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ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

20 November 1979

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Whitehall
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Don Wain,

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BLUNT DEBATE

I attach a draft of the opening part of the Attorney General's winding up speech for today's Debate in which he deals with the question of immunity.

I am copying this letter to Clive Whitmore at No 10, John Chilcot (Home Office) and Bernard Sheldon.

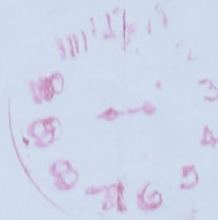
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Mr Speaker, before attempting to deal with, as fully as I can, the main points made in this Debate, first, as my Rt Hon Friend the Prime Minister foreshadowed, I should like to deal with the question of immunity - a matter at the heart of this affair.

An immunity is a promise that a man will not be prosecuted. It is given when the public interest in obtaining the man's co-operation is judged sufficient to forego the opportunity of prosecuting him. It may, and this is more usually the case these days, for example in connection with evidence given by witnesses at public enquiries, be a more limited affair - that is to say limited to saying that a man's confession would not be used against him but leaving open the question of his prosecution based on admissible evidence from sources other than the confession. In that kind of case any confession given becomes unusable as a matter of law because no statement is admissible unless it is voluntary, and it is not voluntary if there has been a promise or inducement. In the case of Mr Blunt the immunity was not so limited because one was dealing with a situation in which there was no admissible evidence against him and little prospect of ever obtaining any. His denials had been firm over a number of years. What was given to him, therefore, was not merely a promise that his confession would not be used as evidence against him but that in return for his co-operation and his giving information useful to the Security

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Services he was given a promise that he would never be prosecuted.

I have examined the record of what in fact was done at the time of the interview which produced his confession in April 1964 and I should like to ~~let~~^{let} the House^{know} how it was recorded. When confronted with the information which had led the Security Services to suspect him Blunt described it as "pure phantasy". The interview then went on like this -

"There was a long pause and I then reverted to my opening theme. I asked him if it was really loyalty to friends which deterred him from speaking or was it fear. I said that if it was fear I could give him an absolute assurance that no action would be taken against him if he now told the truth. Would he now get the whole thing off his chest. Blunt's answer was - 'Give me 5 minutes while I wrestle with my conscience'."

Blunt then made his admissions and both at that time and subsequently he co-operated in the enquiries of the Security authorities. That is how the immunity was actually given and how Blunt responded.

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In case the House is troubled about the extent to which immunities may be given, let me say a word about who may give them. They may be given by the Director of Public Prosecutions, who, I should remind the House, carries out his duties under the superintendence of the Attorney General, or immunities may be given directly by the Attorney General or on his authority. In serious cases they would not be given by the Director without reference to his Attorney General and the authority for the giving of immunity to Blunt in 1964 was given on the authority of my predecessor, Sir John Hobson, after the matter had been referred to him by the then Deputy Director of Public Prosecutions. There is no specific statutory legal authority for the giving of immunities but what is meant by immunity is the promise not to prosecute and that promise can be effectively honoured by the Director and the Attorney General. Some offences may only be proceeded with by the consent of the Attorney General and offences under the Official Secrets Acts fall within that category, other statutes require a prior consent by the Director of Public Prosecutions. The Director has a power to take over cases and offer no evidence and ultimately, perhaps the most important power, the Attorney General may enter a nolle prosequi which, without challenge in the courts, may effectively stop any prosecution on indictment.

A decision of an Attorney General to authorise the granting of an immunity such as that granted in the Blunt case

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is a decision, like many others in the field of law enforcement, which an Attorney General takes without prior approval of his ministerial colleagues. The constitutional position here is clear. Whilst an Attorney General may seek from his ministerial colleagues information from them which may be relevant to the public interest affecting his decision, the decision is his alone. The question of informing his ministerial colleagues about such decisions is another matter but as already made clear, my predecessor, Sir John Hobson, when taking his decision was told that the matter had already been brought to the attention of the then Home Secretary.

My position in this matter as Attorney General today and that of my immediate predecessors the Attorney General in 1972, now Lord Rawlinson, and the Attorney General in 1974, the Right Honourable and Learned Member for Dulwich, [as he himself has made clear earlier in this Debate] has been to agree that Blunt's confession, obtained as a result of the inducement, would be inadmissible in criminal proceedings and to agree that Blunt could never now be prosecuted in respect of the matters about which he confessed even if there were to exist evidence to sustain a prosecution apart from the confession. In the event, no such other evidence has ever existed but the position of successive Attorneys-General must be that they must honour the undertakings given by or on the authority of their predecessors. In saying that I am not to be taken as implying that I would have taken a different decision than my predecessor, Sir John Hobson. Of course, it

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is not now a decision for me to take. But it was taken at the time on the basis of material properly put to him and on which he was in a position to balance the public interest in favour of the grant of immunity.

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For Answer Monday 19/11

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Notices of Questions and Motions: 14th November 1979 No. 66

- 80 **Mr Michael Grylls** (North West Surrey): To ask Lord Privy Seal, how many small
W businesses feature on the approved list of suppliers maintained by his department for
purchase contracts by means of selective tender.
- 81 **Mr Dafydd Wigley** (Caernarvon): To ask the Secretary of State for the Environment,
W what response he has now received to his consultation document on local government
capital expenditure controls, to which comments were invited by 17th November.
- 82 **Mr Ronald Leighton** (Newham North East): To ask the Minister of Agriculture, Fisheries
W and Food, what is his estimate of increase of refunds on exports of butter fats by the
EEC during 1979.
- 83 **Mr Ronald Leighton** (Newham North East): To ask the Minister of Agriculture, Fisheries
W and Food, what is his estimate of change in quantities of milk and milk products taken
into intervention in 1979 in the EEC.
- 84 **Mr David Alton** (Liverpool, Edge Hill): To ask the Minister of Transport, whether the
W Leitch Committee's recommendations are to be retrospective.
- 85 **Mr David Alton** (Liverpool, Edge Hill): To ask the Minister of Transport, whether the
W methodology of traffic prediction incorporated in the Red Book is to be regarded as
Government policy.
- 86 **Mr David Alton** (Liverpool, Edge Hill): To ask the Minister of Transport, if he is
W satisfied that there is sufficient opportunity for independent scrutiny in the process of traffic
prediction.
- 87 **Mr Ronald Leighton** (Newham North East): To ask the Lord Privy Seal, what is the
W status of the European Council under the treaties establishing the European Communities;
and what powers it exercises in relation to requests to the EEC Commission for research
and secretarial services.
- 88 **Miss Joan Lester** (Eton and Slough): To ask the Lord Privy Seal, when he expects to
W reach a decision on whether or not to approve an ambassador to Chile.
- 89 **Mr Robert Edwards** (Wolverhampton South East): To ask the Secretary of State for
W Industry, if employees of the British Steel Corporation at Bilston, who have been made
redundant or are about to be made redundant, will receive assistance from the European
Coal and Steel Community funds allocated to help employees affected by the closure or
slimming down of plants in the steel industry.
- 90 **Mr Dennis Skinner** (Bolsover): To ask Mr Attorney General, if he will refer to the
W Director of Public Prosecutions with a view to prosecution for breaches of the Official
Secrets Act the conduct of Sir Anthony Blunt in connection with the defection of Burgess
and McLean.
- 91 **Mrs Renée Short** (Wolverhampton North East): To ask the Secretary of State for the Home
W Department, when he expects to receive the report of the Chief Constable of Merseyside
concerning his investigations into the events surrounding the death of Mr Jimmy Kelly in
Merseyside.
- 92 **Mrs Renée Short** (Wolverhampton North East): To ask the Secretary of State for Industry,
W if he will take steps to ensure the continuance of trade union representation on the Board
of the Post Office after 31st December.
- 93 **Mrs Renée Short** (Wolverhampton North East): To ask the Secretary of State for Industry,
W when he expects to receive the report on the management of the Post Office Corporation
by the Industrial Relations Unit of Warwick University; and whether the report will be
published in full.

- 108 **Mr Richard Wainwright** (Colne Valley): To ask the Secretary of State for Social Services,
W whether he has any plans to introduce legislation governing the level of noise at discothèques.
- 109 **Mr William Ross** (Londonderry): To ask the Secretary of State for Northern Ireland,
W if he is now able to state how many armed men were seen in Carrickmore, Co. Tyrone and its immediate area on 17th October.
- 110 **Mr William Ross** (Londonderry): To ask the Secretary of State for Northern Ireland,
W if he will list the weapons used by the Irish Republican Army gang in Carrickmore, Co. Tyrone on 17th October.
- 111 **Mr Dafydd Thomas** (Merioneth): To ask the Secretary of State for Wales, what proportion
W of the finance of the Development Board for Rural Wales for 1976-77, 1977-78 and 1978-79, respectively, has been expended in Newtown as part of the on-going Mid-Wales Corporation's committed expenditure; and how much was spent in the rest of the board's area for the same period.
- 112 **Mr Dafydd Thomas** (Merioneth): To ask the Secretary of State for Industry, what is the
W total saving gained through the reduction and withdrawal of regional development incentives in Powys, Ceredigion and Merioneth.
- 113 **Mr Dafydd Thomas** (Merioneth): To ask the Secretary of State for Industry, what additional
W public expenditure is to be made available to replace savings made by the Government through the withdrawal of regional development incentives in the Development Board for Rural Wales area.
- 114 **Mr Christopher Price** (Lewisham West): To ask Mr Attorney General, if he will refer to
W the Director of Public Prosecutions the case of Sir Anthony Blunt, with a view to prosecution under the Official Secrets Acts in respect of the Burgess and Maclean case.
- 115 **Mrs Renée Short** (Wolverhampton North East): To ask the Secretary of State for Employ-
W ment, what the numbers of registered unemployed men, women, boys and girls were in the Wolverhampton Employment Exchange area at the latest date; and how this compares with the corresponding period in 1978.
- 116 **Mr Gerald Kaufman** (Manchester, Ardwick): To ask the Secretary of State for Industry,
W if he will place in the Library a copy of the Warwick University report on the industrial democracy experiment in the Post Office.

TUESDAY 20th NOVEMBER

- 117 **Mr Jack Dunnett** (Nottingham East): To ask the Secretary of State for the Home Depart-
W ment, whether, having regard to the likely lack of fire protection cover which would result from the closing of the Dunkirk Fire Station in Nottingham, he will, under the Fire Services Acts, call for a local inquiry prior to permitting the phasing-out of this station.
- 118 **Mr Dafydd Wigley** (Caernarvon): To ask the Secretary of State for the Environment, if
W he will publish a table indicating the cash limits for each local authority in Wales for the year 1980-81.
- 119 **Mr David Crouch** (Canterbury): To ask the Secretary of State for Education and Science,
W if he will take steps to amend the regulations governing local education authority awards with a view to correcting the anomaly whereby children of British parents working in Brussels are not entitled to be considered for a higher education grant.
- 120 **Mrs Renée Short** (Wolverhampton North East): To ask the Secretary of State for Education
W and Science, when he expects to make an announcement concerning the construction of the new British Library building at St. Pancras; whether he will take steps to ensure that the work will begin in 1979; and what the cost of the building is likely to be.