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PRIME MINISTERPETER WRIGHT CASE: DOCUMENTS AND PUBLIC INTEREST IMMUNITY

We need to decide by 7pm tonight how to respond to Mr. Turnbull's public offer of an arrangement which would replace the order of discovery of documents and make an appeal court hearing on PII unnecessary.

The suggested response is described in Robert Armstrong's minute at Flag A to the Home Secretary. The Home Secretary, as his office's letter at Flag B indicates, agrees with the approach recommended by Robert Armstrong. I understand that the Foreign Secretary and the Attorney General are content too. I believe that Robert Armstrong's advice is right. Unless we make a forthcoming response to Mr. Turnbull's offer, it seems from our Counsel's advice our prospects of appealing against Mr. Justice Powell's rule "would be very poor, if not non-existent".

You will wish to read through the text of our response which is at Flag C. I have one suggested change. That is that the reference to "an Opposition politician" in paragraph 2 on page 3 should be changed to "a member of the House of Commons". Otherwise our source - whose name you know - might be prejudiced. Robert Armstrong would be content with this change.

*I agree the proposed change. It would be much better.*

You should also see Robert Armstrong's further minute at Flag D. This reports our Counsel's suggestion that our initial response to Mr. Turnbull should be in more abbreviated form than that at Flag C. Counsel would, however, be given instructions to fall back on the fuller version at Flag C if that was necessary to secure Mr. Turnbull's agreement. We would not, however, go beyond Flag C.

Agree with the approach in Robert Armstrong's minute at Flag A?

N.L.W.

N. L WICKS

9 December 1986

SECRET

CONFIDENTIAL



File

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10 DOWNING STREET

LONDON SW1A 2AA

*From the Principal Private Secretary*

9 December 1986

*Dear Stephen,*

PETER WRIGHT CASE: DOCUMENTS AND PUBLIC INTEREST IMMUNITY

The Prime Minister saw this evening the Home Secretary's letter and Sir Robert Armstrong's two minutes, all of today, on the Government's response to Mr. Turnbull's public offer of arrangements to replace the order for discovery documents.

I am now writing to record that I told Mr. Mallaby earlier this evening that the Prime Minister agreed with the Home Secretary's conclusion that it would be right to proceed as proposed in Sir Robert Armstrong's two minutes. She would, however, like the phrase "an Opposition politician", in paragraph 2 of our response dealing with the Chapman Pincher book "Too Secret Too Long", replaced by "a member of the House of Commons". Reference to "an Opposition politician" might enable the source to be identified and cause the person concerned embarrassment. The Prime Minister would also wish our Counsel to do all that he could to avoid Mr. Greengross having sight of our response.

I am sending a copy of this letter to Tony Galsworthy (Foreign and Commonwealth Office), Michael Saunders (Law Officers' Department) and Trevor Woolley and Christopher Mallaby (Cabinet Office).

*Nigel Wicks*

N.L. WICKS

Stephen Boys Smith, Esq.,  
Home Office.

CONFIDENTIAL

*SRW*

CONFIDENTIAL

IMMEDIATE TELEGRAM TO SYDNEY

DESKBY 09 2100Z

NORMAL DISTRIBUTION

FOR HOGG FROM MALLABY

Your telegram number 21: Peter Wright Case: Discovery

1. Please tell Simos that he may put to Turnbull the draft response in your telegram, subject to the amendments noted below. If necessary in negotiation, he may concede some or all of our fuller draft, also subject to amendments below. In <sup>negotiation</sup> ~~this~~ he should take account of the need not to prejudice our chances in the Appeal Court by seeming unco-operative in responding to Turnbull's offer. Simos should seek to include in the arrangement Turnbull's acceptance that Sir Robert Armstrong <sup>need</sup> ~~should~~ not be further cross-examined.

2. We do not wish to commit ourselves not to reveal this response in court. Otherwise, Turnbull's offer will be on the record when the appeal hearing starts (if it is not postponed or cancelled) and our response will not be known. We therefore suggest that a sentence be added after (a)-(c) at the start of Simos's draft, which would qualify those sub-paragraphs, on the following lines: "The only exception to these conditions is that either party may reveal the fact and content of this response, and of any negotiations on it, in any court proceedings concerning the question of discovery in this case." This would require the consequential amendment of deleting the reference to the court in condition (c).

*Amendments to*  
(Simos's draft

3. The answer at 3. on "A Matter of Trust" is true but does not derive from the documents. If Simos considers that this is not tactically unwise, the draft may stand.

4. In item 4. on "Their Trade is Treachery" we do not like the expression "save as aforesaid", since it appears to imply that the decision not to seek changes in the manuscript tended to suggest that the Government authorised publication. We would like the sentence to read: "This does not suggest, and the documents do not contain any other material to suggest, that...".

5. In item 7. on "Their Trade is Treachery", the last word should be "information".

6. In item 8. on "Their Trade is Treachery", the reference to the Home Secretary in the second line should be to the Home Office; and "or the Home Secretary" should be added after the reference to the Prime Minister in the final sentence.

7. In item 2. on "Too Secret Too Long" the word "stated" in the sixth line should be "recorded".

*Amendments to*  
Our fuller draft

8. In item 4. on "Their Trade is Treachery", the word "knowingly" should be replaced by "in any way".

9. In item 8. on the same book, the amendments at 6. above should be made.



70 WHITEHALL, LONDON SW1A 2AS

01-233 8319

*From the Secretary of the Cabinet and Head of the Home Civil Service*

Sir Robert Armstrong GCB CVO

Ref. A086/3422

HOME SECRETARY

Peter Wright Case: Documents and Public Interest Immunity

In my minute of 8 December 1986 (Ref. A086/3404) I recorded in paragraph 7 that the comments of our Counsel in Sydney on the proposed draft response to Mr Turnbull's offer were being sought.

- 2. We now have, in a telegram of which I attach a copy, Counsel's revised version of the proposed draft admissions. The introductory material states the conditions on which the draft would be shown to Mr Turnbull. The draft response follows in general the draft attached to my minute of 8 December. It has, however, been considerably shortened; and that of course has the advantage of exposing less flank to attack. Only the first of the answers about the Peter Wright TV interview has been lengthened, by the inclusion of a sentence showing that the possibility of asking for a preview of the programme was considered and why it was rejected. The inclusion of this sentence strengthens our position.
3. On the attached draft I have shown the trifling drafting changes which we should want to suggest.
4. Subject to that, the proposal is that Counsel should seek to negotiate with Mr Turnbull on the basis of his revised draft response; but Mr Simos would have the draft attached to my minute of 8 December in his pocket as the basis of a fall back position in case of need.

5. Officials recommend that Counsel should be instructed accordingly.

6. A decision is needed this evening, so that instructions can be with our people in Sydney by 9.00 pm today our time.

7. I am sending copies of this minute and the telegram to the Foreign and Commonwealth Secretary and the Attorney General, and to Mr Wicks at 10 Downing Street.

*Robert Armstrong*

9 December 1986

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LNCAAN 1748 SWLNAN 0037  
SECRET  
DD 091200Z CAOFF  
FM SYDNE TO CAOFF  
091100Z DEC  
GRS 930

3 MR MALLABY  
← Sr. R. Armstrong

SECRET  
FM SYDNEY  
TO DESKBY 091200Z CABINET OFFICE  
TELNO 21  
OF 091100Z DECEMBER 1986

FOR C MALLABY CABINET OFFICE  
FROM MARSH

#### DRAFT ADMISSIONS

- THIS DOCUMENT IS SHOWN TO MR M B TURNBULL ON THE FOLLOWING CONDITIONS
- (A) ITS CONTENTS ARE TO BE KEPT CONFIDENTIAL AND, UNLESS THE PLAINTIFF CONSENTS IN WRITING, ARE NOT TO BE REVEALED BY MR TURNBULL TO ANY OTHER PERSON
  - (B) IT IS NOT TO BE COPIED AND NO NOTES ARE TO BE TAKEN OF ITS CONTENTS;
  - (C) IT IS SHOWN ON A WITHOUT PREJUDICE BASIS AND, UNLESS THE PARTIES ARRIVE AT AN AGREEMENT IN RELATION THERETO, THE FACT THAT IT HAS BEEN SHOWN, OR THE FACT THAT THERE HAS BEEN ANY NEGOTIATION ABOUT IT, OR ANY OTHER MATTER RELATING TO ITS CONTENT, IS NOT TO BE REVEALED TO ANY OTHER PERSON OR COURT, AND IT IS TO BE RETURNED TO THE SOLICITORS FOR THE PLAINTIFF.

IT IS PROPOSED THAT THE FOLLOWING BE ADMITTED IN RELATION TO THE DOCUMENTS LISTED IN THE PLAINTIFF'S FURTHER SUPPLEMENTARY LIST OF DOCUMENTS:-

#### " A MATTER OF TRUST "

1. THE BRITISH SECURITY SERVICE BECAME AWARE THAT MR WEST WAS WRITING THE BOOK AND BELIEVED THAT IT CONTAINED INFORMATION PROVIDED TO HIM BY FORMER OFFICERS OF M15 AND/OR ANOTHER INTELLIGENCE ORGANISATION BY 23 SEPTEMBER, 1982.
2. THE DOCUMENTS DO NOT CONTAIN SUCH INFORMATION.
3. THE BRITISH SECURITY SERVICE HAD THE ORIGINAL MANUSCRIPT BY 23 SEPTEMBER, 1982.
4. THE MATERIAL DELETED INCLUDED PREVIOUSLY UNPUBLISHED MATERIAL AS TO:
  - (A) THE NAMES OF OFFICERS OF INTELLIGENCE AGENCIES;
  - (B) REFERENCES TO OPERATIONS AND INVESTIGATIONS OF THE SECURITY SERVICE; AND
  - (C) REFERENCES TO SOURCES OF THE SECURITY SERVICE.

"THEIR TRADE IS TREACHERY"

1. SYNOPSIS ATTACHED.

2. THE SECURITY INTELLIGENCE AGENCIES RECEIVED THE SYNOPSIS ON, OR A LITTLE BEFORE, 15 DECEMBER, 1980.

3. THE LETTER DATED 15 DECEMBER 1980 FROM A SECURITY ORGANISATION TO THE SECURITY SERVICE INDICATES THAT THE WRITER HAD BEEN INFORMED THAT CHAPMAN PINCHER INTENDED TO PUBLISH, PROBABLY IN FEBRUARY OR MARCH 1981, A BOOK ABOUT THE SECURITY SERVICE A SYNOPSIS OF WHICH WAS ENCLOSED.

*This document does not suggest and*

*is does suggest, not any other*

4. IT WAS GENERALLY AGREED IN THE SECURITY AND INTELLIGENCE SERVICES THAT THERE WOULD BE NO POINT IN TRYING TO ENCOURAGE SPECIFIC DELETIONS OR CHANGES IN THE TEXT, BUT NO REASONS ARE EXPRESSED FOR THIS VIEW. [SAVE AS AFORESAID] THE DOCUMENTS DO NOT CONTAIN MATERIAL TO SUGGEST, THAT THE GOVERNMENT AUTHORISED THE PUBLICATION.

5. THE SECURITY AND INTELLIGENCE AGENCIES FIRST BECAME AWARE OF THE BOOK ON, OR A LITTLE BEFORE, 15 DECEMBER, 1980 (SEE PARAGRAPH 2 ABOVE). THE MANUSCRIPT WAS FIRST READ IN FEBRUARY, 1981 WHEN IT APPEARED THAT MUCH OF THE INFORMATION IN IT HAD COME FROM FORMER MEMBERS OF THE SECURITY AND INTELLIGENCE SERVICES. BY 12 MARCH, 1981 SEVERAL POSSIBLE SOURCES HAD BEEN IDENTIFIED, BUT IT WAS STATED THAT THE SERVICE WAS A LONG WAY FROM OBTAINING HARD, USEABLE EVIDENCE ON SOURCES AND THAT THE ADVANCE COPY WAS OBTAINED ON CONDITIONS WHICH MADE IT IMPOSSIBLE TO TAKE ANY ACTION ABOUT IT.

6. THE DOCUMENTS CONTAIN NO SUCH INFORMATION.

7. IT IS UNDERSTOOD THAT THE DEFENDANTS NO LONGER SEEK THIS ~~INJUNCTION~~ <sup>information.</sup>

*Office / the Home Secretary*

8. AS TO THE SECURITY AND INTELLIGENCE SERVICES, SEE PARAGRAPH 5 ABOVE. SIR ROBERT ARMSTRONG AND THE HOME ~~SECRETARY~~ LEARNED OF THE FACT THAT THE INFORMATION CONTAINED IN THE BOOK WOULD HAVE COME FROM FORMER MEMBERS OF THE SECURITY AND INTELLIGENCE SERVICES ON OR ABOUT 12 FEBRUARY, 1981. THE DOCUMENTS DO NOT SHOW WHEN THE PRIME MINISTER LEARNED OF THESE MATTERS.

"TOO SECRET TOO LONG"

1. THE SECURITY SERVICE HAD KNOWLEDGE ON 19 JULY, 1984 OF THE REPORT IN THE TIMES AS TO THE FOURTHCOMING BOOK. ON 3 SEPTEMBER, 1984 THE SECURITY SERVICE WAS INFORMED THAT CHAPMAN PINCHER WAS CLAIMING THAT HE HAD RECEIVED MATERIAL FROM FORMER MI5 OFFICERS. ON 26 OCTOBER, 1984 THE SECURITY SERVICE HAD A COPY OF THE BOOK. THE DOCUMENTS DO NOT STATE REASONS FOR NOT SEEKING AN INJUNCTION, BUT STATE THE VIEW THAT THE CENTRAL ARGUMENT IS MUCH THE SAME AS IN "THEIR TRADE IN TREACHERY" ABOUT WHETHER HOLLIS WAS A SPY, FILLED OUT WITH ADDITIONAL DETAIL AND COMMENT.

*revised*

2. IN DOCUMENT C7, SIR ROBERT ARMSTRONG REPORTS TO THE HOME OFFICE AN APPROACH BY AN OPPOSITION POLITICIAN WHO TOLD HIM THAT CHAPMAN PINCHER'S NEXT BOOK WAS LIKELY TO BE AN ANTHOLOGY OF ESPIONAGE CASES SINCE THE SECOND WORLD WAR. IN DOCUMENT C8, THE SECRETARY OF THE D NOTICE COMMITTEE WRITING TO THE SECURITY SERVICE, ~~STATED~~ THE REFUSAL OF THE PUBLISHERS TO SUBMIT THE BOOK FOR SCRUTINY UNDER THE D NOTICE ARRANGEMENTS, AND THE PUBLISHERS' STATEMENT THAT PINCHER HAD BEEN CAREFUL NOT TO INCLUDE ANY NEW INFORMATION FROM BRITISH OFFICIAL SOURCES.

CATHY MASSITER PROGRAMME  
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1. THE DOCUMENTS DO NOT STATE WHEN THE GOVERNMENT FIRST LEARNT OF THE MASSITER PROGRAMME OR THAT IT CONTAINED AN INTERVIEW WITH A FORMER M15 OFFICER.
2. THERE ARE NO SUCH DOCUMENTS OR PARTS OF DOCUMENTS.

PETER WRIGHT TV INTERVIEW  
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1. THE SECURITY SERVICE HAD INFORMATION BY 4 MAY, 1984 THAT THERE WERE PLANS FOR A WORLD IN ACTION PROGRAMME IN WHICH WRIGHT WAS ASSISTING AND MIGHT TAKE PART. THE SECURITY SERVICE HAD INFORMATION BY 3 JULY, 1984 THAT GRANADA TV INTENDED TO SHOW AN INTERVIEW WITH WRIGHT IN WHICH WRIGHT WOULD RE-OPEN THE HOLLIS CASE AND, IN EFFECT, PRESENT THE CASE AGAINST HIM. FOLLOWING A REPORT IN "THE TIMES" ON 16 JULY, 1984, THE DAY OF THE BROADCAST, THE LIKELIHOOD THAT WRIGHT HAD BREACHED THE OFFICIAL SECRETS ACT WAS NOTED AND IT WAS PRESUMED THAT HE HAD TAKEN THE PRECAUTION OF REMAINING OUTSIDE THE UNITED KINGDOM JURISDICTION. FOLLOWING THE ARTICLE IN "THE TIMES", THE POSSIBILITY OF ASKING FOR A PREVIEW OF THE PROGRAMME AND SEEKING TO RESTRAIN PUBLICATION, IF NECESSARY BY MEANS OF AN INJUNCTION, WAS DISCUSSED ON THE TELEPHONE BETWEEN THE TREASURY SOLICITORS DEPARTMENT AND THE SECURITY SERVICE. THE VIEW WAS EXPRESSED THAT, IF A PREVIEW WAS REFUSED, GOING FOR AN INJUNCTION WOULD UNDOUBTEDLY BE A HARD FIGHT AND IF A PREVIEW WAS AGREED TO THE GOVERNMENT COULD BE PUT IN THE POSITION OF APPEARING TO HAVE APPROVED IT WHETHER OR NOT IT ASKED FOR CUTS. AFTER THAT DISCUSSION THE VIEW OF THE SECURITY SERVICE CONVEYED TO THE TREASURY SOLICITORS DEPARTMENT WAS THAT THE INTERESTS OF THE SECURITY SERVICE WOULD BE BEST SERVED BY NOT TAKING ACTION AT THAT STAGE (16 JULY, 1984) ALTHOUGH THE QUESTION OF TAKING LEGAL ACTION WOULD NEED TO BE RE-CONSIDERED IF WRIGHT RETURNED TO THE UNITED KINGDOM JURISDICTION. THIS COMMUNICATION APPEARS TO HAVE BEEN MADE LATE IN THE DAY AND THE DOCUMENTS DO NOT SHOW THAT ANY FURTHER CONSIDERATION WAS GIVEN TO THE POSSIBILITY OF RESTRAINING THE BROADCAST OF THE PROGRAMME.

GRATEFUL FOR REPLY DESKBY 092100Z DEC.

MBINDALL

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FCO PLEASE PASS

SWLNAN 0037

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From: THE PRIVATE SECRETARY

12

SECRET



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

9 December 1986

Dear Nigel

PETER WRIGHT CASE: DOCUMENTS AND PUBLIC INTEREST IMMUNITY

- with New?

The Home Secretary has considered Sir Robert Armstrong's minute of yesterday.

The proposed agreement on discovery will present Mr Turnbull with fresh opportunities for highly publicised argument. But the Home Secretary feels that the only alternative to accepting Sir Robert's advice would be to stick to our existing position on discovery, to accept that this is unlikely to be sustained (given Mr Turnbull's offer) in the Appeal Court of New South Wales or the Federal High Court, and to reconcile ourselves to withdrawing from the main action on the ground that we had been unreasonably asked to discover documents. This would be a dramatic and much criticised turn around justifiable only as an alternative to defeat on the main question. Much therefore turns on our assessment of our chances of success in the main case. The Home Secretary is somewhat sceptical of our chances of preventing eventual publication of the Wright book (which is now a highly attractive commercial proposition) in one country or another, and he regards it as essential that we should begin to prepare a position in case of eventual publication somewhere abroad. However, so far as Australia is concerned, we are advised that there is a reasonable chance of success on appeal in the main case (though probably not before Judge Powell). In these circumstances the Home Secretary believes that it would be right to proceed as proposed, given that we shall not be able to appeal in the main case unless the question of discovery is acceptably resolved.

A copy of this letter goes to Tony Galsworthy, Michael Sanders and Trevor Woolley.

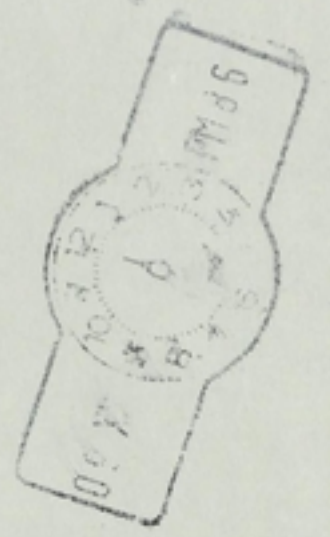
Yours  
*[Signature]*

for S W BOYS SMITH

Nigel Wicks, Esq.,

SECRET

Five Ounces  
of pure  
gold



010  
SECRET 11<sup>a</sup>

C. 2921-  
L. 01-936-

Communications on this subject should  
be addressed to

THE LEGAL SECRETARY  
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,  
LAW OFFICERS' DEPARTMENT,  
ROYAL COURTS OF JUSTICE,  
LONDON, WC2A 2LL

C.L.G. Mallaby, Esq., CMG,  
Cabinet Office,  
Whitehall,  
LONDON, SW1.

9 December 1986

Dear Christopher,

PETER WRIGHT CASE: DOCUMENTS AND PUBLIC INTEREST IMMUNITY

As I mentioned to you earlier this afternoon, the Attorney General considered the draft attached to Sir Robert Armstrong's minute of 8 December and the abbreviated version of the same draft in the telegram of today from Australia.

The Attorney noted that as regards any response made to Mr. Turnbull Mr. Simos would have to give an undertaking that it accorded with the documents; and that we had a judge who could call for any of the documents and who would not be at all reluctant to criticise HMG (or Mr. Simos) for being dishonourable.

If Mr. Simos was content with the abbreviated version in the telegram, the Attorney appreciated that Mr. Simos would feel happier negotiating with Mr. Turnbull on the basis of that version, using the slightly more full version in the draft attached to Sir Robert Armstrong's minute as a fallback. The Attorney agreed that Mr. Simos should be allowed to conduct negotiations on this basis and he wished him good fortune in his endeavour.

The Attorney was, however, most concerned with the preamble to the abbreviated version in the telegram. His concern centred on paragraph (C). In the event that the negotiations between Mr. Simos and Mr. Turnbull broke down, paragraph (C) had the effect of preventing HMG from making use of the fact that it had made a counter offer and of the details of that offer and the negotiations upon it. If we were unable to make use of this information in the New South Wales Court of Appeal, it was quite clear to the Attorney that our case would be badly weakened. He was therefore quite unable to accept paragraph (C) as it stood. Instead, he preferred to expand the preamble by the inclusion of an express provision to the effect that the only exception to the conditions in the preamble was that either party might reveal the fact and content of HMG's response and of any negotiations on it in any Court proceedings in Australia relating to discovery.

I am copying this to Nigel Wicks, Stephen Boys Smith, Tony Galsworthy and Trevor Woolley.

Yours ever,

Anthony

A.M.C. INGLESE

SECRET





70 WHITEHALL, LONDON SW1A 2AS

01-233 8319

*From the Secretary of the Cabinet and Head of the Home Civil Service*

Sir Robert Armstrong GCB CVO

Ref. A086/3404

HOME SECRETARY

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Peter Wright Case: Documents and Public Interest Immunity

The lawyer for the other side, Mr Turnbull, has made a public offer of an arrangement which would replace Mr Justice Powell's Order for Discovery of documents and make the hearing this week in the Appeal Court of New South Wales unnecessary. We are asked to provide admissions "as to the import and substance of documents", on a number of specific points concerning earlier books and television programmes, instead of providing actual official documents.

2. Our Counsel has been of the view that we had reasonable prospects of success in securing public interest immunity, although there might be some material which might not be covered by that immunity. Our Counsel has now advised, however, that, now that the other side have gone a long way in reducing the material they seek, our prospects of appealing against Mr Justice Powell's ruling in respect of the material still sought "would be very poor, if not non-existent". Officials have prepared a possible response to Mr Turnbull's list of points on which he seeks admissions. Mr Turnbull's offer and our possible response are attached. The draft of a response exposes some points which Mr Turnbull might seek to exploit but none, in the view of

officials, is likely to be important with regard to the outcome of the case. The draft is also consistent with my answers in cross-examination.

3. There is a risk that Mr Turnbull, if dissatisfied with our response to his approach, might seek a ruling from Mr Justice Powell on whether our response was complete in relation to the documents ordered for discovery by the Judge. But we think that this can be avoided. The question of discovery is out of Mr Justice Powell's hands, now that we have appealed his original ruling, and Mr Turnbull himself has indicated that he would be content with an assurance from Mr Simos that any admissions made were not inconsistent in any way with the documents.

4. If we were to offer a response to Mr Turnbull on the lines attached, and he was to reject it as inadequate, our chances in the hearing on discovery in the Appeal Court of New South Wales would be considerably greater than if we made no attempt to respond to Mr Turnbull's latest offer.

5. A response on the attached lines, involving no discovery of official documents, would avoid setting a damaging precedent concerning public interest immunity in the English courts. There is precedent in the United Kingdom for admissions or statements in lieu of documents.

6. We should instruct Counsel, in negotiating with Mr Turnbull, to seek to ensure that Mr Turnbull waived his right to cross-examine me on these admissions, so that I need not return to Australia at the end of the week. Mr Turnbull appears to be anxious that the question of discovery should not hold up the main case, so that there should be a reasonable chance of his living with a firm response by us to his approach.

7. The comments of our Counsel in Sydney on the attached draft are being sought, and will be reported to Ministers if they affect in any significant direction either the draft itself or, more generally, the course of action now proposed.

8. Subject to that, officials recommend that we should instruct Counsel to respond to Mr Turnbull's approach along the lines of the draft attached.

9. I am sending copies of this minute to the Foreign and Commonwealth Secretary, the Attorney General and to Mr Wicks at 10 Downing Street.

Robert Armstrong

8 December 1986

Mr Turnbull's Approach

4 of 8

PUBLIC STATEMENT AND OPEN OFFER TO THE  
ATTORNEY-GENERAL IN AND FOR THE UNITED KINGDOM.

In a perfect world differences of wealth, resources and health would not affect the conduct of litigation in the courts. However the world is not perfect and the legal world is no exception. For good motives or ill the failure of the British Government to promptly comply with the Orders of this Court coupled with its failure to raise objections until the last moment when they are best calculated to disrupt the trial, has placed an intolerable strain on the slender resources of the Defendants.

With the best will in the world, it is difficult to see how the Court of Appeal can dispose of the Government's appeal over the documents until the New Year. The result is that the case will probably not be decided until March. This risk cannot be accepted by the Defendants. In other words the Government's extraordinary conduct of the litigation will have succeeded in its goal if the Appeal goes ahead.

Accordingly the Defendants are obliged to forego their rights to the documents at least in part. The Defendants only seek the following documents or portions of documents or admissions as to the import and substance of documents. NOTE reference is made below to HMG, i.e. Her Majesty's Government. This includes any servant of the British Crown.

A Matter of Trust

1. Such parts of the documents which disclose the date HMG became aware that Mr. West was writing the book and that it contained information provided to him by former officers of MI5, and/or MI6. OR an admission to that effect
2. Such parts of the documents which disclose when HMG became aware that West had been provided with official documents from MI5 (in particular the Symonds Reports) or extracts thereof (stating which) OR an admission to such effect.
3. The date HMG received the original manuscript.
4. The original manuscript or a general agreed statement of the nature of the material deleted.

Trade is Treachery

1. The synopsis of the book which is annexed to the letter dated 15/12/80 from MI6 to MI5. [NOTE unless it is suggested that this synopsis was written by MI6 which raises a host of other issues, then the synopsis was the work of Pincher and cannot be subject to a claim for P.I.I.]

2. The date MI6 or any other part of HMG received the synopsis.

5 of 8

3. The letter B1.

4. Any documents or parts thereof relevant to whether HMG or any officers thereof authorised or knowingly permitted the publication. [This could be settled by admissions]

5. Any documents or parts thereof relevant to when HMG first became aware of the fact that Pincher was writing the book and had obtained information from former MI5 or MI6 officers. [Again admissions could deal with this]

6. Any documents or parts of documents relevant to whether MI5 or MI6 or any other servants of HMG blue-pencilled the book or otherwise dealt with or negotiated in respect of the publication of the book or its contents or otherwise with either of Lord Rothschild, Chapman Pincher, the publishers, or any representative of one or more of them. [Again admissions could deal with this]

7. The name of the person who provided the synopsis to MI6 and the page proofs to MI5 or MI6 (depending on which organisation got it first).

8. Documents or parts of documents relevant to determining when Sir Robert Armstrong and/or the Prime Minister and/or the Home Secretary and/or the Director-General of MI5 and/or the Director-General of MI6 first learnt of the fact that the book was to be published and that it contained information provided by one or more former officers of MI5 or MI6. [Again admissions could deal with this]

TOO SECRET TOO LONG.

1. Documents or parts of documents indicating the date when HMG became aware the book was forthcoming if earlier than January 1983, also documents or parts of documents indicating when HMG became aware of the contents of the book and that it contained further information provided to Pincher by former MI5 and/or MI6 officers, also any documents or parts of documents relevant to reasons for not seeking an injunction to stop the book if such reasons are different from those stated in evidence by Sir Robert Armstrong. [Admissions could deal with this.]

2. Document C8 and C7 which are neither to or

from any intelligence service or officer and thus could not be covered by PII OR admissions as to their substance and effect insofar as they relate to the matters referred to in 1 above..

MASSITER PROGRAM

1. Documents or parts of documents relevant to establishing when HMG first learnt of the program and that it contained an interview with a former MI5 officer.(Or admissions to this effect.)
2. Documents or parts of documents relevant to establishing why HMG decided not to stop the program if such reasons are different from those stated by Sir Robert.

PETER WRIGHT TV INTERVIEW

1. Documents E1-4 OR
2. Documents or parts of documents indicating when HMG knew program was forthcoming and/or that it included an interview with Wright and/or that Wright would not be complying with the OSA. also documents or parts of documents indicating reasons for not seeking an injunction to stop program. (Or admissions to this effect.)

The following comments can be made about the documents and admissions sought. Firstly the information sought can be provided without giving any information about operational matters, without confirming the truth of various allegations, in other words the information sought is no different in character to that already provided by the Plaintiff in evidence. It can be provided without giving rise to any of the concerns raised by Mr. Mallaby in his Affidavit. So far as Trade is Treachery is concerned the information sought covers the same areas upon which Sir Robert has already given evidence both in answers to interrogatories and orally. Its relevance therefore cannot be objected to. If the Government did not in fact connive in the publication of Trade is Treachery, then it will have nothing to hide and nothing to fear from providing the information sought.

c

Nigel West: "A Matter of Trust"

1. The documents do not state when any agency of the Government first learnt that Mr West was writing a book or that such a book might contain information from former officers of the security services. They show that the Government knew of the book and the existence of "insider" sources by 23 September 1982.
2. The documents do not contain information on the nature of material available to West from "insider" sources.
3. The documents do not state when the Government received the original manuscript.
4. The documents show that the Government's purpose was to ensure that no unpublished material obtained through a breach of confidence was included in the book. The deletions covered:
  - names of officers of security and intelligence agencies;
  - reference to operations and investigations of the Security Service;
  - references to sources of intelligence of the Security Service.

Chapman Pincher: "Their Trade is Treachery"

- 1. The "synopsis" is attached.
2. The documents show that the security and intelligence agencies received the "synopsis" on or a little before 15 December 1980.
3. The letter B.1. This document shows that the writer of the letter dated 15 December 1980 had been informed by an unidentified source that Chapman Pincher intended to publish, probably in February or March 1981, a book about the Security Service, a description (or "synopsis") of which, obtained from the source, was attached to the document. The letter indicated that there was an opportunity through the source of unattributably feeding in to the publishers comments and requests for deletions. There is no indication in the documents of any attempt or intention to pursue this offer.
4. None of the documents suggest that the Government authorised or knowingly permitted publication. A document dated 10 February 1981 shows that it was generally agreed among officials in the security and intelligence services that "There would be no point in trying to encourage specific deletions or changes in the text". The document does not state the reasons for taking this view.
5. The documents show that the security and intelligence agencies knew of the book on or a little before 15 December 1980 when they received the "synopsis". The documents further show that, when the Government first read the manuscript in February

1981, it was clear to them that much of the information in it must have come from former members of the security and intelligence services. The documents show that by 12 March 1981, the Government had identified several possible sources, and that there was a view that Wright was probably the prime source, but that the Government were a long way from getting hard usable evidence on sources.

6. The documents contain no such information.

7. The documents do not name the person who provided the "synopsis" and the page proofs to the Government.

8. The documents show that the security and intelligence agencies had copies of the book "as handed to the publisher" by 5 February 1981 and that possession of this text was "extremely delicate". They suggest that the Director General of the Security Service would have received a copy soon after that, and Sir Robert Armstrong and the Home Secretary would have received copies some days later still. They show that the heads of the security and intelligence services discussed the book on 10 February 1981. They show that Sir Robert Armstrong and the Director General of the Security Service received a preliminary assessment of the book on or about 12 February 1981, and that they knew from this that much of the information must have come from former members of the security and intelligence services. The documents do not show when the Prime Minister learned of these matters.

Chapman Pincher: "Too Secret Too Long"

1. The documents contain no indication that the Government were aware of the book before January 1983. The first date mentioned when the Government had such knowledge is 19 July 1984 when The Times referred to the forthcoming book. The documents show that on 3 September 1984 the Security Service were informed that Chapman Pincher was claiming that he had received material from what was described as a group of former MI5 officers; and that on 6 September 1984 the Government had not been able to obtain an advance copy of the book and did not know what the contents would be, though they had indications that the Hollis case would be included, and that it would be based on information from Peter Wright. The documents show that on 26 October 1984 the Government had a trade copy of the book. The documents do not show the Government's reasons for not seeking an injunction, but record the view that the central argument is much the same as in "Their Trade is Treachery" about whether Hollis was a spy, filled out with additional detail and comment.

X | 2. In document C7 Sir Robert Armstrong reports to the Home Office an approach by an opposition politician who told him that Chapman Pincher's next book was likely to be an anthology of espionage cases since the second World War and might recommend the institution of some sort of Parliamentary control over the security and intelligence services. In document C8 the Secretary of the Defence, Press and Broadcasting Committee (the "D Notice Committee"), writing to the Security Service, recorded the refusal of the publishers to submit the book for scrutiny under the D Notice arrangements, and the publishers' statement that "Pincher had been careful not to include any new information from British official sources".

### Cathy Massiter Programme

The documents do not show when the Government first learnt of the Massiter programme or that it contained an interview with a former MI5 officer.

2. The documents mention no such reasons.

### Peter Wright TV Programme

The documents show that the Security Service had information by 4 May 1984 that there were plans for a World in Action programme in which Wright was assisting and that he might well take part; and that by 3 July 1984 the Security Service had confidential information that Granada TV (the company which produces World in Action) intended to show an interview with Peter Wright in which Wright would reopen the Hollis case and in effect present the case against him. The documents show that, following a report in "The Times" on 16 July 1984 - the day of the broadcast - the likelihood that Wright had breached the Official Secrets Act was noted, and it was presumed that he had taken the precaution of remaining outside United Kingdom jurisdiction. The documents show that following the article in "The Times" the possibility of asking for a preview of the programme and seeking to restrain publication, if necessary by means of an injunction, was discussed on the telephone between the Treasury Solicitor's Department and the Security Service, and that after discussion the view of the Security Service conveyed to the Treasury Solicitor's Department was that the interests of the Security Service would be best served by not taking action at that stage (16 July 1984), although this question - ie of taking legal action - would need to be reconsidered if Wright returned to the United Kingdom jurisdiction. This communication appears to have been made late

in the day, and the documents do not show that any further consideration was given to the possibility of restraining publication of the programme.