

NBM

RECORD OF A MEETING HELD IN
CONFERENCE ROOM A, CABINET OFFICE
ON TUESDAY 2 DECEMBER 1986 AT 2.30 PM

MINISTERIAL GROUP ON THE PETER WRIGHT CASE

Third Meeting

PRESENT

The Rt Hon Douglas Hurd MP	Home Secretary (In the Chair)
The Rt Hon Sir Geoffrey Howe QC MP	Foreign and Commonwealth Secretary
The Rt Hon Sir Michael Havers QC MP	Attorney General
Sir Patrick Mayhew QC MP	Solicitor General
Sir Antony Duff	Security Service
Mr B Sheldon	Security Service
Mr D A Goodall	Foreign and Commonwealth Office
Mr G Warner	Foreign and Commonwealth Office
Mr C Battiscombe	Foreign and Commonwealth Office
Sir Brian Cubbon	Home Office
Mr M J A Partridge	Home Office
Mr J Nursaw	Home Office
Mr S Boys Smith	Home Office
Mr A Inglese	Law Officer's Department
Mr C L G Mallaby	Cabinet Office
Mr B Dinwiddy	Cabinet Office
Mr N P F Brind	Cabinet Office

The Group considered developments in the Peter Wright case and in the action to prevent the publication of "One Girl's War" by Joan Miller.

In discussion, the following points were made -

- a. The cross-examination of Sir Robert Armstrong had finished, subject to further questions that might arise on any documents discovered to the defence.
- b. The judge had given his ruling on the discovery of documents for which the plaintiff had claimed Public Interest Immunity (PII). He had swept aside the PII claim and used instead as his criteria for discovery the relevance of the documents and the confidentiality of information contained in them. He had ruled that 4 documents need not be discovered because they were not relevant; and that there should be deletions of information which the judge regarded as sensitive from many of the other documents. But his selection of deletions was arbitrary and inconsistent, and extremely sensitive information had been left in. The judge's ruling that all disclosed documents should be made available only to the defendant and his legal advisers and that many should be discussed only in camera was an inadequate safeguard. There were good reasons for seeking leave to appeal against the ruling to the New South Wales Court of Appeal: it was the best way of continuing to uphold the duty of confidentiality; the documents ordered for discovery included very sensitive ones; and the sweeping rejection of PII provided good grounds for appeal. The full grounds on which the appeal should be made would need careful consideration. There was a risk in basing the appeal on both PII and confidentiality that we might be seen to betray a lack of confidence in the strength of our PII claim; but it was probably a risk worth taking. The appeal was likely to be heard this week or early next. It would be necessary to seek enough time to consider how to react to the decision of the Appeal Court.
- c. Sir Robert Armstrong had suggested that it would be useful in the appeal hearing to have some latitude to explore an arrangement whereby some documents might be discovered. This should be considered further.

- d. An opinion should be obtained from an Australian legal expert on the strength of our PII claim and whether it was likely, eventually, to succeed.
- e. If the PII claim failed in the Appeal Court it would be necessary to consider whether to take it to the Australian High Court. The case might not be heard until February. Work should be set in hand to consider the implications of a two month pause (during which the main case might be suspended) both in this country and overseas, including the possibility that Mr Wright's book might be published in the United States.
- f. Officials had compared proceedings in Sydney with the timing of questions asked by Opposition MPs in the House of Commons. The correlation was imprecise and it seemed unlikely that MPs would have used this method to establish that the leader of the Opposition had been in touch with Mr Turnbull, the defence lawyer. It was more likely that MPs had either guessed at the contacts or had been told about them by a journalist.
- g. Mr Paul Greengrass, a Granada TV producer who was believed to be Mr Wright's ghost writer, had been allowed by the judge to attend court proceedings in camera, in spite of objections from the plaintiff's counsel, subject to an undertaking not to reveal information, which Mr Greengrass (for what it might be worth) had given. Sir Robert Armstrong should be instructed to object if Mr Greengrass appeared at any appeal court proceedings which took place in camera.
- h. The court in Dublin had discharged the ex-parte injunction to prevent publication of Joan Miller's "One Girl's War". The decision had been taken on Irish constitutional grounds. An appeal would be considered. Proceedings in London were continuing and should not be significantly affected by the Irish Court's decision, given the grounds of the latter.

i. A former Army intelligence officer was due to be released from prison in Northern Ireland on 5 December. It was known that he and a former colleague intended to make a statement about their work. The Group should be informed of the matter, since there could be implications for the Wright and Miller cases.

j. Mr Dale Campbell-Savours MP was understood to have plans to table an early day motion or a question identifying 43 Security Service officers and the hierarchy of the organisation. Arrangements had been made with the Lord Privy Seal's office and the Chief Whip's office to frustrate these plans by means of a resolution in the House. The resolution should be cast in terms which covered the security and intelligence services as broadly as possible.

THE HOME SECRETARY, summing up the discussion, said that the Prime Minister should be recommended to agree that Sir Robert Armstrong should be instructed to seek leave to appeal against the Judge's ruling on discovery of documents, basing our case primarily on PII, but keeping open the possibility of arguing also on the confidentiality of the documents. The team in Sydney should ensure that the Government were given adequate time to consider how to react to the decision of the Appeal Court, for instance by appealing if necessary to the High Court of Australia. Officials should -

- a. consider further Sir Robert Armstrong's suggestion that he have latitude to discuss a limited discovery of documents, or parts of documents, during the Appeal hearing;
- b. arrange for an expert Australian lawyer's opinion to be obtained on the prospects of success for our PII claim;
- c. consider the implications of a two-month pause in proceedings if the PII claim went to the High Court of Australia in February 1987;
- d. instruct Sir Robert Armstrong to appeal against the attendance of Mr Paul Greengrass at any in-camera appeal court proceedings;

and report back to the Group. In addition, officials should -

e. Prepare a note for Ministers on the statement to be made by two former Army intelligence officers on 5 December;

f. Keep the team in Australia up to date with developments in Dublin and London on Joan Miller's book.

Cabinet Office

4 December 1986

DISTRIBUTION

Those present

Mr Wicks - No 10

Sir Colin Figures