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Prime Minister  
In case this  
comes up in  
Cabinet

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CONFIDENTIAL

B.07630

HOME SECRETARY

THE PETER WRIGHT CASE

N.L.U

18.12

In delivering the first part of his final submissions to the court today, Counsel for the other side made extraordinary attacks on the Attorney General and Sir Robert Armstrong. Our Counsel objected that Mr Turnbull had gone beyond proper criticism of Sir Robert's evidence by giving it as his personal view that Sir Robert had lied; the Judge supported Mr Simos and Mr Turnbull's comment was in part withdrawn. Our team in Sydney are being instructed to reject firmly the criticism of the Attorney General and Sir Robert Armstrong without going into the kind of detail which would dignify Mr Turnbull's unacceptable remarks.

2. Final submissions in the proceedings in Sydney will probably end this week or on Monday 22 December. The Judge has indicated privately to Counsel that he would not give judgement before the end of February. We will have 28 days in which to lodge an appeal. Counsel has been instructed, unless we unexpectedly win the case at first instance, to seek immediately a new interim injunction lasting at least 14 days and if possible the full 28 days. Counsel has no doubt that Mr Justice Powell would extend the injunction when judgement was given. There should thus be sufficient time for the Attorney General to consult you and the other Ministers concerned on whether to appeal. The strong assumption must of course be that we shall appeal.

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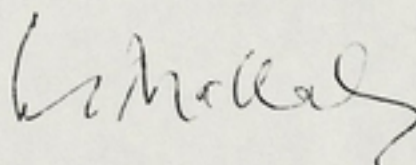
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3. Counsel does not expect an appeal to be heard in the Appeal Court of New South Wales before the end of May. A further appeal beyond that, to the High Court of Australia, could mean that there would be no final decision before, say, October 1987. It would be for the High Court to decide the date of its hearing, but Counsel would not expect this to begin until the end of July or the beginning of August.

4. In view of the prospect that the case might not be ultimately decided for 10 months, Ministers may wish to look again at the question of refraining from comment on matters relating to the case. This question could be reviewed at the time of the judgement at first instance. Our Australian Counsel could give advice on the extent to which the Government should relax the practice of not commenting.

5. Officials are still working on a paper about measures that may be taken to restrain publication of the book in other countries. We await advice from our Australian Counsel on the likely force in this connection of the interim injunction against the book in Australia and advice from the United States Department of Justice about the question of action if necessary in the United States courts to frustrate any attempt to publish the book there.

6. I am sending copies of this minute to the Foreign and Commonwealth Secretary and the Attorney General; to Mr Wicks at Number Ten, and to Sir Robert Armstrong.



C L G Mallaby

17 December 1986



NBSM

From: THE PRIVATE SECRETARY



CONFIDENTIAL

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

18 December 1986

*Dear Christopher*

THE PETER WRIGHT CASE

The Home Secretary has seen your minute of 17 December. He was grateful for this report and notes the probable course of events. The Home Secretary thinks that it would be valuable to have a meeting of his group in January to take stock of these matters.

ATTACHED

I am sending copies of this letter to Nigel Wicks (No 10), Tony Galsworthy (FCO), Michael Sanders (Law Officer's Department) and Trevor Woolley (Cabinet Office).

*Mrs,  
Steph*  
S W BOYS SMITH

C L G Mallaby, Esq., CMG.

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no

A pity they were not given wider publicity here



CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 01-233 8220

B.07633

Dear Stephen

Prime Minister. ✓  
I am told that the AG was mightily

backed by Mr Sinner's statement.

19 December 1986

N.C.W

19.12

The Peter Wright Case

The proceedings in the Supreme Court of New South Wales ended today. Judgement, as expected, was reserved and probably will not be delivered until late February.

2. Ministers may wish to see the following remarks made by Counsel on instructions today in rebutting Mr Turnbull's offensive criticisms of the Attorney General and Sir Robert Armstrong -

"The submissions of the defendants in relation to the credit of Sir Robert Armstrong and Sir Michael Havers are extravagant, melodramatic and outrageous, inappropriate even as a jury address but doubly inappropriate as an address to a judge of the court sitting without a jury.

The submissions are baseless and unjustified and should be rejected out of hand.

The submissions are full of schoolboy debating tricks, emotive cliches and mixed metaphors of which even a third rate journalist could not be proud.

They are calculated to induce the court to decide relevant issues by reference to vague emotional responses rather than by unemotional logical analysis of the evidence."

3. This text can be quoted in public, without any risk of being in contempt of court, provided that quotations are attributed to our Counsel and no comments are added.

4. I am sending copies of this letter to Nigel Wicks and Bernard Ingham in Number Ten, to Joan MacNaughton in the Lord President's Office, Tony Galsworthy (FCO) and Michael Saunders (Law Officers' Department).

Yours ever

Christopher Mallaby -

C L G Mallaby

S Boys Smith Esq  
HOME OFFICE

