



01-405 7641 Extn 3201

*Prime Minister**The Attorney's explanation of his decision to drop proceedings. Mr Pym's comments are at "A".*ROYAL COURTS OF JUSTICE  
LONDON, WC2A 2LL

28 August 1980

PRIME MINISTER

## WAGSTAFF - OFFICIAL SECRETS ACT

1. I have had today a long meeting with the DPP, Senior Treasury Counsel at the Old Bailey, the Deputy Under Secretary of State at the MOD, and other officials from the MOD. This follows a letter from the Permanent Under Secretary of State at the MOD, dated 21 August telling me that the damage assessment upon which I based my decision to prosecute was now unreliable. During the course of a long meeting it was apparent that no official from the MOD would be able to give evidence which would prove that the contents of the tapes had contained secret information.
2. The original damage assessment was based upon the identification of the tapes, all of which save one had been wiped clean, which showed beyond doubt grave breaches of the Official Secrets Act. The MOD now tell me that they believe this damage assessment was wrong and they are quite unable to form any firm judgment of the nature of the contents.
3. This is, of course, most unsatisfactory and I regret very much that this information has only come to my notice a few days before the hearing was due to begin but there is nothing that I can do in view of the new information other than to discontinue the prosecution. I still find it difficult to understand how this mistake came to be made. Indeed, it seems to be another example of the lack of security in the MOD over the supervision of these tapes over the past four years. But you will appreciate that I cannot possibly continue the prosecution in these circumstances.
4. There has up to now been no publicity about this case. I do not intend that the defence should be told about my decision until the case comes before the court next Thursday. The lawyers for the defence are well known for their connections with the left wing press and we must expect that there will be some comment about the decision to drop this prosecution. However,

/I feel



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However, I feel the fact that you have ordered a full enquiry by the Security Commission will blunt the force of any criticisms that may be made.

5. I regret very much what has happened but I can only form any judgment upon the information that is given to me and if in the event it proves to be wrong then I have to reconsider my decision accordingly.

6. I am sending a copy of this Memorandum to Francis Pym.

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