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June 21, 1961

CONFIDENTIAL

MEMORANDUM FOR THE CABINET:

Re: Tomasz Biernacki

In a Memorandum to the Cabinet dated June 2, 1961 the Secretary of State for External Affairs presented an outline of this case and pointed out that, at this stage, there are two courses which the Government may take: First to take no action to influence the course of justice now in train, and Second, to take positive action to withdraw the charges against Biernacki. The Memorandum discussed the implications of each such course of action.

The undersigned does not take exception to the presentation of the case in the Memorandum of June 2, 1961 but he does consider that certain additional facts and considerations should be placed before Cabinet in order to permit Cabinet to appreciate the matter fully and reach the proper decision.

It is to be noted that, notwithstanding the statements made by Biernacki to the R.C.M. Police were not admitted in evidence on the preliminary inquiry, upon the ground that they were not voluntary in point of law, there is no reason to believe that the information contained in such statements is not substantially correct. According to such statements, Biernacki is a self-confessed Polish spy, as the following excerpts make clear.

Statement of April 8, 1961.

Biernacki recounts that, after he had applied for a Canadian Visa and a Polish Passport in September, 1959 to come to Canada he was approached by Polish Officials who asked him if he "would co-operate with the Ministry of the Interior during my stay in Canada". Biernacki says: "I agreed to his proposal because if I had not I am quite certain it would not have been possible for me to leave Poland and go to Canada to study." Biernacki then says, of one of the Officials (Pawlak):

"He made it clear that my assignment would be to penetrate the Polish community and let me understand that I would have to gather certain information about certain people in the Polish community in Montreal. He also mentioned to me that precise and detailed assignments would be given to me in Montreal."

He also says of the same Official (Pawlak):

"During this meeting he told me what my behaviour in Canada should be. Among other things he told me not to visit the 'M.V. BATORY' when the ship is in Montreal, not to go to night clubs where I could be observed by the Police. He also warned me against tapped telephones, hidden radios in taxis, to always look out for police surveillance and told me some of the ways of the Canadian police. However, he told me that I had nothing to worry about because the Canadian police are much easier than the American. He also mentioned that after I am in Montreal, if necessary a safe place would be found where I could leave information to be picked up. He also told me he would find me an address where I was to write in Poland to communicate with him. He also gave me certain coded sentences which I was to include in a letter I would

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mail to him after I had settled down in Montreal, and which would indicate that I was ready to be contacted by someone from the Polish Consulate in Montreal."

Of a later meeting, with the same Official (Pawlak) Biernacki says:

"At this meeting Pawlak produced two papers on which was written: 'Strictly Secret - Without Copy'. The first was a declaration that I was now working for the good of the Polish People's Republic and promised to maintain secrecy and carry out all orders, which I signed; the 2nd paper entitled 'Instructions for Tomasz' which is my christian name. This paper contained my assignments which were to obtain informations of a strictly technical nature. He allowed me to write them down but told me to memorize them and then destroy them."

Biernacki then relates that, after his arrival in Canada, the same Official (Pawlak) instructed him by code messages contained in letters, when to get in touch with the Polish Consulate in Montreal. At the Polish Consulate he met a man believed to be from the Polish Embassy in Ottawa who identified himself by giving Biernacki "the established passwords". He also gave Biernacki the following assignments:

- "(a) Seek acquaintance with important Canadians who could lead to further contacts in the United States, - . . . He also told me he was interested in the Polish National Party (S.N.) in Canada which they suspect of having direct links with elements in Poland opposed to the present regime.
- (b) Seek any information concerning atomic energy developments.
- (c) Transfer of funds or investment of German capital in Canada and the United States. . . .
- (d) Information classed as secret in my own job.
- (e) Try to develop contacts with people who have connections in the Ottawa Government, particularly External Affairs and the E.C.M.P. He asked me once or twice if I had met or heard of a person named Janicki or Janiak in Montreal."

Statement of April 9, 1961.

On April 9, 1961 Biernacki made a supplementary statement in which he said:

"During my first meetings with Edmund /another Polish Official/ and PAWLAK they appeared interested mainly in the Polish community in Canada. However, as time went on PAWLAK made it clear to me that he was mainly interested in any technical and scientific information I could obtain in Canada. Although PAWLAK did not tell me in plain language, or in black and white, he made it perfectly clear to me that what he wanted of me was to organize a network to conduct espionage or intelligence."

Biernacki went on to say, in this second statement:

"Although PAWLAK or WOLSZCZAK never plainly asked me to recruit espionage agents in Canada, it was clear to me that they were getting me to gather information on various people for the ultimate purpose of recruiting some of them."

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The report which Biernacki had upon his person deals with various topics including Biernacki's plans to improve himself as an engineer, ascertain how the Polish State Project Office can get foreign contracts and acquaint himself with sources of technical literature not available in Poland. He wishes to return home for the beginning of the 1961-62 Academic year to take up again his work at the Technical University in Gdansk. He goes on to describe "My acquaintances in Canadian circles" and then "Poles having Canadian contacts". One of these he says is suspected of homo-sexual tendencies; another is in the Canadian Army (Reserve) but appears to have access only to "out-moded weapons"; he makes various other references to the hobbies and habits of the people listed and he then discusses "CONTACTS IN THE U.S.: (FOR THE LINK WITH THE U.S.)" mentioning some names but saying he has very limited acquaintances through whom contacts could be established in the U.S.

Under the heading "INDUSTRY - RESEARCH" he stresses "that presently all the projects, classified as confidential or secret, could be handled only by people, who have been cleared for security, i.e. have passed so-called security screening by the R.C.M.P." He adds that an impediment in obtaining a security clearance is the fact of having friends or relatives in or making trips to Poland. He concludes:

"So far, I have been unable to discover within my environment any trace of the persons, having connections with the R.C.M.P. or counterespionage agency, in spite of the fact that undoubtedly there are such people, amongst Polish community here, because I have heard such rumours."

The reason for arranging with the Attorney General of Quebec to prefer an indictment against Biernacki, in spite of the fact he had been discharged on the preliminary inquiry, was the conviction that, being a self-confessed spy, the issues should go to actual trial (preferably to the Supreme Court, although Biernacki may elect speedy trial before another judge of Sessions of the Peace such as conducted the preliminary inquiry) rather than be disposed of at the preliminary inquiry stage. If Biernacki is then acquitted on a point of law (and he appears to have been discharged by the judge on the point of law that in the judge's view the information gathered by Biernacki was not within the Official Secrets Act) there will be a right of appeal to the Quebec Court of Appeal.

In the view of the undersigned the issues are so important that the best interests of Canada would not be served by withdrawing the proceedings. It is considered, rather, that our position and national interest demand that every effort be made to try to convict such a self-confessed spy.

Respectfully submitted,

"E. D. Fulton"

Minister of Justice

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