



Search

Ref. A09783

MR. BUTLER

P1. type the letter below for the PM's signature.
We do not need to re-type the memorandum but I
would like better copies of the Harcourt extracts, particularly
of the 23 January 1964 extract.

Security Commission: Treasury and Civil Service Committee

FEB
18.10.

In your minute of 30 September, responding to the minute which I sent the Prime Minister on 16 September (A09502), you said that the Prime Minister would like her letter to Mr du Cann to be revised, so as to forestall comments from the members of the Treasury and Civil Service Committee that the Government appeared to have changed its view about the status of the Security Commission as an "associated public body".

2. I subsequently discussed the matter with the Prime Minister, and she made it clear that she remained strongly of the view that it was not appropriate for the Treasury and Civil Service Committee to enquire into the workings of the Security Commission or to question Lord Bridge. I know that this would also be very much Lord Bridge's own view.

3. I attach a revised version of the letter to Mr du Cann. The revised draft ducks the question whether the Security Commission should or should not be regarded as an "associated public body", and rests the case solely on the nature of its responsibilities and the matters with which it deals.

4. I have now prepared and completed a factual memorandum on the composition and terms of reference of the Security Commission; if the Prime Minister is content, she could send this with her letter to Mr du Cann.

5. If the Prime Minister is content to write accordingly, she may like to invite Mr Gow to convey the letter and memorandum to Mr du Cann.

RTA

ROBERT ARMSTRONG

15 October 1982

DRAFT LETTER FROM THE PRIME MINISTER TO
The Rt Hon Edward du Cann MP

Lord Bridge tells me that, as Chairman of the Treasury and Civil Service Committee, you have written to him to say that the Security Commission is one of the "associated public bodies" on which the Committee is expected to keep an eye, and to ask him to submit a short paper on the remit and working arrangements of the Commission.

Given the nature of the Commission's responsibilities and the matters with which it deals, I do not think that it would be appropriate for the Chairman to answer questions about the way in which it discharges those responsibilities or about its methods of working. But the appointment of its members and the setting of its terms of reference are the responsibility of the Prime Minister. I have asked the Joint Head of the Civil Service to prepare a short factual memorandum on the composition and terms of reference of the Commission and on the arrangements for providing its Secretariat and I enclose his memorandum.

SECURITY COMMISSION

Memorandum by the Joint Head of the Civil Service

ORIGINS

1. The idea of a Security Commission was first mooted after the Radcliffe Tribunal, established under the Tribunals of Inquiry (Evidence) Act 1921, had reported on the Vassall case. The Prime Minister (Mr Macmillan), in a speech on 7 May 1963, canvassed the possibility of establishing a permanent organisation qualified to inquire, report and advise on any future security case, without necessarily requiring to be invested with statutory powers under the Act of 1921. An extract from the Official Report is at

--- Annex A.

2. The Inquiry by Lord Denning into the Profumo affair then had to be set up urgently and no further work was done on the idea of a Security Commission until after he had reported. In the course of the Debate on the Denning Report, the Prime Minister (Sir Alec Douglas-Home) outlined some proposals which differed from those suggested by Mr Macmillan in that they dropped the idea of a Committee of Privy Councillors to oversee the work of a Standing Commission. An extract

--- of his speech, on 16 December 1963, is at Annex B. The Security Commission was finally announced by the Prime Minister on 23 January 1964. A copy of the announcement

--- is at Annex C.

TERMS OF REFERENCE

3. The terms of reference as announced were:

"If so requested by the Prime Minister to investigate and to 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."

SUBSEQUENT DEVELOPMENTS

4. The first Inquiry carried out by the Security Commission into the Bossard and Allen cases disclosed a weakness in the arrangements. Under the existing conventions, the Commission could not be activated without an announcement. This meant that it could not move, without risk to the sub judice principle, before a case had been tried. It was recognised that this could on occasion conflict with the need to close any breaches in security arrangements with all possible speed. The Prime Minister (Mr Wilson) therefore announced on 10 May 1965, in the course of a statement on the Bossard and Allen cases, a change in the procedures as follows:

"I have told the Rt Hon Gentleman, the Leader of the Opposition, about this problem and I propose to alter the procedure so that a reference can be made to the Commission as soon as the Government are satisfied, or have reason to think, that a breach of security has occurred in the public service. In each case I propose that the Leader of the Opposition be informed before a reference is made. But when a reference to the Commission relates to a matter which is the subject of criminal proceedings before the Courts, then, for

the reason I have explained, no public announcement of the reference to the Commission would be made until it is appropriate to make a statement. "

5. The terms of reference were further modified in March 1969. At the beginning of that year there were several cases of prosecution under the Official Secrets Acts in progress. One of these at least, that of Able Seaman Cloude, seemed to raise no issues justifying the Commission spending time on an Inquiry. The Prime Minister therefore asked the Head of the Civil Service (Sir William Armstrong) in consultation with Lord Justice Winn (Chairman of the Commission) to devise arrangements for giving him advice to enable him to decide whether or not particular cases should be referred to the Security Commission. The revised arrangements were announced by an arranged PQ on 25 March 1969. The Prime Minister said:

"After consultation with the Rt 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 Rt 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 Rt Hon Gentleman on the question of whether it should be referred to the Security Commission. "

MEMBERSHIP

6. When originally set up, the membership of the Commission comprised only the Chairman and two members. Following the Bossard and Allen Inquiry, however, the membership was expanded to comprise a Chairman and six members including one judicial member who could deputise for the Chairman. Normally each Inquiry is conducted by a Chairman and two members, though on at least one occasion there has been a Chairman and four members. In consultation with the Chairman of the Commission, the Prime Minister decides who should be invited for each particular Inquiry.

7. The present membership of the Commission is as follows:

Lord Bridge of Harwich
Lord Justice Griffiths
Lord Allen of Abbeydale
Lord Greenhill of Harrow
Sir Alan Cottrell
General Sir Hugh Beach
Air Chief Marshal Sir Alasdair Steedman

8. The Secretary of the Commission was provided by the Cabinet Office until 1975, when this responsibility passed to the Civil Service Department. The Secretary is now provided by the Management and Personnel Office.

REPORTS OF THE COMMISSION

9. The Security Commission have examined and reported upon the following cases:

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| June 1965: | Mr F C Bossard and Staff Sergeant P S Allen | (Cmnd 2722) |
| July 1966: | Squadron Leader P J Reen | (Cmnd 3151) |
| June 1967: | Miss H Keenan | (Cmnd 3365) |
| November 1968: | Chief Technician D R Britten | (Cmnd 3856) |
| January 1969: | Mr C E Bland | (Cmnd 3892) |
| May 1973: | Sub Lt D J Bingham and Mr L M Hinchcliffe | (Cmnd 5362) |
| July 1973: | Lord Lambton and Earl Jellicoe | (Cmnd 5367) |
| May 1981: | Mr J B Wagstaff | (Cmnd 8325) |

In none of its inquiries has the Commission found it necessary to invoke the powers of the Act of 1921.

10. In addition the Commission was invited in March 1981 to report on security procedures and practices in the public service. The Government statement on this report was published as a White Paper in May 1982 (Cmnd 8540). There have also been several cases where the Chairman of the Commission has been consulted under the arrangements introduced in 1969 and has advised against an Inquiry by the Commission.

attachés should be subject to Service discipline and be recruited from the Services. This has the advantage that it makes it much easier to post them on their return and enables them to complete their normal Service careers in non-vulnerable positions. The procedure for reporting from embassies abroad has been reviewed so that embassy staffs will be on the alert for any development affecting security, and any information will be notified to the security service promptly.

Broadly speaking, I think that the regulations now in force are scrupulously adhered to, and if they are we should be able to reduce risks from these foreign posts to the minimum. As the House knows, one of the most important protections has always been and must continue to be that tours of duty should be fairly short, for the strain on our people is undoubtedly severe.

I now turn from general security abroad to this country. With the exception of the few points with which I have already dealt, I do not think that there are any new measures that could be introduced beyond the action taken following the Radcliffe and Romer Reports of a year ago, unless, of course, we were to go over to a quite different system of life and one which would introduce a form of security police running not only through the Government Departments, but through the many industrial establishments which deal with matters of interest to a foreign country.

To be effective, this would have to extend wider and wider. I would only pose to the House the question whether we might not be in danger of abandoning our way of life in a desperate effort to protect it if we took that course. Of course, however effective the regulations, and however strenuous the efforts to apply them rigorously, there will always be human errors which may or may not lead to difficulties. Ninety-nine out of a hundred of these errors will not lead to difficulty. One may leave a document open, or fail to keep the rules about locking up the right things. This sort of thing is bound to happen from time to time, but it can be, and is, corrected as far as possible by constant supervision.

I have seen some comment on one other aspect I want to refer to. Why, it is asked, do men and women who work

with someone whose character seems a little out of the ordinary not take upon themselves the duty of reporting their doubts? This is, of course, a duty in Departments of this kind, whether Governmental or industrial. But it is a duty which I think we all realise is very distasteful and very difficult to enforce. What is important is that when such a report is made it should be seriously considered. However, eccentricity or oddity is not necessarily a weakness which leads to treachery, nor can ordinary life be carried on by comrades in an office in day to day work in an atmosphere of perpetual gossip and suspicion. Here again, we have to try to find a reasonable balance.

I said that I would have something to say about possible methods of dealing with future cases of this kind as they may arise. I must warn the House that I think that they will arise. I think that more spies will be caught. It may well be that, with all this tightening up over recent years, we shall bring to justice traitors who have so far escaped. As the whole system improves, we may be able to catch people who have, for the time being, escaped, and, at the same time, we should be able to make it more difficult to recruit new agents.

I think that more cases there will certainly be. I am bound to tell the House of the strange paradox which confronts me from time to time. Naturally, the security services are very pleased when they tell me that they have been able to lay hands on a suspect. But, as the House will well understand, I feel inclined to greet these things, which reflect full credit on the security services, with somewhat less enthusiasm. The knowledge that there had been a spy causes more condemnation than the success in catching him brings approbation.

Nevertheless, I think it right to say that the work of the security forces, very difficult to carry on in the conditions of a free society, is done with increasing skill and certainly with the greatest devotion. This was the conclusion reached by Lord Radcliffe and his colleagues in their large-scale inquiry of 1962; it has been confirmed by the work done since.

However, if there are cases of this kind, and, more especially, if they create the kind of public excitement that has been built round the Vassall case, what

[THE PRIME MINISTER.]
are we to do? How are we to investigate the circumstances after the spy has been dealt with by trial? The only way to obtain the full powers of compelling witnesses, and all the rest, is under the Tribunals of Inquiry (Evidence) Act. We have, of course, had a committee of a judicial character, but not armed with this full authority—for example, the Romer inquiry—and we sometimes have had just ordinary disciplinary inquiries within the service.

I must tell the House that I find myself in agreement, or certainly in sympathy, with those hon. Members who feel that the present position is rather unsatisfactory. I think that in the case which has been the cause of this Report the allegations were so serious that an inquiry under the 1921 Act was not only justified, but absolutely necessary, but there may be cases where none of this atmosphere of scurilous rumour has been created, but where it is still felt that full inquiry should be made into all the circumstances, partly with a view to disciplinary action, if that is necessary, and partly with a view to learning and applying any lessons for improvement.

I therefore put forward for the House's consideration a plan that I have discussed with some of my advisers, and on which I have already spoken to the right hon. Gentleman the Leader of the Opposition. It might well be advantageous to set up a small standing body—a permanent body—to act as a Security Commission. This might consist of a judicial chairman, assisted and supported by two other members. Those who have had experience of the problems of maintaining security in the public services might well have a valuable contribution to make in this. In addition, we might have a small standing committee of Privy Councillors from both sides of the House.

It would then be possible for the Government to decide, after consultation with the Privy Councillors, whether in any particular case an inquiry by the Security Commission was called for. The responsibility for the decision whether to invite the Security Commission to conduct an inquiry must, naturally, rest with the Government of the day, but they would be fortified and assisted in their decision by consultation with the Privy Councillors.

The question of powers would then remain. There might be cases in which the full powers conferred by the 1921 Act were necessary, but here, perhaps, the initiative might rest with the Security Commission itself. If, at the outset—or, indeed, at any stage of its investigation—the Security Commission felt that its inquiries could not be effective without powers to compel evidence, it would so inform the Government. Parliament would then be asked to pass a Resolution conferring on the Commission, for that particular inquiry, the powers under the Act of 1921. But there might be many cases in which the Commission did not think that that was necessary, so that this rather formidable engine would not be brought automatically into play.

Of course, after the inquiry was held, the Security Commission would report to the Government, and the Prime Minister of the day would consult the standing committee of Privy Councillors when the report had been received—

Mr. George Wigg (Dudley): Would the Prime Minister be good enough to consider that one of the first subjects his proposed new tribunal might deal with is the circumstance in which full details of it appeared in yesterday's *Daily Mail*? Would he also consider that a second subject for this Security Commission to consider might be the fact that, when the Romer Committee was set up, the appointment of Vice-Admiral Sir Geoffrey Thistleton-Smith was also leaked by a Department, so that it appeared on the front page of the *Daily Mail* before it was announced to the House?

The Prime Minister: I very much regret leaks of information, but I do not think that great harm has been done to the nation, or great information conveyed to the enemy. It is just one of those things. It has been discussed quite freely by a number of hon. Members.

What I want to make clear is that this proposal that I am seriously making—and I think that the hon. Member for Dudley (Mr. Wigg) would also like to take it seriously—has the merit of retaining the responsibility for executive decisions where it ought constitutionally to belong but, at the same time, it would take account of the fact that the security of the State transcends the varying policies of successive Governments and is

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the concern of all Members of Parliament, and is a matter in which, I think, the Privy Councillors, by the nature of their oath, may have a special part to play. We have not reached conclusions. We throw out the suggestion for discussion, and I think that it might lead to a structure that will be generally acceptable.

I come now to some observations that I feel it right to make about the Press. Lord Radcliffe and his colleagues did not think it part of their task to offer judgment on the Press, and gave their reasons very clearly in paragraphs 13 and 14 of their Report. They only refer to the Press in, I think, about 50 of the Report's 276 paragraphs, where it was necessary to do so in order to carry out their task—that is, to sift the truth. It is true that there are certain criticisms, but they appear in the framework of the main narrative and in no case constitute a general criticism or attack upon the Press. However, this affair has, naturally, stimulated much discussion about the functions of the Press and its relation to public matters.

Before I pass to some general observations, the House will, perhaps, expect me to make a reference to the two newspapermen committed to prison for contempt of court. This is a much narrower issue and, of course, arises from the duties and powers given to the Tribunal under the 1921 Act. If, in these instances alone out of several others, the Tribunal felt that the questions to which it required a reply were essential links in the chain of events that it was its duty to examine, that is a case for the courts, and it was so treated. But, apart from that question, much wider issues have been raised upon which I would, rather hesitatingly, make some comment.

Newspapers, in their task of finding out the truth and publishing it, may have a feeling that in some cases Governments or their officials tend to push out the frontiers of what is called "secrets" too far, and there may be substance in this. I feel sure that none of us would wish the caution of security to be used to conceal incompetence. In war, there is a very careful and strong censorship of the Press, and that has always been preserved. In peace, in the past, this has normally not been necessary, but I am afraid we must face the

fact that in this unhappy twilight world in which we live in a state of truce—neither war nor peace—it is not always easy for the Government and their officers, or the Press, to know exactly where the line should be drawn, and that the system can only work on the basis of mutual confidence.

Apart from these security matters, the Press has a right—and, I think it would say, a duty—to find out the truth, to publish it and comment on it as it thinks fit. That is its right, and I think that we all feel that the advantages of a free Press far outweigh any of its disadvantages. Naturally, like any right, this has a corresponding obligation.

As for men in public life—and here we are all in the same boat—I do not think that they must be too sensitive. They must expect, whether by the reporter's words or the cartoonist's pencil, to suffer some wounding blows. This is part of what we assume when we voluntarily enter upon public affairs. At the same time, we have the right to expect that while the Press should be informative, and may even be inquisitive, its curiosity should not amount to something like persecution. We may be wounded, but we should not be hounded.

Similarly, we on our side should recognise the circumstances in which the journalists and the Press labour—the editions that have to be brought out by night and day, the difficulties of avoiding all mistakes. So we must not ourselves be too sensitive. But what I think we have the right to complain of, and this matter has now been dealt with, is if statements are taken as fact when they are only inference and have no foundation, and then, from them, deductions are drawn which I feel certain are realised, within a day or two of their being printed, by those responsible for them to have been fantastic.

Who could really believe, for instance, except when suffering from a fever of suspicion, that my noble Friend acted in the way he was supposed to have acted, that is, falsely and teacherously to his own office, to the Government of which he was a member, and to the Crown, or that his senior officials and officers were guilty of the charges made against them? And who, indeed, could have supposed the story about my hon. Friend the Mem-

[THE PRIME MINISTER.]

a whole. It has been said over and over again that the catching of spies is *prima facie* ground for saying that the security system is effective, but I do not think that it is right that Ministers and Parliament should always have to take that on trust.

Therefore, my right hon. Friend, before me, and now I myself, have been considering whether there are any improvements which can be made in the machinery of inquiries and any improvements which might bring increasing confidence to Parliament and to the country. As far as the precedents go, there have been *ad hoc* inquiries of various kinds over past years, and there have been a number of inquiries which have used the formidable procedures of the Tribunals of Inquiry (Evidence) Act, 1921. Since Lord Denning's Report, and in the light of it, there is probably now wide agreement that, in certain circumstances, nothing short of an inquiry under the 1921 Act will do. I think that that is certainly the conclusion on the recent debate in another place, the report of which hon. Members have probably read. But there is, equally, concern—all feel and share this concern—that, whenever a tribunal is set up, there is a danger that innocent reputations may be damaged.

It was, therefore, with these considerations in mind, and with the question in our minds as to how these matters which involve civil servants involved in a security case should be handled in Parliament, that my right hon. Friend a few months ago put before the House the idea that there might be a Standing Commission on Security. I have had time to think about this and I have had some conversations with the right hon. Gentleman the Leader of the Opposition. I must not anticipate his views, though what I shall say now I think can fairly be said to represent the gist of our private talks. I shall only outline the ideas to the House today, because I want to hear the debate and hear the contributions which hon. Members may make on this subject or, indeed, on any possible amendments of the 1921 Act. If we were to set up a Standing Security Commission, I think, first, that it should have a judicial chairman. Because it is concerned with the

conduct and the effectiveness of the Government services, I think that it would be well to put on it one or two retired civil servants and one or two officers of the Armed Services experienced in security matters. If such a Commission was established, the Prime Minister of the day would decide whether in any particular case it should be asked to inquire into a particular matter, but before taking that decision he would consult the Leader of the Opposition.

The question would then arise as to what kind of powers the Security Commission might have. I would expect that the Commission would normally carry out its duties on Government instructions but that, if in a particular case the Commission's inquiries were not able to be effective without powers to compel evidence, then it would be right for Parliament to confer on it for the purposes of that particular inquiry the powers under the 1921 Act, which can be done by Resolution. The Commission would submit the results of its inquiries and any proposals that it might wish to make for improved machinery consequent upon its inquiries to the Prime Minister, who again at that point would consult the Leader of the Opposition, although it must be reserved for the Government of the day to decide what action, if any, should be taken.

I think that these proposals have some merits, although I have deliberately put forward only the framework today, in view of this debate. In matters relating to breaches of security by a member of the Civil Service, there would be machinery ready at hand to deal with them. In matters relating to a breach of security threatening the State, these arrangements would at each stage be discussed between the Prime Minister and the Leader of the Opposition, thereby achieving something which I believe is of immense importance—an attempt, at any rate, to avoid these matters becoming matters of dispute between the parties in this House. A judicial chairman would give confidence that the inquiry was independent. The presence of senior officers, both from the Civil Service and from the Armed Forces with a knowledge of security would, I think, ensure that knowledge of these very complicated matters was available. The Commission

would be advisory to the Prime Minister, so that in that way it would in no way supplant the courts, and it would preserve the ultimate responsibility in the hands of the Government of the day.

Mr. Sydney Silverman (Nelson and Colne): Would the Prime Minister say what standard of proof would be applied by such a Security Commission? The right hon. Gentleman will remember that this question gave Lord Denning considerable anxiety, whether the ordinary standard of proof which applies in a court of law should be applied, or whether the much lower standard of proof which is applied in inquiries into civil servants' conduct where security may be involved should be applied. The two things are vastly different.

The Prime Minister: I think this is an extremely difficult question. I should have thought that it would have to be left to the judicial chairman to advise in any particular case, and he would also have to advise the Prime Minister whether or not he wished the compulsory powers in the 1921 Act to be invoked.

As I have said, I have deliberately left a number of questions unanswered which will have to be much more closely considered, but in principle the House is in favour of setting up a Standing Security Commission, the Government in consultation with the Leader of the Opposition could proceed to the necessary action.

Lord Denning's Report deals with the past. I believe that in all parts of the House, and certainly in the country, there is a great relief that all the rumours are dead and that public life can continue to be run—this is the only way in which public life can be run—on a basis of trust between the members of a Government and, if I may put it in this way, on a basis of trust between Government and Opposition. I have tried to make proposals which will help, and I think that this is also the country's desire, to see these matters of the security of the State taken as far as possible out of party politics. I hope, therefore, that today we shall find a large measure of agreement and act as a House in these matters which, after all, concern the security of the whole nation.

4.7 p.m.

Mr. Harold Wilson (Huyton): I think that the House would agree that that was a somewhat strange speech from the Prime Minister. Considering that only a very short time ago such great interest was being expressed by the Government and by Ministers in the Denning Report, it is a little surprising that the right hon. Gentleman should dismiss it in so few sentences this afternoon.

I fully agree with the Prime Minister's tribute to Lord Denning, as we would all do, for his integrity, his thoroughness, his devotion to the task which was given him by the Government, and, not least—because everyone has noticed this; the Prime Minister paid tribute to it—for his superb gift of clarity in expressing his conclusions. But after the Prime Minister had paid that tribute to Lord Denning he then proceeded to try to demolish those parts of the Denning Report which were critical of the Government. So we have the situation that the Prime Minister is apparently prepared to accept the Report, apart from those parts which are critical.

After that, the Prime Minister went on to his proposals for a Security Commission, which I will come to in a few minutes, though I must say right away—I am sure the Prime Minister will agree—that what he has suggested here cannot be regarded as anything other than a long stop to deal with breakdowns in the system such as have occurred from time to time, and nothing that he has proposed this afternoon in any way derogates from the responsibility of the executive Government for adequately controlling the security services of this country.

It is true—to this extent I understand the feelings of the right hon. Gentleman—that, although it is only a few weeks since the Denning Report was published, in an atmosphere of salesmanship and ballyhoo such as never previously pervaded the environs of Her Majesty's Stationery Office, this debate now seems curiously remote from the events of last summer and last autumn. I am bound to say that it recalls to me the opening words of a chapter in a book which I hope we have all read called *1066 And All That*, about the early Stuarts. We were told that the first

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

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Mr. Grimor make clear w the House, th Vol. 687

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-

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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

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[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—some announcements have not made it

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SECURITY COMMISSION

Memorandum by the Joint Head of the Civil Service

ORIGINS

1. The idea of a Security Commission was first mooted after the Radcliffe Tribunal, established under the Tribunals of Inquiry (Evidence) Act 1921, had reported on the Vassall case. The Prime Minister (Mr Macmillan), in a speech on 7 May 1963, canvassed the possibility of establishing a permanent organisation qualified to inquire, report and advise on any future security case, without necessarily requiring to be invested with statutory powers under the Act of 1921. An extract from the Official Report is at --- Annex A.

2. The Inquiry by Lord Denning into the Profumo affair then had to be set up urgently and no further work was done on the idea of a Security Commission until after he had reported. In the course of the Debate on the Denning Report, the Prime Minister (Sir Alec Douglas-Home) outlined some proposals which differed from those suggested by Mr Macmillan in that they dropped the idea of a Committee of Privy Councillors to oversee the work of a Standing Commission. An extract --- of his speech, on 16 December 1963, is at Annex B. The Security Commission was finally announced by the Prime Minister on 23 January 1964. A copy of the announcement --- is at Annex C.

TERMS OF REFERENCE

3. The terms of reference as announced were:

"If so requested by the Prime Minister to investigate and to 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."

SUBSEQUENT DEVELOPMENTS

4. The first Inquiry carried out by the Security Commission into the Bossard and Allen cases disclosed a weakness in the arrangements. Under the existing conventions, the Commission could not be activated without an announcement. This meant that it could not move, without risk to the sub judice principle, before a case had been tried. It was recognised that this could on occasion conflict with the need to close any breaches in security arrangements with all possible speed. The Prime Minister (Mr Wilson) therefore announced on 10 May 1965, in the course of a statement on the Bossard and Allen cases, a change in the procedures as follows:

"I have told the Rt Hon Gentleman, the Leader of the Opposition, about this problem and I propose to alter the procedure so that a reference can be made to the Commission as soon as the Government are satisfied, or have reason to think, that a breach of security has occurred in the public service. In each case I propose that the Leader of the Opposition be informed before a reference is made. But when a reference to the Commission relates to a matter which is the subject of criminal proceedings before the Courts, then, for

the reason I have explained, no public announcement of the reference to the Commission would be made until it is appropriate to make a statement. "

5. The terms of reference were further modified in March 1969. At the beginning of that year there were several cases of prosecution under the Official Secrets Acts in progress. One of these at least, that of Able Seaman Cloude, seemed to raise no issues justifying the Commission spending time on an Inquiry. The Prime Minister therefore asked the Head of the Civil Service (Sir William Armstrong) in consultation with Lord Justice Winn (Chairman of the Commission) to devise arrangements for giving him advice to enable him to decide whether or not particular cases should be referred to the Security Commission. The revised arrangements were announced by an arranged PQ on 25 March 1969. The Prime Minister said:

"After consultation with the Rt 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 Rt 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 Rt Hon Gentleman on the question of whether it should be referred to the Security Commission. "

MEMBERSHIP

6. When originally set up, the membership of the Commission comprised only the Chairman and two members. Following the Bossard and Allen Inquiry, however, the membership was expanded to comprise a Chairman and six members including one judicial member who could deputise for the Chairman. Normally each Inquiry is conducted by a Chairman and two members, though on at least one occasion there has been a Chairman and four members. In consultation with the Chairman of the Commission, the Prime Minister decides who should be invited for each particular Inquiry.

7. The present membership of the Commission is as follows:

Lord Bridge of Harwich

Lord Justice Griffiths

Lord Allen of Abbeydale

Lord Greenhill of Harrow

Sir Alan Cottrell

General Sir Hugh Beach

Air Chief Marshal Sir Alasdair Steedman

8. The Secretary of the Commission was provided by the Cabinet Office until 1975, when this responsibility passed to the Civil Service Department. The Secretary is now provided by the Management and Personnel Office.

REPORTS OF THE COMMISSION

9. The Security Commission have examined and reported upon the following cases:

| | | |
|----------------|--|-------------|
| June 1965: | Mr F C Bossard and Staff Sergeant P S Allen | (Cmnd 2722) |
| July 1966: | Squadron Leader P J Reen | (Cmnd 3151) |
| June 1967: | Miss H Keenan | (Cmnd 3365) |
| November 1968: | Chief Technician D R Britten | (Cmnd 3856) |
| January 1969: | Mr C E Bland | (Cmnd 3892) |
| May 1973: | Sub Lt D J Bingham and Mr L M Hinchcliffe | (Cmnd 5362) |
| July 1973: | Lord Lambton and Earl Jellicoe | (Cmnd 5367) |
| May 1981: | Mr J B Wagstaff | (Cmnd 8325) |

In none of its inquiries has the Commission found it necessary to invoke the powers of the Act of 1921.

10. In addition the Commission was invited in March 1981 to report on security procedures and practices in the public service. The Government statement on this report was published as a White Paper in May 1982 (Cmnd 8540). There have also been several cases where the Chairman of the Commission has been consulted under the arrangements introduced in 1969 and has advised against an Inquiry by the Commission.

attachés should be subject to Service discipline and be recruited from the Services. This has the advantage that it makes it much easier to post them on their return and enables them to complete their normal Service careers in non-vulnerable positions. The procedure for reporting from embassies abroad has been reviewed so that embassy staffs will be on the alert for any development affecting security, and any information will be notified to the security service promptly.

Broadly speaking, I think that the regulations now in force are scrupulously adhered to, and if they are we should be able to reduce risks from these foreign posts to the minimum. As the House knows, one of the most important protections has always been and must continue to be that tours of duty should be fairly short, for the strain on our people is undoubtedly severe.

I now turn from general security abroad to this country. With the exception of the few points with which I have already dealt, I do not think that there are any new measures that could be introduced beyond the action taken following the Radcliffe and Romer Reports of a year ago, unless, of course, we were to go over to a quite different system of life and one which would introduce a form of security police running not only through the Government Departments, but through the many industrial establishments which deal with matters of interest to a foreign country.

To be effective, this would have to extend wider and wider. I would only pose to the House the question whether we might not be in danger of abandoning our way of life in a desperate effort to protect it if we took that course. Of course, however effective the regulations, and however strenuous the efforts to apply them rigorously, there will always be human errors which may or may not lead to difficulties. Ninety-nine out of a hundred of these errors will not lead to difficulty. One may leave a document open, or fail to keep the rules about locking up the right things. This sort of thing is bound to happen from time to time, but it can be, and is, corrected as far as possible by constant supervision.

I have seen some comment on one other aspect I want to refer to. Why, it is asked, do men and women who work

with someone whose character seems a little out of the ordinary not take upon themselves the duty of reporting their doubts? This is, of course, a duty in Departments of this kind, whether Governmental or industrial. But it is a duty which I think we all realise is very distasteful and very difficult to enforce. What is important is that when such a report is made it should be seriously considered. However, eccentricity or oddity is not necessarily a weakness which leads to treachery, nor can ordinary life be carried on by comrades in an office in day to day work in an atmosphere of perpetual gossip and suspicion. Here again, we have to try to find a reasonable balance.

I said that I would have something to say about possible methods of dealing with future cases of this kind as they may arise. I must warn the House that I think that they will arise. I think that more spies will be caught. It may well be that, with all this tightening up over recent years, we shall bring to justice traitors who have so far escaped. As the whole system improves, we may be able to catch people who have, for the time being, escaped, and, at the same time, we should be able to make it more difficult to recruit new agents.

I think that more cases there will certainly be. I am bound to tell the House of the strange paradox which confronts me from time to time. Naturally, the security services are very pleased when they tell me that they have been able to lay hands on a suspect. But, as the House will well understand, I feel inclined to greet these things, which reflect full credit on the security services, with somewhat less enthusiasm. The knowledge that there had been a spy causes more condemnation than the success in catching him brings approbation.

Nevertheless, I think it right to say that the work of the security forces, very difficult to carry on in the conditions of a free society, is done with increasing skill and certainly with the greatest devotion. This was the conclusion reached by Lord Radcliffe and his colleagues in their large-scale inquiry of 1962; it has been confirmed by the work done since.

However, if there are cases of this kind, and, more especially, if they create the kind of public excitement that has been built round the Vassall case, what

[THE PRIME MINISTER.]
 are we to do? How are we to investigate the circumstances after the spy has been dealt with by trial? The only way to obtain the full powers of compelling witnesses, and all the rest, is under the Tribunals of Inquiry (Evidence) Act. We have, of course, had a committee of a judicial character, but not armed with this full authority—for example, the Romer inquiry—and we sometimes have had just ordinary disciplinary inquiries within the service.

I must tell the House that I find myself in agreement, or certainly in sympathy, with those hon. Members who feel that the present position is rather unsatisfactory. I think that in the case which has been the cause of this Report the allegations were so serious that an inquiry under the 1921 Act was not only justified, but absolutely necessary, but there may be cases where none of this atmosphere of scurrilous rumour has been created, but where it is still felt that full inquiry should be made into all the circumstances, partly with a view to disciplinary action, if that is necessary, and partly with a view to learning and applying any lessons for improvement.

I therefore put forward for the House's consideration a plan that I have discussed with some of my advisers, and on which I have already spoken to the right hon. Gentleman the Leader of the Opposition. It might well be advantageous to set up a small standing body—a permanent body—to act as a Security Commission. This might consist of a judicial chairman, assisted and supported by two other members. Those who have had experience of the problems of maintaining security in the public services might well have a valuable contribution to make in this. In addition, we might have a small standing committee of Privy Councillors from both sides of the House.

It would then be possible for the Government to decide, after consultation with the Privy Councillors, whether in any particular case an inquiry by the Security Commission was called for. The responsibility for the decision whether to invite the Security Commission to conduct an inquiry must, naturally, rest with the Government of the day, but they would be fortified and assisted in their decision by consultation with the Privy Councillors.

The question of powers would then remain. There might be cases in which the full powers conferred by the 1921 Act were necessary, but here, perhaps, the initiative might rest with the Security Commission itself. If, at the outset—or, indeed, at any stage of its investigation—the Security Commission felt that its inquiries could not be effective without powers to compel evidence, it would so inform the Government. Parliament would then be asked to pass a Resolution conferring on the Commission, for that particular inquiry, the powers under the Act of 1921. But there might be many cases in which the Commission did not think that that was necessary, so that this rather formidable engine would not be brought automatically into play.

Of course, after the inquiry was held, the Security Commission would report to the Government, and the Prime Minister of the day would consult the standing committee of Privy Councillors when the report had been received—

Mr. George Wigg (Dudley): Would the Prime Minister be good enough to consider that one of the first subjects his proposed new tribunal might deal with is the circumstance in which full details of it appeared in yesterday's *Daily Mail*? Would he also consider that a second subject for this Security Commission to consider might be the fact that, when the Romer Committee was set up, the appointment of Vice-Admiral Sir Geoffrey Thistleton-Smith was also leaked by a Department, so that it appeared on the front page of the *Daily Mail* before it was announced to the House?

The Prime Minister: I very much regret leaks of information, but I do not think that great harm has been done to the nation, or great information conveyed to the enemy. It is just one of those things. It has been discussed quite freely by a number of hon. Members.

What I want to make clear is that this proposal that I am seriously making—and I think that the hon. Member for Dudley (Mr. Wigg) would also like to take it seriously—has the merit of retaining the responsibility for executive decisions where it ought constitutionally to belong but, at the same time, it would take account of the fact that the security of the State transcends the varying policies of successive Governments and is

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the concern of all Members of Parliament, and is a matter in which, I think, the Privy Councillors, by the nature of their oath, may have a special part to play. We have not reached conclusions. We throw out the suggestion for discussion, and I think that it might lead to a structure that will be generally acceptable.

I come now to some observations that I feel it right to make about the Press. Lord Radcliffe and his colleagues did not think it part of their task to offer judgment on the Press, and gave their reasons very clearly in paragraphs 13 and 14 of their Report. They only refer to the Press in, I think, about 50 of the Report's 276 paragraphs, where it was necessary to do so in order to carry out their task—that is, to sift the truth. It is true that there are certain criticisms, but they appear in the framework of the main narrative and in no case constitute a general criticism or attack upon the Press. However, this affair has, naturally, stimulated much discussion about the functions of the Press and its relation to public matters.

Before I pass to some general observations, the House will, perhaps, expect me to make a reference to the two newspapermen committed to prison for contempt of court. This is a much narrower issue and, of course, arises from the duties and powers given to the Tribunal under the 1921 Act. If, in these instances alone out of several others, the Tribunal felt that the questions to which it required a reply were essential links in the chain of events that it was its duty to examine, that is a case for the courts, and it was so treated. But, apart from that question, much wider issues have been raised upon which I would, rather hesitatingly, make some comment.

Newspapers, in their task of finding out the truth and publishing it, may have a feeling that in some cases Governments or their officials tend to push out the frontiers of what is called "secrets" too far, and there may be substance in this. I feel sure that none of us would wish the caution of security to be used to conceal incompetence. In war, there is a very careful and strong censorship of the Press, and that has always been preserved. In peace, in the past, this has normally not been necessary, but I am afraid we must face the

fact that in this unhappy twilight world in which we live in a state of truce—neither war nor peace—it is not always easy for the Government and their officers, or the Press, to know exactly where the lines should be drawn, and that the system can only work on the basis of mutual confidence.

Apart from these security matters, the Press has a right—and, I think it would say, a duty—to find out the truth, to publish it and comment on it as it thinks fit. That is its right, and I think that we all feel that the advantages of a free Press far outweigh any of its disadvantages. Naturally, like any right, this has a corresponding obligation.

As for men in public life—and here we are all in the same boat—I do not think that they must be too sensitive. They must expect, whether by the reporter's words or the cartoonist's pencil, to suffer some wounding blows. This is part of what we assume when we voluntarily enter upon public affairs. At the same time, we have the right to expect that while the Press should be informative, and may even be inquisitive, its curiosity should not amount to something like persecution. We may be wounded, but we should not be hounded.

Similarly, we on our side should recognise the circumstances in which the journalists and the Press labour—the editions that have to be brought out by night and day, the difficulties of avoiding all mistakes. So we must not ourselves be too sensitive. But what I think we have the right to complain of, and this matter has now been dealt with, is if statements are made as fact when they are only inference and have no foundation, and then, from them, deductions are drawn which I feel certain are realised, within a day or two of their being printed, by those responsible for them to have been fantastic.

Who could really believe, for instance, except when suffering from a fever of suspicion, that my noble Friend acted in the way he was supposed to have acted, that is, falsely and teacherously to his own office, to the Government of which he was a member, and to the Crown, or that his senior officials and officers were guilty of the charges made against them? And who, indeed, could have supposed the story about my hon. Friend the Mem-

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a whole. It has been said over and over again that the catching of spies is *prima facie* ground for saying that the security system is effective, but I do not think that it is right that Ministers and Parliament should always have to take that on trust.

Therefore, my right hon. Friend, before me, and now I myself, have been considering whether there are any improvements which can be made in the machinery of inquiries and any improvements which might bring increasing confidence to Parliament and to the country. As far as the precedents go, there have been *ad hoc* inquiries of various kinds over past years, and there have been a number of inquiries which have used the formidable procedures of the Tribunals of Inquiry (Evidence) Act, 1921. Since Lord Denning's Report, and in the light of it, there is probably now wide agreement that, in certain circumstances, nothing short of an inquiry under the 1921 Act will do. I think that that is certainly the conclusion on the recent debate in another place, the report of which hon. Members have probably read. But there is, equally, concern—all feel and share this concern—that, whenever a tribunal is set up, there is a danger that innocent reputations may be damaged.

It was, therefore, with these considerations in mind, and with the question in our minds as to how these matters which involve civil servants involved in a security case should be handled in Parliament, that my right hon. Friend a few months ago put before the House the idea that there might be a Standing Commission on Security. I have had time to think about this and I have had some conversations with the right hon. Gentleman the Leader of the Opposition. I must not anticipate his views, though what I shall say now I think can fairly be said to represent the gist of our private talks. I shall only outline the ideas to the House today, because I want to hear the debate and hear the contributions which hon. Members may make on this subject or, indeed, on any possible amendments of the 1921 Act. If we were to set up a Standing Security Commission, I think, first, that it should have a judicial chairman. Because it is concerned with the

conduct and the effectiveness of the Government services, I think that it would be well to put on it one or two retired civil servants and one or two officers of the Armed Services experienced in security matters. If such a Commission was established, the Prime Minister of the day would decide whether in any particular case it should be asked to inquire into a particular matter, but before taking that decision he would consult the Leader of the Opposition.

The question would then arise as to what kind of powers the Security Commission might have. I would expect that the Commission would normally carry out its duties on Government instructions but that, if in a particular case the Commission's inquiries were not able to be effective without powers to compel evidence, then it would be right for Parliament to confer on it for the purposes of that particular inquiry the powers under the 1921 Act, which can be done by Resolution. The Commission would submit the results of its inquiries and any proposals that it might wish to make for improved machinery consequent upon its inquiries to the Prime Minister, who again at that point would consult the Leader of the Opposition, although it must be reserved for the Government of the day to decide what action, if any, should be taken.

I think that these proposals have some merits, although I have deliberately put forward only the framework today, in view of this debate. In matters relating to breaches of security by a member of the Civil Service, there would be machinery ready at hand to deal with them. In matters relating to a breach of security threatening the State, these arrangements would at each stage be discussed between the Prime Minister and the Leader of the Opposition, thereby achieving something which I believe is of immense importance—an attempt, at any rate, to avoid these matters becoming matters of dispute between the parties in this House. A judicial chairman would give confidence that the inquiry was independent. The presence of senior officers, both from the Civil Service and from the Armed Forces with a knowledge of security would, I think, ensure that knowledge of these very complicated matters was available. The Commission

ANNEX B

would be advisory to the Prime Minister, so that in that way it would in no way supplant the courts, and it would preserve the ultimate responsibility in the hands of the Government of the day.

Mr. Sydney Silverman (Nelson and Colne): Would the Prime Minister say what standard of proof would be applied by such a Security Commission? The right hon. Gentleman will remember that this question gave Lord Denning considerable anxiety, whether the ordinary standard of proof which applies in a court of law should be applied, or whether the much lower standard of proof which is applied in inquiries into civil servants' conduct where security may be involved should be applied. The two things are vastly different.

The Prime Minister: I think this is an extremely difficult question. I should have thought that it would have to be left to the judicial chairman to advise in any particular case, and he would also have to advise the Prime Minister whether or not he wished the compulsory powers in the 1921 Act to be invoked.

As I have said, I have deliberately left a number of questions unanswered which will have to be much more closely considered, but in principle the House is in favour of setting up a Standing Security Commission, the Government in consultation with the Leader of the Opposition could proceed to the necessary action.

Lord Denning's Report deals with the past. I believe that in all parts of the House, and certainly in the country, there is a great relief that all the rumours are dead and that public life can continue to be run—this is the only way in which public life can be run—on a basis of trust between the members of a Government and, if I may put it in this way, on a basis of trust between Government and Opposition. I have tried to make proposals which will help, and I think that this is also the country's desire, to see these matters of the security of the State taken as far as possible out of party politics. I hope, therefore, that today we shall find a large measure of agreement and act as a House in these matters which, after all, concern the security of the whole nation.

4.7 p.m.

Mr. Harold Wilson (Huyton): I think that the House would agree that that was a somewhat strange speech from the Prime Minister. Considering that only a very short time ago such great interest was being expressed by the Government and by Ministers in the Denning Report, it is a little surprising that the right hon. Gentleman should dismiss it in so few sentences this afternoon.

I fully agree with the Prime Minister's tribute to Lord Denning, as we would all do, for his integrity, his thoroughness, his devotion to the task which was given him by the Government, and, not least—because everyone has noticed this—the Prime Minister paid tribute to it—for his superb gift of clarity in expressing his conclusions. But after the Prime Minister had paid that tribute to Lord Denning he then proceeded to try to demolish those parts of the Denning Report which were critical of the Government. So we have the situation that the Prime Minister is apparently prepared to accept the Report, apart from those parts which are critical.

After that, the Prime Minister went on to his proposals for a Security Commission, which I will come to in a few minutes, though I must say right away—I am sure the Prime Minister will agree—that what he has suggested here cannot be regarded as anything other than a long stop to deal with breakdowns in the system such as have occurred from time to time, and nothing that he has proposed this afternoon in any way derogates from the responsibility of the executive Government for adequately controlling the security services of this country.

It is true—to this extent I understand the feelings of the right hon. Gentleman—that, although it is only a few weeks since the Denning Report was published, in an atmosphere of salesmanship and ballyhoo such as never previously pervaded the environs of Her Majesty's Stationery Office, this debate now seems curiously remote from the events of last summer and last autumn. I am bound to say that it recalls to me the opening words of a chapter in a book which I hope we have all read called *1066 And All That*, about the early Stuarts. We were told that the first

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

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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-

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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

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[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—some announcements have not made

Scandy



10 DOWNING STREET

~~Mr. Gow~~

Before I submit this
to the PM, do you agree that this
should satisfy Mr Do Carr?

FERR

15.10.

Mr BUTLER.

1. I THINK YOU.
2. I THINK THAT THIS IS FINE.
3. THE SOONER THE NEW LETTER IS SIGNED, THE BETTER.
4. IT WOULD FLATTER E & C IF I HANDED IT TO HIM PERSONALLY. 18/10/82-19.

Security

~~FGS.~~

12th October 1982

Edward du Cann - Security Commission

Edward du Cann telephoned me this morning.

It would be helpful if we could send to him the documents to which the Prime Minister referred in her letter to him, as soon as possible.

IAN GOW

Sir Robert Armstrong KCB CVO