

Prime Minister

MR C A WHITMORE

SECURITY COMMISSION: WAGSTAFF

You will recall that the Prime Minister, after consulting the then Leader of the Opposition, and in the light of the advice of the Chairman, invited the Security Commission on 23 June to investigate the case of John Barry Wagstaff, a former Executive Officer in the Ministry of Defence, against whom a charge under the Official Secrets Act had been brought.

The Attorney General decided on 28 August that it would not be in the public interest to continue with the case against Wagstaff and he accordingly instructed the Director of Public Prosecutions to terminate the criminal proceedings.

... The Commission has still to report; but under the arrangements announced to the House in 1964 (I attach and side-line the relevant Hansard extracts), the Prime Minister should now make an announcement, since the case is no longer sub judice. It is unprecedented that a security case should come to public notice in this way, since all previous Commission investigations have been made public only after the matters have been discussed in open court. But, even if it were proper to do so, it would be impossible to avoid any embarrassment since the terms of the 1964 announcement are clear that the Commission's report must be published, and this has always been the subject of a Prime Minister's oral statement to the House.

There is a further point to be considered at this stage. The Commission's investigation has, I understand, reached the stage where a number of interviews are being carried out by the Security Service, acting as agents for the Commission, with those civil servants involved in the events leading up to the arrest. It is the interviewers' view, with which I agree, that any chance that something useful might emerge from these discussions would be prejudiced if the witnesses were to be subject to the pressures of the news media following an announcement. In my view this is a powerful argument for postponing the announcement at least until these interviews are finished. This is at the moment scheduled for 8 December.

Had the charges been dropped before the matter was referred to the Commission, the announcement would normally have been made by way of a written Question tabled by the Leader of the Opposition. In the circumstances, the Prime Minister might agree that the best way forward at this stage would be to invite the Leader of the Opposition to put down a written Parliamentary Question, which can be delayed until the interviews are complete.



An alternative would be to defer the announcement until the Prime Minister received the Commission's report so that she could announce the reference and publish the report simultaneously. But the report is unlikely to be submitted before the end of January, and the Prime Minister may share my view that so long a delay in announcing the reference of the case to the Commission could be interpreted as being discourteous to the House.

And the longer we defer the more likely there is to be a leak. resulting in an inquiry.

If the Prime Minister agrees, I attach a draft letter and PQ.

I am copying this minute and the attachments to Sir Robert Armstrong, Sir Frank Cooper, Sir Howard Smith and Mr Nursaw.

JB

IAN BANCROFT
20 November 1980

CONFIDENTIAL

DRAFT LETTER FOR THE PRIME MINISTER TO SEND TO THE LEADER OF THE OPPOSITION

I wrote to ^{June} Mr Callaghan on 4 June about the case of John Barry Wagstaff, a former Executive Officer in the Ministry of Defence, and following his reply of 9 June, I referred the case to the Security Commission for investigation. At that time Wagstaff was facing a charge under the Official Secrets Act and, in accordance with the usual practice, ^{June} Mr Callaghan agreed that an announcement to the House should be delayed until the outcome of legal proceedings against Wagstaff was known.

On 28 August, however, the Attorney General informed me that he had decided that it would not be in the public interest to continue with the case against Wagstaff, and he accordingly instructed the Director of Public Prosecutions to terminate the criminal proceedings. The Commission is continuing its investigation, and I shall let you know the outcome, and make a statement to the House, when I have their report.

? *W* In the normal course of events I would want to inform the House now that the Commission has been asked to investigate the matter. I understand however that the investigation has reached the stage at which a number of those involved are being interviewed and ~~that~~ that the press interest which might surround an announcement might well prejudice the chance of these interviews leading to a successful conclusion. In the circumstances I am writing to seek your agreement to postponing any announcement until these interviews are concluded: this is expected to be early in December. Even at that stage it would, of course, be inappropriate for me to make any comments on the case and I should like to follow precedent and make the announcement by way of a written Question and Answer.

I should therefore be grateful if you would agree to put down ^{course} *in due* a written Question that I could answer on the lines of the attached. *...* If you are content, my office will make the necessary arrangements.

I will let you know when the interviews are complete and the way is clear for you to put the Question down.

CONFIDENTIAL

DRAFT WRITTEN QUESTION AND ANSWER

MR M FOOT: To ask the Prime Minister: whether she will invite the Security Commission to investigate the case of Mr J B Wagstaff under the procedure announced in the House on 26 March 1969.

THE PRIME MINISTER: Yes. In accordance with that procedure, after consulting the Rt Hon Gentleman the ^{Min}Hon Leader of the Opposition, and in the light of the advice of the Chairman of the Security Commission, I asked the Security Commission on 23 June to investigate and report upon the circumstances in which John Barry Wagstaff, a former Executive Officer in the Ministry of Defence, had been charged with an offence under the Official Secrets Act, and upon any related failure of departmental security arrangements or neglect of duty and, in the light of their investigation, to advise whether any change in security arrangements is necessary or desirable. With the agreement of the Rt Hon Gentleman, no announcement was made at that time because the matter was sub judice. On 28 August my Rt Hon and Learned Friend the Attorney General instructed the Director of Public Prosecutions to terminate the criminal proceedings against Mr Wagstaff. The Security Commission is still investigating the matter and I will make a further announcement to the House when I have their report.

DR. ERHARD (VISIT)

Q8. Mr. Stonehouse asked the Prime Minister if he will make a statement on his discussions with the Chancellor of the Federal Republic of Germany.

The Prime Minister: I would refer the hon. Member to the Answer which I gave the hon. Member for Ashfield (Mr. Warbey) on 21st January.

Mr. Stonehouse: Is not the Prime Minister aware that it is unsatisfactory that his discussions with Dr. Erhard on Britain's resumption of negotiations to go into the Common Market should remain confidential in view of the public speculation? Will the right hon. Gentleman say whether this was discussed with Dr. Erhard and what assurances he gave?

The Prime Minister: No, Sir. Conversations with Prime Ministers and Foreign Ministers of other countries are always confidential.

SECURITY COMMISSION

Mr. H. Wilson (by Private Notice) asked the Prime Minister whether he is in a position to make a further statement about the machinery for dealing with inquiries on security?

The Prime Minister (Sir Alec Douglas-Home): I apologise to the House for the fact that this is a rather long statement, but it is important.

In the debate on 16th December I described in outline the Government's proposals for a Standing Security Commission and proposed further consultation with the right hon. Gentleman the Leader of the Opposition.

The right hon. Gentleman and I have had further discussions about this and in the light of them the Government have decided to set up a Security Commission with the following terms of reference:

If so requested by the Prime Minister, to investigate and report upon the circumstances in which a breach of security is known to have occurred in the public service, and upon any related failure of departmental security arrangements or neglect of duty; and, in the light of any such investigation, to advise whether any change in security arrangements is necessary or desirable.

Mr. Justice Winn has agreed to serve as Chairman and the other members will be Lord Normanbrook and Sir Caspar John. The Cabinet Office would provide the Secretary of the Commission.

Before asking the Commission to investigate a particular case, the Prime Minister will consult with the Leader of the Opposition.

Under the terms of reference, the Commission could be called upon to act if there had been a breach of security even though there had been no conviction—perhaps because the individual had fled the country.

Normally, the Commission would sit in private and would examine the witnesses themselves.

Usually, it would be unnecessary for any of the witnesses to be legally represented. But it is impossible to foresee all the circumstances, and the Commission would be authorised to permit a witness to be accompanied by his legal adviser if satisfied that his interests required such protection.

Exceptionally, the Commission might find that they were unable to make progress without powers to compel evidence. In such a case, Parliament would be asked to pass the necessary Resolutions under the Tribunals of Inquiry (Evidence) Act, 1921, to vest the Commission with the powers of that Act for that particular inquiry. The Commission would then proceed in all respects as a Tribunal of Inquiry.

The decision whether to sit in private or in public would be governed by the relevant statutory provision, and the normal procedure for having the case presented by counsel and for allowing legal representation would apply. When legal representation was allowed the Commission would be asked to advise whether an *ex gratia* contribution to the cost of such representation should be made from public funds.

In the ordinary case the Commission would report direct to the Prime Minister. When the Commission had been constituted a Tribunal of Inquiry, the report would formally be submitted to the Home Secretary, as required by the 1921 Act. But in either case the Leader of the Opposition would be consulted by

the Prime Minister when the report was received. The report would be made public to the extent that this was consistent with security considerations.

Mr. Wilson: Is the Prime Minister aware that although his answer was a little long, it was undoubtedly for the convenience of the House that he should give a full statement on what has been discussed between us?

I have only one supplementary question. Since the right hon. Gentleman has referred, in circumstances with which I fully agree—and I agree with the whole statement—to the possibility that where further action is necessary to compel witnesses to come forward and to speak the truth it will be necessary to clothe the Commission with the powers of the 1921 Act, will he bear in mind—I have given him notice of this supplementary question—that there is grave concern on both sides of the House about the working of the 1921 Act?

Will the Prime Minister therefore consider the proposal, which we have put forward on a number of occasions, that there should be a Select Committee of the House to review the working of the 1921 Act?

The Prime Minister: Yes, Sir. I believe that there is a lot of anxiety and concern. I do not think that the debate in another place produced any new proposal, but nevertheless these matters should be considered; and I will certainly consider them. I should not like to give a firm undertaking today, but I will consider what the right hon. Gentleman has said.

Mr. Cole: Would not my right hon. Friend think that in the terms of reference the words

"a breach of security is believed to have occurred"

rather than "is known to have occurred" would cover a wider compass and would seem to be justified by the remainder of his statement?

The Prime Minister: I should like to look further at the statement and at what my hon. Friend has said, but I think that the wording covers every possibility.

Mr. Grimond: Can the Prime Minister make clear what will be the position of the House, the Press and the broadcast-

ing authorities when a case is referred to the Commission? It will, presumably, be impossible to discuss it in the House or to ask Questions about it. Will it also be impossible for any comment to be made either on the air or through the Press?

The Prime Minister: I do not see why the statement which I have made should set any limitation on discussion in this House. I should, however, like to consider the point made by the right hon. Gentleman and give him a considered reply, although I do not see *prima facie* any reason why the statement imposes a limitation.

Mr. H. Wilson: I agree with what the Prime Minister has said. Is it not clear that a reference to the Commission, which will not be a judicial tribunal until it is clothed with powers given by this House, would have no effect on the freedom of this House, the Press or broadcasting authorities or anyone else? Could it not be made clear that this body is an administrative Commission and not a judicial tribunal?

Will the Prime Minister, however, consider the point, which bears on the question raised by the right hon. Member for Orkney and Shetland (Mr. Grimond)—it is a point which I have raised with the right hon. Gentleman—that it should be understood that whenever a reference is made to the Commission there will be an announcement of the fact even if it refers to a case which has not become public through prosecution or court proceedings?

The Prime Minister: Yes, Sir; there should be an announcement. There is nothing in what I have said today to curtail the rights of Parliament and the Press.

Mr. Bellenger: The Prime Minister will be aware of the circumstances of the Vassall case. If matters arise which are not entirely security matters which would be kept secret, will the House have access to any comments or reports by the Commission and be in a position to discuss them, if necessary?

The Prime Minister: I would rather that hon. Members read the statement which I have made. On another day we will return to any questions that may interest them. I should not like to

[THE PRIME MINISTER.]
pursue the matter with supplementary questions just at this moment.

Mr. Hale: What would happen if the Commission came to a conclusion at some stage of its inquiry that a criminal offence had been committed? Would it proceed to report or would it refer to the Director of Public Prosecutions the papers, including the voluntary evidence, or what will happen in these circumstances?

The Prime Minister: Again, I should like to consider the question and return to it later.

Mr. Wigg: In his further consideration of this excellent proposal, will the Prime Minister consider the advisability of drawing upon the experience of the board of inquiry set up under the Army and Naval Discipline Acts and give to the Commission in discharging its administrative functions power to take evidence on oath? This is quite apart from any powers for which the Commission might ask under the Tribunals of Inquiry (Evidence) Act.

The Prime Minister indicated assent.

MALAYSIA AND INDONESIA

Mr. Brockway (by Private Notice) asked the Secretary of State for Commonwealth Relations whether he will make a statement on the present negotiations between Malaysia and Indonesia for a cease-fire on the frontiers of Sarawak and Sabah and when British troops are expected to be withdrawn.

The Secretary of State for Commonwealth Relations and Secretary of State for the Colonies (Mr. Duncan Sandys): Through the mediation of Mr. Kennedy, the Presidents of Indonesia and the Philippines and the Prime Minister of Malaysia have agreed to hold a meeting to improve relations between their countries. This meeting will be preceded by a meeting at Foreign Minister level. In addition, there is to be a prior meeting between the Prime Minister of Malaysia and the President of the Philippines.

As a preliminary to these meetings, President Sukarno has issued a cease-fire order to all his forces. However, the

Indonesian Government have explained that it will take about a week for this order to reach those forces which are at present operating across the border in Malaysia.

Since the expression "cease-fire" has been used, it should be emphasised that the Malaysian and British forces have been engaged in a purely defensive rôle and have fired only to repel invaders. Therefore, in present circumstances the question of the withdrawal of British troops does not arise.

Her Majesty's Government warmly welcome the steps which have been announced and they trust that these will lead to the restoration of normal relations between Malaysia and her two neighbours.

Mr. Brockway: Is the right hon. Gentleman aware of the degree to which the House will welcome this announcement and of our appreciation of the great services which Mr. Robert Kennedy has carried out in arranging this preliminary settlement? Will the right hon. Gentleman say whether the Government will give the fullest support to the proposals, made by the three Ministers concerned, that the Manila conference should be resumed so that there may be a consideration of the development of a wider confederation for all these areas?

Mr. Sandys: I have said that we welcome the announcement that there is to be a meeting between the three heads of Government. I think that we must see how they get on.

Mr. B. Harrison: Will my right hon. Friend try to impress on Mr. Kennedy when he is here the need for a guarantee by the American Government of any agreement that is made that full support must be given by the American Government to Malaysia and that we will not have any apparent equivocation by the American Government backing up other countries in the area?

Mr. Sandys: I do not want to anticipate the talks that we are to have with Mr. Kennedy.

Mr. H. Wilson: Is the right hon. Gentleman aware that we all welcome the announcement that has been made? Is he further aware that we welcome the fact that he has made it clear—as some announcements have not made it

SECURITY COMMISSION

Mr. Heath asked the Prime Minister if he will make a statement on the procedure for references to the Security Commission.

The Prime Minister: After consultation with the right hon. Gentleman the Leader of the Opposition, I have revised the procedure for deciding whether or not a case involving a prosecution under the Official Secrets Acts should be referred to the Security Commission. In future, when a breach of security has led to a prosecution, the Chairman of the Security Commission will receive a statement outlining the facts of the case and will be asked to give his opinion on whether an investigation by the Commission would be likely to serve a useful purpose. I will then consult the right hon. Gentleman, taking into account the views expressed by the Chairman of the Commission, before deciding whether or not to refer the case to the Commission.

In any other case of known or presumed breach of security I would decide in the light of the circumstances whether or not its significance warranted my consulting the Chairman of the Security Commission and the right hon. Gentleman on the question whether it should be referred to the Security Commission.

AGRICULTURE, FISHERIES AND FOOD

Meat Products (Import)

Mrs. Ewing asked the Minister of Agriculture, Fisheries and Food if he will make a statement on the present policy concerning importation of meat products from countries where foot-and-mouth disease is endemic; to what extent restrictions have been removed; what is the present level of imports; and what it was in each of the last five years.

Mr. John Mackie: Imports of meat products—as distinct from carcase meat—from countries where we consider foot and mouth disease to be currently endemic are restricted to those fully cooked and processed products which we consider to represent no significant disease risk. There has been no relaxation of restrictions.

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Imports of meat products from such countries in November, December, 1968 and January, 1969 totalled 10.7 thousand tons. In each of the five calendar years 1964 to 1968 they totalled respectively 41,100, 30,700, 33,200, 51,500 and 53,300 tons.

Grendon, Northamptonshire (Flood Alleviation Work)

Mr. Harry Howarth asked the Minister of Agriculture, Fisheries and Food what representations have been made to him by the Welland and Nene River Authority for an increase in its capital expenditure ceiling to enable it to carry out work to alleviate flooding at Grendon, Northamptonshire.

Mr. John Mackie: My officials yesterday received a deputation from the Authority. The existing arrangements for grant to river authorities for land drainage works enable each authority to choose on which approved works they will claim grant up to an annual capital expenditure ceiling but do not prevent work from being carried out above this ceiling without grant.

EDUCATION AND SCIENCE

Medical Students

Mrs. Ewing asked the Secretary of State for Education and Science how many suitably qualified candidates were accepted for courses in the academic year 1968-69 leading to a qualification entitling the holder to practise as a general practitioner or hospital doctor under the National Health Service; and what was the total number of suitably qualified applicants.

Mr. Edward Short: The number of candidates accepted for pre-clinical courses in medical schools in Great Britain for the academic year 1968-69 was 2,678. Figures are not available of the total number of candidates who applied; the number who applied through the Universities Central Council on Admission was 6,948. It is not possible to say how many of these candidates were suitably qualified since the requirements of universities vary.

Mr. Cordle asked the Secretary of State for Education and Science what estimate he has made of the average cost

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