



Prime Minister

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

28th August 1984

Lisulund

An interesting contribution.  
Would you like to invite  
him to the seminar.

CIP 30/8

Yes please  
mr

Dear Prime Minister,

At your meeting on June 1st you launched us into a discussion which was recorded in John Coles' letter of the same day under the title "Foreign Policy: Possible Conflict of Principles". You encouraged contributions in advance of a possible seminar at Chequers. What follows is a personal reflexion on the theme which you proposed. It is very much a holiday effort and I apologise for any lack of polish.

The launching pad of that discussion was the problem of what limits could reasonably be set for the political activities of foreigners in Britain aimed at their home governments. Leon Brittan and Geoffrey Howe have, as you know, recently been in touch about this particular problem and departmental work is in hand on this. I will not trespass on it, except to annex a historical note on the painful experience of Lord Palmerston in 1858 when handling this very problem.

But you carried the discussion into a wider arena. The background would seem to be this. On the one hand Britain stands to gain enormously from any real progress towards a genuine international order. This is because we are a satisfied state, in the sense that we desire to acquire no-one else's territory and to subvert no-one else's government. We tend to lose from any major disturbance in the world. If the UN Charter and the institutions which it set up were actually to function as proposed in 1945 we would be one of the main beneficiaries. That is even more true now than in 1945 because we and the other former colonial powers have without coherent thought allowed the world to fragment into an amazing multitude of nation states, which the advocates of nationalism in nineteenth century Europe would have regarded as a caricature of what they fought for. This fragmentation makes even more important the rules which should govern disputes between states and in particular the principle of non-aggression.

On the other hand there must be a limit to the extent to which we can be expected to abide by the rules of international order when faced with powers, great or small, which ignore them in order to damage our interests. The same is true of a fortiori of the United States, and you cited the example of Central America. To some extent of course in recent decades this dilemma has been eased by the possibilities of covert action, to which all powers have had resort in order to protect or advance their interests. But whereas the Soviet Union has been able to move with virtual impunity to overt military action when they deemed this necessary (Hungary 1965, Czechoslovakia 1968, Afghanistan 1979 are just three examples) the Western powers have found this much more difficult (Suez 1956, Vietnam), not least because of the shock administered to their domestic political systems.

/It is certainly



It is certainly not in our interests to pull down the half-built structure of international order. Indeed my own view is that we might be more active than we are in building it up.

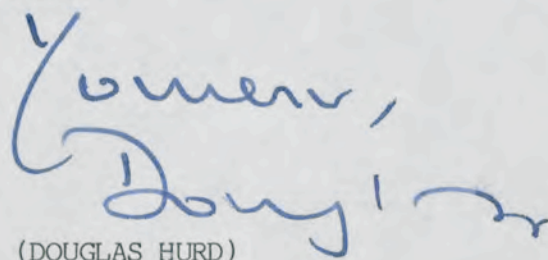
That is a separate issue. If we are to correct the imbalance just described without destroying what is now half-built, we need to be more explicit about the right of self-defence which the UN Charter recognises. I borrow here from the argument used by Lord Denning in the Lords on May 16th, in the much narrower context of the Libyans in St. James' Square. He quoted Grotius and Oppenheim in support of the argument that by their actions in violating the Vienna Convention the Libyans had in effect forfeited its protection (though I would not share his further argument that this interpretation should be put to the ICJ for an advisory opinion). It seems to me that this extension of the concept of self-defence, by adding to it the concept of reciprocity, could provide the answer to our philosophical problems. What applies to the Vienna Convention under Lord Denning's argument should apply also to the rules of the UN Charter.

There is little advantage in a philosophical stance which yields no practical advantage. But let us take Libya as an example. She is in effect a pirate state, breaking whether in St. James' Square, in the Red Sea or elsewhere, many of the basic rules of international conduct. I am not sure how international law treated piracy when it was rife. Certainly the Western states from time to time rooted out nests of pirates on the North African coast (hence the mention of Tripoli in the anthem of the US Marines) presumably without much regard for the nominal sovereign power in Constantinople. Is it conceivable to work out the concept of outlawing a pirate state by declaration? A state thus temporarily declared outlaw would not necessarily be attacked or deprived of trade; but notice would have been given that so far as the declaring powers were concerned the pirate state and its agents were no longer entitled to the normal protections of international law, because they had consistently ignored international law in their dealings with others. This could be a substantial deterrent.

I am thinking of course of declarations by a concert of Western powers rather than by the Security Council. It would hardly be practical to apply this concept to the Soviet Union because the need to maintain some sort of dialogue with a superpower is likely to remain overriding except in extreme circumstances. But it could conceivably be applied to surrogates such as Cuba once a sufficient record of defiance of international law had accumulated. Obviously encouragement of terrorism would be a major item in such a record. So conceivably could the wholesale denial of human rights, though President Carter's experience showed that this can be a will o' the wisp.

The above certainly needs refinement, but it might conceivably be of some use in wrestling with the dilemma which you outlined.

I am sending a copy of this letter to Geoffrey Howe.

  
(DOUGLAS HURD)



THE ORSINI AFFAIR

On January 14th 1858 an Italian Republican called Orsini throw a bomb at the carriage of the Emperor Napoleon III as he and the Empress Eugénie drove to the opera. Neither of them was hurt but several bystanders were killed. It was discovered that Orsini had links with Italian refugees in London and that the explosives in the bomb had been made in England. The French Government asked the British Government, its recent ally in the Crimean War, to act against these refugees in England.

Lord Palmerston was Prime Minister. Professor Ridley in his biography describes Lord Palmerston's attitude as follows:

"Palmerston had always been consistent in his attitude about political refugees. Britain was entitled to give them asylum, but must not permit them to engage, on British soil, in any activity against the government of their own, or any other, country. As he had adopted this attitude towards Italian and Hungarian refugees from Austrian rule, even at a time when his relations with Austria were unfriendly, he had all the more reason to adopt it in the case of refugees from Napoleon III with whom he was on friendly terms. He had for some time been viewing with suspicion the activities of the refugees in the Channel Islands, where French Republicans, among them Victor Hugo, had taken refuge after Napoleon III's coup d'état."

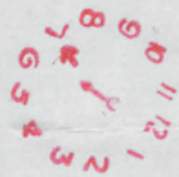
Three years before the Orsini incident Palmerston had already written to the Home Secretary about these refugees:

" 'The reverse of the Medal is the conduct of the French Refugees, who are meeting, and in Speeches and Newspapers openly recommending assassination not only of the Emperor of the French, but of Sovereigns in general. I have little doubt that they are pushed on by Russian Agency.' He therefore proposed that all the refugees should be deported from the Channel Islands, and brought to Britain, where they could do less harm than in the Channel Islands. 'Some of them may be apparently quiet and well conducted, so much the worse for them that their associate Fellow Countrymen render measures of severity necessary. But we are not doing Justice by our faithful and zealous Ally the Emperor of the French, by allowing a knot of his mortal Enemies to be plotting within an hour's sail or row of his Shore ... I think they ought all and everyone without any exception to be sent out, and that the misconduct of their Fellow Refugees should be assigned as the reason.' "

After the assassination attempt Palmerston introduced a Conspiracy to Murder Bill which made it a felony instead of merely a misdemeanour to plot in England to murder someone abroad. Unfortunately this Bill roused against it an alliance of the left-wing radicals who detested Napoleon III because of the way he had come to power, and Disraeli and the Conservatives who saw an opportunity of defeating the Government by accusing it of subservience to a foreign government. The Government was defeated by 19 votes on a radical amendment. Next day Lord Palmerston was hooted as he rode in the park, and two days later he resigned. He was out of office for 16 months.



FOREIGN POL. Strategy



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10 DOWNING STREET

*From the Private Secretary*

3 September 1984

The Prime Minister was very grateful indeed for your letter of 28 August with some ideas on an approach to dealing with the possible conflict of principles in foreign policy. She thought this was excellent. She hopes very much that you will be able to attend the seminar at Chequers, starting at 1400 hours on 1 October.

I am sending a copy of this letter to Len Appleyard (Foreign and Commonwealth Office).

Charles Powell

The Right Honourable Douglas Hurd, CBE, MP.

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