotland.

This morning's Scotsman included a substantial report of the trial in Australia. The English newspapers seem to believe that if that material had appeared in a newspaper south of the border it would have infringed the injunction. There is therefore much talk in the press about one law for the English, another for the Scots etc. However, our lawyers believe that the Scotsman article would not have infringed the English injunction if that injunction had run in Scotland.

The Lord Advocate does not believe that he could get an interdict (or Scottish injunction). He needs to have evidence that there is a probability that a Scottish newspaper will publish Wright material. He has no such evidence. But he has not been idle. He has issued a warning to Scottish newspaper editors drawing their attention to the House of Lords Order and seeking assurances.

If the Sunday Times were to publish Wright material in their Scottish editions, they would be in breach of the English injunction. This is because they are controlled from London.

N.L.W.

(N.L. WICKS)

31 July 1987





HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

*per.*  
✓  
31 July 1987

*Dear Michael,*

PETER WRIGHT CASE: ACCOUNT OF PROFITS

The Home Secretary has seen the Attorney General's minute to him of 30 July on this subject, and also the Attorney General's minute of the same date reporting the current state of play in the various proceedings about the Peter Wright book. He has initialled the minute on Account of Profits without comment. As to the other note, he would wish to join with the Attorney General in congratulating Mr Mummery and his legal team on yesterday's victory in the House of Lords.

I am copying this to the Private Secretaries to the Prime Minister, other members of OD(DIS), the Lord Advocate and Sir Robert Armstrong.

*Yours sincerely,*

P J C MAWER





10 DOWNING STREET

file  
JA  
C  
Blder  
(55)

From the Principal Private Secretary

31 July 1987

Dear Michael,

THE PETER WRIGHT CASE

The Prime Minister has seen a copy of the Attorney General's minute of 30 July about the outcome of yesterday's civil proceedings against certain newspapers in the House of Lords and about the current proceedings in the Wright case.

The Prime Minister agrees with the Attorney General that yesterday's decision in the House of Lords was indeed a welcome and satisfying victory. It gives her great pleasure to congratulate the Attorney General and the whole of the team involved in the case in securing this outcome.

I am sending a copy of this letter to the Private Secretaries to the members of OD(DIS), the Lord Advocate and Sir Robert Armstrong.

*Yours sincerely,*  
Nigel Wicks

(N. L. WICKS)

Michael Saunders, Esq.,  
Law Officers' Department.

*from*



file GA



10 DOWNING STREET

From the Principal Private Secretary

31 July 1987

*Dear Nick,*

**ENFORCING THE DUTY OF CONFIDENTIALITY**

The Prime Minister has seen the Lord President's minute of 30 July in which he suggests a basis for further work on this subject by officials with a view to consideration by Ministers in the Autumn of a possible package of measures of various kinds protecting Government information.

The Prime Minister is grateful to the Lord President for discussing this matter with the Ministers principally concerned. She agrees that officials should carry work forward as he suggests in his minute.

I am sending a copy of this letter to the Private Secretaries to members of OD(DIS), the Lord Chancellor, the Chancellor of the Exchequer, the Lord Advocate, the Minister of State, Privy Council Office, Sir Robert Armstrong and Mr. Mallaby.

*Yours truly*

*Nigel Wicks*

(N. L. WICKS)

Nick Gibbons, Esq.,  
Lord President's Office.

GA



Prime Minister

PRIME MINISTER

Y is not

Content for officials  
to work up proposals for  
Ministers' consideration on  
the lines described below?

Enforcing the Duty of Confidentiality

The meeting of OD(DIS) which you chaired on 16 July had a first discussion about reform of Section 2 of the Official Secrets Act (OSA), by far the most difficult subject covered in the paper by officials on various means of enforcing the duty of confidentiality (OD(DIS)(87)47 of 9 July). OD(DIS) did not have time to consider the other matters in that paper - the civil law concerning injunctions; contracts, discipline and pensions in the public services; and measures in the field of freedom of information.

ATTACHED.

N.L.U.

30.7

2. I held an informal meeting on 27 July with Geoffrey Howe, Douglas Hurd, George Younger and Patrick Mayhew for an initial discussion of these other matters. The views we reached are set out below. I hope that you and other colleagues will feel that they, together with OD(DIS)'s views about the OSA, provide a satisfactory basis for further work by officials, with a view to consideration by ministers in the autumn of a possible package of measures of various kinds for protecting Government information.

Injunctions

3. The Court of Appeal's judgement two weeks ago in the case for criminal contempt against the Independent means that a newspaper which publishes material, which another newspaper is restrained by injunction from publishing, may now be in criminal contempt of court. There may be an appeal to the House of Lords. Subject to that, the judgement should represent a major improvement in the law on injunctions from the Government's point of view. We nevertheless felt at my meeting that two aspects of the law concerning injunctions should be examined in detail by officials. The first concerns the test that must be





satisfied before an injunction is granted. At present it is necessary to establish the probability that an unauthorised disclosure will take place. If the test could be lowered, so that only a risk of disclosure would need to be demonstrated, it would be possible to obtain injunctions in more cases and it would be easier sometimes for us to make our case without revealing sensitive information.

4. The second aspect which we thought officials should study is the scope of an injunction as regards the people who must comply with it. Ideally, one would like to introduce blanket court orders restraining anyone from disclosing a particular piece of information. But this would be a major innovation; indeed, since it would not be addressed to particular people but to particular information, it would not be an injunction as such but a new kind of order. We therefore thought that officials should also look at the less ambitious idea of an injunction which would bind not only the named defendants, as at present, but also any other person having notice of it. This might provide a way of restraining unauthorised disclosures more effectively, acting before they happen rather than afterwards through the medium of criminal contempt on the basis of the judgement by the Court of Appeal in the Independent case.

5. We also thought that officials should work up in detail the more straightforward suggestion of making injunctions apply throughout the United Kingdom, rather than requiring, as at present, a separate order in each jurisdiction.

6. Ministers should consider the results of the further work by officials in the light of any appeal to the House of Lords in the Independent case, with a view to a possible Bill concerning the civil law on breach of confidence (not to be drafted yet) which might in due course put forward as part of a package of measures for the protection of Government information.





Discipline, Contracts and Pensions in the Public Service

7. We agreed that mention of the duty of confidentiality should be introduced into the Civil Service Pay and Conditions of Service Code and into letters of appointment of new staff. These two documents set out the main terms on which public servants are employed. We also agreed that, when the Code has been clarified, departments should be invited to issue a notice to all serving staff to remind them of their obligations and that all staff on retirement or resignation should be reminded of their continuing obligation of confidentiality. These are straightforward measures to correct what can now be seen to be omissions in present practice, and in our view should be implemented now.

8. At present, public service pensions can be forfeited only after a person has been convicted of a criminal offence; and, where offences under the OSA are concerned, the sentence must be at least ten years' imprisonment. But the maximum sentence for an offence under Section 2 of the OSA is only two years. A person living abroad can of course escape prosecution under the OSA and thus forfeiture of pension for unauthorised disclosure. It was recognised that a move to broaden the circumstances where pensions can be forfeited so as to remove the major condition that a criminal conviction is needed would be very difficult; amendment of the existing scheme, without legislation, would achieve nothing of value; and new legislation would be controversial, not least for the reasons given by the Chancellor of the Exchequer (in his Private Secretary's letter of 16 July). On the other hand, it is hard to see any effective means of deterring or punishing breaches of confidence by former public servants, at least those living abroad. We were mindful that the Principal Civil Service Pension Scheme is generally seen in Parliament and by the public as very fair, even generous, to pensioners; and that no-one would risk losing all or part of





their pension under any new forfeiture arrangements without having courted that penalty by making major unauthorised disclosures. We concluded that, despite the difficulties, work on the possibility of new legislation about forfeiture of pensions should be refined by officials to the point where ministers could take a definite decision either way.

9. We also thought that another way of extending the scope for forfeiture of pensions, but less radically, should be investigated. The requirement of a criminal conviction would stand, but it would become possible for convictions under Section 2 of the OSA to trigger the forfeiture arrangements. This could be done by increasing the maximum sentence under Section 2 (probably reformed) of the OSA, so that the threshold of ten years' imprisonment in the present forfeiture arrangements could be crossed in serious cases and pensions thus become liable to forfeit; or, alternatively, by reducing the length of sentence required under the forfeiture arrangements so as to produce the same effect.

10. The paper by officials suggested in Annex B a procedure involving a judicial tribunal for blocking the anomaly under the present forfeiture arrangements whereby a former public servant living abroad, by escaping conviction in the courts of this country, also escapes forfeiture of pension. We agreed that this too should now be worked out in detail, so that Ministers can consider an initiative on these lines if the idea of dropping the requirement for a conviction as part of new legislation on forfeiture arrangements (paragraph 8 above) is in due course discarded.

#### Freedom of Information

11. None of us favoured the introduction of a Freedom of Information Act providing a statutory right of access to a stated range of Government information. We saw fewer objections to a Code of Practice, whereby the Government would commit

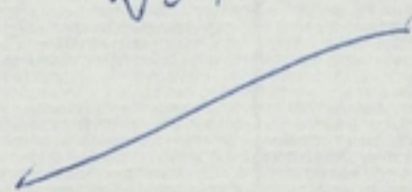




itself to publishing the relevant facts and considerations when major policy decisions are announced. However there would inevitably be **strong objections in the House of Lords** (though not necessarily convincing ones) **to the idea of such a Code having statutory backing**; and, more importantly, it would be unlikely to be enough to win additional support for a package of new measures to protect Government information. We were thus inclined to think that such a package should stand on its own merits and **we concluded that, for the time being at least, officials should not do further work on a Code of Practice.**

12. I am sending a copy of this minute to the members of OD(DIS), the Lord Chancellor, the Chancellor of the Exchequer, the Lord Advocate, the Minister of State, Privy Council Office, Sir Robert Armstrong and Mr Mallaby.

hwlw



Privy Council Office  
30 July 1987





HOME SECRETARY

PETER WRIGHT CASE : ACCOUNT OF PROFITS

I was invited by OD(DIS)(0) on 16 July to advise colleagues of possible action for an account of profits in the United States. I am sure it will be useful too to cover the same question with regard to Australia and Canada and of course England and Wales.

Australia

We are already seeking an account of profits against Wright and his publishers in the Australian proceedings. The attached note, prepared by the Treasury Solicitor's Department, explains the procedure for doing so.

United States

Our advice from America has so far been that we could not maintain an action for an account of profits against Viking Penguin Inc, the U.S. publishers, principally because Viking have not been in breach of any relationship of trust with the Crown. (There is authority in the United States for the award of an account of profits in a similar case to the present, but that was against a senior CIA employee and it will be noted that there was no action against his publisher.)

The current position is that Mr Simos, with an eye to the Australian appeal, cast doubt on whether we should readily accept the advice from America that we had no chance of getting an account of profits against Viking. At his suggestion the Treasury Solicitor's Department wrote to Viking telling them that we were still giving consideration to a possible claim for an account of profits. I believe that we now need a second opinion on the availability of an account of profits in the United States from an American lawyer. The Treasury Solicitor has already set this in motion.

Peter Wright  
to note  
generally.  
NLU  
30-7





I should say, however, that we must be prepared for the second opinion to confirm the advice we have already. It would therefore be wrong in the meantime to give the impression that we were poised to take action in the United States.

#### Canada

We have been advised that it is open to us to claim an account of profits in Canada if the book is published there.

#### England and Wales

As the attached note points out, no proceedings currently being taken here against the book include a claim for an account of profits. It is, however, clear that it is open to us in certain circumstances to claim an account of profits here, and in that connection colleagues will wish to note the helpful remarks of the Master of the Rolls last week in allowing our appeal against the Guardian, Observer and Sunday Times, who had sought a discharge of the injunctions preventing the publication of material attributed to Wright:

"But there is another way in which the Government can restore the confidence of friendly foreign countries, or at least limit the loss of confidence. This ... consists of seeking in every possible way to deprive Mr Wright, and all who seek to profit from his disclosures, of any benefit which they may already have derived or which they would derive from further publication. No doubt it is with this in mind that indications have been given of an intention to seek an account and payment to the Government of all profits made by Mr Wright from his allegedly unlawful conduct. We are not at present concerned with this aspect, but let no one think that this involves a volte face or U-turn - a change from a stance of 'Thou shalt not publish' to 'Let us go into partnership'. It is entirely consistent to seek to prevent a dishonest servant or agent from pursuing an unlawful course of conduct and, to the extent that that fails, to seek to deprive him of all benefit."





It is open to us to amend the pleadings in the Observer and Guardian case to seek an account of profits, and we could bring further proceedings on the ground of breach of confidence against the Sunday Times for the identical relief. There are, however, formidable difficulties in identifying the profits of newspapers flowing from the publication of particular articles. There can be many reasons for fluctuations in newspaper sales over a period of time, not all of them capable of being established by evidence. I am at present far from sanguine about our prospects of being able to succeed in an action for an account of profits against the newspapers.

If Heinemann UK seek to publish the book here and we are unable to prevent them by injunction, a claim against them for an account of profits would be in line with the action we have taken in New South Wales against Heinemann of Australia.

Other possibilities also arise. We may need to consider the position of any literary agents in this country who may have assisted Wright; nor must we overlook that of Greengrass, Wright's co-author, who presumably will receive or has received payment for his efforts.

These are all questions which can best be considered by Counsel when we have sufficient information to enable him to be instructed. I would propose to instruct John Mummery, who has done so very well for us since John Laws left for Australia.

Meanwhile, I suggest to my colleagues that we can, if asked, cite the words of the Master of the Rolls quoted above and say that we will seek an account of profits wherever and whenever it is appropriate to do so.

Lastly, although it is not strictly on the point about account of profits, my colleagues may like to have in mind the following passage from the judgment of the Vice Chancellor in the Observer/Guardian case on 15 July:



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"There seems to have been a temptation to treat this case as an unreasonable pursuit by the Government of unreasonable ends. That is not a view I share. The revelation of secrets of a security agent, it seems to me, are highly important and highly undesirable. I therefore think it is most regrettable, if it proves to be the case, that there is no way in which the court can preserve that confidentiality."

*Fortunately, both the Court of Appeal and the House of Lords have held that*  
I am copying this to the Prime Minister, the other members of OD(DIS), the *Home* is a way  
Lord Advocate and Sir Robert Armstrong.

AM.

30 July 1987

CONFIDENTIAL



## ACCOUNT FOR PROFITS

### 1. Generally

1.1 An action for an account of profits is a remedy not a right. It is necessary for there to be a violation of a right, such as a breach of confidence, before the remedy can be relied upon.

1.2 A person (A) can bring a court action claiming an account for profits, against another person (B) who he alleges has improperly received profits arising as a result of his dealing with A's property (which expression can include confidential information). A would be claiming that the profits rightfully belong to him, and that B should account to him for those profits.

1.3 The action is different from a claim for damages, where A would be seeking the equivalent of his actual loss. In an account for profits, A is seeking the equivalent of B's gain.

1.4 The claim for an account is an equitable remedy and therefore in the discretion of the Court, and the conduct of the parties is taken into account. Such actions are usually brought in cases involving for example trust property, agents, partnership property, and confidential information used improperly in breach of copyright or infringement of a patent.

1.5 An action for account for profits cannot be made simultaneously with an action for damages - A must choose either one or the other. There may be an implication that if A chooses an account for profits he is in effect condoning the infringement of his rights, but laying claim to the rewards of that infringement.

### 2. Australia

2.1 The Further Amended Statement of Claim of the Attorney General filed on 21 November 1986 contained a claim for an account of profits made by Heinemann Australia (Pty) Ltd and Peter Wright by reason of their wrongful acts and for an order that they pay to the Plaintiff the amount of the profits when so ascertained together with interest thereon.

2.2 Any order made by the Court of Appeal of New South Wales for an account of profits would be based upon the decision of the Court as to the relevant principles which apply, namely that Wright and his publishers had been in breach of the specified duties in respect of which the proceedings were brought and as a result of which they were liable to account to the Attorney General for any profits made by them in consequence of such breach.

2.3 Before the Court of Appeal in New South Wales the Appellant will seek an account of profits as well as an injunction and even if the Court declines to grant an injunction, it should also deal with the Attorney General's prima facie right for an account of profits. If the account of profits is granted, there will be an inquiry before the Master at which it will be determined whether Wright and his publishers have made a profit (allowing for any expenses). They would then be obliged by an order of the Court, made at the stage where the Court referred the matter for inquiry to the Master, to pay to the Attorney General the amount of the profits so ascertained by the Master at the inquiry.



2.4 Although it seems unlikely that the Publishers, at the hearing of the Appeal, will object to the making of an order for an account of profits against it on the basis that there is insufficient evidence, if that point is argued and the Court does take the view that there is insufficient evidence, that aspect would be remitted to Mr Justice Powell for further hearing.

2.5 After the matter had been remitted to Mr Justice Powell and the issues of evidence decided by him, the inquiry as to the profits would proceed before the Master and he would make a determination of the profits as at the date up to which the evidence as the profits made had been adduced before him. He would make further such determinations as from time to time might be necessary in the light of further sales of the book.

2.6 In August 1986 i.e. prior to the main hearing in October 1986, Mr Justice Powell was asked by both sides to order that their opponents answer a number of questions ("interrogatories") in explanation of their respective cases. A number of the questions posed on behalf of the Attorney General were directed to penetrating the contractual arrangements made by Mr Wright with a view to obtaining evidence to support a claim for an account of profits but Mr Justice Powell in his judgment of 27 August 1986 refused to order that these be answered until we had established our right to final relief i.e. until the main hearing had been concluded.

### 3. United States of America

Legal advice was obtained from Mr Anthony Lapham of Messrs Shea & Gardner of Washington who advised that we could not maintain an action for an account against Viking Penguin Inc for two reasons. First the fundamental aspect of the leading case in this field of law (Snepp) was that Snepp held a position of high trust in the CIA. Mr Lapham observed that that relationship does not exist between the Crown and Viking Penguin Inc. Notwithstanding that in the case of Argyll -v- Argyll in the Chancery Division of the High Court of Justice it was held that newspapers which intended to publish the memoirs of the Duchess could not do so because they were subject to the same duty as the Duchess herself, Mr Lapham is quite certain that this proposition of law would not be upheld in the United States. Second and perhaps less fundamental the Court in the Snepp case found that there was a written agreement between the CIA and Mr Snepp that he would not, as a matter of trust, publish any information deriving from his employment. Mr Lapham regards it as very doubtful whether an implication of such a relationship between Mr Wright and the Crown would be found in the absence of a written agreement.

3.1 The American Attorney thought that there might be a glimmer of hope if it could be shown that Viking Penguin Inc had induced a breach of Mr Wright's contract with the Crown but that hardly seemed to him a tenable argument. Whilst we say that Heinemann (Australia) Pty Limited induced a breach of contract Viking Penguin Inc conceivably did not, as they merely bought the US rights from the Australian Company. Mr Lapham's view was that he did not believe that an action for an account of profit brought by the British Government would succeed against the Publisher in the US Courts. In the Snepp case there was no action against the Publisher for an account only against Snepp the CIA employee.

3.2 Notwithstanding the advice of Mr Lapham a letter was sent by fax on 13 July to Viking Penguin Inc informing them that as they had decided to publish the book consideration was being given to seeking an account for profits. It should be mentioned that our Australian lawyers have expressed some unease concerning the advice received from Mr Lapham insofar as it relates to an account for profits. Mr Lapham's advice that Her Majesty's Government would not be successful in restraining publication of "Spycatcher" in the United States is not in question.



4. Canada

Legal advice obtained from Messrs McCarthy & McCarthy in Canada is to the effect that they see no reason why an account of profits should not be claimed in Canada. On 14 July 1987 Messrs McCarthy & McCarthy wrote to Stoddart Publishing Company Limited informing them that if they proceeded to publish "Spycatcher", consideration would be given to commencing an action for an accounting of all profits as a result of the book's publication.

5. England and Wales

There are no proceedings relating to "Spycatcher" currently being taken in this country in which a claim for profits is made. (Although a claim is contained in the Statement of Claim relating to "One Girl's War" by Joan Miller). In the event that proceedings are issued against the Sunday Times in respect of the publication by them of excerpts from the book on 12 July it is understood, at the time of writing, that these will be in a form which do not permit an action for an account of profits. In theory the proceedings against The Observer and The Guardian could be amended to include a claim for an account for profits. ~~However, as explained in paragraph 1 above a claim for an account is directed at profits made and these may be difficult to identify where the defendant is a newspaper, even with the assistance of circulation figures.~~ In any future proceedings that may be contemplated eg against Heinemann, the mechanics of a claim would be broadly similar to those described in paragraphs 2.3 to 2.5 above. However, as explained in paragraph 1 above a claim for an account seeks the profits made by the Respondent to the claim which may in the case of a newspaper be difficult to prove even with the assistance of circulation figures. The claim for an account is not a substitute for a fine or damages.





Prime Minister

Agree to congratulate  
the AG and his  
team?

HOME SECRETARY

THE PETER WRIGHT CASE

Y is - with great pleasure N.C.U. 30-7

The House of Lords this morning held in our favour in civil proceedings against the Observer, the Guardian and the Sunday Times and restored (and slightly widened) the interlocutory injunctions granted last year prohibiting the publication of any material attributed to Peter Wright. I attach a copy of the injunction which now applies against each defendant.

This has been a welcome and satisfying victory. John Mummery, our Counsel, has done magnificently, and great credit is due to his whole team, especially those instructing him from the Treasury Solicitor's Department.

The purpose of this note is to remind my colleagues of the other proceedings relating to the Wright case that are afoot, and to provide an account of what I expect to happen next.

Other current proceedings

The appeal in Australia finishes tomorrow.

I have started criminal contempt proceedings against the Independent newspaper and the Sunday Times for publishing material attributed to Wright. The Court of Appeal has given a ruling in the Independent case which makes it clear that as a matter of law the newspaper could be in contempt of court. The full issue as to whether they were in contempt is for trial later. I am about to commence criminal contempt proceedings against the Sunday Telegraph in respect of three recent articles which give details from the Wright book. As I know my colleagues appreciate, every decision touching criminal as distinct from civil proceedings is for me alone to take, although I may consult as to what the public interest requires.





### Next steps

We will know more about when we can expect judgment in the Australian case when it finishes tomorrow. We are in with a fighting, and improving, chance.

As for England and Wales, I anticipate that the next step will be in the form of an appeal by the Independent newspaper to the House of Lords against the Court of Appeal's ruling in the criminal contempt case. It is, however, possible that the Independent might accept the Court of Appeal's ruling and go back to the Vice-Chancellor to argue that on the facts of that case the newspaper was not in contempt of court.

As regards the Observer and Guardian case, it will be open to these newspapers to seek a substantive hearing on the merits (the proceedings hitherto have been interlocutory only) and to apply for the hearing to be expedited, which could bring the hearing on within a matter of months. There is also the possibility that the newspapers might seek to go to Strasbourg and allege a breach of the European Convention on Human Rights, but this would be on a much longer timescale. Contrary to what the Editor of the Sunday Times has been saying, the Strasbourg Court is not a "European Court of Appeal". An adverse judgment, if any, would not affect the rights of the parties under our domestic law. It is, however, our practice to make whatever changes in our law may be needed to comply with the judgment of the Court.

I am copying this to the Prime Minister, the other members of OD(DIS), the Lord Advocate and Sir Robert Armstrong.

AM.

30 July 1987



"The Defendants and each of them be restrained until trial or further order from doing whether by himself or itself or by his or its servants or agents or any of them or otherwise howsoever the following acts or any of them that is to say:-

1. disclosing or publishing or causing or permitting to be disclosed or published to any person any information obtained by Peter Maurice Wright in his capacity as a member of the British Security Service and which they know or have reasonable grounds to believe to have come or been obtained whether directly or indirectly from the said Peter Maurice Wright

2. attributing in any disclosure or publication made by them to any person any information concerning the British Security Service to the said Peter Maurice Wright whether by name or otherwise

Provided that

1. this order shall not prohibit direct quotation of attributions to Peter Maurice Wright already made by Mr Chapman Pincher in published works, or in a television programme or programmes broadcast by Granada Television;

2. no breach of this order shall be constituted by disclosure or publication of any judgment given in open court in the New South Wales proceedings 423/85;

3. that no breach of this order shall be constituted by a fair and accurate report of proceedings in: (A) either House of Parliament in the United Kingdom whose publication is permitted by that House; or (B) a Court of the United Kingdom sitting in public."



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GRS 384

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FM FCO  
TO DESKBY 292300Z CANBERRA  
TELNO 408  
OF 291800Z JULY 87

FOR DOUGAL

YOUR TELNO 476: PETER WRIGHT CASE

1. THE TREASURY SOLICITOR HAS DISCUSSED THIS ADVICE WITH FEETHAM WHO AGREES THAT THE CHANCES ARE 95 PER CENT THAT THE COURT WILL RESERVE JUDGMENT. HE ALSO CONSIDERS THAT THE PROCEEDINGS WILL ALMOST CERTAINLY CONCLUDE ON FRIDAY RATHER THAN TOMORROW. WE AGREE HOWEVER THAT IT WOULD BE PRUDENT FOR YOU TO BE IN COURT FOR THE CONCLUSION AGAINST THE REMOTE CONTINGENCY THAT THE COURT DECIDES TO ANNOUNCE ITS DECISION STRAIGHT AWAY. IF THIS HAPPENS YOU SHOULD BE GUIDED BY THE FOLLOWING IN SPEAKING TO THE PRESS.

2. IF WE WIN, IE IF THE COURT UPHOLDS THE INJUNCTION AGAINST HEINEMANN AND WRIGHT, YOU SHOULD EXPRESS OUR SATISFACTION AND SAY THAT DETAILED COMMENT, IF ANY, WILL BE A MATTER FOR LONDON WHEN WE HAVE HAD AN OPPORTUNITY TO STUDY THE JUDGMENT. IN THE EVENT THAT WE LOSE, OR THAT THERE IS A MIXED RESULT EG THE COURT ACCEPTS OUR CLAIM CONCERNING WRIGHT'S DUTY OF CONFIDENTIALITY BUT FAILS TO UPHOLD THE INJUNCTION, YOU SHOULD REMIND THE PRESS THAT THE PURPOSE OF OUR ACTION HAS BEEN TO UPHOLD THE PRINCIPLE OF CONFIDENTIALITY AND (IF THIS IS HOW THE COURT HAS RULED - YOU WILL NEED TO CHECK WITH HOGG) THAT THE DEPENDANTS

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ARE STILL PREVENTED FROM PUBLISHING PENDING OUR CONSIDERATION OF THE NEXT STEPS. YOU SHOULD SAY THAT THE JUDGMENT WILL HAVE TO BE STUDIED IN LONDON AND THAT THE GOVERNMENT WILL NOW CONSIDER THE NEXT STEPS. YOU SHOULD DECLINE TO BE DRAWN ON WHETHER OR NOT THE GOVERNMENT WILL APPEAL TO THE HIGH COURT OF AUSTRALIA AND REFER FURTHER ENQUIRIES TO THE NO 10 PRESS OFFICE.

HOWE

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PETER WRIGHT CASE

LIMITED

DEP HD/PUSD

MR LITTLEFIELD, PUSD

PUSD (E 206)

HD/PUSD

HD/SPD

HD/NEWS DEPT

HD/INFO DEPT

PS

PS/PUS

MR BOYD

MR McLAREN

MR DARWIN, LEGAL ADVISERS

MR GILLMORE

COPIES TO:

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SIR C FIGURES )

MR MALLABY )

MR B H DINWIDDY )

CABINET OFFICE

MR J. BAILEY, TREASURY SOLICITORS

MR SAUNDERS ) LAW OFFICERS

MR INGLESE ) DEPT

PS/HOME SECRETARY

SIR B CUBBON, PERM. SEC, HOME OFFICE

MR CHILCOTT )

MR NURSAW )

HOME OFFICE

MR MOWER )

LEGAL ADVISERS, SEC. SERVICES) VIA

DIRECTOR GENERAL, SEC. SERVC) PUSD E203

MR WICKS, 10 DOWNING ST.

PRESS OFFICE, 10 DOWNING ST.

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10 DOWNING STREET

LONDON SW1A 2AA

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

PETER WRIGHT CASE (OD(DIS)(87)56)

I have shown the Prime Minister the note attached to this paper which recommends that an injunction should be sought in Hong Kong to prevent further instalments of Wright's book appearing in the Sunday edition of the South China Morning Post.

As I have already told Mr. Mallaby on the telephone, the Prime Minister agrees that such an injunction should be sought in Hong Kong. The Prime Minister has also asked about progress in securing profits in Canada and elsewhere. I understand that the Attorney General will shortly be circulating a note on this aspect.

I am sending a copy of this minute to the Private Secretaries to members of OD(DIS), the Lord Advocate and Mr. Mallaby.

N.L.W.

N.L. WICKS

28 July 1987

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ea





DEPARTMENT/SERIES <i>Item 19</i>	Date and sign
PIECE/ITEM ..... <i>2507</i> (one piece/item number)	
Extract details:  <i>Minute dated 28<sup>th</sup> of July 1987</i>	
CLOSED UNDER FOI EXEMPTION .....	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	<i>AC</i> <i>22/05/23</i>
TEMPORARILY RETAINED	
MISSING AT TRANSFER	
NUMBER NOT USED	
MISSING (TNA USE ONLY)	
DOCUMENT PUT IN PLACE (TNA USE ONLY)	



Communications on this subject should be addressed to

THE LEGAL SECRETARY  
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,  
LAW OFFICERS' DEPARTMENT,  
ROYAL COURTS OF JUSTICE,  
LONDON, W.C.2.  
28 July 1987

*Prime Minister*

*to note, especially*

*N. 4*

*28.7*

CABINET OFFICE
B. 533.....
28 JUL 1987
FILE NO. ....

*1. Copy Mr Wicks  
Mr Woolley*

*2. Mr Brind*

*3 F*

*W 28  
7*

Sir John Bailey KCB  
The Treasury Solicitor  
Queen Anne's Chambers  
28 Broadway  
LONDON S W 1

Dear John,

THE WRIGHT CASE  
CRIMINAL CONTEMPT PROCEEDINGS

You may know that the Attorney General recently asked for advice to be obtained from Philip Havers about whether certain newspapers were in contempt of court in respect of recent articles revealing some of the contents of the Wright book. Counsel was instructed through Richard Jackson. Because his Opinion was required quickly he gave it to me in manuscript. I will have it typed and sent to Richard Jackson.

X

The Attorney General has now decided to institute proceedings for criminal contempt against the Sunday Telegraph and its editor in respect of the following articles: 19 July, page 1: "Hotel Du Lac author 'was MI5 stooge'" and page 21: "'Spycatcher' : Why America is angry"; and 26 July, page 1: "MP questions MI5 link to welfare files". I would be grateful if you would so inform the newspaper and institute the proceedings.

The Attorney General has also considered the following articles but has decided not to take proceedings for criminal contempt. These are: Observer, 19 July, page 1: "MP raps MI5's 'political abuse'"; Daily Mirror, 16 July, page 2: "Reds bugged at Claridges" and 17 July, page 6: Joe Haines: "Wright gets it wrong"; and Telegraph, 15 July, page 12: "A case of spies on the brain". He would, however, like these newspapers to receive "warning" letters for the future. I would be most grateful if you could arrange for this to be done.

I am copying this letter for information to Christopher Mallaby, Bernard Sheldon and Jim Nursaw.

Yours sincerely,  
Anthony Inglese

A M C INGLESE



PRIME MINISTER

THE WRIGHT CASE

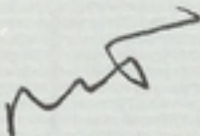
There is some further information to report.

As I told you this afternoon, the full injunction has been continued until the House of Lords decides whether the Court of Appeal's modified injunction should be upheld.

The Appeal to the House of Lords has been made by the Sunday Times, who had been joined at an earlier stage to the Guardian and Observer injunction. Ironically, the Guardian and Observer had been willing to accept the modified injunction and are, I understand, visibly annoyed that the Sunday Times have appealed to the Lords. In fact, the modified injunction was not in a satisfactory form. It effectively forebade the newspapers publishing either the text from the Wright Book or statements from Wright himself, but it would have allowed publication in general terms of Wright's allegations.

The Attorney General believes this unsatisfactory. He has therefore decided to cross appeal to the Lords, seeking either the upholding of the original complete injunction or, if there is to be a modified version, one which prevents the publication of allegations directly or indirectly attributable to Wright.

Meanwhile, the continuation of the original injunction should hold the position over the weekend.

N. L. W. 

N. L. WICKS  
24 July 1987

DASALH

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Ref. A087/2245

MR WICKS

Thank you for your minute of 21 July about the report in The Sunday Times that a member of the Treasury Solicitor's Department, speaking to a firm of solicitors, had attributed delay in conveying a decision to the fact that the Prime Minister was "tied up for the next hour or so".

2. I am afraid that a member of the Treasury Solicitor's Department did speak to The Sunday Times's solicitors on the afternoon of 15 July in very much the terms reported. The person concerned is relatively junior, having come into the Treasury Solicitor's Department from a firm of solicitors three years ago. None the less, he should have known better than to speak as he did. He now understands this, is very contrite, and has been reminded of the right way of proceeding in such circumstances. I think the Prime Minister can take it that he will not make that mistake again.

3. For what it is worth, The Sunday Times's solicitors have expressed regret about their part in the matter, and have apologised for passing what was said on to their clients.

RA

ROBERT ARMSTRONG

24 July 1987





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*file DTS*

PRIME MINISTER

THE WRIGHT CASE

There is some further information to report.

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N. L. WICKS  
24 July 1987

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OF 241800Z JULY 87  
AND TO PRIORITY WASHINGTON

YOUR TELNO 402: PUBLICATION OF PETER WRIGHT BOOK IN CANADA

1. BOYD'S LETTER OF 29 JUNE SAID THAT OUR LEGAL ADVICE HAD BEEN THAT ONCE THE BOOK HAD BEEN PUBLISHED IN THE US, IT WOULD NOT BE POSSIBLE TO PREVENT PUBLICATION IN CANADA BY LEGAL ACTION, AND THAT MINISTERS HAD THEREFORE AGREED THAT WE SHOULD TAKE NO SUCH ACTION. THIS REMAINS THE POSITION. WE HAVE NOT INFORMED STODDART OF THIS, AND IN PUBLIC MINISTERS HAVE HITHERTO TAKEN THE LINE THAT REPORTS THAT THE BOOK MAY BE PUBLISHED IN CANADA ARE UNDER CONSIDERATION. THERE ARE TWO MAIN REASONS FOR THIS. FIRST, IT REMAINS VERY MUCH IN OUR INTEREST THAT PUBLICATION IN CANADA SHOULD BE DELAYED AS LONG AS POSSIBLE. SECOND, WE NEED TO TAKE WHATEVER ACTION WE CAN TO BOLSTER OUR POSITION FOR THE APPEAL PROCEEDINGS IN AUSTRALIA WHICH BEGIN ON 27 JULY. THE LETTER FROM MCCARTHY AND MCCARTHY TO STODDART TO WHICH YOU REFER SHOULD BE SEEN IN THIS LIGHT. (OUR LATEST INFORMATION IS THAT IN PRACTICE THE BOOK MAY BE ON SALE IN CANADA NEXT WEEK).
2. PARA 5 OF BOYD'S LETTER MADE CLEAR THAT THE MAIN PURPOSE OF CONTINUING WITH THE APPEAL IN AUSTRALIA WAS TO UPHOLD THE PRINCIPLE OF WRIGHT'S DUTY OF CONFIDENTIALITY, AND THAT THIS

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MIGHT OPEN UP THE POSSIBILITY OF AN ACTION FOR PROFITS AGAINST WRIGHT TO PREVENT HIM FROM PROFITING FINANCIALLY FROM THE BOOK. WE HAVE ALSO BEEN CONSIDERING THE SCOPE FOR ACCOUNTS OF PROFITS IN THE UNITED STATES AND CANADA AND OTHER JURISDICTIONS, BUT NO DECISION HAS YET BEEN TAKEN ON WHETHER OR NOT TO GO AHEAD WITH THESE. FOR YOUR OWN INFORMATION, HOWEVER, OUR CURRENT LEGAL ADVICE IS THAT THE PROSPECTS OF A SUCCESSFUL CLAIM FOR ACCOUNT OF PROFITS APPEAR BETTER IN CANADA THAN IN THE UNITED STATES., IN ORDER TO PREPARE THE WAY FOR SUCH AN ACTION, AND AT THE SAME TIME TO EXERT SOME PRESSURE ON STODDART IN THE HOPE OF DELAYING PUBLICATION, A LETTER WAS SENT TO THEM BY MCCARTHY AND MCCARTHY ON 14 JULY WARNING THEM THAT CONSIDERATION WOULD BE GIVEN TO SUCH AN ACTION IF THEY WENT AHEAD WITH PUBLICATION.

3. THE ABOVE IS STRICTLY FOR YOUR OWN INFORMATION.

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PETER WRIGHT CASE

LIMITED

DEP HD/PUSD

MR LITTLEFIELD, PUSD

PUSD (E 206)

HD/PUSD

HD/SPD

HD/NEWS DEPT

HD/INFO DEPT

PS

PS/PUS

MR BOYD

MR MCLAREN

MR DARWIN, LEGAL ADVISERS

MR GILLMORE

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MR MALLABY }

MR B H DINWIDDY }

CABINET OFFICE

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MR SAUNDERS } LAW OFFICERS

MR INGLESE } DEPT

PS/HOME SECRETARY

SIR B CUBBON, PERM.SEC, HOME OFFICE

MR CHILCOTT }

MR NURSAW } HOME OFFICE

MR MOWER }

LEGAL ADVISERS, SEC. SERVICES) VIA

DIRECTOR GENERAL, SEC. SERVC) PUSD E203

MR WICKS, 10 DOWNING ST.

PRESS OFFICE, 10 DOWNING ST.

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NB/A

From: THE PRIVATE SECRETARY  
**CONFIDENTIAL**



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

24 July 1987

Dear Mr. Saunders,

*ATTACHED*

OD(DIS) (87)55 - PETER WRIGHT CASE:  
AUSTRALIAN PRESS

The Home Secretary has seen this paper and accepts the Attorney General's advice that we should not seek injunctions against two newspapers in Australia which have declined to give undertakings not to publish material from the Peter Wright book.

Copies of this letter go to the private secretary to the Prime Minister, to other members of OD(DIS), Sir Robert Armstrong and Mr Mallaby.

Yours sincerely,  
Glin R. Miller

P.P. P J C MAWER

M L Saunders, Esq

**CONFIDENTIAL**



BUSINESS : 0488 58855  
PRIVATE : 0488 58397

CHURCH HOUSE  
16, CHURCH STREET  
KINTBURY  
NEWBURY  
BERKSHIRE RG15 0TR

23 July 1987

*Dear Mr. Wakham,*

It was a great pleasure to meet you yesterday and to find you in such good heart after your appalling ordeal. Perhaps the most remarkable characteristic of the human spirit is its durability.

As you are clearly interested in the Wright Affair I thought I would put briefly on paper what I was telling you at the table, perhaps not very eloquently in the circumstances.

The whole business has been a conspiracy cleverly contrived by Wright's lawyers and condoned by Wright. The Labour Party and the media have been exploited with enterprise and skill.

It began with the approach by Heinemann's solicitors to Malcolm Turnbull after they had been told by several Australian QCs that Wright stood no chance because he was clearly in breach of his confidentiality. Turnbull advised that if the case could be diverted to the question of secrecy rather than confidentiality then it could be won in an Australian court. Because of the nature of the judge he was able to do that.

Turnbull telephoned me several times early in the proceedings to state that he was going to 'play it dirty' because the Government had done so. With Wright's agreement, some of my private letters to him containing statements which could be construed as damaging to the Government's case were leaked to the press and then passed to Campbell-Savours.



Turnbull then told me, on two occasions, that Labour MPs would be calling for the prosecution of Lord Rothschild and myself on the grounds of corrupting Wright. When I pointed out that the initiative and request for money had come from Wright he said that was not how his case would be presented. Right on cue, Campbell-Savours called for the prosecution of Rothschild and myself for offering money to Wright and inquiries by Scotland Yard's Serious Crimes Squad were set in train.

In order that Wright should be made to appear a frail, old patriot who had been suborned by Rothschild and myself he submitted an affidavit which was gross perjury. Rothschild and I were taken through it line by line by the police and were able to prove by documents and other testimony that all Wright's allegations were false.

Meanwhile a flood of leakages was being orchestrated from Australia and the information could only have originated from Wright or from his English ghost-writer, Paul Greengrass. It was no coincidence that Greengrass, who was in regular contact with Wright, had a close association with David Leigh of the Observer. Much of this material, including the names of MI5 officers, was passed to Campbell-Savours so that he could abuse the privilege of the House and thereby make it available to the media in general and so undermine the court's injunctions.

All manner of damaging material, especially about the MI5 'plot' against Wilson (which Wright had denied when I had questioned him) was said to be in the book but much of it is not in the American edition.



When I saw Wright in Tasmania in 1980 he gave me a list of names of important people who were suspected of being Soviet agents. Copies of similar lists, which could only have originated from Wright or his associates, were left anonymously at the Sunday Express and other papers in the hope that they would be followed up and used. They were not, only because of libel problems.

Publication of the American edition and its serialisation in the Sunday Times was timed to do maximum damage to the appeal in the Australian court.

Greengrass, mistakenly, assumed that the clearance of Rothschild and myself automatically made it impossible for him to be prosecuted for ghosting Wright's book and, therefore, gave an interview to a journalist admitting that he had re-written the book and was receiving royalties. Later he was told that his case was very different because the appearance of the Sunday Times serialisation as 'by Peter Wright' meant that Wright had committed a serious criminal offence under the Official Secrets Act and that Greengrass, who lives in Britain, had admitted to being an accessory. He rang the journalist, Andrew Lownie, to cancel the interview but it was too late and it appeared as part of a long article in the Sunday Telegraph on 19 July.

Greengrass may also have been concerned by the Prime Minister's statement that efforts might be made to recover Wright's nefarious profits, as that might apply to his royalties too.

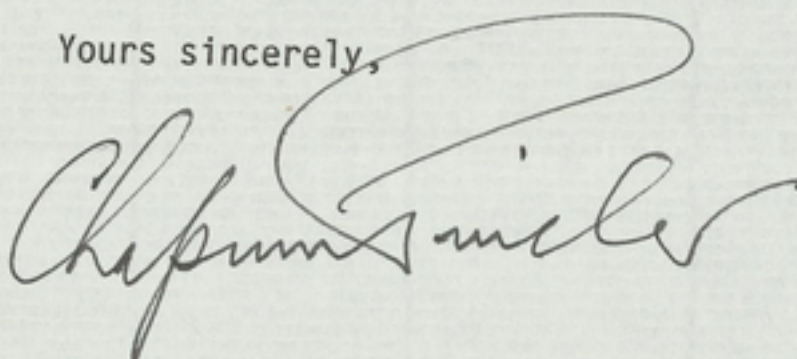
The recess will deprive the conspirators of one weapon. It will be interesting to see if they can make use of the Australian Parliament.



In view of the way Wright, Turnbull and the rest have behaved I shall be delighted if the Government wins the appeal.

With best wishes,

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Chapman Pincher'. The signature is written in dark ink and is positioned above the printed name.

Chapman Pincher



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10 DOWNING STREET

PRIME MINISTER

WRIGHT CASE

The Appeal Court judgement  
in the Guardian and Observer  
cases is due to be delivered  
at around 11.00 am tomorrow,  
Friday. Our people are quite  
hopeful of the outcome. We  
will make sure that you are  
briefed with the position  
before your TV interviews.

N.L.W.

(N.L. WICKS)

23 July 1987



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10 DOWNING STREET  
LONDON SW1A 2AA

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

PETER WRIGHT CASE: AUSTRALIAN PRESS  
OD(DIS)(87)55

The Prime Minister has seen this note by the Secretaries of the Committee which reports that the Attorney General, in the light of advice from our counsel in Australia, considers that we should not seek injunctions against the Canberra Times and the Age.

Subject to the views of other Ministers, the Prime Minister agrees that proceedings for injunctions should not be taken.

I am copying this minute to the Private Secretaries to members of OD(DIS), the Lord Advocate and Mr. Mallaby.

N.h.W.

N.L. WICKS

23 July 1987

CONFIDENTIAL

OA



ADVANCE COPIES  
PETER WRIGHT CASE

*PCP*

PS/PUS  
MR BOYD  
DEP HD/PUSD  
MR CAPIE PUSD  
NEWS DEPT

MR DINWIDDY )  
PS/SIR ROBERT ARMSTRONG ) CABINET  
SIR C FIGURES ) OFFICE  
MR MALLABY )

MR INGLESE ) LAW OFFICERS DEPT  
MR SAUNDERS )

MR NURSAW )  
MR MOWER ) HOME OFFICE  
SIR B CUBBON, PUS )

RESIDENT CLERK

LEGAL ADVISERS ) SECURITY SERVICES  
DIRECTOR GENERAL ) (via PUSD E203)

MR HOGG TREASURY SOLICITORS

PS/NO 10 DOWNING STREET  
PRESS OFFICE NO 10 DOWNING STREET

ADVANCE COPY

IMMEDIATE

12.3.87

CONFIDENTIAL  
FM OTTAWA  
TO DESKBY 231600Z FCG  
TELNO 402  
OF 231435Z JULY 87  
INFO PRIORITY WASHINGTON

*pa*

SPYCATCHER: PUBLICATION IN CANADA

1. PARA 2 OF BOYD'S LETTER TO SIR ANTONY ACLAND OF 29 JUNE TOLD US THAT MINISTERS HAVE AGREED THAT WE SHOULD TAKE NO LEGAL ACTION OVER THE PLANS OF THE CANADIAN PUBLISHING FIRM, STODDART, TO PUBLISH SPYCATCHER IN CANADA.
2. TORONTO GLOBE AND MAIL REPORTS OF 27 JUNE AND 13 JULY REFERRED TO THE TORONTO LAW FIRM OF MCCARTHY AND MCCARTHY AS HAVING BEEN ENGAGED BY THE BRITISH GOVERNMENT TO BLOCK CANADIAN PUBLICATION OF THE BOOK. GLOBE AND MAIL ARTICLES OF 18 JULY, AND ONE OF TODAY'S DATE BASED ON A REUTER REPORT FROM LONDON, REFER TO A WARNING LETTER FROM MCCARTHY AND MCCARTHY TO STODDART PUBLISHING, WHICH THE LATTER SAYS IT WILL DISREGARD.
3. WE HAVE RECEIVED BY FAX FROM MCCARTHY AND MCCARTHY'S A COPY OF THEIR LETTER TO STODDART PUBLISHING. THIS IS NOT AN ATTEMPT TO BLOCK PUBLICATION, BUT IS WORDED AS FOLLOWS: "I TRUST THAT STODDART PUBLISHING LTD AND ITS AFFILIATED COMPANIES IN CANADA WILL NOT PUBLISH 'SPYCATCHER' UNTIL AFTER THE AUSTRALIAN CASE HAS BEEN FINALLY DISPOSED OF AND ALL OF THE INTERESTED PARTIES ARE IN A POSITION TO REASSESS THEIR LEGAL RIGHTS AND LIABILITIES IN LIGHT OF THE AUSTRALIAN JUDGEMENT".



LIGHT OF THE AUSTRALIAN JUDGEMENT''.

4. THE LETTER GOES ON TO SAY: ''YOU MAY NOT BE AWARE THAT IN THE LITIGATION IN AUSTRALIA AN ACCOUNT FOR PROFITS HAS BEEN SOUGHT. IF YOUR COMPANY PROCEEDS TO PUBLISH 'SPYCATCHER', CONSIDERATION WILL LIKEWISE BE GIVEN TO COMMENCING AN ACTION FOR AN ACCOUNTING OF ALL PROFITS AS A RESULT OF THE BOOK'S PUBLICATION''.

5. WE UNDERSTAND DAVID HOGG OF THE TREASURY SOLICITORS DEPARTMENT IS IN CONTACT WITH BINNIE AT MCCARTHY AND MCCARTHY, THE LEGAL FIRM RECOMMENDED BY CSIS LEGAL ADVISERS TO THIS POST'S SLO. THE SLO WAS NOT INFORMED THAT HMG WERE PROPOSING TO TAKE ANY ACTION THROUGH MCCARTHY AND MCCARTHY.

6. IN THE LIGHT OF THE MINISTER'S DECISION REFERRED TO BY BOYD IN HIS LETTER, GRATEFUL FOR CLARIFICATION OF WHERE HMG NOW STANDS ON THE QUESTION OF LEGAL PROCEEDINGS OVER SPYCATCHER IN CANADA.

DAY

YYYY

GDWBAN 0703

NNNN



FILE  
DAS



10 DOWNING STREET  
LONDON SW1A 2AA

cc LPO WPSO  
FR0 CO  
HO Bailey  
MOD Mallaby

*From the Principal Private Secretary*

23 July 1987

*Dear Michael,*

PETER WRIGHT CASE

I have shown the Prime Minister the Attorney General's minute of 22 July to the Home Secretary about action on the Peter Wright case following the discharge yesterday afternoon by the Vice-Chancellor of the injunction against the Guardian and the Observer newspapers.

Subject to the views of colleagues, the Prime Minister agrees with the course of action advocated by the Attorney General; and in particular that, in the event of our losing against the Guardian and Observer in the Court of Appeal, the Government should be ready to apply for an injunction based on breach of confidence against the Sunday Times if, in the light of the Appeal Court's judgement, that is a course of action which is properly open to us.

I am copying this letter to the Private Secretaries to members of OD(DIS), the Lord Advocate, Sir Robert Armstrong, Sir John Bailey and Mr Mallaby.

*Nigel Wicks*

N L WICKS

Michael Saunders, Esq.  
Law Officers' Department

*alg*



*pa*

From: THE PRIVATE SECRETARY



**CONFIDENTIAL**

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

23 July 1987

*Dear Michael,*

PETER WRIGHT CASE

*WITH NEW?*  
The Home Secretary has seen the Attorney General's minute of 22 July recommending the action to be taken in the event that we lose against the "Guardian" and "Observer" newspapers in the Court of Appeal. He is content to accept the Attorney's recommendations.

Copies of this letter go to the Private Secretaries to the Prime Minister, the other members of OD(DIS), the Lord Advocate, Sir Robert Armstrong, Sir John Bailey and Mr Mallaby.

*Yours sincerely,*  
*P J C Mawer*

P J C MAWER

Michael Saunders, Esq.,

**CONFIDENTIAL**



CONFIDENTIAL

*Prime Minister*



*to you agree the course of action advocated by the*

*AG, and especially Xoverleaf? N.C.U*

HOME SECRETARY

PETER WRIGHT CASE

*Yes no*

*22.7*

Early this afternoon the Vice-Chancellor discharged the injunctions against the Guardian and Observer newspapers. In giving judgment, however, he said a number of things intended to be helpful to the Government. He said that he did not underestimate the seriousness of what Peter Wright had done. He said there was no question of criticising the Government for the actions it had taken in pursuing this case. Government had done all it could both here and abroad. The Vice-Chancellor apparently expressed the opinion that his decision should have no bearing on the Australian proceedings. He also added that it should not be read as a charter for former members of the Security Service to publish their memoirs. But ultimately he decided the case on the basis that the balance of convenience favoured the discharge of the injunctions, a balance which he described as "finely drawn" between the right to enforce a duty of confidentiality and freedom of expression. (I will endeavour to ensure that a transcript of the Vice-Chancellor's judgment is circulated tomorrow so as to be available to the Prime Minister before her Question Time.) Having spoken to our Counsel I believe we have sufficient material in the judgment to have a respectable chance of winning the appeal.

The Vice-Chancellor has ordered a stay of his judgment pending the result of the appeal. The Court of Appeal are to start hearing our appeal tomorrow morning. We can expect judgment from the Court of Appeal before the weekend.

If the Court of Appeal reverse the Vice-Chancellor's ruling, we are back to where we were. If, however, the Court of Appeal uphold the Vice-Chancellor, then the application for an injunction against the Sunday Times to prevent a threatened contempt (obtained from the Vice-Chancellor last Thursday) will fall, and there will be nothing to prevent the publication of material attributed to

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Peter Wright, or even of the book itself. There is no prospect of the Court of Appeal (or the House of Lords) granting a stay in advance of any appeal to the House of Lords.

But there would be one card left for us to play in certain limited circumstances which I shall now describe. Although he based his judgment on the balance of convenience, the Vice-Chancellor made it clear in argument that he saw a distinction between on the one hand the Guardian and Observer and on the other those who have purchased rights in relation to "Spycatcher", and he adverted to this indirectly in his judgment. The Guardian and Observer he saw as "innocent" parties, because they are in the same position as anyone who has bought a copy of the book and wants to disseminate its contents. The Sunday Times plainly fall in the latter category, because of their purchase of the serialisation rights. This analysis, whether we regard it as charitable to the Guardian and Observer or not, suggests a possible course of action. This is that if we lose in the Court of Appeal against the Guardian and Observer, but the Court make it clear that they draw a similar distinction between the Observer and Guardian and the Sunday Times, we should seek an injunction against the Sunday Times on breach of confidence grounds. This is what we were considering last week before I personally decided to seek an injunction against the Sunday Times (which was duly obtained on Thursday) to prevent what would have been a further contempt. The judicial criticism of the Sunday Times will have strengthened our hand. If we obtain the injunction against the Sunday Times on confidence grounds, then the law of criminal contempt, as expounded by the Court of Appeal in the Independent case last Wednesday, may deter others (including the Observer and Guardian) from publishing material attributed to Peter Wright. Counsel believes that we stand a reasonable chance of getting such an injunction against the Sunday Times.

I have previously reminded my colleagues that our object is to win in New South Wales. We hear that on Monday Mr Turnbull is to start by asking for the undertaking against publication of Wright's book to be lifted, on the ground of wide publication in America. Further publication in the United Kingdom before

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X | Monday would give him added ammunition. Every available strategem has been deployed against the Crown in this battle, in which as usual the Devil has had the best tunes. I do not think we need be hesitant about playing the last card we have left to us with the object of preserving our position in New South Wales. We should certainly get no credit anywhere for putting our hands up now. I accordingly recommend that, in the event of our losing against the Guardian and the Observer in the Court of Appeal, the Government should be ready to apply for an injunction based on breach of confidence against the Sunday Times if in the light of the Court of Appeal's judgment that is a course of action which is properly open to us.

---

If, however, we lose in the Court of Appeal in circumstances in which there is no further ground of appeal open to us, then we shall have to give thought to making a dignified statement that we have failed in our claim for an injunction to stop the publication of the book. Such a statement might usefully draw on the favourable remarks of the Vice-Chancellor and on anything else which the Court of Appeal might say.

I am copying this to the Prime Minister, to the other members of OD(DIS) to the Lord Advocate, to Sir Robert Armstrong, Sir John Bailey and Mr Mallaby.

A.M.

22 July 1987

CONFIDENTIAL



SECRET



10 DOWNING STREET

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MOD

*From the Principal Private Secretary*

21 July 1987

*Dear Michael,*

"INSIDE INTELLIGENCE" BY ANTHONY CAVENDISH

The Prime Minister has seen your letter of 17 July to Christopher Mallaby in the Cabinet Office in which you set out the Attorney General's views on the proposals for OD(DIS)(87)50.

The Prime Minister has not dissented with the course which the Attorney has proposed.

I am copying this letter to the other Private Secretaries to OD(DIS) members and to Sir Robert Armstrong and Mr Mallaby.

*Yours sincerely  
Nigel Wicks*

N.L. Wicks

M.L. Saunders, Esq.,  
Law Officers' Department.

SECRET



CONFIDENTIAL

pm.



10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

SIR ROBERT ARMSTRONG

The Prime Minister was surprised to learn of the report in Sunday's "Sunday Times" that the Treasury Solicitor's Office had told that newspaper's solicitors, in connection with a possible injunction restraining serialisation of extracts from "Spy Catcher":

"The Prime Minister is tied up for the next hour or so. But as soon as she comes free I anticipate being told to ask you for an undertaking not to publish any further extracts from Wright's book."

The Prime Minister can hardly believe that an official from the Treasury Solicitor's Department should disclose to outsiders, let alone a firm of solicitors, matters relating to the internal considerations of Government. But she thinks that if there was a conversation on the lines indicated, the official concerned ought to be reminded of the right way of proceeding in these circumstances.

N. L. W.

N. L. Wicks  
21 July 1987

PMMADJ

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GA



# Thatcher involved in Sunday Times ban

IT emerged last night that the prime minister herself took a close interest in last week's legal moves to prevent The Sunday Times from printing a second extract from Spycatcher today.

Shortly before 3pm last Wednesday the Treasury solicitor's office contacted Theodore Goddard, solicitors to The Sunday Times, informing them that: "The prime minister is tied up for the next hour or so. But as soon as she comes free I anticipate being told to ask you for an undertaking not to publish any further extracts from Wright's book."

An hour later the Treasury solicitor's office called back demanding just such an undertaking by 5.30pm that afternoon, which The Sunday Times refused to give.

The next day Sir Patrick Mayhew, the attorney-general, obtained a temporary injunction in the High Court forbidding The Sunday Times from publishing further extracts from Spycatcher today.

Mayhew has been at pains to point out throughout his attempts to stop The Sunday Times from publishing further extracts that he has been acting not on the prime minister's instructions but independently of the government, as the chief law enforcement officer in the country.

The Treasury solicitor's remarks, however, indicate that the prime minister was also anxious to stop part two of Spycatcher, and prepared to order legal action to do so.

The Sunday Times put this point to the attorney-general's office yesterday. In a long reply his office said that there was no need for Mrs Thatcher to initiate any action herself because on Wednesday the Court of Appeal had overturned a previous court ruling that newspapers were not in con-

Continued on page 2

## Thatcher's role in ban

Continued from page 1

tempt by publishing reports based on the Wright book.

The appeal court decided that these papers, including The Sunday Times, could be in contempt, thus opening the way for the attorney-general to seek an injunction against this paper on contempt grounds.

This enabled a spokesman for the attorney-general's office to maintain that: "It is totally wrong to suppose that the prime minister or any other minister was either asked for or expressed any

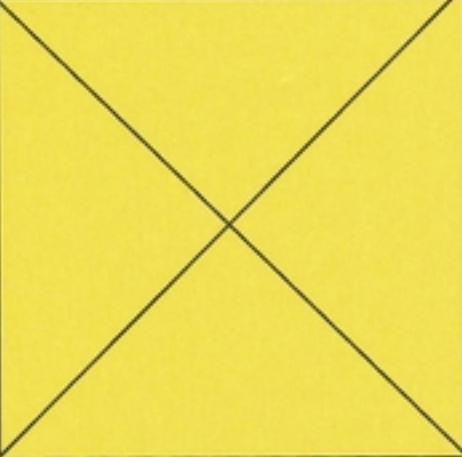
opinion as to whether the application made by the attorney-general against The Sunday Times should be instituted."

Nevertheless, it is clear that, whatever the decision of the Court of Appeal, the prime minister was determined to stop The Sunday Times from publishing further extracts.

If the appeal court had not opened the way for the attorney-general he would have been instructed by the prime minister to seek an injunction.





DEPARTMENT/SERIES ..... <i>PREM 19</i> ..... PIECE/ITEM ..... <i>2507</i> ..... (one piece/item number)	Date and sign
Extract details: <u><i>Folio 10</i></u> <i>Letter dated 17 July 1987</i>	
CLOSED UNDER FOI EXEMPTION .....	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	<i>22/9/2023</i> <i>Wayland</i>
TEMPORARILY RETAINED	
MISSING AT TRANSFER	
NUMBER NOT USED	
MISSING (TNA USE ONLY)	
DOCUMENT PUT IN PLACE (TNA USE ONLY)	



PRIME MINISTER

PETER WRIGHT

Dale Campbell-Savours has apparently now deposited copies of the Wright book in the Library of the House.

The Attorney knows of this, and has been considering whether there are any steps for him to take in his capacity as an independent enforcer of the law. I understand that his preliminary view is that the Librarian could only be considered to be putting himself beyond the law if he were to lend the book out. What the Librarian does of course is, in the absence of a Library Sub-Committee, a matter for the Speaker who is no doubt consulting his legal adviser.

None of this is unexpected. Dale Campbell-Savours was bound to go in for this sort of stunt at some point. No doubt his next step will be to wave a copy of the book in the Chamber. But the matter is clearly not a Government responsibility. Insofar as it concerns the activity of the Librarian, it is for the Speaker and ultimately the House. Insofar as the Librarian may be breaking the law, it is a matter for the Attorney, acting independently.

MEVA

MEA

17 July, 1987.

mt  
(~~June 20~~  
21-22)  
~~for~~



From: THE PRIVATE SECRETARY  
**CONFIDENTIAL**

APS



*pa*

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

16 July 1987

*Dear Steven,*

WRIGHT CASE: PARLIAMENTARY ASPECTS

*at Har*

The Home Secretary has seen the Lord Privy Seal's minute of 13 July to the Prime Minister about Parliamentary aspects of the Wright case, and Nigel Wicks' letter to you of 14 July conveying the Prime Minister's agreement to the line the Lord Privy Seal proposed to take in dealing with the Speaker. The Home Secretary is content with what is proposed.

Copies of this letter go to the Private Secretaries to members of OD(DIS) and Trevory Woolley (Cabinet Office).

*Yours sincerely,*

*Philip Lawton*

P J C MAWER

Stephen Wood, Esq

**CONFIDENTIAL**



SECURITY: Secret Services #8







Treasury Chambers, Parliament Street, SW1P 3AG  
01-270 3000

N L Wicks Esq CBE  
Principal Private Secretary  
10 Downing Street  
LONDON SW1

16 July 1987

Dear Nigel,

**OD(DIS): ENFORCING THE DUTY OF CONFIDENTIALITY**

The Chancellor regrets that he will not be able to attend the meeting of OD(DIS) this morning. He has asked me to let you have his views on the main points of concern to the Treasury.

**Official Secrets Act**

He supports the view in paragraph 3.26 of the paper by officials, OD(DIS) (87)47, that information related to or obtained from businesses, other bodies or individuals should be removed from the scope of any legislation to replace section 2 of the Official Secrets Act. It seems right that this should be covered under separate, specific legislation were necessary. The paper suggests that offences should only apply to disclosure of confidential information obtained under statutory powers; that may not be appropriate for the Revenue departments, where in practice most confidential information is obtained voluntarily from taxpayers. The Chancellor would want to ensure that wrongful disclosure of such information was an offence.

**Pensions forfeiture**

He does not believe that wide and far reaching legislation on pension forfeiture of the kind suggested in paragraph 5.10 is desirable. It would be extremely complicated and would run contrary to the Government's general policy of treating pension rights as deferred earnings and the property of the individual; to be effective it would have to extend much more widely than simply pensions paid from the PCSPS, and would have to cover personal pensions, insurance policies etc.

The Chancellor does, however, agree that the more limited - though still elaborate - alternative discussed in paragraph 5.13 (to



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legislate to deal only with unauthorised disclosure by a person living outside the United Kingdom who could not be brought back to face trial) is worth further examination.

**Open Government/freedom of information**

The Chancellor agrees that further work should be done on preparing a Code of Practice on publishing official information. But he feels that the potentially extremely expensive moves towards a statutory right of access are not worth pursuing further.

I am copying this letter to <sup>the</sup> Private Secretaries to members of OD(DIS).

Yours sincerely,

Cathy Ryding

PP

A C S ALLAN  
Principal Private Secretary



CRS 251  
CONFIDENTIAL

CONFIDENTIAL

FM CANBERRA  
TO IMMEDIATE FCO  
TELNO 453  
OF 160310Z JULY 87  
AND TO IMMEDIATE CABINET OFFICE  
INFO ROUTINE WASHINGTON

PETER WRIGHT CASE

1. THE MAJOR AUSTRALIAN DAILY NEWSPAPERS HAVE ALL REPORTED THE PUBLICATION OF 'SPYCATCHER' IN THE USA, BUT HAVE NOT GIVEN IT MUCH PROMINENCE. THEY FOCUS MAINLY ON THE EMBARRASSMENT CAUSED FOR THE GOVERNMENT BY COPIES BEING BROUGHT INTO BRITAIN AND ON THE STATEMENT BY A SPOKESMAN FOR HEINEMANN'S IN LONDON THAT THEY EXPECT TO BE ABLE TO PUBLISH WITHIN A FEW WEEKS.

2. 'THE AGE' QUOTES MR WRIGHT AS HAVING SAID IN AN INTERVIEW ON ABC RADIO ON 15 JULY THAT THE BRITISH GOVERNMENT HAD HAD THE OPPORTUNITY FROM THE BEGINNING TO TAKE OUT ANYTHING TO WHICH THEY HAD A GENUINE OBJECTION, BUT HAD NOT CONTACTED HIM, AND THAT THE BRITISH GOVERNMENT'S BEHAVIOUR HAD BEEN 'DISGRACEFUL'.

3. THE 'CANBERRA TIMES' OF 16 JULY REPORTS THE APPROACH MADE BY FREEHILLS TO SEEK AN UNDERTAKING THAT THEY WOULD NOT PUBLISH EXTRACTS, AND THE NEWSPAPER'S REFUSAL TO GIVE SUCH AN UNDERTAKING ON THE GROUNDS THAT THEY ARE NOT A PARTY TO THE PROCEEDINGS AND THAT THEY HAVE ALREADY PUBLISHED ON 29 APRIL AN EXTENSIVE SUMMARY OF EXTRACTS PUBLISHED IN THE 'INDEPENDENT'. THIS PARTICULAR REPORT IS PERSONALLY EMBARRASSING FOR ME AS THE MANAGING DIRECTOR OF THE 'CANBERRA TIMES' HAD ALREADY INVITED ME TO LUNCH TO-DAY TO LOOK OVER THE NEWSPAPER'S NEW PLANT. IT WOULD HAVE BEEN USEFUL TO HAVE HAD FOREWARNING OF THE TIMING OF THE APPROACH. YOUR TELNO 391 WAS RECEIVED HERE AT 0910 LOCAL ON 16 JULY.

LEAHY  
CEHPAN 2429

PETER WRIGHT CASE

LIMITED

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

COPIES TO:

PS/SIR R ARMSTRONG )  
SIR C FIGURES ) CABINET OFFICE  
MR MALLABY )  
MR B H DINWIDDY )  
MR J. BAILEY, TREASURY SOLICITORS  
MR SAUNDERS ) LAW OFFICERS  
MR INGLESE ) DEPT  
PS/HOME SECRETARY  
SIR B CUBBON, PERM. SEC, HOME OFFICE  
MR PARTRIDGE )  
MR NURSAW ) HOME OFFICE  
MR MOWER )  
LEGAL ADVISERS, SEC. SERVICES) VIA  
DIRECTOR GENERAL, SEC. SERVC) PUSD E203  
~~MR WICKS, 10 DOWNING ST.~~  
PRESS OFFICE, 10 DOWNING ST.

CONFIDENTIAL



Ref. A087/2105

MR WICKS

Means of Ensuring the Duty of Confidentiality

Mr Mallaby has provided a comprehensive brief for tomorrow's meeting of OD(DIS), to which I have very little to add.

Information Relating to Security and Intelligence

2. The 1979 Bill would have provided "blanket" protection for security and intelligence information; and that was one of the points on which difficulties began to arise, before the Bill was withdrawn. So there is a nexus of questions as to whether and how the offence of disclosing security and intelligence information should be limited or qualified, so as to forestall the re-emergence of the same kind of difficulties this time round.

3. The paper before Ministers suggests that the general offence should be limited by a damage test on the lines that the information disclosed would have to be of a class or type likely to damage the operation of the Security and Intelligence services; but should also be supplemented by the introduction of a special offence, without a damage test, confined to present and former members of the Security and Intelligence Services. This special offence could be extended to cover "purported" information about security or intelligence; that would make it unnecessary to prove that the information in question in any particular case was true.

4. The objection to any limitation on the general offence is that it would lead to argument in court as to whether the damage



test was satisfied in particular cases. The difficulties of this became evident in the Peter Wright case. The Government's evidence was based on affidavits which stated why autobiographical information by a former member of the Security Service would be of a class or type likely to damage the operations and effectiveness of the Service, and much of the argument in court was directed to undermining that line of argument, by demonstrating either that the information in Peter Wright's book would be so out of date that it could not damage current operations, or alternatively by demonstrating that virtually all the information in the book had already been published and any damage had already been done. Experience thus suggests that the inclusion of a damage test is likely to add to the prosecution's difficulties in making a case stick.

5. The idea of limiting the general offence to present and former members of the Security and Intelligence Services only has some attractions. But there are problems both of logic and practice:

- Logically, the damage done by the disclosure of a particular piece of information does not depend on the source from which the disclosure comes. Is it reasonable or fair that members of the Security and Intelligence Services should be under a more restrictive regime than other public servants with access to the same information?
- Practically, it is quite difficult to justify drawing a line between members of the Security and Intelligence Services and those who have access to a great deal of the same information: for example, the assessment staff in the Cabinet Office and the Defence Intelligence staff in the Ministry of Defence.



6. The paper points out the disadvantages of extending any special offences beyond members of the Security and Intelligence Services; if that is accepted, the logic could point to not legislating for the special offence.

7. In brief, one would clearly run into considerable difficulties when one began to try to limit the protection for security and intelligence information. Unless the Prime Minister thinks that some limitation is politically inevitable, she may wish to keep open the option of a package which includes blanket protection for security and intelligence, while containing enough other changes to the 1979 Bill to ensure a sufficient degree of political acceptability for the Bill as a whole.

#### Ministerial certificates

8. The paper deals with the question whether the new Bill should repeat the provision in the 1979 Bill that, in the case of information relating to defence and international relations, the test of damage should be satisfied by the issue of a conclusive Ministerial certificate. I agree that there are really no satisfactory half-way measures: it has to be a choice between conclusive Ministerial certificates and leaving it to juries. Some recent experience (eg the Ponting case) does not encourage confidence in the ability (or willingness) of juries to take a reasonable view on questions of this kind. That would suggest that we should if possible stick to the conclusive Ministerial certificates, though I recognise that it would be argued that that would remove from the court to Ministers an important area of the res judicanda.

#### Forfeiture of Pensions

9. Recent events have forced me to the conclusion that the law is a very uncertain and risky way of trying to prevent



publication, when the author and/or publisher are overseas. It is not possible to proceed under the Official Secrets Act against people who are overseas; and there are important areas of the world where the process of injunction is not in practice available to us. I am reluctantly driven to the conclusion that we have to consider seriously whether the most practicable sanction against another Peter Wright (apart from action for the account of profits) would be forfeiture of pension. I see all the objections to that, in that pensions are a form of deferred remuneration to which an entitlement has been established. But we should not be talking about involuntary forfeiture: if it was known that action was likely to be taken to forfeit a pension in the case of unauthorised publication, the author concerned could (if he so preferred) decide not to publish and so preserve his pension. If he decided to publish, he would do so with his eyes open, and presumably as a result of some process of calculation: he could not say that he had not been warned. It would be important to get it clearly established that publication without authority was a breach of conditions of service, since acceptance of conditions of service must be presumed to be one of the conditions on which people are remunerated (in terms of pension entitlement as well as current salary).

10. So I think that the forfeiture of pension option ought to be fully pursued.

RA

ROBERT ARMSTRONG

15 July 1987



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CONFIDENTIAL



ATTORNEY GENERAL

PETER WRIGHT: POSSIBLE FURTHER LEGAL  
ACTION AGAINST THE SUNDAY TIMES

Thank you for your minute of 14 July. I agree that we should proceed as you and officials propose.

Copies of this minute go to the recipients of yours.

*Doyle - Howard*

15 July 1987

CONFIDENTIAL



cc Byrd

Peter Wright

CONFIDENTIAL

B.0222

MR WICKS

c Sir Robert Armstrong

OD(DIS) on 16 July: Duty of Confidentiality

The Court of Appeal today ruled, in the contempt case against the Independent, that (given our injunction against the Observer and Guardian) publication of material from Peter Wright could be in contempt of court, depending on the facts of each case. This reverses the judgment at first instance as to the state of the law. The law now is that newspapers may be in contempt if they publish material which other newspapers are restrained by injunction from publishing. The Court of Appeal will give in some days the reasons for its judgment. The Independent will then have to decide whether to seek leave to appeal on the point of law to the House of Lords. If we ultimately win on the point of law, the case will go back to first instance, for judgment on whether the facts in the Independent case make that newspaper's particular action a contempt.

2. Sir John Donaldson, when delivering judgment today, said that "interference with the course of justice is a very serious matter and publishers will no doubt wish to consider their duty before doing anything which could have this result". That is a very stern warning to newspapers.

3. This decision on the state of the law has implications for several aspects of the Peter Wright affair and both matters on the agenda of OD(DIS) on 16 July.

4. It should deter newspapers from publishing material from Wright, whether derived from the Sunday Times extracts or the book as published in the United States. It should deter bookshops and distributors in this country from

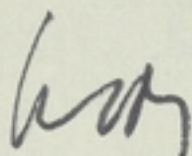


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supplying the United States edition of the book. The rate of "seepage" of material from the book into this country should thus be slowed down (although seepage by other means, e.g. mail order from the USA or travellers bringing copies into this country, will not be affected). This in turn may reduce the chances of the Guardian and the Observer succeeding soon in an application to the courts for the lifting of our injunction against them.

5. On Item 1 on the agenda of OD(DIS) - the possible Panorama programme on Wright - the way is now open for a decision on whether the Treasury Solicitor should write to the BBC and others in the media drawing attention to the judgment that publication of material from Wright may be in contempt of court and also to the duty of confidentiality of present and former public servants (paragraph 6 of my note of 16 July on the Panorama programme).

6. On Item 2 about enforcing the duty of confidentiality, Section IV of OD(DIS)(87)47 is affected. Subject to any further appeal to the House of Lords in the Independent case, the means of enforcing the duty of confidentiality through the civil law are strengthened not only with regard to the Peter Wright affair but generally. It may be desirable (paragraph 4.2 of the paper) to extend the new position (unless overturned by the House of Lords), by means of legislation, to the other jurisdictions in the United Kingdom. But it would still be worth officials doing further work on the other improvements in the law regarding injunctions which are suggested in paragraphs 4.3-4.5 of the paper, notably the one in paragraph 4.4 about a lower test for obtaining an injunction.



C L G Mallaby

15 July 1987



SECRET



Foreign and Commonwealth Office

London SW1A 2AH

15 July 1987

Dear Christopher,

"Inside Intelligence" by Anthony Cavendish

*attached*  
The Foreign Secretary has studied the proposals in OD(DIS)(87)50. He agrees with the proposal to meet Cassells' solicitors. He also agrees that further decisions will need to be taken on the basis of that meeting, but his preference would be, if it seems feasible, to try to get a deal with the publishers in order to avoid the need to apply for an injunction. I am copying this to the other Private Secretaries to OD(DIS) members.

*Yours ever,*  
*(signature)*  
(A C Galsworthy)  
Private Secretary

C Mallaby Esq  
Cabinet Office

SECRET



CONFIDENTIAL



10 DOWNING STREET  
LONDON SW1A 2AA

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

PETER WRIGHT CASE: POSSIBLE FURTHER LEGAL ACTION AGAINST THE  
SUNDAY TIMES OD(DIS)(87)49

The Prime Minister has seen the Attorney General's minute of 14 July about the note by officials on the above subject. I have also reported to the Prime Minister the outcome of the action in the Court of Appeal on the Independent case.

The Prime Minister agrees with the Attorney General that a letter should be sent to the Sunday Times seeking their assurance that they will not publish further instalments of the Wright book. Unless the newspaper provides a satisfactory assurance, we should commence proceedings for an injunction to restrain further instalments.

I am sending a copy of this minute to the Private Secretaries of the members of OD(DIS), to the Lord Advocate and Mr Mallaby.

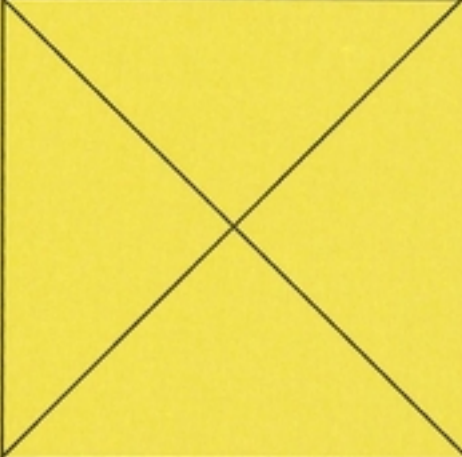
N.L.U.

N. L. Wicks  
15 July 1987

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DEPARTMENT/SERIES <i>PREM 19</i> ..... PIECE/ITEM ..... <i>2507</i> ..... (one piece/item number)	Date and sign
Extract details:  <i>Minute dated 15 July 1987</i>	
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*CEA*

QUEEN ANNE'S GATE LONDON SW1H 9AT

14 July 1987

Dear David,

THE CASE FOR A BAN ON THE IMPORT OF THE  
PETER WRIGHT BOOK "SPYCATCHER"

Thank you for your letter of 13 July. I am grateful to you for the care with which you have examined the possibility of banning the import of copies of "Spycatcher". I am quite sure that you are right in saying that a ban would be an unwise use of the powers and difficult to defend. We shall need an explanation if we are questioned about why we are not seeking to ban the import of the book while we are still taking action to prevent publication of extracts from the book in newspapers here. I agree with you that our immediate answer should simply be that an import ban would in practice be ineffective.

I am copying this letter to those who received copies of yours.

*over,*  
*Douglas*

The Rt Hon The Lord Young of Graffham

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PRIME MINISTER

You should know that the Attorney has agreed that, if our Australian counsel so advise, we should proceed in the Australian courts to obtain an injunction restraining Australian newspapers from publishing the Wright material which appeared in the weekend's Sunday Times. It is thought necessary to do this since two Australian newspapers republished material which the Independent published just before the Election.

N.L.U

→ Hartigan

mb

N L WICKS

14 July 1987

CONFIDENTIAL





10 DOWNING STREET  
LONDON SW1A 2AA

SLHALL

*From the Principal Private Secretary*

14 July 1987

**WRIGHT CASE: PARLIAMENTARY ASPECTS**

The Prime Minister was grateful for the Lord Privy Seal's minute of 13 July about Parliamentary aspects of the Wright case.

Subject to the views of other Ministers she agrees that the Lord Privy Seal should argue to the Speaker that notwithstanding the availability of Wright's book in the United States and perhaps private or pirated copies here, so long as actions relating to the disclosure of its contents were still awaiting adjudication in a United Kingdom court, such disclosures should not be permitted in any proceeding in Parliament.

I am sending a copy of this letter to the Private Secretaries to members of OD(DIS) and Trevor Woolley (Cabinet Office).

N. L. WICKS

Steven Wood, Esq.,  
Lord Privy Seal's Office

A handwritten signature in the bottom right corner of the page.





10 DOWNING STREET  
LONDON SW1A 2AA

*From the Principal Private Secretary*

14 July 1987

THE CASE FOR A BAN ON THE IMPORT OF THE PETER WRIGHT BOOK  
"SPYCATCHER"

The Prime Minister has seen a copy of the letter of 13 July from the Secretary of State for Trade and Industry about the possible prohibition on the import of Wright's book by an amendment to the Open General Import Licence.

Subject to the views of other Ministers, the Prime Minister agrees that there should be no ban on the import of Wright's book and that Ministers should take the line described in the penultimate paragraph of the Secretary of State's letter.

I am sending a copy of this letter to Mike Eland (Lord President's Office), Tony Galsworthy (Foreign and Commonwealth Office), Alex Allan (H. M. Treasury), John Howe (Ministry of Defence), Tim Walker (Department of Trade and Industry), Steven Wood (Lord Privy Seal's Office), Michael Saunders (Law Officers' Department), and Trevor Woolley (Cabinet Office).

N. L. WICKS

Philip Mawer, Esq.,  
Home Office

SL HALLK  
bcc  
Mr Mallaby



CONFIDENTIAL



PRIME MINISTER

WRIGHT CASE: PARLIAMENTARY ASPECTS

Prime Minister  
Agree to proceed  
as in §5 and §10?  
Yes no  
N. L. W.

13.7

I have seen the paper by officials, OD(DIS)46, which discussed the ways in which material from Mr Peter Wright's book 'Spycatcher' could 'seep' into this country following its imminent publication in the United States. The paper explains that there are several ways in which this could occur, and that the Government's defences are by no means impregnable. The publication by the 'Sunday Times' on 12 July of extracts from Wright's book is already putting these to the test. It is against this background that I have considered what can be done to minimise the risk of disclosure in the House of Commons whether in the course of 'proceedings in Parliament' or in some other form. (We should not lose sight of the fact that there are procedural differences in the House of Lords position, but I understand that the position is likely to be less difficult.)

2. There are two possible House of Commons remedies:
  - (i) the application by the Speaker of the sub judice rule; and
  - (ii) a possible ad hoc Government motion prohibiting Parliamentary disclosure on grounds of 'national security'.

The sub judice rule

3. This is a self-denying ordinance restricting free speech during 'proceedings in Parliament' in the interests of a fair trial. Its application depends upon there being a relevant case still awaiting adjudication in a United Kingdom court, and on the precise points at issue in the case. I understand that at least one of the three outstanding cases is likely to be before the courts until into the new year. Of these, the 'Guardian'/'Observer' case is more likely to be prejudiced by further disclosures of material from the book than the 'Independent' and 'Sunday Times' contempt cases, and therefore more likely to lead the Speaker to invoke the sub judice rule.

4. However, the Speaker has a certain discretion in applying the rule. He has to balance the importance of free speech against the danger of prejudice to the legal proceedings. The degree of 'seepage' from the other sources mentioned in OD(DIS) will clearly come into his calculations. Finally, there is the problem of enforcement. Questions, motions and speeches that made unattributable use of material obtained from the book would be very hard for the Speaker and his deputies, advised by the Clerks, to spot and stop.



5. The sub judice rule can therefore be of some, but limited, help. I would propose to argue to the Speaker that notwithstanding the availability of Wright's book in the United States and perhaps private or pirated copies here, so long as actions relating to the disclosure of its contents were still awaiting adjudication in a UK court, such disclosures should not be permitted in any proceeding in Parliament.

A possible ad hoc motion on grounds of 'national security'

6. I understand that the Government's case against Wright is based on breach of confidentiality and that we have avoided arguments concerning the relevance of its contents to national security so that such a motion might be seen as a change of course. Setting this doubt aside for the moment, such a motion would be on the following lines:

"In view of the interests of national security involved no disclosure of material from Peter Wright's book 'Spycatcher' shall be made in the course of any proceedings in Parliament [or in any room under the control of the House] unless and until the House otherwise orders."

7. This would not logically depend upon any court cases outside the House. It could be drafted to cover the precincts as well as the proceedings of Parliament. But it would of course be debatable and could not pre-empt disclosure in the course of the debate.

8. It must be doubtful whether the House would pass such a motion. The Privileges Committee in its report (First Report Session 1986/87) on the 'Zircon' film ruled out any new Standing Order providing for the banning of disclosure of 'national security' matters. The objections were based partly on the difficulties of enforcement and partly on the grounds that any such provision would interfere with Parliamentary free speech. The 'Zircon' debate suggests that this view would be broadly supported in the House.

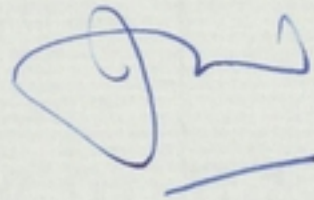
9. The same objections would of course run against tabling a specific motion. The final decision on this would depend on whether we were prepared to argue that national security was endangered; on what happens in the courts and when; and on how far information about material from Wright's book had become available in this country through other channels. I doubt very much whether in the event it would be useful to attempt such a motion.



Conclusion

10. I would accordingly propose to confirm with the Speaker the applicability of the sub  
judice rule in the light of imminent publication of the American edition of the Wright book  
and the latest newspaper stories.

11. Copies go to OD(DIS) colleagues and to Sir Robert Armstrong.



JW

13 July 1987





Secretary of State for Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY

1-19 VICTORIA STREET

LONDON SW1H 0ET

TELEPHONE DIRECT LINE 01-215 5422  
SWITCHBOARD 01-215 7877

13 July 1987

The Rt Hon Douglas Hurd MP  
Secretary of State for Home Affairs  
Home Office  
50 Queen Anne's Gate  
LONDON  
SW1

*One Minute*

*Agree no ban on the  
import of Wright's book?*

*Yes*

*N.C.U.*

*13.7*

Dear Secretary of State

THE CASE FOR A BAN ON THE IMPORT OF THE PETER WRIGHT BOOK  
"SPYCATCHER"

Questions have been raised with my Press Office about a possible ban on the import of the US edition of Mr Peter Wright's book "Spycatcher". I imagine that similar questions may be raised with the Prime Minister in the House tomorrow.

The policy arguments for and against such a move are more for you and other colleagues than for me. I am, however, responsible for operating the controls on imports, and it may be helpful if I say how a possible ban looks from that perspective. I set this out below, but I must say that my own view is that it would be an unwise use of our powers, and would be difficult to defend.

It is technically possible to prohibit the import of a specific book by an amendment to the Open General Import Licence. If necessary, action can be taken very quickly. Such action would inevitably be highly controversial, not just because of the circumstances of the particular case, but because I would have to rely on the sweeping powers deriving from the Import, Export and Customs Powers (Defence) Act 1939, passed as an emergency measure on the outbreak of war. The use of these powers in the "Spycatcher" case could well be challenged. I am also advised that, even if the book were banned, it would not in practice be possible to catch all

DW1DEG





copies of the book brought in from the United States either by mail or by individual travellers.

X If my colleagues decide against attempting to ban the import of Mr Wright's book, we would have to say that we do not propose to amend the Open General Import Licence for this purpose. Critics would no doubt point out that it was inconsistent to seek injunctions against newspapers but refuse to ban the import of the book. In that case I think that we should simply say that an import ban would in practice be ineffective.

I am copying this letter to the Prime Minister, the Lord President, the Foreign Secretary, the Chancellor of the Exchequer, the Secretary of State for Defence, the Lord Privy Seal, the Attorney General and Sir Robert Armstrong.

*Yours sincerely*

*Paul Steeles*

pp LORD YOUNG OF GRAFFHAM



Ref. A087/2063

MR POWELL

CSP  
13/7

Colin Wallace

*attached*

Thank you for your minute of 10 July, the contents of which I reported orally to the Ministry of Defence and the Security Service.

2. We could not exclude the possibility that Mr Airey Neave met Mr Wallace, and that Mr Wallace gave him information. Those to whom I have spoken in the Security Service are, however, absolutely confident that Mr Wallace would not have been used by officials in the Ministry of Defence or in the security and intelligence services as a means of passing information to Mr Airey Neave.

RA

ROBERT ARMSTRONG

13 July 1987



CONFIDENTIAL

PRIME MINISTER

Further to my minute earlier today, the Attorney has decided to institute proceedings for criminal contempt against the Sunday Times. He intends to lodge the application, but not to progress it until the criminal contempt cases against the Independent etc have been concluded. He wants to announce today his intentions to proceed for criminal contempt.

Since it is criminal contempt, this is a criminal matter on which the Attorney takes the decision, though he can consult other Ministers before taking his decision.

I told Mr Mallaby that I doubted whether you would want to advise a different course from what the Attorney is minded to do.

Bernard's advice is that if the Attorney's office is to make an announcement today, it is best to make it quickly.

*Do not wish to influence A-Li's decision in any way - No contact - mt*

*pp*

D. S. Cole  
N L WICKS  
12 July 1987

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PRIME MINISTER

You will have seen from the Sunday Times that they have published some material from the Wright book, despite the Treasury Solicitor's letter warning them that they risk contempt proceedings. Bernard tells me that there is little, or no, press interest in the publication. He is not having calls about follow-up. Sir Robert Armstrong is holding a meeting tomorrow and will prepare advice on the next steps.

---

*DTScola*

*fp* N L WICKS

12 July 1987

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CONFIDENTIAL

PRIME MINISTER

Discussed with PM  
CD

THE WRIGHT BOOK

Because of the suspicion that the Times may publish extracts from the Wright book tomorrow, the Attorney General agreed that we should try to obtain satisfactory assurances from the Times that they would neither publish new material nor re-publish old material; and failing such satisfactory assurances, we should later today go for an injunction to restrain any publication. It is not certain that an application for an injunction in the same form that we have received them before would be granted: the courts might be reluctant to grant an injunction to prevent re-publication of material already published - the so-called "seepage" effect.

The Treasury Solicitor has, accordingly, spoken to the journalist on the Times handling the matter - Michael Evans. He has said, on the telephone, that the Times are not going to publish anything new from the book, nor re-publish any material already published. But they were intending to write a news story about the new disclosures and their consequences.

The lawyers believe that these are satisfactory assurances and that, their having been volunteered, we would not succeed in getting an injunction in the courts - the Times would simply repeat their assurances that they were not going to publish or re-publish. And I have told Mr Mallaby to ensure that, subject to the legal advice, the Treasury Solicitor now writes to the Editor of the Times to put on the record the oral assurances which one of his journalists has given the Treasury Solicitor. Without some such step, there is always a possibility that the Editor might overturn his journalist's assurance. It is the Editor's word that matters - and in writing.

*DT Scola*

PP N L WICKS

12 July 1987

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10 DOWNING STREET

Prime Minister

You will wish  
to be aware of  
this.

C.D.I.

A handwritten signature in blue ink, appearing to be 'M.' or similar.



RESTRICTED



10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

SIR ROBERT ARMSTRONG

MR. COLIN WALLACE

Ian Gow telephoned me this evening to say that Channel 4 News had been in touch with him about Mr. Colin Wallace, with whom they are running an interview on this evening's news. Mr. Wallace had in his possession four original letters sent to him by Airey Neave dated respectively 2 August 1976, 31 August 1976, 20 September 1976 and 30 March 1977. Assuming these letters were genuine, they provided evidence that Airey Neave had held at least two meetings with Mr. Wallace, in the course of which Wallace gave him information to assist in the preparation of speeches. Mr. Wallace would assert that he had been asked by officials in the Ministry of Defence and/or the intelligence and security services to get in touch with Airey Neave and pass information to him, including information about communist involvement in the troubles in Northern Ireland and links between members of the Labour Party and subversive elements in Northern Ireland. Wallace would apparently claim that this was a clear indication that Airey Neave was closely involved with the security and intelligence services even though he was an opposition spokesman, and could be presumed to have knowledge of unlawful activities by them.

✓ I said that this last conclusion seemed to involve a very considerable jump from facts to supposition. Ian Gow agreed. He had himself declined to go on the programme, but wanted us to be warned of what Wallace was likely to say.

CDP

10 July, 1987.

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OF 101400Z JULY 87

FROM PUSD  
PETER WRIGHT CASE

1. YOU SHOULD BE AWARE THAT THERE WILL BE A SPECIAL ADMISSIONS CEREMONY, WHICH WILL BE PUBLIC, IN THE NSW COURT OF APPEAL IN SYDNEY ON 23 JULY TO ENABLE JOHN LAWS TO APPEAR AS A MEMBER OF THE NSW BAR. IF THIS LEADS TO PRESS QUESTIONS, YOU SHOULD BE GUIDED BY THE LINE IN MY TELNO 377. PLEASE INFORM HMCg SYDNEY.

HOWE

OCMIAN 5842  
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 BOYD  
MR MCLAREN  
MR DARWIN, LEGAL ADVISERS  
MR GILLMORE

COPIES TO:

PS/SIR R ARMSTRONG }  
SIR C FIGURES } CABINET OFFICE  
MR MALLABY }  
MR B H DINWIDDY }  
MR J. BAILEY, TREASURY SOLICITORS  
MR SAUNDERS } LAW OFFICERS  
MR INGLESE } DEPT  
PS/HOME SECRETARY  
SIR B CUBBON, PERM. SEC, HOME OFFICE  
MR PARTRIDGE }  
MR NURSAW } HOME OFFICE  
MR MOWER }  
LEGAL ADVISERS, SEC. SERVICES) VIA  
DIRECTOR GENERAL, SEC. SERVCs) PUSD E203  
MR WICKS, 10 DOWNING ST.  
PRESS OFFICE, 10 DOWNING ST.

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6  
✓

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PRIME MINISTER

c Sir Robert Armstrong

Chairman's Brief for OD(DIS) on 16 July

CONCLUSIONS

On Item 1 - the proposed Panorama programme on Peter Wright - the meeting should be able to conclude that letters should be sent to the BBC and other media warning against contempt of court, if the Attorney General wins the contempt case against the Independent in the Court of Appeal; that no other steps should be taken now; and that more decisions, at least on the public line if the programme is transmitted, will be needed in due course. /

2. On Item 2 - enforcing the duty of confidentiality - the meeting should conclude by deciding which options for inclusion in a possible package of measures for protecting Government information in the future should be worked up in detail by officials and which should be discarded. Ministers should then be able in September or October to decide what a package might contain. The most important question will be whether the idea of introducing a modified version of the 1979 Bill to replace Section 2 of the Official Secrets Act (OSA) should be pursued.

ATTENDANCE

3. All members of the Sub-Committee will attend, namely the Lord President, the Foreign and Commonwealth Secretary, the Home Secretary, the Defence Secretary, the Lord Privy Seal and the Attorney General. The Chancellor of the



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OF THE PUBLIC RECORDS ACT

Exchequer, the Lord Advocate and the Minister of State, Privy Council Office (Mr Luce) have been invited to attend for Item 2 only.

PANORAMA on Peter Wright (Item 1)

4. The proposed programme will not, on the BBC's present plans, be transmitted until late this year. The purpose of the OD(DIS) discussion will thus be to ensure that colleagues agree on the handling of the matter at the present stage. The problem is explained and the issues highlighted in a Note which I have circulated. The nub is that                     formerly of the Security Service, is likely in the programme to "knock" Wright but his appearance in it would be a "former insider" breach of confidentiality in the same category as Wright's.

5. Although there is no public indication so far that                      may appear in the programme, we need to take actions that would enable us to argue that we had treated this possible breach consistently with our general attitude to Wright. The letter already sent to former members of the security and intelligence services, warning them specifically about approaches from journalists preparing television programmes, would help in showing that we were consistent. A letter to the BBC and other media warning against contempt of court, if the Attorney General wins in the Court of Appeal on the Independent case, would be a valuable addition. It would draw attention to former public servants' duty of confidentiality, as an implicit warning to the BBC about MacDonald. If the Attorney General loses the Independent case in the Court of Appeal, he will seek leave to appeal to the House of Lords and that will be announced in the hope of deterring further publication of material from Wright; but a letter to the media in those circumstances might look weak.



SECRET

6. You should take the meeting through the three questions in paragraph 1 above. The Home Secretary and the Attorney General in particular will have views.

#### Duty of Confidentiality (Item 2)

7. The meeting will discuss a paper giving officials' views on options for a package of measures in the fields of the OSA, injunctions under civil law and discipline, contracts and pensions in the public service (OD(DIS)(87)47). Since a move in the field of freedom of information (FOI) might help to gain acceptance for such a package, officials have also covered that subject in the paper.

#### Handling

8. You could start by saying that OD(DIS), when it discussed this subject on 8 April, asked officials to do further work; that the paper before the meeting is the result; and that the points for decision are listed in Section II. You should then take the meeting through the various subjects.

#### Official Secrets Act

9. The 1979 Bill to replace Section 2 is summarised in Annex A to the paper. Its key feature was that it would have applied the criminal law only to stated types of information, namely defence and international relations, security and intelligence, information likely to help in crime, interception of communications, information received in confidence from other governments or international organisations and information received in confidence from or about individuals, firms and other bodies. OD(DIS) on 8 April thought that the Government should be wary of going beyond the 1979 Bill but asked officials to look for ways of



SECRET

reforming Section 2 which would be acceptable to Parliament, would last and would be more effective than Section 2 is at present. The 1979 Bill as it stands would not be more likely to gain acceptance today. So the issue is whether to leave things as they are or to put forward a modified version of the 1979 Bill which, in combination with measures in the other fields covered in the paper, might gain acceptance while still providing the essential protection for sensitive Government information.

10. The key questions, as listed in Section II of the paper, are as follows:

Should the general offence of disclosure of information relating to security or intelligence be limited by a damage test on the lines that the information disclosed would have to be of a class or type likely to damage the operation of the security and intelligence services? (Paragraph 3.5 of the paper). The main issues are whether the damage test would protect (with the special offence covered by the next question) all information that matters about security and intelligence (Home Secretary, Foreign and Commonwealth Secretary); whether Parliament would accept it (Lord President, Lord Privy Seal); and whether juries would apply it (Attorney General).

Should this limitation be offset by the addition of a special offence, without a damage test, confined to members and ex-members of the security and intelligence services such that they could not disclose any information about security or intelligence? Should this offence be extended to cover purported information about security or intelligence? (Paragraphs 3.6 and 3.8) It is unusual but not unprecedented for an offence to be confined to a particular group of people. This one would be acceptable to the

*any information*

*Wider*

*Security*

*Risk.*



SECRET

security and intelligence services, because of the protection it would give, on the assumption that Ministers decided not to stick with the unqualified protection of security or intelligence information foreseen in the 1979 Bill. Would Parliament accept an offence concerning any security or intelligence information provided it was confined to members and former members of the services? (Lord President, Lord Privy Seal, Home Secretary, Foreign and Commonwealth Secretary). If there was an offence concerning purported information, which would be a stiffening of the 1979 Bill, the Government would no longer need to prove or accept that the information in question was true, a consideration which in the past has inhibited the bringing of proceedings. Do the Attorney General and the Lord Advocate agree that this would be valuable? Do the advantages of this special offence outweigh the consideration that it might involve the Government in specifying which security and intelligence services are meant, whether or not avowed at present? (Foreign Secretary)

Should there be a related offence applying to people outside the security and intelligence services of disclosing any information received from a member of those services? 4

(Paragraph 3.10) As the paper points out, there would be severe disadvantages. Would it be better to rely on the proposed general offence which would apply to unauthorised disclosure by anyone of information concerning security and intelligence which met the damage test incorporated in that offence? (Home Secretary, Foreign Secretary)

On information relating to defence and international relations, should conclusive Ministerial certificates that the damage test was met by a particular disclosure be retained from the 1979 Bill; or should "wise men" or the



SECRET

trial judge help the Minister in determining this; or should the question whether a disclosure meets the damage test be left to juries? (Paragraphs 3.15 to 3.17)

It would be risky to leave it to juries to decide whether disclosure of a piece of information concerning defence or international relations would or would not meet the damage test that it would be "likely to cause serious injury to the interests of the nation". For the Minister to share a determination in this matter with "wise men" or the trial judge would be illogical since neither would know as much about the question as himself. Should the Government, therefore, stand on the 1979 provision of conclusive Ministerial certificates? (Home Secretary, Foreign Secretary, Attorney General)

Should the offence of disclosure of information obtained from another government or an international organisation be limited by a damage test? (Paragraph 3.21)

The omission of any damage test from this offence in the 1979 Bill was not particularly criticised. But it is questionable whether anodyne information, e.g. from the Council of Europe, should be protected by the criminal law while confidential advice to Ministers on all matters not specified in a reformed OSA was outside the criminal law. The concession of a damage test might therefore be a sensible move if Ministers wish to modify the 1979 Bill. (Foreign Secretary, Attorney General)

Should the offence concerning information relating to or obtained from businesses, other bodies or individuals be dropped? (Paragraphs 3.24-3.26) The inclusion of this element in the 1979 Bill was not particularly criticised. But here, too, a concession could be made, on the grounds that many laws on specific matters, which require information



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to be provided to Government, already provide that its disclosure be a criminal offence; and that the civil law on breach of confidence and the disciplinary arrangements in the public service anyway provide at least as much protection for the information after it is given to Government as it enjoyed beforehand. (Attorney General)

Should there be an offence of willingly receiving information unlawfully disclosed? (Paragraphs 3.28-3.29) //

Such an offence exists in the present OSA but was not included in the 1979 Bill. It would not be of great value to have it and there would be controversy if we attempted to re-introduce it. (Attorney General, Lord Advocate)

Injunctions

11. The question of improvements in the civil law on breach of confidence will need full consideration after the final judgment in our cases concerning Peter Wright against the Guardian and the Observer and against the Independent. Meanwhile, the paper suggests that officials continue to work on a new type of injunction which would bind not only named defendants but also any other person having notice of it (Paragraph 4.3); on a lower test for obtaining injunctions, so that risk rather than probability of disclosure would have to be demonstrated (Paragraph 4.4); and on making an injunction obtained in one United Kingdom jurisdiction apply in all three (Paragraph 4.5).

Do the Attorney General and the Lord Advocate think these three ideas workable? Would they run in Parliament? Would they be really helpful in protecting Government information? The third is less important than the other two: although an injunction obtained in England does not apply directly in Scotland or Northern Ireland, similar orders can quickly be obtained in those jurisdictions. (Lord Advocate)



SECRET

Discipline, Contracts and Pensions

12. The first questions are whether the duty of confidentiality should be stated in the Civil Service Code (Paragraph 5.2), and staff be reminded more frequently of that duty (Paragraph 5.4). The answer to both must be yes; does the Minister of State, Privy Council Office, agree that these changes be implemented now?

13. The next question is whether further work should be done on new legislation to provide for forfeiture of pensions of present and former staff who make unauthorised disclosures (Paragraphs 5.10-5.12). OD(DIS) on 8 April was not keen on pursuing the question of legislation to broaden the circumstances where public service pensions are liable for forfeiture. But because of the difficulty of dealing with unauthorised disclosures by former public servants, especially those living abroad, officials have given some thought to the subject. Legislation would be very controversial. Is the subject worth pursuing? (Chancellor of the Exchequer, Minister of State, Privy Council Office)

14. The last question in this area is whether detailed plans should be worked up for legislation to end the anomaly that existing rules of forfeiture of pension do not allow action to be taken against persons living outside the jurisdiction (Paragraph 5.13) Because the present rules on forfeiture require a conviction, and the OSA is not extraditable, the pensions of offenders in this area who live abroad cannot be stopped. A scheme for plugging this loophole is described in Annex B to the paper. Legislation would arouse some controversy. Do the Chancellor of the Exchequer and the Minister of State, Privy Council Office, consider that the matter should be pursued?

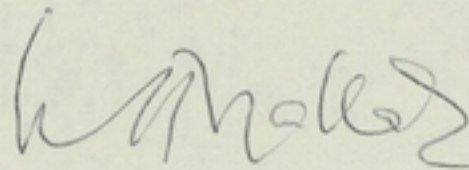


SECRET

Freedom of Information (FOI)

15. The question is whether Ministers want further work done in this field, either on a code of practice about the information to be published in relation to major decisions by Government, perhaps with statutory backing (Paragraphs 6.4-6.6) or through legislation introducing a statutory right of access to wide areas of information or only to personal information (Paragraph 6.7 and 6.9).

OD(DIS) on 8 April thought that it would be desirable, and should be possible, to reform Section 2 of the OSA without taking any new initiative regarding FOI. Officials do not think that minor initiatives on FOI would improve the chances of acceptance of a package of measures to protect Government information. Legislation on a statutory right of access to information would be a reversal of Government policy. The introduction of a code of practice with statutory backing would be less of a change and might help to get a package of measures to protect Government information accepted. Should the version in paragraph 6.6 be worked up in detail? (Minister of State, Privy Council Office)



C L G Mallaby

10 July 1987





cc B/dep  
5

SECRET AND PERSONAL

B.0214

*one minute*

MR. WICKS

Possible Panorama Programme on Peter Wright

The question of the projected Panorama programme on Wright has been added to the agenda for OD(DIS) on 16 July. I attach a note on the subject and the issues that arise. I am sending copies of this minute and attachment to the Private Secretaries of the members of OD(DIS).

*C L G Mallaby*

C L G MALLABY

10 July 1987

SECRET AND PERSONAL



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OF THE PUBLIC RECORDS ACT

Proposed BBC Panorama Programme on Peter Wright

The Security Service have received in strict confidence a copy of the draft outline of a programme on Peter Wright being prepared for BBC Panorama. We understand that top management at the BBC have made clear to the producer and editor that their ideas for the programme are not well enough researched, and that the programme should not go ahead unless it is properly researched and argued. This means, we understand, that there is no prospect of the programme being transmitted in the near future, and probably not before the winter, unless present intentions change.

2. The draft outline suggests that the producer and editor are not taking a wholly uncritical view of Peter Wright or his book. The outline suggests that resentment was Wright's main motive in making his revelations; it is critical of the reliability and motives of Colin Wallace, who has made allegations about "dirty tricks" by the Security Service and others in Northern Ireland. The main theme of the outline is the allegations that there was a plot in the Security Service in the 1970s against Lord Wilson's Government; the conclusion is that, while there were probably a few people in the Security Service who were concerned about Lord Wilson, it did not amount to anything like a plot.

3. In general, the outline in its present form does not pose problems of unauthorised disclosure; for instance, it does not seem to include material obtainable only from Wright's manuscript. But it poses one specific and difficult problem. The organisers hope that

a former superior of Wright in the Security Service and now retired in France (and therefore outside the jurisdiction so far as the Official Secrets Acts are concerned), is scheduled to appear in the programme and comment that Wright, though a gifted scientist, was fiercely ambitious, manoeuvred his way into the counter-espionage branch, was not equal to this work and was a chaotic administrator.



4. appearance in the programme would be a breach of his duty of confidentiality which in law would be in the same "retired insider" category as Wright's breaches. But there is no reason to suppose that he would make damaging disclosures about Security Service activities; and, insofar as he was "knocking" Peter Wright, his contribution would not be unhelpful to the Government. We have no evidence, other than the draft outline, of involvement in the Panorama programme. We could not take legal action on this basis to restrain his appearance in the programme without exposing our source.

5.

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OF THE PUBLIC RECORDS ACT

#### Possible Future Action

6. The possibilities for other action depend on the outcome in the Attorney General's case for contempt against the Independent. It is impossible to predict what that outcome will be. If the Attorney General wins the case in the Court of Appeal - and this may be known any time from 17 July - the Treasury Solicitor could write to the BBC and others in the media to draw attention to the court's judgment that publication of material from Wright would be in contempt of court. The letter could also draw attention to the duty of confidentiality owed by present and former public servants. This would be a way of warning the BBC against publishing material from Wright or using other former public servants, like MacDonald, in the Panorama programme.

7. Officials do not see other steps that can be taken at the present time. With the position about the programme so uncertain, it would be premature to ask the BBC formally (e.g. through the Treasury Solicitor) for an advance sight of the programme or a description of what it will contain. If the BBC refused such a request, any further step by us could lead on to a difficult choice between seeking an injunction to restrain the programme or visibly desisting from attempts to influence the BBC's intentions. But the question of further action



on the programme will need to be re-considered in due course. Among the considerations will be whether we obtain usable information that MacDonald has been approached by Panorama to record an interview (a stage not so far reached) and how far material from Wright's book has reached this country through "seepage" following publication in the United States (as discussed in the paper by officials OD(DIS)(87)46).

8. It will also be necessary to consider in due course what line Ministers should take after the Panorama programme had been shown, in reply to suggestions that the Government knew of the programme well in advance and questions as to whether we knew what it would contain and, if not, why we did not ask the BBC. Dependent on the BBC's advance publicity for the programme, it may be possible to argue that there were no grounds for believing that a court would accept the view that there was a case for an injunction to restrain transmission. We might also say that former members of the security and intelligence services had been reminded again of their obligations of confidentiality, with reference in particular to possible television programmes about Peter Wright. Attention could be drawn to any letter to the media on the lines foreseen in paragraph 6 above.

9. The hearing on the Peter Wright case in the Appeal Court of New South Wales begins on 27 July and will be over before any Panorama programme is likely to be shown. But if we needed to argue in a further appeal in Australia or in the case in this country against the Guardian and the Observer that we had done everything reasonable to prevent breaches of confidentiality in the Panorama programme, we could make the points suggested for public use in paragraph 8.



10. Ministers are invited -

a. to agree that, if the Attorney General wins the Independent case in the Court of Appeal, letters should go to the BBC and other media on the lines suggested in paragraph 6;

b. to agree that no other steps with regard to the Panorama programme should be taken now;

c. to note the likely need for decisions before long on possible further moves concerning the proposed programme and on the line to take if it is transmitted.

Cabinet Office

10 July 1987



2

PRIME MINISTER

THE WRIGHT BOOK

The Cabinet Office have been told by the Observer that the Sunday Times have bought the rights of the Wright book, and will begin to serialise it on Sunday. The Cabinet Office doubt this report. The legal advice is that the courts would not grant an injunction if our only evidence that the book was going to be serialised was a telephone call from the Sunday Times' rival newspaper, the Observer.

The lawyers say that the better course is to send a Treasury Solicitor's letter to the Sunday Times warning them that if they do serialise the book, they will be exposing themselves to proceedings for criminal contempt in the same way as the Independent are now being sued by the Attorney General in the Court of Appeal. The letter has been sent.

N.L.W.

NLW

10 July, 1987.

JD3BAD



fine ~~228~~ 4

10 DOWNING STREET

*From the Principal Private Secretary*SIR ROBERT ARMSTRONGPANORAMA PROGRAMME ON PETER WRIGHT'S BOOK  
"SPY CATCHER"

I have shown the Prime Minister your minute of 8 July about the programme which the BBC are preparing on Peter Wright's book "Spy Catcher" for Panorama.

*MS*  
The Prime Minister thinks that the matters referred to in your minute ought to be considered urgently by OD(DIS). She would therefore like these matters to be considered at the meeting of OD(DIS), planned for Thursday 16 July.

N L WICKS

9 July 1987

SECRET AND PERSONAL



Confidential

GRS 43

CONFIDENTIAL  
FM CANBERRA  
TO PRIORITY FCO  
TELNO 436  
OF 090145Z JULY 87

FOR PUSD

1. REF YOUR TELNO 376.
2. YOU WILL BE AWARE THAT CONSULATE-GENERAL SYDNEY DOES NOT HAVE A SECURE TELEGRAPHIC SYSTEM. WE ASSUME ONE WILL NOT BE REQUIRED FOR THE APPEAL PROCEEDINGS.

LEAHY

YYYY

CEHPAN 2225

PETER WRIGHT CASE

LIMITED

DEP HD/PUSD  
MR MURRAY, PUSD  
PUSD (E 206)  
HD/PUSD  
HD/SPD  
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MR B H DINWIDDY }  
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MR SAUNDERS } LAW OFFICERS  
MR INGLESE } DEPT  
PS/HOME SECRETARY  
SIR B CUBBON, PERM. SEC, HOME OFFICE  
MR PARTRIDGE }  
MR NURSAW } HOME OFFICE  
MR MOWER }  
LEGAL ADVISERS, SEC. SERVICES) VIA  
DIRECTOR GENERAL, SEC. SERVC) PUSD E203  
~~MR WICKS, 10 DOWNING ST.~~  
PRESS OFFICE, 10 DOWNING ST.

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Prime Minister 3

pa

I think R. T. A's advice is right. But this ought to be considered by OD (D15). It meets on Thurs 16 July. Agree to consider item?

Ref. A087/2017

MR WICKS

The BBC are preparing a programme on Peter Wright and his book "Spycatcher" for Panorama.

N.L.U. 8.7

2. A contact in the BBC has given a copy of a draft outline of the programme in strict confidence to a member of the Security Service. We understand that top management at the BBC have made clear to the producer and editor that their ideas for the programme are not well enough researched, and that the programme should not go ahead unless it is properly researched and argued. This means, we understand, that there is no prospect of the programme being transmitted in the near future, and probably not before the winter, unless present intentions change. It is unlikely that it will be possible to bring the programme out to coincide with the publication of "Spycatcher" in the United States, which was (we believe) the original intention.

3. The draft outline which we have seen suggests that the producer and editor are not in fact taking a wholly uncritical view of Peter Wright or of the book. The outline suggests that resentment was Wright's main motive in making his revelations; it is critical of the reliability and motives of Colin Wallace, who has made allegations about "dirty tricks" by the Security Service and others in Northern Ireland. The main theme of the outline is the allegations that there was a plot in the Security Service in the 1970s against Lord Wilson's Government; the conclusion on this is that, while there were probably a few people in the Security Service who were concerned about Lord Wilson, it did not amount to anything like a plot. The outline also suggests that Lord Rothschild, while not a foreign agent, acted irresponsibly in the Wright affairs and directly breached the Official Secrets Act by encouraging Wright to pass



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classified information to Pincher in return for money. I should be surprised if this material got past the BBC's own legal advisers.

4. In general, the outline does not pose problems of unauthorised disclosure; for instance, it does not seem to include material obtainable only from Wright's manuscript. But it poses one specific and difficult problem. a former superior of Wright in the Security Service and now retired in France (and therefore outside the jurisdiction so far as the Official Secrets Acts are concerned), is scheduled to appear in the programme and comment that Wright, though a gifted scientist, was fiercely ambitious, manoeuvred his way into the counter-espionage branch, was not equal to this work and was a chaotic administrator.

5. appearance in the programme would technically be a breach of his duty of confidentiality which in law would be in the same "retired insider" category as Wright's breaches of confidence. But there is no reason to suppose that he would make damaging disclosures about Security Service activities; and, insofar as he was "knocking" Peter Wright, his contribution would not be unhelpful to the Government. We have no evidence, other than the outline of involvement in the Panorama programme. Given the way in which we received the outline, we could not take legal action on this basis to restrain his appearance in the programme, without exposing the source in the BBC from which we had received the outline.

6. In view of the likelihood of this and other programmes being prepared, the Security Service and the SIS have written round to their pensioners again, warning of that possibility and reminding them of their duty of confidentiality. I do not think we can or should do more on that front, at any rate at this stage.



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Crem A/2507

Minute dated  
08.07.87



7. It will be necessary to consider in due course what line Ministers could take after a programme had been shown, in respect of questions as to whether the Government knew in advance what it would contain and, if not, why it did not ask the BBC for that information.

8. We cannot take a definitive view about the line to take until we have more of an idea whether the programme is likely to be produced and what it is likely to say. On the present outline, it would probably be possible to argue that nothing in the BBC's advance publicity for the programme gave grounds for believing that a court would accept the view that there was a case for an injunction to prevent publication. We could go on to say that former members of the intelligence and security services had been reminded again of their obligations of confidentiality.

9. At this stage, with the position about the programme so uncertain, we do not believe that it would be appropriate to ask the BBC formally, through the Treasury Solicitor, for an advance sight of the programme or a description of what it will contain; but a stage may come when the possibility of taking that course needs to be reconsidered.

RA

ROBERT ARMSTRONG

8 July 1987





DEPARTMENT/SERIES <i>Exec 19</i> ..... PIECE/ITEM ..... <i>2507</i> ..... (one piece/item number)	Date and sign
Extract details:  <i>Letter dated 8<sup>th</sup> of July</i>  <i>1987</i>	
CLOSED UNDER FOI EXEMPTION ..... <i>47</i> .....	<i>A.C.</i> <i>22/05/23</i>
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*pa file*

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65452 - 1

OCMIAN 5452  
CONFIDENTIAL  
PP CANBE  
FM FCOLN TO CANBE  
081700Z JUL  
GRS 377

CONFIDENTIAL  
FM FCO  
TO PRIORITY CANBERRA  
TELNO 377  
OF 081700Z JUL 87

FROM PUSD  
MIPT: PETER WRIGHT CASE: APPEAL PROCEEDINGS

1. FOLLOWING IS PROPOSED LINE FOR DEALING WITH PRESS QUESTIONS:-

WHY ARE WE CONTINUING WITH THE CASE?

THE GOVERNMENT IS SEEKING TO UPHOLD THE PRINCIPLE THAT WRIGHT, AS A FORMER MEMBER OF THE SECURITY SERVICE, OWES A LIFELONG DUTY OF CONFIDENTIALITY TO THE CROWN. THIS PRINCIPLE IS ESSENTIAL TO THE EFFECTIVENESS OF THE SECURITY SERVICE.

WHAT CAN WE HOPE TO ACHIEVE IN THE APPEAL PROCEEDINGS?

THE GOVERNMENT'S NOTICE OF APPEAL IDENTIFIED A NUMBER OF POINTS WHERE WE BELIEVE THE JUDGE OF THE SUPREME COURT OF NEW SOUTH WALES WAS MISTAKEN. IN PARTICULAR, HE FAILED TO RECOGNISE THAT MR WRIGHT HAD AN OBLIGATION TO THE CROWN NOT TO DISCLOSE WITHOUT AUTHORITY INFORMATION ACQUIRED DURING HIS EMPLOYMENT WITH THE SECURITY SERVICE. THIS DUTY CANNOT BE NEGATED BY PREVIOUS PUBLICATIONS BY JOURNALISTS



CONFIDENTIAL

65452 - 1

AND OTHER OUTSIDERS.

QUESTIONS ABOUT PROCEEDINGS.

IT WOULD BE INAPPROPRIATE TO COMMENT ON MATTERS AT ISSUE IN THE PROCEEDINGS WHILE THEY CONTINUE.

WHY IS SIR ROBERT ARMSTRONG NOT ATTENDING?

THE APPEAL PROCEEDINGS CONCERN MATTERS OF LAW RATHER THAN MATTERS OF EVIDENCE. THE ATTENDANCE OF WITNESSES IS NOT THEREFORE REQUIRED.

WHY IS JOHN LAWS GOING?

AS FIRST JUNIOR TREASURY COUNSEL, MR LAWS HAS BEEN CONDUCTING ON THE ATTORNEY GENERAL'S BEHALF IN THE UK COURTS MUCH OF THE LITIGATION WHICH RAISES QUESTIONS ABOUT THE DUTY OF CONFIDENTIALITY. IT WAS THEREFORE FELT THAT HIS EXPERIENCE WOULD BE VALUABLE IN AUSTRALIA.

HOWE

OCMIAN 5452

PETER WRIGHT CASE  
LIMITED

DEP HD/PUSD  
~~MR MURRAY~~, PUSD - MR LITTLEFIELD  
PUSD (E 206)  
HD/PUSD  
HD/SPD  
HD/NEWS DEPT  
HD/INFO DEPT  
PS  
PS/PUS  
MR BOYD  
MR MCLAREN  
MR DARWIN, LEGAL ADVISERS  
MR GILLMORE

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MR J. BAILEY, TREASURY SOLICITORS  
MR SAUNDERS } LAW OFFICERS  
MR INGLESE } DEPT  
PS/HOME SECRETARY  
SIR B CUBBON, PERM. SEC, HOME OFFICE  
MR PARTRIDGE }  
MR NURSAW } HOME OFFICE  
MR MOWER }  
LEGAL ADVISERS, SEC. SERVICES) VIA  
DIRECTOR GENERAL, SEC. SERVC) PUSD E203  
~~MR WICKS, 10 DOWNING ST.~~  
PRESS OFFICE, 10 DOWNING ST.

-2-

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*per file*

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65451 - 1

OCMIAN 5451  
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PP CANBE  
FM FCOLN TO CANBE  
081700Z JUL  
GRS 362

CONFIDENTIAL  
FM FCO  
TO PRIORITY CANBERRA  
TELNO 376  
OF 081700Z JUL 1987

FROM PUSD  
PETER WRIGHT CASE: APPEAL PROCEEDINGS

1. AS YOU KNOW, THE APPEAL PROCEEDINGS ARE DUE TO BEGIN IN THE NSW COURT OF APPEAL IN SYDNEY ON 27 JULY. THEY ARE LIKELY TO LAST AT LEAST UNTIL 31 JULY, AND POSSIBLY INTO THE NEXT WEEK. WE EXPECT JUDGMENT TO BE RESERVED, PROBABLY UNTIL AT LEAST ABOUT THE END OF AUGUST.
2. OUR TEAM FROM HERE WILL BE JOHN LAWS, FIRST JUNIOR TREASURY COUNSEL, DAVID HOGG, TREASURY SOLICITORS, AND SUSAN MARSH, SECURITY SERVICE. THEY LEAVE HERE ON 19 JULY ON QF10 ARRIVING SYDNEY ON 20 JULY PM. THEY WILL BE STAYING AT THE INTERCONTINENTAL HOTEL. ALL ARRANGEMENTS ARE BEING MADE BY FEETHAM OF STEPHEN JACQUES.
3. SUBJECT TO MINISTERIAL AGREEMENT, WE ARE NOT PROPOSING THAT ANYONE CONCERNED WITH POLICY SHOULD JOIN THE TEAM FROM LONDON FOR THIS HEARING.
4. NOR ARE WE PROPOSING TO SEND OUT ANYONE TO DEAL WITH THE PRESS THIS TIME. IF YOU OR HMG SYDNEY RECEIVE PRESS ENQUIRIES, YOU SHOULD BE GUIDED BY THE LINE IN MIFT. NOR, SUBJECT TO YOUR VIEWS,

*1/50*



CONFIDENTIAL

65451 - 1

DO WE SEE ANY NEED TO HAVE A REPRESENTATIVE FROM THE HIGH COMMISSION OR CONSULATE GENERAL IN COURT DURING THE PROCEEDINGS. WE WOULD HOWEVER BE GRATEFUL IF YOU (OR IN YOUR ABSENCE YOUR DEPUTY) COULD BE IN COURT FOR THE JUDGMENT AND TO DEAL WITH THE PRESS AFTERWARDS, AS FOR THE FIRST ROUND, ON THE BASIS OF GUIDANCE WHICH WE WILL PROVIDE NEARER THE TIME.

5. GRATEFUL IF YOU COULD INFORM HMCg SYDNEY.

HOWE

OCMIAN 5451

PETER WRIGHT CASE

LIMITED

DEP HD/PUSD

~~MR MURRAY~~, PUSD - MR LITTLEFIELD

PUSD (E 206)

HD/PUSD

HD/SPD

HD/NEWS DEPT

HD/INFO DEPT

PS

PS/PUS

MR BOYD

MR McLAREN

MR DARWIN, LEGAL ADVISERS

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MR SAUNDERS ) LAW OFFICERS

MR INGLESE ) DEPT

PS/HOME SECRETARY

SIR B CUBBON, PERM. SEC, HOME OFFICE

MR PARTRIDGE )

MR NURSAW ) HOME OFFICE

MR MOWER )

LEGAL ADVISERS, SEC. SERVICES) VIA

DIRECTOR GENERAL, SEC. SERVCs) PUSD E203

MR WICKS, 10 DOWNING ST.

PRESS OFFICE, 10 DOWNING ST.

- 2 -  
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CONFIDENTIAL

NOT

APPTS

1

Told Woodley

NOT CF.

N L W

8.7

PRIME MINISTER

I want to confirm that you are content that Sir Philip Woodfield should be the staff counsellor for the three Agencies.

Content?

N.L.W.

(N.L. WICKS)

Yes not

7 July 1987

CF pps: Security Service

CONFIDENTIAL



SECRET



10 DOWNING STREET  
LONDON SW1A 2AA

el 2  
ccpc  
SUBJECT

CC MASTER

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

CONTROL AND OVERSIGHT OF THE SECURITY SERVICES

As you know, the Prime Minister discussed on 18 June your minute of 3 April on this subject with the Heads of the three agencies; and her preliminary views on the six recommendations in paragraph 32 of the note attached to your minute were described in my letter of 18 June to Tony Galsworthy in the Foreign Office. The Prime Minister had a further discussion of these matters this evening with the Lord President, the Foreign and Commonwealth Secretary, the Home Secretary and yourself.

Legislation

In discussion, it was suggested that the legislation envisaged would run into difficulty in Parliament. Some MPs might require, in return for passing the legislation, a Parliamentary oversight committee. The precedent of the Interception Act provided some comfort about the Parliamentary acceptability of such legislation, though the legislation envisaged in this case would be different in nature. Publication of Wright's book might make it harder to secure an acceptable response from Parliament, though publication might make the legislation more necessary. There was a risk too that there would be pressure for extending to the SIS any legislation which applied to the Security Service.

These considerations suggested that if legislation were introduced, its presentation would need to be most carefully managed and preceded by a lot of explanation and persuasion of the Government's backbenches. It could be impressed upon backbenchers that their Australian and Canadian counterparts accepted the sort of arrangements that might be envisaged here.

Summing up this part of the discussion, the Prime Minister said that Ministers should not be committed to introducing legislation until they had had the opportunity to study a draft bill. It would, however, be useful to set in hand the preparation of such a bill so that it was available in case there was any unexpected event which made it unavoidable.

SECRET



Staff counsels

Ministers agreed that the decision to appoint staff counsellors for all the security and intelligence services should be confirmed and implemented as quickly as possible. It was agreed too that, at least to begin with, there should be one counsellor for the three services. You would advise on whether the appointment should be announced in any way. No action should be taken for appointing a Security Service counsellor who would subsume the responsibilities of staff counsellor and undertake a wider role in relation to the propriety of Security Service activities and operations.

A revision of the Director-General's directive

It was argued that while there was a case for bringing the directive up to date, its revision would raise many difficulties. There was some advantage for Ministers to be able to say that the Service was acting under a directive which had first been published in 1952.

Summing up this part of the discussion the Prime Minister said that the case for revising the directive could only be assessed when Ministers had seen the draft bill referred to above. While that draft was in preparation, further thought should be given to the directive's revision.

GCHQ and SIS

It was agreed that further consideration needed to be given to the consequences for GCHQ and SIS of the changes referred to above. There was a strong case for continuing the policy of non-avowal of SIS.

I am sending a copy of this minute to Mr. Eland (Lord President's Office), Mr. Galsworthy (Foreign and Commonwealth Office) and Mr. Mawer (Home Office).

N.L.W.

N.L. WICKS

6 July 1987



Ref. A087/1968

PRIME MINISTER

---

Control and Oversight of the Security Services

Your meeting with the Lord President, the Foreign and Commonwealth Secretary and the Home Secretary on Monday 6 July is to discuss the note which was circulated on 3 April 1987 under cover of my minute of that date (A087/988).

2. You had a preliminary discussion with the Heads of the three Agencies on 18 June about possible changes in the control and oversight of the Security Services. That was recorded in Mr Wicks's letter of that date, which will have been seen by the Lord President and the two Secretaries of State. The purpose of the meeting on 6 July will be to give the Lord President and the Secretaries of State a chance to comment, and to say whether they are content with the conclusions provisionally reached on 18 June.

Legislation

X ( 3. At the meeting on 18 June you were impressed by what the Director General of the Security Service had to say to the effect that the Security Service's ability to undertake operations and the readiness of members of the Security Service to carry them out was being inhibited by the lack of legislative cover, where otherwise illegal activities might be involved. The Director General also made out the case for putting the Security Service on to a statutory basis. It was possible to see in principle what such legislation might look like, but you felt that it would be prudent to take examination of the matter a good deal further before concluding definitely that



legislation should be introduced. Work is already in hand and, subject to the agreement of Ministers at this meeting, will continue.

#### Oversight

4. You made it clear at your meeting with the Heads of the Agencies that you did not believe that it made sense to introduce any form of external oversight for the Security and Intelligence Services. If legislation were introduced, that would in some degree reduce the need and pressure for external oversight, and the appointment of a Staff Counsellor would provide people both inside and outside the Security and Intelligence Services with an assurance that members of the Services could not be asked to undertake activities which troubled their consciences without at least having an opportunity to raise their problems with somebody from outside the Service.

#### Staff Counsellor

5. You will wish to confirm that the two Secretaries of State are happy that there should be a single Staff Counsellor for all three Services. I am in the course of approaching Sir Philip Woodfield to see if he would be prepared to take it on, but I have not yet heard from him.

#### New Directive

6. Sir Antony Duff clearly thought that the preparation and issue of a new directive would be a useful preliminary to the introduction of legislation which would in effect give statutory force to the directive. You were not convinced that a new directive was necessary or indeed could be useful, but you agreed that officials should continue to look at the possibility. I personally share your view: I doubt whether



there would be any great value in producing a new directive ahead of legislation, and I think that it would be better to leave well alone. At least part of the pressure for a new directive is merely a quest for tidyness. Moreover, if we introduce a new directive for the Security Service, we shall come under pressure to introduce directives also for GCHQ and for the SIS.

#### GCHQ and SIS

7. You may wish to discuss with the Lord President and the two Secretaries of State the implications for GCHQ and SIS of the changes proposed for the Security Service. The provisional conclusion at your earlier meeting was that the other two Services should continue as they are, and that it should not be necessary to introduce legislation or directives for them.

#### Handling

8. You may like to open the meeting by saying that your colleagues will have seen the note prepared after your meeting with the Heads of the Agencies, and invite each in turn to give his views on the note circulated on 3 April, in the light of the record of your earlier meeting. Since the Security Service is the Agency principally affected, it would probably make sense to start with the Home Secretary; then to ask the Foreign and Commonwealth Secretary to comment; and finally to turn to the Lord President.

*W. Woolley*  
(Private Secretary)

ROBERT ARMSTRONG

3 July 1987

*Approved by the Cabinet Secretary and signed in his absence*



GRS 315

*La*  
**Confidential**

CONFIDENTIAL  
FM CANBERRA  
TO PRIORITY FCO  
TELNO 429  
OF 030230Z JULY 87

YOUR TELEGRAM NO 364: PETER WRIGHT CASE

1. I HAVE SPOKEN INFORMALLY TO GAVAN GRIFFITH AGAIN. HIS POINT IS BASICALLY THAT IF PUBLICATION GOES AHEAD IN THE UNITED STATES AND AS A RESULT COPIES OF THE BOOK CAN BE FREELY IMPORTED INTO AUSTRALIA HE CANNOT SEE ANY AUSTRALIAN COURT MAKING AN ORDER RESTRAINING PUBLICATION THAT WOULD BE FUTILE IN THAT IT WOULD BE "WHOLLY DEVOID OF EFFECTIVE CONTENT". HE WOULD NOT, ON THE OTHER HAND, EXCLUDE THE POSSIBILITY OF OBTAINING A RULING THAT AS A MATTER OF EQUITY WRIGHT SHOULD NOT PROFIT FROM HIS REVELATIONS BECAUSE OF HIS OBLIGATION OF CONFIDENTIALITY AND SHOULD, THEREFORE, ACCOUNT FOR HIS PROFITS. (I MIGHT ADD THAT HE VOLUNTEERED THIS POINT AND I DID NOT HAVE TO LEAD HIM).

2. TO MY SURPRISE GRIFFITH WENT ON TO ASK WHETHER WE HAD CONSIDERED TRYING TO OBTAIN AN INTERLOCUTORY ORDER HERE RESTRAINING WRIGHT AS A RESIDENT IN AUSTRALIA FROM AUTHORISING PUBLICATION OF HIS BOOK ELSEWHERE PENDING THE FINAL OUTCOME OF OUR APPEAL. IN SAYING THIS HE ASSUMED THAT FOR COPYRIGHT REASONS WRIGHT MUST AT THE VERY LEAST HAVE AQUIESCED IN PUBLICATION IN THE USA. GRIFFITH EMPHASISED THAT THIS WAS A BIT OFF THE TOP OF HIS HEAD AND SHOULD NOT BE REGARDED AS AN INFORMED OPINION. YOU MAY, HOWEVER, WISH TO CHECK WHAT OUR LAWYERS THINK OF IT.

3. IF I MAY ADD A COMMENT OF MY OWN, WHILE I CAN WELL UNDERSTAND THE REASONS FOR WISHING TO DEPRIVE WRIGHT OF HIS ILL-GOTTEN GAINS THAT IS NOT OF COURSE HOW IT WOULD BE REPRESENTED IN THE MEDIA HERE OR, I BELIEVE, BE THOUGHT OF MORE GENERALLY BY THE AUSTRALIAN PUBLIC. WE WOULD BE MADE TO LOOK LIKE BAD LOSERS HELL BENT ON PUNISHING A FRAIL (SIC) OLD MAN WHOSE RIGHT TO PUBLISH HAD BEEN UPHeld BY THE COURTS. WE SHOULD APPEAR NOT ONLY DETERMINED BUT ALSO VINDICTIVE. THE LEGAL GROUNDS MIGHT

*-1-*  
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*1 SEEM*



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SEEM IMPECCABLE, BUT THE POLITICAL JUSTIFICATION WOULD BE MORE OPEN TO QUESTION.

LEAHY

YYYY

CEHPAN 2064

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 BOYD  
MR MCLAREN  
MR DARWIN, LEGAL ADVISERS  
MR GILLMORE

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~~MR WICKS, 10 DOWNING ST.~~  
PRESS OFFICE, 10 DOWNING ST.

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PmmABA



10 DOWNING STREET

LONDON SW1A 2AA

*From the Principal Private Secretary*

2 July 1987

PETER WRIGHT CASE

The Prime Minister has seen the Home Secretary's minute which records the outcome of the meeting of OD(DIS) on 23 June about the line to take in public when Wright's book is published in the US.

The Prime Minister agrees with the conclusions of OD(DIS) which the Home Secretary reports; and in particular the public line set out in the attachment to his minute.

I am sending a copy of this letter to the Private Secretaries of the members of OD(DIS) and to Sir Robert Armstrong and Mr Mallaby in the Cabinet Office.

N. L. Wicks

Philip Mawer, Esq.  
Home Office.

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PART Seven ends:-

Attorney General office to  
Christopher Mallaby 30.6.87

PART Eight begins:-

NLWills to Home Office  
2.7.87.



