

Prime Minutes

1

You need to

1

Ref. A086/2787

PRIME MINISTER

Yes MB

The Peter Wright Case

discuss this with the 3 Ministers concerned. It cannot wait until the FCS returns from China. I have contingently set up a meeting for 11.30 am Monday. Agree to

I reported to you on 5 September on recent developments in the case against Mr Peter Wright and his Australian publishers. This minute is a further progress report, and seeks decisions on certain points. It also summarises the case for other recipients who have not so far been involved.

2. The Attorney General is seeking an injunction in the New South Wales Court to prevent publication in Australia of a very damaging book of memoirs by Mr Peter Wright, who was a member of the Security Service from 1955 to 1976. It may be that we shall not in the end prevent publication (see paragraph 15); but it is important to do all we can to prevent it, not least in order to deter other members and former members of the intelligence services from seeking to publish books. If published, Wright's book would attract great publicity and cause damage politically and to the standing of the Security Service. It discusses at length the case of Sir Roger Hollis, in which Wright was one of the leading investigators, and reports Wright's conclusion that Hollis was a Soviet spy. It makes extensive revelations of operations conducted by the Security Service and of methods used during Wright's time as a member of the Service, and identifies numerous personnel of the Service. There are references to the Secret Intelligence Service (SIS) and its work. The book contains some pieces of fantasy and many mistaken opinions and inaccuracies. Many, but not all, of Wright's revelations have already appeared in books by Chapman Pincher and Nigel West; but it would of course be a completely different matter for a former member of the Security Service to make revelations notably

We must - I am N.L.W. identify material by the 3.10 revelations in the book... The consequences of authorisation would be enormous not

because such revelations would be more authoritative. The book could stimulate renewed pressure for external oversight of the intelligence services.

3. It is over a year since the injunction was first sought in Australia. After a series of interlocutory proceedings, the trial is scheduled to start on 17 November. Background on the proceedings so far is at Annex A. Our case will rest firmly on Wright's duty of confidentiality to the Crown while a member of the Security Service and afterwards for life. In this we are supported by the view accepted in the Court of Appeal here by the Master of the Rolls (and his two colleagues), when upholding an interlocutory injunction granted to the Attorney General against publication by The Observer or The Guardian of material from Wright's manuscript (Paragraph 4 of Annex A).

4. The Australian Government have agreed to our request that they should intervene in the case to support the argument that it is not in the public interest for Wright's book to be published. It is important to our case that the Australian Government should be prepared to say that publication would not be in the Australian public interest: without that support our chances of winning would be much reduced.

5. Our Australian Counsel expects the other side to make two major points with which the Australian Court could sympathise. The first is that the duty of confidentiality should not apply to matters that are already public, already known to the Soviet Union or long out of date. Secondly, the other side may argue that the book reveals many cases of criminal, illegal or improper actions by the Security Service, that the Crown therefore has "unclean hands" and that the public interest in publishing these matters should override and limit Wright's duty of confidentiality. The synopsis of the book at Annex B notes the allegations of criminal or improper actions.

6. On the first of these likely arguments by the other side, we shall take the position that revelations made directly by a former member of the Security Service, owing confidentiality throughout life to the Crown, are quite different from allegations by journalists and other writers. We shall also argue that in the case of Pincher we had no basis for legal action; and in that of West we took action and the proceedings were settled when he agreed to remove material which we knew to have been obtained in breach of confidence. It is also open to us to argue that revelation of specific categories of information - for example about the Security Service's methods of working, its liaison with security services in other countries, or its knowledge of the activities of hostile intelligence services - in a book by Wright, a former member of the Security Service, would be harmful in particular ways, irrespective of whether they had already been published by others or related to events many years ago. We could also go further and identify places throughout Wright's book where such categories of information are revealed. Our Australian Counsel believes that the Court will expect us to do both things, and officials have concluded that we must be prepared to do so.

7. On the second likely argument by the other side noted in paragraph 5, our Australian Counsel believes that it would greatly strengthen our position if we could argue in Court that the question whether criminal or improper acts had been revealed by the manuscript was already under consideration by appropriate bodies in the United Kingdom and therefore that the Australian Court would serve no public interest, and had no business, in sanctioning their revelation to the public in general. This raises the question whether the allegations of criminal acts in the manuscript should now be referred to the Director of Public Prosecutions (DPP). The DPP would of course treat the matter exactly as any other, asking the police to investigate the possible criminal acts alleged in the book. The police would probably first seek to see Wright, and then might wish to

Both surely Wright's head up

SECRET

RTAACN

is in head of the Official Secret Act?

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT

interview members and former members of the Security Service and SIS and to see relevant files. The police might even wish to interview former Ministers who might have known at the time of any alleged illegalities (and former Prime Ministers, Foreign Secretaries and Home Secretaries might therefore need to be warned if the matter was referred to the DPP). The DPP would decide in the light of the investigations, taking into account the nature of the alleged offences and the time that had elapsed, whether any prosecutions were in the public interest.

8. The advantages of this move would be that, in the view of our Australian Counsel, it would considerably increase our chances of winning the case; and that it would improve our already good prospects in further proceedings in the English courts. The disadvantages include the possibility that Wright, or other people interviewed by the police, might make new and possibly more damaging allegations, which the DPP would probably feel obliged to investigate; that the reference of this case to the DPP, soon after the reference of the case of Miss Cathy Massiter, a former member of the Security Service who made revelations in a television programme in 1985, would confirm the practice of the DPP investigating allegations against the Security Service; and that, given the time that has elapsed since many of the alleged acts, the death of many of the persons concerned and the lack of evidence, the police could conclude that they were unable to carry out a satisfactory investigation, leaving us without a substantive rebuttal of the allegations and facing fresh demands that someone else should do the job.

9. Officials, including the Director General of the Security Service have concluded on balance that it would be in the Government's interest to refer Wright's criminal allegations to the DPP. A major reason for this view is that a reference to the DPP is likely to be needed in any event, following "seepage" of allegations in the book or following publication if we fail to prevent it. On this argument, the Government will gain from

early reference to the DPP. To reduce the risk of leaks, the police would be asked to conduct their inquiries very discreetly. (Ministers would need to decide whether allegations in the book of past breaches of the Official Secrets Act should be included in the reference to the DPP along with other allegations of criminal acts.)

10. The DPP would be concerned with criminal offences but not with civil torts or with improper actions alleged in the manuscript. In the view of our Australian Counsel, we should be much more likely to succeed in the trial if we could say that investigation of these aspects also by some authoritative person or body outside Government had been set in hand. It does not seem appropriate to ask the Security Commission to undertake this task, but Lord Griffiths, its Chairman, could be approached about the possibility of his examining Wright's allegations of improper activity with a view to recommending what (if any) action should be taken. He might well not wish to start his investigation until the outcome of the investigations instituted by the DPP was known. But reference to Lord Griffiths would be an innovation. Again it could be a dangerous precedent; proposals to repeat the procedure might be made whenever there were further allegations of impropriety by the Security Service. Lord Griffiths would be bound to take the task seriously, and might feel obliged, in the face of great public interest and considerable political pressure, to make serious criticisms of the Security Service during the time when Wright was a member.

11. It has seemed to officials that a possible alternative to approaching someone like Lord Griffiths would be to follow the general line which Ministers have taken in the past; namely that they are satisfied that the Security Service has carried out no action otherwise than for the purposes laid down in its directive and with the propriety which successive Governments have rightly demanded of it. In the Australian Court we could add that the Government cannot be expected, while the DPP is

investigating allegations of criminal acts, to refer other parts of the book to some other outside authority, but that Ministers are treating this case, like earlier ones, with great seriousness and the possibility of further steps would not be excluded after the DPP had reported. But a further message from our Australian Counsel on 2 October has stressed the importance to our position in the case of being able to show that the allegations in the manuscript had been referred to someone outside the British Government. A separate submission on this point will be put to Ministers shortly.

12. It is most important that we avoid to discuss in Court the truth or falsity of the contents of the manuscript, since this would attract particular attention to those allegations which had not already been denied by the British Government, and would thus create the very mischief which we are seeking to avoid; it is anyway a side issue in relation to the grounds of confidentiality upon which we are standing. It was therefore decided in August, on the advice of our Australian Counsel, that we should take the issue of truth or falsity out of the proceedings by agreeing - for the purposes of those proceedings only and not otherwise - that the court should treat the allegations in the book as being true. This is a frequent legal device and it secured the result that the judge ruled that the truth or falsity of the material was no longer an issue for the Court. But the public effect of this manoeuvre was unfavourable; it created confusion in the minds of Members of Parliament, the media and others, particularly about the allegation that Sir Roger Hollis was a Soviet agent. The Law Officers therefore put out a statement here which made clear that our admission in Court had been made for the limited procedural purposes of the action; that this did not imply, and the Government did not admit, the truth of any of the allegations in Wright's book; and in particular that the Government's position on Sir Roger Hollis remained as stated by you in the House of Commons on 26 March 1981.

13. Our Australian Counsel has estimated informally that we have a better than a 50 per cent chance of winning the case, bearing in mind the considerable value which we shall gain from the intervention by the Australian Government and assuming that allegations of criminal acts are referred to the DPP and allegations of impropriety to an authority such as Lord Griffiths. Counsel thinks it quite possible however that we shall lose in the Court of first instance. It seems that, whatever the outcome in the court of first instance, the case will be taken to the Appeal Court of New South Wales and it may very well go from there to the High Court of Australia. In Counsel's view our chances of success improve the higher the case goes, since the senior and more experienced judges in the higher courts will tend to give even greater weight to the arguments about public interest on which we (with the Australian Government's backing) will base our case.

14. The defendants' solicitor (who is legal adviser to the Packer group of companies and is well aware of the potentialities of the case for the media) has several times tried to sound us about a settlement out of court. He claims to be doing this because it is obvious to him that the British Government will lose the case and will be destroyed in the process; and that neither he nor his client wishes needlessly to humiliate the Government. He may of course have other reasons: he may see that he and his clients are faced with long and expensive litigation, and be interested in pursuing the possibility of avoiding that and allowing the book to be published reasonably soon. He may even be less than confident of winning the case in the High Court - assuming that it goes all the way up. His suggestion would be that some passages could be deleted from the book and the bulk then published. We did this kind of deal with Nigel West on his history of M15; but he was not a member of the Security Service. We have responded negatively to the approaches in the present case because (a) this book is so replete with sensitive material that little

would be left after all necessary deletions have been made; (b) to do so would be inconsistent with the principle on which we are fighting the case, namely that Wright owes a duty of total confidentiality to the Crown; (c) such an exercise would identify material which is both accurate and sensitive; and (d) it would deprive us of success in one of our main purposes in bringing this case - to deter other members or former members of the intelligence services from seeking to publish similar books and publishes from commissioning such books. Moreover to settle or discontinue the proceedings in Australia would be likely to prove fatal to our proceedings in the English courts against The Observer and The Guardian: more damaging indeed than pursuing the case in Australia and eventually losing it.

15. If we win the case, there will still be a risk that the same or other publishers will try to bring the book out elsewhere: in the United States, or in some third country (and not necessarily an English-speaking one, since copies could be exported to Anglophone markets). In that event we would need to consider what further proceedings could be taken against the present defendants in Australia or in the English courts to prevent distribution of the book in this country. We would also need to be ready to consider seeking injunctions to prevent publication in third countries. If we ultimately lose the case in Australia, Heinemann will no doubt seek to publish the book in this country. We should need to institute proceedings to stop this, and we might succeed despite an unfavourable outcome in Australia. We might also need to seek an injunction to prevent distribution in this country of copies published elsewhere and possibly even to prevent distribution in some third countries. The English courts might refuse an injunction to stop distribution on the grounds it would be in vain, ie that copies would enter the country anyway. At the end of the day, even if the book itself was never published, much of the contents would be likely to emerge gradually and become widely known.

16. There is already substantial press interest in the case, and when Parliament resumes there will no doubt be Questions. It will be necessary to explain again that acceptance that the allegations in the book are true was made only for the purposes of the action. It will also be necessary to restate the position on Sir Roger Hollis which you gave in the House on 26 March 1981.

THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT

Conclusion

17. Ministers will wish to note the state of play on this important and potentially embarrassing case, and to decide whether Wright's manuscript should be referred to the DPP (the question of a reference to Lord Griffiths will be the subject of a further submission).

18. Before reaching decisions you will no doubt wish to discuss this with the Home Secretary, the Foreign and Commonwealth Secretary and the Attorney General, to whom I am sending copies of this minute.

REA

ROBERT ARMSTRONG

3 October 1986

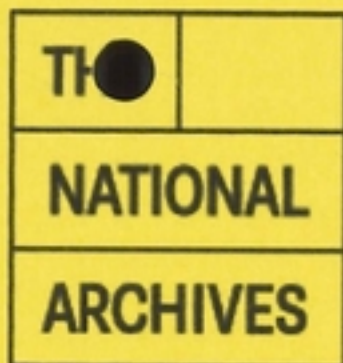
The Peter Wright Case - Background

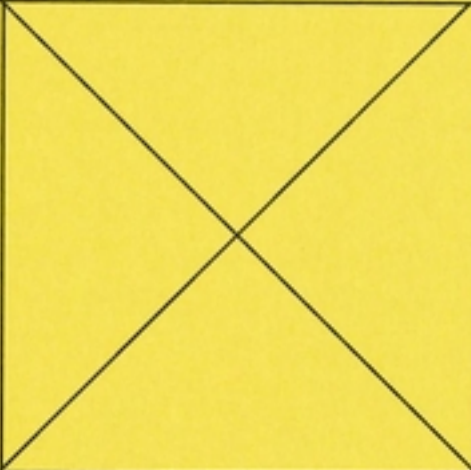
In Spring 1985 press reports here and in Australia suggested that Peter Wright, a member of the Security Service from 1955 to 1976, proposed to publish his memoirs in Australia. Wright was initially a scientist in the Security Service and latterly a counter-intelligence officer; he was closely involved in the investigation of Sir Roger Hollis. It was decided that legal action should be taken in Australia and the United Kingdom to seek to prevent the damage that the book would cause and to deter others from writing similarly.

2. On 10 September 1985, a summons was issued in the name of the Attorney General of the United Kingdom in the Supreme Court of New South Wales against Heinemann Publishers Australia Pty Ltd. and Wright, seeking orders restraining them from disclosing or publishing any information obtained by Wright in his capacity as an officer of the Security Service or publishing a book concerning the Security Service written by Wright. A temporary injunction was granted. A week later the Australian publisher and Wright gave an undertaking to the Court that they would not take any steps in the preparation for publication of such a book pending further order of the Court.

3. An undertaking was also obtained from Willian Heinemann Ltd. in the United Kingdom that they would give 14 days' notice in writing of any intention to publish or distribute any book or article written by Wright or based on information supplied by him.

4. On 22 June 1986 the Observer, followed by the Guardian the next day, published details of certain of the contents of Wright's manuscript. The Attorney General issued proceedings for an injunction against these newspapers to prevent further publication. His application for an interlocutory injunction was successful at first instance and in the Court of Appeal, whose decision is at present the subject of a petition by the two newspapers for leave to appeal to the House of Lords. In the Court of Appeal, the Master of the Rolls based his decision on the special duty of confidence owed to the Crown by a member or ex-member of the Security Service.



DEPARTMENT/SERIES <i>PREM 19</i> PIECE/ITEM <i>1952</i> (one piece/item number)	Date and sign
Extract details: <i>Annex B attached to minute dated 3 October 1986</i>	
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	<i>12/19/23</i> <i>AWayland</i>
TEMPORARILY RETAINED	
MISSING AT TRANSFER	
NUMBER NOT USED	
MISSING (TNA USE ONLY)	
DOCUMENT PUT IN PLACE (TNA USE ONLY)	



DEPARTMENT/SERIES <i>Prem 19</i>	Date and sign
PIECE/ITEM <i>1952</i> (one piece/item number)	
Extract details: <i>of Note dated circa 3rd of October 1986</i>	
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	<i>AG</i> <i>22/05/23</i>
TEMPORARILY RETAINED	
MISSING AT TRANSFER	
NUMBER NOT USED	
MISSING (TNA USE ONLY)	
DOCUMENT PUT IN PLACE (TNA USE ONLY)	

E. R.

Chapter

Page

18

Hollis investigation by K7 (new investigation branch). Russian defector Lyalin. Size of Russian espionage effort in Britain. Russian expulsions from London. Angleton's decline. Victor Rothschild and succession to Furnival Jones as DG. Clash with Sir Philip Allen, who wanted Sir James Waddell as DG. Sir Robert Armstrong, Graham Harrison considered. Hanley appointed DG. Northern Ireland. Rise of F branch. Sir John Jones made DG. Counter-subversion, especially of left wing groups. Will Owen. Tom Driberg. John Stonehouse. Harold Wilson. Row with Home Office over Wright providing No.10 with information about Opposition members. James Goldsmith offers Wright a job in return for intelligence on left wingers. Wharton plans leaks of MI5/6 information on Wilson and Labour Party before 1974 Election. 1975 rumours about Wilson. Blunt. Hollis case raised again by De Mowbray. Angleton's resignation. Senate hearings into CIA. Trend review of Hollis case. Mrs Thatcher's statement.

18/22

"There were many secrets which MI5 have kept from their political and Civil Service masters, and the last thing anyone in MI5 wanted at that stage was the explosive story of the mole hunts to receive an airing around Whitehall."

18/40

Desire to establish computer links with DHSS records at Newcastle. Description of existing liaison with DHSS.