

SECRET

B.0960

SIR ROBIN BUTLER

c Mr Turnbull

18(a-c)
Prime Minister
To be aware that AG
wishes to say that he would
not seek to prosecute Cairncross
for spying (he was given official
immunity in 1970) but that
to Security Service would
seek to interview him.

AF 4/2

CAIRNCROSS

You will wish to know that further developments may be imminent in this case, following receipt of the attached letter from Mr Rupert Allason MP to the Attorney General, asking on Cairncross's behalf whether the latter would be prosecuted if he returned to the United Kingdom. Mr Allason's motive in writing is unclear. On a previous occasion he purportedly wrote on behalf of an ex-agent who was subsequently found to be dead. So he could simply be seeking material on his own account for a further book.

2. A reminder of the principal features in the story is attached.

3. The following considerations have weighed with the Attorney General in determining what answer he should give to Mr Allason:

a. In an ordinary case, the prosecuting authorities would be under no obligation to respond to an enquiry of this kind. But Cairncross has been granted immunity previously, and that fact has to be taken into account.

b. Although Cairncross appears uncertain whether immunity had been confined to his specific visits to the UK in the 1970s, the notes of the key interview imply that immunity was not limited in that way.

c. The grant of immunity was in respect of the matters to which Cairncross confessed in 1964. The

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then Attorney General held that that confession was not admissible evidence. Theoretically, there could still be other matters, not disclosed by Cairncross at the time, which would not attract immunity now. The 1964 confessions were in very general terms. Unless anything emerges from Russian archives (not to be excluded), or Cairncross makes a voluntary confession, it is unlikely that admissible evidence against him will emerge.

d. If Cairncross were to come to the United Kingdom, however, the Security Service will try to interview him again.

e. The response to the Allason letter cannot go into the question of immunity. It is likely, however, that any response which implies that Cairncross will not be prosecuted, particularly if he follows that up by coming to this country, will lead to questions why not. At that stage, a statement to Parliament, inter alia correcting the 1979 statement, would become unavoidable.

4. Against this background, the Attorney General proposes to reply as follows:

"You wrote to me on 18 January saying that you had been asked by Mr Cairncross to enquire whether there is any intention to prosecute him if he returns to England. You said that he believed there might have been a written reply on this topic recently.

The only Parliamentary Question relating to Mr Cairncross which I have answered recently concerned the possibility of seeking his extradition from France. I enclose a copy of the Question and Answer.

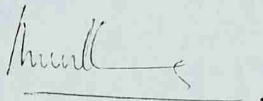
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I am in the circumstances prepared to say that there is no intention of prosecuting Mr Cairncross in respect of espionage which he has already confessed to the authorities. In the event of his return to this country, however, the authorities would propose to interview him further about his past activities."

5. This formulation has the advantage of being factually correct, while being a deterrent to Cairncross attempting to come to this country. It reflects the real intentions of the Security Service.

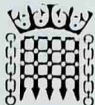
6. Subject to any comments, the Attorney General proposes to write in these terms on Thursday, 6 February.



Miss L P NEVILLE-JONES

4 February 1992

RUPERT ALLASON, M.P.



HOUSE OF COMMONS
LONDON SW1A 0AA

17A(a-c)
Ack.
27 JAN 1992
DEPARTMENT

L.O.D

18th January 1992

see :462
22/1/92

Dear Patrick,

John Cairncross

I have been asked by the above to enquire whether there is any intention to prosecute him if he returns to England.

He believes there may have been a written reply on this topic recently and, if so, he would be grateful for the details.

Yours,
Rupert

Rupert Allason

Rt Hon Patrick Mayhew QC MP

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BACKGROUND NOTE

CAIRNCROSS: KEYPOINTS

- 1936 : Cairncross enters Foreign Office and serves subsequently in the Treasury and wartime intelligence.
- 1951 : Cairncross resigns from the public service, following challenge over a document by him found amongst Burgess's possessions. Decision taken not to prosecute. Cairncross has been out of the United Kingdom for most of the succeeding period.
- 1964 : Cairncross interviewed by the Security Service in the United States, after evidence from a Russian defector pointed to him: he admitted (but not under caution) to disclosures to a succession of Russian handlers during most of his official career.
- 1970 : Cairncross is invited to come to the UK to confront the man who had originally recruited him. The Attorney General agrees that Cairncross can be assured that if he comes to the UK to assist in a particular operation, he will not be prosecuted in respect of the espionage admitted by him. Peter Wright's notes of the interview in question suggest, however, that this assurance was put in more general terms: Cairncross has subsequently appeared uncertain whether that immunity extended to other visits or longer term residence here.
- 1979 : Attorney General tells Parliament that no immunity was offered to anyone other than Blunt in connection with the Burgess and Maclean affair.
- 1980 : Attorney General states in PQ Answer that Cairncross's extradition from Italy (where he then was) would not be possible for OSA offences "even if there were admissible evidence, which there is not".
- 1991 : Attorney General states in answer in PQ Answer that there are no plans to seek Cairncross's extradition from France.

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ATTORNEY-GENERAL

Mr. John Cairncross

Mr. Flynn: To ask the Attorney-General whether Her Majesty's Government has any plans to seek the extradition of Mr. John Cairncross, former Foreign Office civil servant, from France.

The Attorney-General: No.