

PREM 19/1626

LEAK INVESTIGATION AT THE MINISTRY OF DEFENCE INTO DOCUMENTS RELATING TO THE SIGNING OF GENERAL BELGRANO LEAKED TO MR. TAM DALYELL MP AND TO 'THE NEW STATESMAN' + Trial of Clive Ponting.

SECURITY

Pt 1

AUGUST 1984

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
10.8.84		18.2.85					
14.8.84		19.2.85					
14.8.84		20.2.85					
15.8.84		25.2.85					
17.8.84		26.2.85					
20.8.84		27.2.85					
21.8.84							
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Documents produced at the trial of
Mr. Cive Ponting.



Incorporated into

main file - at

11 Feb 85

SECRET



CONFIDENTIAL FILING

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PART 1 ends:-

MOD to RTA 28.2.85

PART 2 begins:-

MOD to CDP 1.3.85

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NBPM



MINISTRY OF DEFENCE

Main Building, Whitehall, London SW1A 2HB

Telephone (Direct Dialling) 01-218 -7115

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J N H BLELLOCH CB

Second Permanent Under Secretary of State

Sir Robert Armstrong GCB CVO
Management and Personnel Office
Cabinet Office
70 Whitehall
London
SW1A 2AS

2nd PUS/72/3/262

28 February 1985

Dear Robert

1. You will no doubt have seen the article by Duncan Campbell and John Rentoul entitled "Secrets of the Ponting Trial" published in the New Statesman on 15 February 1985. It seems very likely that this article included some information leaked from the document now known as the "Crown Jewels", which was produced in camera during the Ponting trial. If so, it seems more likely that the source would have been someone involved with Mr Ponting's defence than anyone in a Government Department who has had access to the document. My view would therefore be that no purpose would be served by holding a leak enquiry.

* 2. I am copying this letter to Robin Butler, Antony Acland, John Jones, Peter Marychurch and to the Legal Secretary to the Law Officers.

John

JNB

CONFIDENTIAL

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NBPM



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(Switchboard) 01-218 9000

J N H B L L O C H C B

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* 2. I am copying this letter to Robin Butler, Antony Acland, John Jones, Peter Marychurch and to the Legal Secretary to the Law Officers.

for ...

[Signature]

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MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~836 7022~~ 218 2111/3

MO 5/21

26th February 1985

Dear RMin,

BELGRANO: RELEASE OF DOCUMENTS

We spoke on the telephone yesterday about the documents placed in the Library of the House of Commons, following our discussions on Sunday 17th February and your letter of 18th February. My Secretary of State decided to place in the House those documents which he quoted in his speech, rather than all those disclosed to the Court. As a complicating factor, he also placed in the Library one document - a minute from Sir Clive Whitmore dated 30th March - which was not disclosed to the Court but the disclosure of which showed that the claims now being made by Mr Ponting about events on 30th March are not true. I attach for ease of reference a copy of the documents we have thus far provided.

Mr Heseltine intends, if and when pressed, to provide further documents provided they have already been read out in open Court.

You asked for a line in case this issue arose at Prime Minister's questions. Could I suggest the following:

"My Rt Hon Friend made it clear in last Monday's Debate that the trial of Mr Ponting had created wholly exceptional circumstances in which policy advice given to Ministers by officials related to the sinking of the Belgrano had been disclosed in open Court. In the light of this, he himself quoted from such documents and placed those from which he quoted in the House of Commons Library. He would, I am sure, consider placing in the Library other relevant documents which were disclosed in open Court."

If asked about the disclosure of Sir Clive Whitmore's minute:

F E R Butler Esq



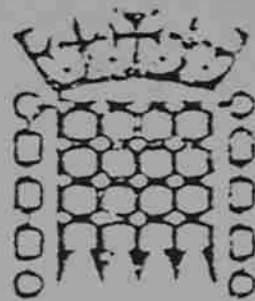
"This was necessary in order to show the
in consistencies in Mr Ponting's account published
in the Observer of 17th February.

[Hon Members opposite who are interested in the
disclosure of documents might ask why Mr Ponting
did not reveal to the Court that he was the author
of the anonymous letter to the Hon Member for
Linlithgow dated 24th April.]"

Yours ever

Richard Mottram

(R C MOTTRAM)



HOUSE OF COMMONS
LONDON SW1A 0AA

6 March 1984

The Rt Hon Margaret Thatcher MP
House of Commons

Dear Prime Minister

I am writing on behalf of the Shadow Cabinet to ask for your comments on the serious discrepancies which exist between the Government's version of the circumstances surrounding the sinking of the General Belgrano by HMS Conqueror on 2 May 1982 and statements made regarding the affair in two recent publications.

The Government maintains, in paragraph 110 of the Falklands Campaign: the Lessons, Cmd 8758 that the Conqueror detected the Belgrano on 2 May 1982. Yet in the book "Our Falklands War: the men of the Task Force tell THEIR story", by Geoffrey Underwood, the Commander of the Conqueror is reported to have said that he visually sighted the Belgrano early in the afternoon of 1 May and followed it for over 30 hours.

In another book published on 5 March, "The Sinking of the Belgrano", by Desmond Rice and Arthur Gavshon, the authors also maintain that the General Belgrano had been located 48 hours before it was sunk and was then trailed for more than 30 hours. They further assert that when the Belgrano was sunk it was on course for the Argentine coastline.

Because of the widespread concern regarding the reasons behind the sinking of the Belgrano, I should be grateful for your comments.

Yours sincerely

RT HON DENZIL DAVIES MP

DS5/9/9/46-11

5/21

16 March 1984

APS/Secretary of State thro' PS/Minister(AF)

Copy to:
PS/FJS
Sec/CNS
DUS(P)
DUS(N)
AUS(NS)
DNW
DNOT

*Let 1 done to ink this
Submission fully sets out the
balance of arguments between
Draft 1 and Draft 2 which
we have now dismissed
Apr 2/3*

LETTER FROM THE SHADOW CABINET TO THE PRIME MINISTER ON
GENERAL BELGRANO

You asked for a draft reply to send to No 10 for the Prime Minister to send to Denzil Davies and the Shadow Cabinet. Minister(AF) asked me to prepare a draft admitting for the first time that BELGRANO was sighted on 1 May and not 2 May, this is Draft 2 attached. I have however prepared an alternative reply, Draft 1, which maintains the existing public line. There are no operational or intelligence reasons for withholding the 1 May date and the choice between the drafts is therefore essentially political.

No Drafts on GDR bases were sought

2. Any decision to admit the 1 May date will need to take into account that:

- a. Sir John Nott in the Commons on 4 May 1982, the Official Despatch and the Falklands White Paper all say that BELGRANO was detected on 2 May.
- b. On 10 December 1982 Mr Dalyell was told by Mr Blaker that it would not be in the public interest to say at what time the first contact with BELGRANO was made by an RN submarine.
- c. The Government has frequently taken the line that the affair has been fully explained and the Prime Minister took this position on 21 February 1984 in the Commons in response to a supplementary from Mr Dalyell.

However, if it were decided to admit the 1 May date, it might be possible to argue:

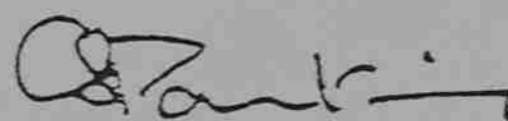
- a. Sir John Nott's statement was clearly meant to refer to sinking (8pm London time) not detection.

b. In the Lords on 13 July 1983 Lady Young explained the White Paper by saying that it referred to the events of 2 May and not when BELGRANO was first located.

c. An answer based on visual contact made on 1 May is not wholly inconsistent with Mr Blaker's reply on 10 December 1982. (There was a sonar contact with the escorting tanker of the BELGRANO group on the afternoon of 30 April.)

3. Whatever the arguments for admitting the 1 May date (and this would bring the Government's position into line with the interview given by Commander Wreford-Brown) the main objection to a change of position is that it will only encourage Mr Dalyell in his other accusations. Mr Dalyell will also use the admission to continue his argument that the sinking was for political not military reasons. Any admission will also raise questions about why the admission was not made when the discrepancy first emerged about a year ago.

4. This minute and Draft 2 are classified CONFIDENTIAL because of the existence of the draft. If it is decided to use Draft 2 it is unclassified.



C S PONTING
Head of DS5

Att

DRAFT LETTER FROM PRIME MINISTER TO DENZIL DAVIES MP

DRAFT 1

1. Thank you for your letter of 6 March, about the sinking of the Argentine cruiser General Belgrano on 2 May 1982.

2. I do not accept that there are serious discrepancies in the Government's explanation of the reasons for the sinking of the General Belgrano. We have consistently made it clear that the cruiser was sunk for military reasons because she presented a threat to the Task Force. (1)

3. Paragraph 110 of Command 8758 described the events of 2 May which led to the sinking of the Belgrano. As Lady Young explained on 13 July 1983 it was not intended to say when the cruiser was first located. In fact we have consistently said that it would not be in the public interest to say when the Belgrano was first located. That remains the position. In any case the time at which Belgrano was first located is not relevant to the decision to attack her. (2) (not said before) (3) (4) (5) It was on 2 May that the Task Force Commander, in the light of the threat posed by the Belgrano group as part of the wider configuration of Argentine Naval Forces, sought and obtained a change in the Rules of Engagement to enable Belgrano to be attacked outside the Total Exclusion Zone. (5)

4. When she was attacked Belgrano was on a course of 280°. She had made many changes of course during the day and could have done so again at any time. Her precise course at any given moment was irrelevant to the threat that she presented. (5) (4)

5. You allege that there is "widespread concern regarding the reasons behind the sinking of the Belgrano". I do not believe that

is so. It is fully understood that the Government's overriding
and proper concern was to take the necessary measures to protect
the Task Force - which had been sent to the South Atlantic with
all-party support.

DRAFT LETTER FROM PRIME MINISTER TO DENZIL DAVIES MP

DRAFT 2

1. Thank you for your letter of 6 March, about the sinking of the Argentine cruiser General Belgrano on 2 May 1982.

2. I do not accept that there are serious discrepancies in the Government's explanation of the reasons for the sinking of the General Belgrano. We have consistently made it clear that the cruiser was sunk for military reasons because she presented a threat to the Task Force. (1)

3. Paragraph 110 of Command 8758 described the events of 2 May which led to the sinking of the Belgrano. As Lady Young explained on 13 July 1983, it was not intended to say when the cruiser was first located. The Government has declined to give this information before now for security reasons, because of the insight it would give into our knowledge of Argentine naval movements. Although this is still an important constraint on what we can say about the events of the time, this constraint is now of less importance and I can confirm that Belgrano was first sighted by HMS Conqueror on the afternoon of 1 May. (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)

4. The time that Belgrano was first sighted is not of course relevant to the decision to attack her. As Peter Blaker explained in a written answer on 29 November 1982, it was on 2 May that the Task Force Commander, in the light of the threat posed by the Belgrano group as part of the wider configuration of Argentine Naval Forces, sought and obtained a change in the Rules of Engagement to enable Belgrano to be attacked outside the Total Exclusion Zone, and therefore it was on 2 May that the ship was sunk. (101) (102) (103) (104) (105) (106) (107) (108) (109) (110) (111) (112) (113) (114) (115) (116) (117) (118) (119) (120) (121) (122) (123) (124) (125) (126) (127) (128) (129) (130) (131) (132) (133) (134) (135) (136) (137) (138) (139) (140) (141) (142) (143) (144) (145) (146) (147) (148) (149) (150) (151) (152) (153) (154) (155) (156) (157) (158) (159) (160) (161) (162) (163) (164) (165) (166) (167) (168) (169) (170) (171) (172) (173) (174) (175) (176) (177) (178) (179) (180) (181) (182) (183) (184) (185) (186) (187) (188) (189) (190) (191) (192) (193) (194) (195) (196) (197) (198) (199) (200)

5. When she was attacked Belgrano was on a course of 280°. She had made many changes of course during the day and could have done so again at any time. Her precise course at any given moment was irrelevant to the threat that she presented.

5

4

6. You allege that there is "widespread concern regarding the reasons behind the sinking of the Belgrano". I do not believe that is so. It is fully understood that the Government's overriding and proper concern was to take the necessary measures to protect the Task Force - which had been sent to the South Atlantic with all-party support.

34
Mi



Copy to:

PS/Minister (AF)
Sec/VCNS
MA/DCDS (I)
AUS (NS)
DNOT

MO 5/21

22nd March 1984

Head of DS5

SINKING OF THE BELGRANO

You submitted on 16th March (not to all or needed) advice on the response which might be made to Denzil Davies's letter of 6th March about the circumstances surrounding the sinking of the BELGRANO and in particular when HMS CONQUEROR first detected the ship. The Secretary of State has now received the attached letter from Tam Dalyell posing another 9 questions. Further allegations arising from the book published by Messrs Rice and Gavshon seem likely to arise.

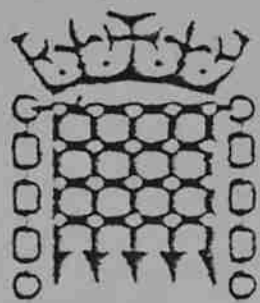
2. Before reaching a view on the line to be taken in the Denzil Davies letter, the Secretary of State wishes to consider the implications of a more forthcoming line for how we would handle new allegations arising from the Gavshon book and how we would respond to Dalyell. The Secretary of State has therefore decided that it would be preferable to delay a reply to Denzil Davies for the time being while we look at the wider context and I have agreed this approach with No 10.

3. The Secretary of State wishes to know the substance of what happened at the beginning of May 1982 in relation to the BELGRANO and the Argentine aircraft carrier in order to judge how much of this can properly be made public without security implications. For the purpose of considering



the substance; he would be grateful for a detailed chronology of the events leading up to the sinking of the BELGRANO. This should cover the answers to the questions raised by Mr Dalyell in his latest letter together with those to the following questions:

- a. What rules of engagement in relation to attacks on Argentine ships were in force prior to 2nd May?
 - b. What was the nature of the intelligence which showed that the BELGRANO group was a threat to the Task Force, when was it first available and when was it drawn directly to the attention of Ministers?
 - c. What was the precise sequence of events and their timings... which led to the change in the rules of engagement enabling CONQUEROR to sink the BELGRANO? When was the request initiated, what chain did it pass through, when was it put to Ministers? What was the nature of the decision communicated to HMS CONQUEROR?
 - d. What was the sequence of events in relation to the Peruvian peace initiative and when and in what form was this available to Ministers in London?
 - e. Was any intelligence received which might have suggested that the Argentine Navy had been ordered on or about 1st May to return to port? If so, when was it received and what happened to it?
 - f. Do we know why the then Secretary of State referred in his statement to the House on 4th May 1982 to the BELGRANO being detected at 8pm London time on 2nd May?
4. This list of questions is simply those which occur to me and is not meant to be exhaustive. What the Secretary of State is seeking is a comprehensive account of events which covers all the information and not just that which underpins the main defensive line we have used hitherto. I would be happy to have this in log form with the relevant documents enclosed - given the possible sensitivity of some of the information involved there would be no need of course to copy it widely within the Department.
5. Additionally, I should be grateful for a draft reply to Mr Dalyell's latest letter together with advice on whether the line proposed to be taken with Dalyell affects the line proposed to be taken with Denzil Davies.
6. Would it be possible to have this further advice by midday on Wednesday 28th March, on the assumption that the factual information must already largely have been collected at one stage either here or at Northwood? I should be happy of course to discuss any problems in meeting the Secretary of State's requirements.



HOUSE OF COMMONS

LONDON SW1A 0AA

Monday 19 March 1984

Rt Hon Michael Helestone
Ministry of Defence
Main Building
Whitehall
London SW1

Dan Michael,

In view of Cecil Parkinson's interview on TV-AM last Sunday week, and the Prime Minister's reply to my question on the matter (Wednesday 14 March), I would be most grateful if you would respond to the following questions.

1. At what time on 30 April 1982 did HMS Conqueror first detect the Belgrano on its sonar? What was the estimated position, course and speed of the Belgrano at the time?
2. At what time did HMS Conqueror come into visual contact with the Belgrano on 1 May 1982 and what was the course, speed and position of the Belgrano at the time?
3. At what time on 1 May 1982 did HMS Conqueror observe the RAS involving the Belgrano and an oiler and what was the course, speed and position of the Belgrano at the time?
4. What was the course followed by the Belgrano throughout the period in which it was being tracked by HMS Conqueror?
5. What was its speed when it was attacked?
6. Why were Mk 8 torpedoes used in preference to Mk 24s and can both of these weapons be set for proximity detonation?
7. At what time was the order to sink the Belgrano sent from Northwood on 2 May? Were any signals sent or received by HMS Conqueror between the issuing of that order and its execution?
8. When did HMS Splendid first detect the Argentinian CVA on 1 May, for how long did it maintain contact and what was the course and speed of the CVA during this time?
9. Was the CVA under surveillance by aircraft or satellite at any time on 30 April to 2 May? If so, what information concerning course, speed and signals exchanges was obtained during this period?

Yours sincerely

Tam Dalyell

Tam Dalyell M P

DRAFT LETTER TO TAM DALYELL MP

Thank you for your letter of 19 March.

As I expect you know the Prime Minister has, in a letter to Denzil Davies, confirmed that the BELGRANO was sighted on 1 May.

However, The other questions you have raised in your letter all concern detailed operational and intelligence matters on which I am not prepared to comment.

SECRET

PUS/V84/300

30th March, 1984.

PS/SECRETARY OF STATE

Copies to: PS/Minister(AF)
CNS
DCDS(I)
Head of DS5

5/21

SINKING OF THE BELGRANO

After the Secretary of State's meeting this morning had broken up, he, you and I had a further word on the question of where, in the Prime Minister's reply to Mr. Denzil Davies MP, we could legitimately draw the line and stand absolutely firmly on the argument that to disclose any more information would be contrary to national security. We thought that it might well be possible to reveal that the CONQUEROR first detected the BELGRANO group on 30th April 1982 and first sighted the BELGRANO itself on 1st May but that we should not allow ourselves to be driven beyond that point, whatever the pressures. I have accordingly revised the letter for the Prime Minister to send to Mr. Davies, and I have put in square brackets in the attached draft the sentence which gives this new information. If the Prime Minister decides that she does not want to go this far, then the simple deletion of the passage in brackets leaves us with a reply which stands pat on the existing line. Either version will make it clear that the CONQUEROR had been keeping in contact with the BELGRANO before the Task Force Commander asked for a change in the Rules of Engagement.

JWW.

PUS

SECRET

02
DRAFT LETTER FROM THE PRIME MINISTER TO DENZIL DAVIES MP

1. Thank you for your letter of 6 March about the sinking of the Argentinian cruiser General Belgrano on 2 May 1982.

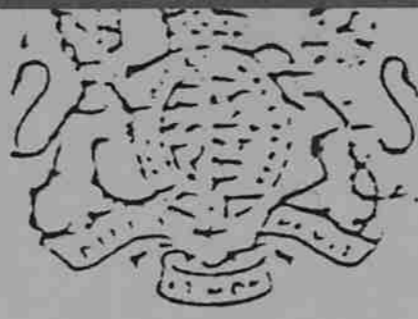
2. Paragraph 110 of Command 8758 described the events of 2 May which led to the sinking of the cruiser. As Janet Young explained in the House of Lords on 13 July 1983, that account was not intended to say when the cruiser was first located. [In fact the Conqueror first detected the Belgrano group on 30 April, and she sighted the Belgrano on 1 May for the first time.] But the essential point is that it was on 2 May that the Task Force Commander, in the light of the latest assessment of the threat posed by the Belgrano group as part of the wider disposition of Argentinian naval forces, sought and obtained from Ministers a change in the Rules of Engagement to permit the Belgrano to be attacked outside the Total Exclusion Zone.

§ When she was attacked the Belgrano was on a course of 280°. She had made a number of changes of course during the day and could have done so again at any time. Her precise course at any given moment was irrelevant to the threat that she presented.

It was the Government's overriding and proper concern to take all the measures available to protect the Task Force.

3. In the light of all the information available to us at the time I know of no reason to question the rightness of that decision.

OR



10 DOWNING STREET

THE PRIME MINISTER

WILL NOT
RECEIVE
THIS UNTIL
1615 TODAY

Dear Mr. Pons,

4th April 1984

Thank you for your letter of 6 March about the sinking of the General Belgrano.

The background to this event is worth recalling. On 30 April the Total Exclusion Zone was established around the Falkland Islands. On 1 May attacks by Vulcan and Sea Harrier aircraft were carried out on Stanley airfield as part of the process of enforcing the Total Exclusion Zone. On the same day the Task Force came under attack for the first time from the Argentine airforce and some Argentine aircraft were shot down. We were all very conscious of the risk that these assaults on the Task Force would be backed up by attacks by surface ships and submarines of the Argentine Navy and by aircraft from their carrier, the 25 de Mayo. All British units were on maximum alert to deal with any naval or air attacks.

HMS Conqueror, on patrol south of the Falkland Islands, detected an Argentine oiler auxiliary which was accompanying the Belgrano on 30 April. She sighted the Belgrano for the first time on 1 May when it was accompanied by two destroyers armed with Exocet missiles. Paragraph 110 of Command 8758 describes the events of 2 May which led to the sinking of the cruiser. As Janet Young explained in the House of Lords on 13 July 1983, that account was not intended to say when the cruiser was first located. The essential point is that it was on 2 May that we had indications about the movements of the Argentine fleet which led the Task Force Commander, Admiral Woodward, to request a change in the Rules of Engagement to permit the Belgrano to be attacked outside the Total Exclusion Zone.

/ The

The circumstances on that day have been well described by Admiral Woodward in his lecture at the Royal United Services Institute on 20 October 1982:

"Early on the morning on 2 May, all the indications were that 25 de Mayo, the Argentinian carrier, and a group of escorts had slipped past my forward SSN barrier to the north, while the cruiser General Belgrano and her escorts were attempting to complete the pincer movement from the south, still outside the Total Exclusion Zone. But Belgrano still had Conqueror on the trail. My fear was that Belgrano would lose the SSN as she ran over the shallow water of the Burdwood Bank, and that my forward SSN barrier would be evaded down there too. I therefore sought, for the first and only time throughout the campaign, a major change to the Rules of Engagement to enable Conqueror to attack Belgrano outside the Exclusion Zone."

Ministers agreed to the proposed change in the Rules of Engagement at about 1 p.m. London time on 2 May. Orders were sent immediately to HMS Conqueror, which attacked the Belgrano at 8 p.m. London time. Because of the indications that the Belgrano posed a threat to the task force, her precise position and course at the time she was sunk were irrelevant.

The first indications of the possible Peruvian peace proposals reached London from Washington at 11.15 p.m. London time and from Lima at 2 a.m. London time on 3 May.

My comments on paragraph 3 about the first contacts with the Belgrano group go further than we have been prepared to do hitherto. I have only felt able to do this now as, "with the passage of time, those events have lost some of their original operational significance."

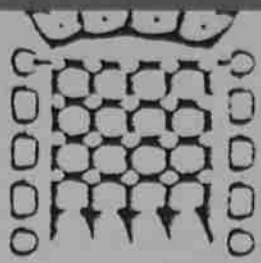
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Throughout the events described above it was a major concern of the Government to protect by all the means available the Task Force which had been despatched to the South Atlantic with all-party support.

Yours sincerely

Margaret Thatcher

The Rt. Hon. Denzil Davies, M.P.



5/4/84

The Prime Minister.

HOUSE OF COMMONS
LONDON SW1A 0AA

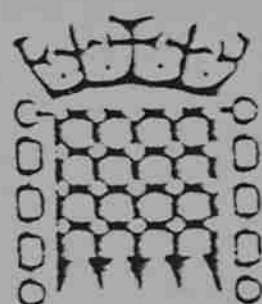
Dear Prime Minister,

Denzil Davies has very kindly given me a copy of your letter to him of April 4th, 1984, responding to his letter of March 6th, 1984, written at the behest of the Shadow Cabinet. Denzil will be replying doubtless, as he thinks fit, after consideration with Shadow Cabinet colleagues. In the meantime, you are aware of my own interest, and I would like to say that your reply does go some way towards confirming a number of facts, to which I have been drawing attention in recent months. You also confirm some of the information contained in the recently published book, "The Sinking of the Belgrano" by Desmond Rice and Arthur Wason, about which I am asking you in an Oral Question, Number 5, on Thursday April 12th.

However, your letter, Prime Minister, still leaves a number of serious questions, unanswered and unclear. In view of the Government's ever-changing explanations about the circumstances surrounding your order to sink the Belgrano, it would be helpful if you would address yourself to the following issues:

1. Paragraph 2 of your letter. In backgrounding the military situation on May 1, 1982, you say the air attacks on Port Stanley Airfield were for the purpose of enforcing the Total Exclusion Zone. Since cluster bombs, air-burst shells, and other anti-personnel devices were used, Prime Minister, how can you really suggest that this was part of the process of enforcing the Total Exclusion Zone?

Paragraph 3 of your letter. Was HMS Conqueror^s instructed to search for and locate the Belgrano by Admiral Woodward, by Fleet Headquarters, Northwood, or by whom? In other words, who perceived the Belgrano Group to be a threat to the Task Force in general, and as you have argued on Television, our Carriers in particular? Candidly, I have suspected



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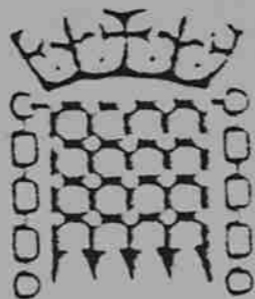
for many months that the notion that the Belgrano Group were endangering the Task Force emerged as a post-facto rationalisation.

3. Paragraph 3 of your letter. You relate that Admiral Woodward asked for a change in the Rules of Engagement to permit the Belgrano to be attacked outside the Total Exclusion Zone - and, as we all know, you and Members of the War Cabinet agreed to that change. Why then did your former Defence Minister, (Sir) John Nott, a Member of the War Cabinet, who participated in the deliberations on the matter, mislead the House of Commons without any corrective by you, by saying on 4th and 5th May that the decision to torpedo the Belgrano was taken by the Submarine Commander? Parliament, Press, and People were deceived.

4. Paragraph 3 of your letter. You refer to destroyers armed with Exocet missiles. Do I take it that the Government is backing away from its original claim that Belgrano also was armed with Exocets?

5. Paragraph 3 of your letter. Can you explain why the Conqueror detected an Argentine oiler auxiliary in the Belgrano Group, when the signals from the 44 year old iron-clad, USS Phoenix (Belgrano) were considerably stronger?

6. Paragraph 3 of your letter. You stress that on 2 May "we had indications about the movements of the Argentine Fleet" which led to Admiral Woodward's request for a change in the Rules of Engagement. What precisely were those "indications"? My information is that the Argentine Fleet was by that time under orders to return to base, and you knew that. Gavshon and Rice in their book cite precise times (20.00 hours on May 1, and 01.19 hours on May 2) when those orders were sent by Admiral Allara, and the Naval Command in Buenos Aires. The text of one of those messages is included in their book.



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HOUSE OF COMMONS
LONDON SW1A 0AA

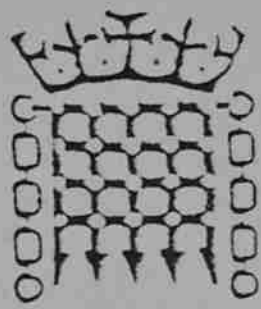
7. Paragraph 5 of your letter. You quote Admiral Woodward as saying that his request for a major change to the rules of engagement in order to attack the Belgrano was "the first and only time throughout the campaign" he had made such a request.

This is just not true, Prime Minister, because when Conqueror was in Argentine Territorial waters he again asked for a change in the Rules of Engagement, so as to be able to operate within those waters. (Reference Gavshan and Rice, Page 130.)

8. Paragraph 5 of your letter. Prime Minister, will you please explain how the Belgrano and her Group, sailing on a 280 degree course, (confirmed to me in Parliamentary answers), sailing West North West, could in any way have been completing a pincer movement? Have you ever heard of naval ships engaging in a pincer movement while retreating to home port in an opposite direction? And, can you explain how on earth it was that a huge, slow-moving hulk like the ancient Carrier, 25th May, could have "slipped past" the sophisticated, speedy nuclear powered submarine, presumably HMS Splendid, which was "trailing her" and which had been built at a cost of many millions to the British tax-payer?

9. Paragraph 6 of your letter. Will you explain, Prime Minister, your assertion that it was irrelevant to the sinking that the Belgrano was heading homewards and well outside the Exclusion Zone and nowhere near the Burdwood Bank?

10. Paragraph 7 of your letter. Has your Government enquired into the reasons why the British Embassies in Washington and Lima took so long to report on the Peruvian Peace Initiative, and its preparation, if, as you claim "first indications" only reached London at 23.15 hours on May 2, and 0200 hours May 3 respectively? Did you know that an Associated Press Despatch from Lima, timed 23.44 hours, BST, May 2, said that



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President Fernando Belaunde Terry had announced that Britain and Argentina that night would end hostilities over the Falklands? Reuters and other international wire services carried similar reports. (Gavshon and Rice page xlv)

11. Paragraph 8 of your letter. In what way would earlier disclosure of "first contacts" with the Belgrano Group have prejudiced operations? Disclosure for instance after the end of hostilities in June 1982? Don't you think that it would be far better if you and your Government were to be open and truthful with the House of Commons and the British people?

I look forward to your early response.

Yours sincerely,
Ian Dalrymple



10 DOWNING STREET

THE PRIME MINISTER

12 April 1984

Dear Mr. Dalyell

Thank you for your letter of 5 April about the Belgrano.

I take it that your objective in asking these further questions of detail is to try, as you have tried for some two years, to establish your contention that the Belgrano was attacked in order to destroy the prospects for peace negotiations based on the Peruvian proposals. That is simply not true.

Geoffrey Howe will be replying to the various questions you raised in the Foreign Affairs Debate on 22 March. But since I have made the Government's position absolutely clear yet again in my letter of 4 April to Denzil Davies, I do not think it useful to prolong these exchanges.

Yours sincerely

Raymond Storer

Tam Dalyell, Esq., M.P.

" Dear Mr Dalyell,

For what I hope will be obvious reasons I cannot give you my name but I can tell you that I have full access to exactly what happened to the Belgrano. You have probably seen by now that Michael Heseltine has not covered any of the questions that you posed in your letter in March. This was against the advice of officials but in line with what John Stanley recommended. None of the information is classified and to get answers you should put the questions down as ^{P.Q.s} ~~Parliamentary Questions~~. The answers will be quite interesting. In addition you might like to consider another linked question. Did the change in the rules of engagement on 2nd May refer only to the Belgrano or did they go wider? When were the rules of engagement changed to allow an attack on the 25 de Mayo? Was this on 2nd May or was it earlier? If so, when?

You are on the right track. Keep going."



LAW OFFICERS' DEPARTMENT
ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

H. STEEL, CMG OBE
LEGAL SECRETARY

25 February, 1985

Dear Anthony,

I am sending you, as requested, copies of the ruling which McGowan J. gave on the question of what is meant by "in the interest of the State" and his subsequent direction to the jury. May I point out that what you are getting is a "contraband copy", made in this Department, of another "contraband copy" made by the DPP from a copy which he legitimately obtained from the shorthand writers on the usual commercial basis. The making of extra copies in this way is, I think, a breach of the shorthand writers' copyright and I think that they would be aggrieved if they knew about it. I should therefore be grateful if you would use the enclosures with discretion.

*Yours ever,
Henry Steel*

H STEEL

H Booth Esq
Policy Unit
The Prime Minister's Office
10 Downing Street
London SW1

CENTRAL CRIMINAL COURT

No(s) 841330.

Old Bailey, London, E.C.4.

Friday, 8th February 1985.

Before

MR JUSTICE MCGILL

REGINA

OLIVE SHERIDAN PORTING

Transcript of the Shorthand Notes of Geo. Walpole & Co.

Official Shorthand Writers to the Central Criminal Court

CENTRAL CRIMINAL COURT

No. 841330.

Old Bailey, LONDON, EC4.

Friday, 8th February 1985.

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Before:

MR JUSTICE McCOLLAN

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REGINA

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-v-

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OLIVE SHERIDAN PONTING

F

MR R. AYLOT and MR T. LANGDALE appeared for the PROSECUTION.
MR B. LAUGHLAND QC and MR J. CAPLAN appeared for the DEFENDANT

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Transcript of the shorthand notes of George Walpole & Co
Official Shorthand Writers to the Central Criminal Court

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SUMMING - UP
DIRECTIONS IN LAW

SUMMING-UPDIRECTIONS IN LAW

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MR JUSTICE McCOWAN: I come to the first matter of law upon which I must direct you and it is a very important one which concerns the burden and standard of proof. The burden of proof is on the prosecution to establish the defendant's guilt and it is on the prosecution throughout. He does not have to establish his innocence. As to the standard of proof before you can convict him, you must be sure -- which is the same thing as being satisfied beyond reasonable doubt -- of his guilt.

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I turn to the next matter of law which is the charge, and I know you have copies of the indictment. May I ask you at this stage to look at them. What I am going to do is to tell you the ingredients that the prosecution have to prove, and as I have said I am directing you here on law and you have to accept the law from me.

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The first thing that has to be proved is that at the material time -- that is about the 16th July, no problem about that -- the defendant had in his possession or control information obtained by him or to which he had access as a person who held office under Her Majesty. The information that is being referred to there is, of course, the two documents, Exhibits No.1 and 2. Plainly, you may think, he had those two documents in his possession because he was a civil servant holding office under Her Majesty. I do not think you will have to trouble another moment about that ingredient because the defence have made a formal admission about it, no problem.

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Secondly, the prosecution have to prove that the defendant communicated that information to Mr Tam Dalyell, who, as you know, is a Back Bench Member of Parliament of the largest party in Opposition. Again, the defence formally admitted that communication and so I say again no problem for you.

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Thirdly, the prosecution have got to prove that Mr Dalyell was not a person to whom he was authorised

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 to communicate. Evidence on that came from Mr Motram, the Private Secretary to the Secretary of State for Defence, who said in simple terms Mr Ponting had no authority to disclose that material to Mr Dalyell.

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 He was cross-examined about the fact and he said, "Ministers authorise who are entitled to reveal information. Either ministers themselves make statements in public or authorise others to reveal the information. It is not at all vague. Unless you are authorised to disclose information you may not."

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 Mr Hastie-Smith also gave evidence on this subject, namely, that Mr Dalyell was not an authorised person to receive official information. He said that, of course, a minister can authorise a civil servant in his department to disclose something to a Member of Parliament but there is no suggestion that that happened here, and, you may think, that obviously if Mr Ponting had asked a minister to give him authority to send this material to Mr Dalyell he would not have got it.

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 There the matter rested until the defendant himself gave evidence when he said this when cross-examined in terms of Civil Service Regulations, "I did not have authority to send the documents. The only person who could have given me authority was the Secretary of State." Following that the defence agreed that they could not mount a defence under these words, in other words, they accept that the evidence is all one way, that Mr Ponting was not authorised to communicate the information to Mr Dalyell. In those circumstances you will, I am sure, have no difficulty in concluding that that ingredient is made out.

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 So we are left with only one ingredient which is in dispute and that is the fourth and it is this. The prosecution have got to prove that Mr Dalyell was not a person to whom it was in the interests of the State his duty to communicate the information.

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 "His duty", may I start with those words. "His duty" I direct you means an official duty, a duty imposed

on him by his office under Her Majesty, namely, that of an Assistant Secretary in the Ministry of Defence, to communicate those documents to Mr Dalyell.

The prosecution say, in effect, "Where is there a scintilla of evidence that he was under any such official duty? On the contrary", they say, "it is plain that his duty was to preserve these documents."

What then of the words "in the interests of the State"? I direct you that those words mean the policies of the State as they were in July 1984 when Mr Ponting communicated the information to Mr Dalyell and not the policies of the State as Mr Ponting, Mr Dalyell, you or I might think they ought to have been. "The policies of the State" mean the policies laid down for it by its recognized organs of government and authority. We have a general election from time to time and after the general election the party that can command the support of the majority of the House of Commons forms the Government. If it loses the support of the majority of the House of Commons it will cease to be the Government but while it has that support it is the Government and its policies are for the time being the policies of the State. It is not a question of the Conservative Party being the State no more than it would be of the Labour, Liberal or SDP Parties being the State if any one of them happened to be the Government. This is not a political matter at all. They would be in exactly the same position. So please do not be misled about that. The policies of the State in July 1984 were the policies of the Government then in power, the policies as they were and not as they might have been or any one of us might think they ought to have been.

It is not in dispute that it was Government policy in July 1984, rightly or wrongly, not to give this further information. That is exactly what Mr Ponting was complaining about. He was saying, "This is the Government policy and I do not like it." So, as I say, there is no dispute that that was the Government policy. "So", say

the prosecution, "it cannot have been in the interests of the State, which means the Government then in power, to leak these documents to Mr Dalyell, the Government's self-proclaimed critic and interrogator."

B Now what evidence or argument is there against that? In an endeavour to try to help you I will see if I can help about that, the result, however, is this. On my direction you are not concerned with whether you agree with the policies of the Government at that time. A political debate on those policies is wholly outside the proper range of your discussion.

C I further direct you that you are not concerned with whether the defendant honestly believed when he leaked the documents that it was his duty to do so in the interests of the State.

D The prosecution, as you know, have suggested that he was not motivated by noble sentiments at all. They say he was motivated, in a word, by pique. Whether they are right or wrong about that would be a matter for my consideration, if you convict him, on the question of sentence because, obviously, if somebody does things from noble motives, that is a mitigating factor which could lead to mercy. But it really does not matter, though we have spent a lot of time on it as we have on many other things in this case, from your point of view whether he was motivated by the highest sentiments or the lowest because I direct you in law that it is no defence that he honestly believed it was his duty to leak the documents in the interests of the State if, in fact, it was not his duty to do so in the interests of the State.

E F You may well be beginning to say to yourselves, "We have been treated for days to a great deal of irrelevant material." So, on my direction, you have, but in fairness to counsel they had not at the stage when you heard the evidence had my ruling in law. As you know, they advanced arguments to me that afternoon when I allowed you to go away, and having heard their arguments for the whole of that afternoon the following morning

B having reflected on their arguments I gave my ruling in law, and what I am now directing you reflects the ruling that I gave. So, as I say, I am not in any sense seeking to blame either counsel for going into matters which may now seem immaterial because they had not then sought my ruling.

C May I make something quite plain. The Act does not restrict the type of information that you must not communicate to classified information. We have learnt in the course of this case that there are four categories of classified information. Starting at the bottom and going up: RESTRICTED, CONFIDENTIAL, SECRET and TOP SECRET. CONFIDENTIAL, the second from the bottom, and its definition is, "a document of which the unauthorised disclosure would be prejudicial to the interests of the Nation."

D In this case Exhibit No.3, the Legge minute, was classified CONFIDENTIAL; Exhibit No.2, the draft letter to Mr Dalyell had no classification at all. It makes no difference. It is not one of the ingredients of the charge that it should be a classified document. It is not necessary that the disclosure should have prejudiced National Security, the prosecution have never suggested that it did, but it is no defence, you see, to say that it did not prejudice National Security though, let me say again, it would be a matter proper for me to take into account on sentence that it was not a matter which prejudiced National Security, but it is not, it has no part to play in your deliberations.

E F May I quote some words of a past Lord Chief Justice which I hope will make this very clear to you. "It matters not what the document contains, what the motive for disclosure was or whether the disclosure would, in fact, be prejudicial to the State."

G H This Act, most of us will have seen or heard, over the years has been a great deal criticised. Governments, whatever their complexion, they always say they are going to do something about it and they never do. Maybe that

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is because it suits all Governments not of a different complexion to keep it as it is, I know not and it really does not matter. You may have heard the jokes that are made about it, that if the order for mid-morning refreshments in DS5, namely, 12 coffees and 8 teas, had come into the defendant's possession or control as head of that department and he had communicated that to Mr Dalyell it would have been an offence under the Act. Well, all that one can, I hope reasonably, assume is that the Attorney General would not in those circumstances give his consent to the bringing of the prosecution. Anyway, there is no question in this case but that these were not joke documents whatever else you think about them, they were clearly serious documents dealing with serious matters.

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I do want to emphasise, we are not concerned in this court with whether this Act requires repeal or amendment. Until Parliament sees fit either to repeal or amend it my duty and your duty is to apply the law as it is. We cannot pick and choose and say, "This is a law we do not like and, therefore, we are not going to apply it." That would be acting wholly contrary to our oaths and that would be so whatever the colour of the Government.

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You may have noted the last remark of Mr Laughland in his speech to you last night, that a conviction here could be a licence for ministers to withhold information from Parliament with the assistance of an acquiescent Civil Service. May I say to you quite emphatically that that would be a wholly wrong approach to your duties and to the oath you have taken. If the case is proved it is your duty to convict whatever the consequences. To say to yourselves, "Well, it is proved but I am not going to convict in case it discourages ministers from being forthcoming" would be being false to your oath. It would have been equally wrong for Mr Amlot to say, which he did not, that if you acquit Mr Ponting civil servants will be leaking documents all over the place.

That would be an equally wrong approach. The political consequences of a conviction or of an acquittal are not a matter for you or me to trouble with for a second; let Parliament argue about those. If the case is proved in accordance with the law as I direct you then you must convict: if it is not proved you acquit.

There are a lot of other things that this case is not and I want to get those out of the way early on before I seek to get down to what it is about. It is not about which country, Britain or Argentina, has the better right to the Falklands. It is not about could or should the Falklands' War have been avoided. It is not about whether Falklands' Fortress is a good idea. It is not about whether there is likely to be any further Argentine aggression. It is not about whether Mr Ponting was wiser than Mr Heseltine.

Mr Ponting thought, as he has told us, that there was no good reason for withholding this information on tactical or any other ground; that more information could have been given without damage to National Security "because", he said, "this Country had nothing to be ashamed of", in other words, there were sound tactical as well as moral reasons for doing what he advised. It appears that the politicians, Mr Heseltine, the Secretary of State, and Mr Stanley, the Minister of State for the Armed Forces, thought otherwise. They believed that if they answered Mr Dalyell's points, his nine questions, he would be back for more and that little by little ministers would be led into security sensitive areas. These were the two viewpoints.

As Mr Ponting himself said at one stage of the story "these were political decisions." He thought he knew better but, as I have said, the case does not turn on which viewpoint was the wiser. Civil Servants cannot be unused to having their advice not followed by ministers and this they must bear with fortitude even when, as I am sure they often do, they think themselves infinitely more intelligent and wiser than their minister they may be but that is not the point.

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Again what this case is certainly not is a political contest. If any of you support a particular political party, and why should you not, it is your duty to put your political allegiances or prejudices on one side and decide the case fairly and dispassionately according to the law as I direct you and the facts as you find them.

As It happens Mr Ponting chose, for what it is worth, to tell us his political allegiance. He put it like this: "I had worked closely with Sir John Nott during the Defence Review. I would have said I was in tune with the philosophy of the Government particularly with regard to the Civil Service. In my view a good civil servant has to take a day-to-day interest in political affairs", but he himself approached the problem in a neutral way. "For a number of years I have tended to incline to the Liberal party: that goes back to 1963. I have never been a member of that Party or of the Conservative or Labour Parties or of any extremist parties. I have been positively vetted a number of times. I joined the SDP when it was founded in 1981. My wife did so at the same time. I paid a subscription but at my level in the Civil Service I could not take an active part. My views did not bring me into conflict with the policies of any Government I worked for."

Nobody has suggested for a moment that he was or is a member of any extremist party. Bear in mind that it is the essence of democracy that it can be anticipated that one party will go out of Government and another come in and that any Government whatever its political complexion will have to face the problems about what it can or should reveal to the public and to expect from its civil servants loyalty and that they will not leak Government documents to politicians who oppose the Government. That, as I say, you may think -- this is a comment but it is entirely a matter for you -- is a problem that would face any Government of any colour.

I turn to another topic, the defendant's character. This is not a case where you do not know anything about his background: you know a great deal. It is not merely a case where he has no previous convictions -- obviously if he had he would not have been in the position that he was in -- you know positively that he is of previous good character. A man of ability and intelligence who had very much prospered in his chosen career. He told us a good deal about this himself and I will remind you of it in summary form.

He is now aged 38. He won a local authority scholarship to a grammar school. He has nine "O" levels, three "A" levels and two scholarship levels. He went to Reading University, read history and got a First. In 1970 he obtained a place on the Fast Stream Graduate Entry Scheme into the Civil Service. He went first to the Ministry of Technology and then to the Ministry of Defence. He was sent to the Civil Service College in 1973. He married a lady in the Ministry of Defence who remained there until last month when she was transferred to the Department of Employment. In October 1973 he became Private Secretary to the Head of the Procurement Section. In April 1974 he was promoted to Principal. In June 1979 the Conservatives came back into power and the Prime Minister invited Sir Derek Raynor, a Director of Marks and Spencers, to head the drive in Whitehall for greater efficiency. Each Ministry was asked to nominate one principal to work with Sir Derek and Mr Ponting was the person nominated for the Ministry of Defence. He had to consider one area of the Ministry and in 60 days suggest ways in which it could be improved. He produced a short report as to what he found making recommendations for savings. Then there was a two-day conference and each of these Ministry representatives had to give a ten minute presentation and Sir Derek was obviously so impressed by Mr Ponting's presentation that he asked Mr Ponting along with his colleague from the Department of Health and Social Security to come along to 10 Downing

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B Street and make their presentations to the Prime Minister. She in turn was so delighted with their presentations that she whipped them off into the Cabinet Room and made them give the same presentations to the Cabinet. There they stayed for about an hour or so to hear the Cabinet talk about how similar savings could be made in Whitehall. In the next Birthday Honours because of what he had done he was given the OBE and he added, "I think that is rare for a civil servant of my level and experience."

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D In September 1981 he was promoted to Assistant Secretary. There are only three grades in the Civil Service above that: Under Secretary, Deputy Secretary and highest of all Permanent Under Secretary. "Aged 35", he said, "is about the youngest you can be as an Assistant Secretary. I was then appointed Head of DS15. That Department has two separate parts: one dealing with the training establishments and the other with legal matters. We went to the Treasury Solicitors or the Foreign Office or the Attorney General's Office for legal advice."

E It is a matter for you -- you may think that his knowledge of those legal processes may be of some significance.

Under him in that Department there were some 25 people. That is the defendant's account of his career and character.

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H You may remember that a statement was read to you which became part of the evidence from Lord Raynor, as he now is, and I repeat the relevant passage. "He", that is Mr Ponting, "proved himself to be outstanding in contributing towards policy formation and the presentation of subsequent recommendations. In carrying out the work he undertook on my behalf he had to present his findings to colleagues across Whitehall, senior ministers and officials after consulting a wide range of interests. He handled this difficult task with distinction showing a capacity to think with clarity of purpose and having the strength of character to make his report with authority."

B Obviously the fact that a defendant has no previous convictions and a positively good character does not mean that he cannot commit an offence or in those circumstances nobody ever would. The good character of the defendant is relevant primarily to his credibility, in other words, as to whether or not you believe his evidence. If, of course, you are satisfied that he lied to the police that might be taken adversely to affect his credibility.

C The question of his credibility will arise in the areas where his evidence conflicts with that of prosecution witnesses. I would identify three of those areas: first, as between himself on the one hand and the two Ministry of Defence Police Officers, Hughes and Broom, as to the conversations he had with them; secondly, as between himself and Mr Darms and Miss Aldred as to whether he approved the line of the Darms minute which led to the Legge minute which he leaked; thirdly, as between himself and Mr Hastie-Smith as to whether, on his case, he was told the matter would be dealt with by resignation or internal disciplinary proceedings with no mention of prosecution -- that is what the defendant alleges -- or whether, as Mr Hastie-Smith asserts, he was plainly told by Mr Hastie-Smith that day that prosecution was one of the possibilities.

D E F When it comes to deciding between the defendant on the one hand and those various witnesses who disagree with him on the other -- they are obviously of good character also or they would not be where they are, so in that context good character may not assist -- it is a matter for you but you will have to look, I suspect, at the probabilities and in the end you will have to decide having seen the people who you believe.

G H Another word about something that you must not allow to sway you and that is sympathy for the defendant. I imagine you are bound to feel some because of his comparative youth and his promotion and his lost career. All these would be matters properly for me to take into

account if you convict him. They are not matters which can properly be taken into account by you in deciding whether the case against him is proved.

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No: 841330.

CENTRAL CRIMINAL COURT

OLD BAILEY, LONDON, EC4M 7EH

Thursday, 7th February 1985

Before:

MR JUSTICE McCOWAN

REGINA

- v -

CLIVE SHERIDAN PONTING

Transcript of the Shorthand Notes of George Walpole & Co, Official
Shorthand Writers to the Central Criminal Court.

OLD BAILEY, LONDON, E.C.4.

THURSDAY, 7TH FEBRUARY, 1985.

B e f o r e

MR. JUSTICE MCCOWAN

R E G I N A

- v -

CLIVE PONTING

R U L I N G

MR. R. AMLOT and MR. T. LANGDALE appeared on behalf of the
PROSECUTION.

MR. B. LAUGHLAND, Q.C. and MR. J. CAPLAN appeared on behalf
the DEFENCE.

Transcript of the Shorthand Notes of George Walpole & Co.;
Official Shorthand Writers to the Central Criminal Court.

R U L I N G

JUSTICE MCCOWAN: The Defence now accept that all the ingredients of this charge are established on the evidence before the court, save the last, namely that the Defendant communicated the information in question to a person to whom it was in the interests of the State his duty to communicate it. I have been asked to rule as to what these words mean in law.

Mr. Caplan for the Defence submits that the Crown must satisfy the Jury that the Defendant did not honestly believe when he communicated the information that it was his duty to communicate it in the interests of the State, regardless of whether it was in fact his duty in the interests of the State. He relies in support of this proposition on the case of Sweet v. Parsley which is reported in 1970 Appeal Cases at page 132 where the House of Lords held that mens rea is an essential ingredient of every offence unless some reason can be found for holding that it is not necessary and that a court ought not to hold that an offence is an absolute one unless it appears that that must have been the intention of Parliament.

He further submits that in an unreported case of the Queen v. Cairns and Others, being, as I understand it, a prosecution under the same Section as in the present case, Mr. Justice Caulfield directed the Jury in the way that Mr. Caplan submits that I should. In other words, he says that Mr. Justice Caulfield left to the Jury the issue of whether the Defendant in that case honestly believed that he had a duty to communicate the document in question to the other person in the interests of the State.

I am told, however, by the Crown that in that case Counsel for the Prosecution conceded at the start of the trial that mens rea in that sense was a defence, and that therefore Mr. Justice Caulfield was never asked to form a view on that issue. In consequence the case is not of much assistance to me. On the other hand, there is clear authority the other way.

In the first place there is the decision of Mr. Justice Avory in the King v. Crisp and Homewood which is reported in 83 Justice of the Peace Reports at page 12. He said: "It should be publicly known that this Statute absolutely prohibited any person who held office under his Majesty from communicating information which he had obtained owing to that position to any person to whom he was not authorised to communicate it." Mr. Caplan conceded that this was against him, but pointed out that decision came before the House of Lords' decision in Sweet v. Parsley.

Next there is the decision of the Court of Criminal Appeal in January 1963 in the case of the Queen v. Fell, a transcript of which I have been supplied with. This was an appeal against sentence by a Defendant who had pleaded guilty to counts under Section 2, Sub-Section (1) of the Official Secrets Act. Giving the judgment of the court, Lord Parker, The Lord Chief Justice, said at 3F of the transcript: "It must be realised, therefore, that this is an absolute offence provided that there was no authority to disclose the document, and provided it was not his or her duty to communicate it in the interests of the State. Accordingly, from the point of view of there being an offence at all, it matters not what the document contains, what the motive for disclosure was, or whether the disclosure would in fact be prejudicial to the State, quite apart from the safety of the State. In other words, the essence of the offence is the disclosure of confidential information."

Mr. Caplan again points out that this is before the decision in Sweet v. Parsley. He further says that as the appeal was against sentence only these remarks were overruled and may well not have been preceded by argument. Nevertheless, they are strongly persuasive, so Mr. Justice Mars-Jones found in the case of the Queen v. Berry at the Central Criminal Court on the 8th November, 1978, another case under Section 2, Sub-Section (1) of the Official Secrets Act, when he ruled against a submission on mens rea similar to that advanced here by Mr. Caplan.

It seems to me that Mr. Amlot is right when he contends that what this Section is concerned with is the preservation

of information which has been obtained by someone owing to his position as a person who holds office under Her Majesty. Such a person is not to pass on that information unless, in fact, he is authorised to pass it on to a particular person, or in fact is under a duty to pass it on to that other person in the interests of the State. That the person passing on the information honestly believes that he has a duty to pass it on in the interests of the State is immaterial, save on sentence, otherwise any Civil Servant who honestly believes that the wrong Government is in power, that it would be good for the country if they ceased to be and that it would help the process of evicting them if he leaked one of their confidential policy documents, would be entitled to be acquitted.

I do not for a moment believe that that was the intention of the legislature. In my judgment no mens rea is required beyond the intention to communicate the document, which in this case is not disputed. I therefore reject Mr. Caplan's argument.

He turns next to consider what the words, and I quote: "A person to whom it is in the interests of the State his duty to communicate it," mean. He submits that the words "his duty" add nothing to the other words. If that be right, why are they there? The Section could perfectly properly read: "A person to whom it is in the interests of the State to communicate it."

I feel bound to conclude that the words "his duty" are not mere surplusage, but are there for a purpose. Mr. Caplan submitted that if I took this view I should merely read the words to the Jury without giving them any assistance as to what they mean.

Finally he says if I do not think that that is the proper course I should tell the Jury that they include a contractual, civic or even a moral duty. Mr. Amlot, on the other hand, submits the expression "his duty" must in the context of this Sub-Section be related to the Defendant's duty as a person holding office under Her Majesty. It must, he says, be an official duty, a duty imposed upon the communicator by virtue of his office to communicate it to the particular recipient.

That was a view which appealed to Mr. Justice
Max Jones in the case of the Queen v. Berry, and I
respectfully agree with him.

As to the remaining words, Mr. Caplan argues that
it is for the Jury to decide whether it was in the interests
of the State that the Defendant should communicate the
documents to Mr. Dalyell, a Back Bench Member of Parliament
belonging to the Party in opposition.

The Prosecution say that the clue to what these
words mean is to be found in the speeches of Lords Devlin
and Pearce in the case of Chandler v. The Director of
Public Prosecutions, which is reported in 46 Criminal
Appeal Reports at page 347. That was a prosecution under
Section 1, Sub-Section (1) of the Official Secrets Act 1911.
I read the material parts of that Sub-Section, and they are:
"If any person for any purpose prejudicial to the safety
or interests of the State (a) approaches or is in the
neighbourhood of, or enters any prohibited place within the
meaning of this Act he shall be guilty of felony."

In his speech Lord Devlin said this, beginning at
page 384: "What is meant by 'the State'? Is it the same
thing as what I have just called 'the country'? Counsel
for the appellants submits that it means the inhabitants
of a particular geographical area. I doubt if it ever has
as wide a meaning as that. I agree that in an appropriate
context the safety and interests of the State might mean
simply the public or national safety and interests. But
the more precise use of the word 'state,' the use to be
expected in a legal context, and the one which I am quite
satisfied for reasons which I shall give later was intended
in this statute, is to denote the organs of government of a
national community. In the United Kingdom, in relation at
any rate to the armed forces and to the defence of the realm,
that organ is the Crown. So long as the Crown maintains
armed forces for the defence of the realm, it cannot be in
its interest that any part of them should be immobilised.
It is of course arguable that the Crown should not be
maintaining the armed forces at all and that the nation
would be much safer if the Crown disbanded them. If the

Crown was given different advice by the same or different ministers, the result might be that its interests might become different from what they now are. But the statute is not concerned with what the interests of the State might be or ought to be, but with what they actually are at the time of the alleged offence."

A little later on at page 385 Lord Devlin went on: "In my opinion the crucial term in this statute, as applied to this case is not 'purpose' but 'safety and interests of the State.' No doubt the interests of the State ought to be the same as the interests of the community. It would be the claim of those who advise the Crown, that is, the Government of the day, that they are. It is permissible to argue that they are not. Argument of that sort is in comparatively minor matters the stuff of party politics and even in great matters on which substantially the whole country appears to be united, argument is permissible. In such argument 'the State' is used loosely to mean the community; and 'interests' to mean the objects which ought to be secured for the community. Both words have in this statute a more precise meaning. 'Interest' in legal phraseology generally means something concrete, something akin to property, property rights and interests, beneficial interest, insurable interest, controlling interest and so on. In this statute it may well have a wider meaning than that, but it has not the widest possible meaning. If you say that an object is not in a man's best interests, you have in mind what his interests ought to be. If you say that you will protect his interests, you have in mind his interests as they are; you do not make good your word by defeating his objects because you disagree with them. This statute is concerned with the safety and interests of the State and therefore with the objects of State policy, even though, judged sub specie aeternatis, that policy may be wrong. If in this statute these words were given a wider meaning, absurd results would follow. Rebels and high-minded spies could be heard to argue that defeat in battle would serve the best interests of the nation because it would be better off under a different regime. The licence allowed to them would also have to be allowed to

itors. This point was dismissed by Counsel for the appellants as theoretical. It was said that no jury would in such circumstances acquit. But even if it be looked at purely on the practical plane, the Judge has to decide whether he will allow hours or days to be spent at the trial in giving an accused the opportunity of expounding his political views. The court is not the forum for such a debate and the jury is not the body to determine what the interests of the State should be."

I look next at a passage in the speech of Lord Pearce which is to be found at page 392. He said: "I cannot accept the argument that the words 'the interests of the State' in this context mean the interests of the amorphous populace, without regard to the guiding policies of those in authority, and that proof of possible ultimate benefit to the populace may for the purposes of the Act justify an act of spying or sabotage. The protection covers certain specified places which are obviously vital to defence and other places to which the Secretary of State sees fit to extend the protection. Section 3, as amended, includes in prohibited places '(c) any place belonging to or used for the purpose of His Majesty which is for the time being declared by order of a Secretary of State to be a prohibited place for the purposes of this section on the ground that information with respect thereto, or damage thereto, would be useful to an enemy.' Parliament clearly intended to give stringent protection to such places. It is hard to believe that it intended to withhold that protection in all cases where a jury might think that the place in question was not necessary or desirable or where the authorities could not by evidence justify their policies to a jury's satisfaction. Questions of defence policy are vast, complicated, confidential, and wholly unsuited for ventilation before a jury. In such a context the interests of the State must in my judgment mean the interests of the State according to the policies laid down for it by its recognised organs of government and authority, the policies of the State as they are, not as they ought, in the opinion of a jury, to be. Anything which

prejudicial to those policies is within the meaning of the Act 'prejudicial to the interests of the State.' "

Mr. Amlot points out that the words of the section there being considered were "prejudicial to the interests of the State." The words "his duty" do not figure there. The addition of the words "his duty" in Section 2, Sub-Section (1), he argues, means that the narrow interpretation of the interests of the State, supported by Lords Devlin and Pearce, applies with even greater force in the context of Section 2, Sub-Section (1).

While acknowledging that those passages from those speeches lend support to the Crown's argument, Mr. Caplan says that these were the views of only two of their Lordships. The others either did not address their minds to the question or did not answer it. So he says the views of Lords Devlin and Pearce are not binding on me.

I think he is right about that, but nevertheless I am wholly persuaded by them.

Mr. Caplan accepts that his interpretation is likely to involve the jury in a political debate. I echo the words of Lord Devlin: The court is not the forum for such a debate and the jury is not the body to determine what the interests of the State should be. I accept the view of Lord Pearce that the "interests of the State" must mean the interests of the State according to the policies laid down for or by its recognised organs of government and authority, the policies of the State as they are, not as they ought, in the opinion of the jury, to be. This again was the view of Mr. Justice Mars-Jones in the case of Berry, and I respectfully concur with them.

Ponting

MR FLESHER

25 February 1985

TIMES LEADER, 25 FEBRUARY 1985

Further to our conversation, I understand that the Prime Minister would respond to any Parliamentary Question on today's main leader (attached) by referring the matter to the Law Officers. You will see the main allegation of the Leader is in its last paragraph.

From the transcript of Mr Justice McCowan's direction to their jury in the Ponting Case, you will see on page 3 letter E the following interesting and relevant passage appears:

"It is not a question of the Conservative Party being the state no more than it would be of the Labour, Liberal or SDP Parties being the State if any one of them happened to be the Government. This is not a political matter at all."

While a lengthy constitutional reply might answer the Times more fully, the Judge's remarks may prove useful in briefing material.

I am copying this minute to Henry Steel of the Law Officers Department.



HARTLEY BOOTH



P.O. Box 7, 200 Gray's Inn Road, London WC1X 8EZ.
Telephone: 01-837 1234

NATIONAL INTEREST

Mr Justice McCowan directed the Ponting jury that "the policies of the State were the policies of the government then in power". His direction was intended to deter the jury from thinking that Mr Ponting had some wider or higher duty to exercise by informing Mr Tam Dalyell of ministerial intentions to be less than open with Parliament. In the Commons later the Attorney General was asked to comment on the judge's direction. He said he agreed with it as a statement of the law.

Even as a legal direction concerned with the narrow point at issue in the trial, it was a disgraceful statement. That the Attorney General should endorse it as he did was both disgraceful and damaging. Is there nobody on the Treasury bench who is capable of seeing how damaging, inept and fundamentally ill-conceived is Mr Justice McCowan's direction as a standard text to define the intricacies of the British constitution?

This is not just an academic point. The consequences of McCowan go far wider than the snub he received from his duly directed jury. They can be found already in the row over the range and quality of MI5 surveillance. They colour attitudes to the coal strike. They will sour discussions with moderate trade unionists. They will be used by every militant - particularly those in the civil service unions - to forge an anti-Conservative government alliance supposedly against the doctrine that the State and the government of the day - this government - are indivisible.

On issues of national security the courts recently have shown a reluctance to go behind ministerial decisions. They have argued that such decisions are prerogative acts which preclude judicial review. At the very heart of state security that must still be the case. But the doctrine is in danger of being stretched so widely that it gives the idea that the whole administrative apparatus of national security only has to nod at the courts to be exempt from further scrutiny. And when a judge comes along to add the gloss that the security of the state and that of the present Government's policies are indivisible

may give them temporary power to use the permanent institutions of the state - the monarchy, the civil service, the armed forces - to further their policies. But those institutions will outlast them and be at the service of their political opponents.

It follows that the enemies of the state are those who want to subvert this system. Hitherto, there have been more covert subversives than overt ones. However, the rise of the unparliamentary Left which has deeply permeated some sections of the trade union movement and thus has threatened the Labour Party itself, has brought about a situation where the opponents of this Conservative government are too often associated with the opponents of parliamentary government itself.

The internal policies of the Labour movement have meant that this dividing line on the Left is not often enough and clearly enough identified by the Labour leadership. That leadership has failed on occasion to stand fair square on the side of parliamentary democracy when events have tended to blur the issue. In a saga such as the miners strike, for instance, which has unquestionably involved an open challenge to the Parliamentary system and was clearly meant to by those who organised it, Labour spokesmen have tried to trim with this malicious wind in the interests of Party unity.

Opposition and Alliance backbenchers would reject this argument by saying that it is the government which has subverted the parliamentary system by cutting corners with its huge majority and showing disdain for parliamentary punctilio in, for instance, the Belgrano affair. Ministers should have been more sensitive to this criticism. Had they been more sensitive then they might have been more alive to the damaging effect of letting the McCowan doctrine take root elsewhere. Ministers, forced at close range to observe the behaviour of Labour backbenchers treating the Parliamentary process with contempt, may feel that such behaviour is more widely known than it is, including the fact that Mr Kinnock's own well founded attempts to

Doubt on 'special relationship'

From Professor Emeritus Keith Buchanan

Sir, We are asked to believe that Mrs Thatcher's visit to Washington has led to a rebirth of the special relationship between the USA and the UK. I find this comment unconvincing.

I am British-born but taught in a New Zealand university for much of my working life. My father came over in 1914 with the first Anzacs to contribute to the defence of Britain. His reward: a massive dose of phosgene and long years of unemployment here.

With this background I find the spectacle of Mrs Thatcher aligning herself with the US against a Commonwealth country (New Zealand), following so close on the empty protest against the US invasion of Grenada, another Commonwealth country, singularly unedifying.

Her schoolmistressy dressing-down of Mr Lange for daring to go against US nuclear policy and for standing up for what he perceives as the interests of New Zealand is both gratuitously insulting and an example of the interference in the affairs of another country that she would be the first to condemn.

The "special relationship" of which so much is made always seemed to imply a measure of partnership between equals; it has been Mrs Thatcher's achievement to reduce the status of Britain from that of a partner to that of a US satellite.

Yours truly,
KEITH BUCHANAN,
2 Ffridd Helyg,
Llanuwchllyn,
Y Bala, Gwynedd.
February 22.

From Mr George Ivan Smith

Sir, As a citizen of another Commonwealth country, Australia, I find it unusual, unfortunate and unwelcome that Britain's Prime Minister chose to criticise the Prime Minister of New Zealand publicly while visiting a non-Commonwealth country, the USA.

Whatever one may feel about Mr David Lange's decision to bar nuclear equipped warships from New Zealand's ports, it remains an accepted convention that British politicians do not, when on a foreign visit, decry the policies and practices of their own country. Still less should they use some foreign platform from which to criticise the policies of fellow-Commonwealth countries because that would be adding interference to bad taste.

Yours sincerely,
GEORGE IVAN SMITH,
Elm Cottage,
Butterow West,
Stroud,
Gloucestershire.
February 22.

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On issues of national security the courts recently have shown a reluctance to go behind ministerial decisions. They have argued that such decisions are prerogative acts which preclude judicial review. At the very heart of state security that must still be the case. But the doctrine is in danger of being stretched so widely that it gives the idea that the whole administrative apparatus of national security only has to nod at the courts to be exempt from further scrutiny. And when a judge comes along to add the gloss that the security of the state and that of the present Government's policies are indivisible untold damage is done unless ministers seek to put such narrow doctrines in a much broader context.

The sovereign state of Britain is the Crown in Parliament. The system of parliamentary democracy embraces the notion of governments formed from parliamentary majorities for limited periods of office, with regular provision for peaceful change when the parliamentary majority reflects a different balance of political interest. To be loyal to the principles of parliamentary democracy involves a residual disloyalty to the Government of the day since it must imply acceptance that a different Government with different policies from the present one would also command the same loyalty from its servants and from the other state institutions as this one does. There is only one proviso: that such a Government shows the same fundamental loyalty to the system as its predecessors.

There is no formal ultimate guarantor of such a loyalty other than the convention that the government of the day is "Her Majesty's Government". Government business is the Queen's business. Thus ministers may have their Parliamentary majority behind them and it

GLEMP'S EXILES

The position of the Polish Primate is unlike that of any other religious leader in Europe. When Poland was still a monarchy, the Primate governed as "interrex" between the death of one king and the election of the next. After Poland was divided between three foreign empires at the end of the eighteenth century, Polish nationhood was increasingly identified with, and carried forward by, the Roman Catholic Church. For centuries, therefore, the Polish Primate has been a national as well as a religious leader - and most often a leader of the nation in opposition to the secular powers that be.

In Poland today, the Church is the only national institution to

government which has subverted the parliamentary system by cutting corners with its huge majority and showing disdain for parliamentary punctilio in, for instance, the Belgrano affair. Ministers should have been more sensitive to this criticism. Had they been more sensitive then they might have been more alive to the damaging effect of letting the McCowan doctrine take root elsewhere. Ministers, forced at close range to observe the behaviour of Labour back benchers treating the Parliamentary process with contempt, may feel that such behaviour is more widely known than it is, including the fact that Mr Kinnoch's own well founded attempts to correct these tendencies in his Party have themselves attracted the contempt of the Labour Left, in and out of Parliament.

Mr Leon Brittan's explanation of the principles which govern surveillance by the security services of subversive elements in the country is wholly respectable. British politics has for too long pretended that there is no concerted attempts to subvert our institutions and that the notion of the Communist front "couldn't happen here". It has always happened here and it is happening now. While politicians should obviously be concerned that the security services are correctly monitored, they should also be reminded that the first technique in this game is to rubbish the police and the security services so as to inhibit them in their task.

It is in these circumstances that the McCowan statement is so damaging. It should not go unchallenged and unexplained. Ministers should attempt to set these matters - including Ponting - in a coherent non-party and truly national context by reminding the public that it is our multi-party system, not the policies of the day, which deserve the highest protection, and will receive it. That is indeed the national interest.

Prime Minister. Let this, then, be a visit of religious communion with a sister church; of shared reflection on the spiritual unity of Christian Europe; and a pastoral visit to the large community of Polish Catholics in Britain. Yet with this last purpose, politics again inevitably intrude. For this is no ordinary community of "emigrants", who have freely decided to seek their fortune in another land.

The majority of Poles living in Britain are still, in the true sense of the word, exiles. Whether they found themselves here as Stalin imposed Soviet domination on Poland in 1944/5, or as General Jaruzelski reimposed it by proxy in 1982, they are unnaturally

while visiting a non-Commonwealth country, the USA.

Whatever one may feel about Mr David Lange's decision to bar nuclear equipped warships from New Zealand's ports, it remains an accepted convention that British politicians do not, when on a foreign visit, decry the policies and practices of their own country. Still less should they use some foreign platform from which to criticise the policies of fellow-Commonwealth countries because that would be adding interference to bad taste.

Yours sincerely,
GEORGE IVAN SMITH,
Elm Cottage,
Butterow West,
Stroud,
Gloucestershire.
February 22.

Forty divided years

From Mr George H. Vassiltchikov

Sir, In the flood of reminiscences, editorials, explanations and apologies that have marked recently the anniversary of the Yalta conference I have sought in vain mention of one consideration that certainly weighed heavily on the attitudes and decisions: the latent suspicion that at the last minute the Western or the Eastern allies (as the case might be) would strike a separate deal with the Germans.

As the war progressed this suspicion literally obsessed the Soviet side, while in the West, "to keep the Russians in the war" at any price - and understandably so, since it was they who were doing most of the fighting at the time - was, we know now, one of the reasons why Roosevelt and Churchill connived in pussyfooting over the Katyn massacre and why the latter would have nothing to do with the anti-Nazi German resistance.

Yours sincerely,
GEORGE H. VASSILTCHIKOV,
73 Durrels House,
Warwick Gardens, W14.

Lack of linguists

From Mrs Patricia A. Forsyth

Sir, The comments of the Vice-Chancellor of London University, Sir Randolph Quirk, concerning the shortage of linguists in commerce and industry (report, February 13), are appalling.

Surely he is aware that good female linguists are being channelled into courses in science, technology and engineering to give them greater opportunities in the labour market.

Why then encourage more boys to concentrate on languages in schools? There is already a glut - albeit mainly female - of perfectly suitable candidates who can offer innate language ability coupled with technical qualifications.

Less specialization at A level would perhaps enable our sixth-form girls to make a greater contribution to improving our international image.

Yours etc,
PATRICIA A. FORSYTH,
St Elmo,
Anderton,
Millbrook,
Torpoint, Cornwall.

Race law and the Jews

From Dr Jacob Gewirtz

Sir, Your editorial, "Hatred, history and the Holocaust" (February 15),

PERSONAL

Tim Fisher

Mary Hank. The Chief Whip mentioned

MR. BUTLER

X) to the PM this evening and the PM thought that something on these lines would be worthwhile.

FERB

22.2.

The Chief Whip came in today to talk about the aftermath of Monday's debate. He said that there had been some disposition on the backbenches to pursue the question of Mr. Ponting's anonymous letter to Mr. Dalyell in April in conjunction with his denial during the trial of any personal contact before the leak in July. The Prime Minister had indicated that she did not wish this to be raised in Prime Minister's Questions. At 3.30 on Tuesday, however, just before the Prime Minister left the Chamber, the Secretary of State for Defence said that he would be happy to see the point pursued in Parliament and the Prime Minister did indicate that she would be content. The Chief Whip however has some reservations about whether this is worth doing. There is a general perception in the House that the Government won the day on Monday and in his view there is no real point in raking over the ashes. If the point were worth pursuing the Chief Whip would prefer that this should be done by way of a letter from a senior QC, e.g. Ian Percival or Mark Carlisle to the Select Committee asking them to take this point into account in weighing the evidence.

You might like to mention this point to the Chief Whip on your return, and, if necessary, discuss it at Monday morning's meeting.

On an entirely separate point, the Chief Whip recorded that Lord Whitelaw would be having lunch with the Director General of the BBC next week and was intending to raise with him a number of cases of slightly unusual reporting.

TF

20 February 1985



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~938XXXX~~ 218 2111/3

MO 5/21

19th February 1984 ⁵

Dear Jim.

THE SINKING OF THE GENERAL BELGRANO

The Prime Minister may find it helpful to have briefing on two points raised by Mr Ponting's Solicitor following yesterday's debate and reported today in the Times and the Guardian:

- a. He points out that Mr Ponting established that unclassified answers could be given to most of Mr Dalyell's questions in his letter of 19th March. This is not disputed. In his speech, Mr Heseltine specifically made the point that he declined to answer Mr Dalyell's questions because of where he anticipated questioning would then lead. He quoted (column 745) an example of this process from Mr Dalyell's letter to the Prime Minister herself of 5th April 1984.
- b. In relation to the anonymous letter sent to Mr Dalyell on 24th April, which we now know Mr Ponting wrote, Mr Raymond is quoted as asking:

"If the note was so important, why was it not produced as evidence in Mr Ponting's trial?"

The reason why the Crown did not produce it is of course that it was not available to them and they had no evidence that Mr Ponting was the author. We can only speculate on why Mr Ponting chose not to introduce it. He had a number of opportunities but chose to rest his defence on the argument that he was driven to leak by the terms of the memorandum sent to the Foreign Affairs Committee. As the opposition quoted extensively from the transcript - prepared by Channel 4 - of the trial, the Prime Minister might herself wish to be aware of the attached exchanges that took place at the beginning of day 7.

*Yours ever,
R. Mottram*

(R C MOTTRAM)

T Flesher Esq

EXTRACT FROM THE TRANSCRIPT OF DAY 7 OF THE PONTING TRIAL
(TAKEN FROM PAGES 1 AND 2)

DEF COUNSEL: Now, Mr Ponting, taking up the threads of yesterday in which you told the jury how you came to choose one of the two candidates for disclosure of these documents [that is the documents leaked in July] and how you came to choose Mr Dalyell, was that chosen, as it were, for any personal reasons; or for representative reasons?

A Not for personal reasons at all. Representative reasons in that he was a Member of Parliament, and a Member of Parliament who understood most of the background to the subject of the disclosure.

Q Had you had personal contact with him before?

A No, none whatever.

Conservative Research Department Brief

THE SINKING OF THE GENERAL BELGRANO

Prepared For:

The debate in the House of Commons
on 18th February 1985

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N.B. Also attached are:

- 1) Photocopies of the Prime Minister's letters with annex to George Foulkes MP, which give the Government's most detailed account of the circumstances surrounding the sinking of the General Belgrano.
- 2) An addendum on the Official Secrets Act

Enquiries to:

Robin Turner - Sinking of the General Belgrano
Alistair Cooke - Official Secrets Act

Ref: DEF (85) 3

32, Smith Square, London SW1
01-222 9511

THE SINKING OF THE GENERAL BELGRANO

1. Introduction

The Argentine Cruiser 'General Belgrano' was sunk by HMS Conqueror on 2nd May 1982 solely because she was a threat to the Task Force. As the Prime Minister has said:

"The need to do everything we could to protect the lives of some 10,000 British personnel - Service and Civilian then in the Task Force and at risk from the Argentine Navy - was the sole reason for the attack on the Belgrano. No other consideration entered the calculations of the Ministers concerned..." (Hansard 29th October 1984, Written Answers, Col. 790).

2. Prior British warnings to Argentina

On 7th April 1982, the then Defence Secretary, Sir John Nott, announced the establishment from 12th April of a 200 mile Maritime Exclusion Zone around the Falkland Islands. But it was made clear that this was 'without prejudice to the right of the United Kingdom to take whatever additional measures may be needed in exercise of its right of self-defence under Article 51 of the United Nations Charter'. On 23rd April, the Government sent a message to the Argentine Government stating specifically that:

"any approach on the part of Argentine warships, including submarines, naval auxiliaries or military aircraft which could amount to a threat to interfere with the mission of British Force in the South Atlantic will encounter the appropriate response."

This warning clearly applied to ships outside the Exclusion Zone (as the General Belgrano was when it was sunk) as well as those within it.

3. Argentine aggressive intentions

The Argentine Commander in the South Atlantic at the time, Admiral Lombardo, confirmed on Panorama on 16th April 1984 that the Argentine Navy was attempting to engage in a pincer movement against the Task Force of which the General Belgrano and its escorts were the southern prong. Admiral Lombardo also stated on that occasion that he would have sunk 'a British Belgrano' if the situation had been reversed and that it was 'sound tactics' to do so.

It should be recalled that there had been substantial conflict the day before the General Belgrano was sunk. As Admiral Lord Lewin, Chief of the Defence Staff during the conflict, told the Select Committee on Foreign Affairs on 5th December 1984:

'We attacked the airfield with the one Vulcan, there was a raid by Harriers on the airfield and on airfield installations, followed

in the afternoon by a bombardment by a group of ships on airfield installations. The ships were then bombed. The Glamorgan was near-missed with a 1,000 lb bomb either side of its quarterdeck. The Arrow was strafed with cannon fire and had superficial damage, one seaman wounded. In the air battle one Mirage and one Canberra were shot down by Harriers and one Mirage was shot down by Argentine ground fire. We detected an Argentine submarine in close proximity to our ships in a position to torpedo them. It was confirmed as a submarine and hunted for something like 20 hours. So we knew there was a submarine near our ships. That is all we knew at the time. We now know, of course, that the carrier had tried to launch her aircraft and failed, the Super Etendards had launched to attack and had failed and the submarine had in fact, fired a torpedo which failed to hit. We did not know that at the time. We know that now".

4. The course of the General Belgrano

Much has been made of the fact that during the 2nd May the General Belgrano altered course away from the Task Force. But as the Prime Minister has said:

"She could have altered course again and closed on the elements of the Task Force, acting in concert with the carrier to the north. In the light of the continued threat posed by Argentine naval forces against the Task Force, the precise position and course of the Belgrano at that time was irrelevant" (Hansard, 29th October 1984, Written Answers, Col 790).

Information about her change of course was received by Naval Headquarters in Northwood at 3.40 pm on 2nd May (four and a quarter hours before she was attacked) but ministers were not made aware of the change of course at the time. In this context it should be recalled that limitations in communications with submarines in the South Atlantic meant that HMS Conqueror's operations could not be monitored and controlled hour by hour.

Sir John Nott stated in a statement to Parliament on 4th May 1982 that the General Belgrano was 'closing' on the Task Force, when she was attacked. This was not correct, but as the Prime Minister has said:

"It should be borne in mind that this statement had to be prepared in fast-moving and sometimes confused circumstances while Ministers were preoccupied with continuing threats to the Task Force" (Hansard Ibid).

5. The detection of the General Belgrano

Sir John Nott's statement on 4th May also stated incorrectly that the General Belgrano was first detected on 2nd May. In fact she had been sighted by HMS Conqueror on 1st May. This was first revealed by the Prime Minister in a letter to Mr Denzil Davies M.P. on 5th April 1984. The date was not changed in the official despatch of the Commander in Chief Fleet, Admiral Sir John Fieldhouse, later in 1982 "in order to protect sensitive operational and intelligence information", as the Prime Minister stated on 12th February 1985 (Hansard, Col. 164).

6. The threat posed by the General Belgrano

It has been suggested that the General Belgrano was never a real threat because of her age and inadequate armament. However, as Admiral Lord Lewin told the Foreign Affairs Select Committee on 5th December 1984 the Ministry of Defence had assumed that she could still do 30 knots. Furthermore she had 15 guns with a range of about 12 to 15 miles. Unlike her escorts, she was not in fact armed with Exocet missiles but she could have been, because, as Lord Lewin said, it was known that the Argentines had spare Exocet Launchers and missiles and these could have been bolted on in two or three weeks. Thus it would have been imprudent for the Ministry of Defence not to have assumed that she was so armed.

Therefore if the General Belgrano had been lost by HMS Conqueror, she could have, within a fairly short time, posed an immediate threat either to the Task Force or, as Lord Lewin pointed out, to the recently liberated South Georgia, where there was only an elderly frigate and one company of Royal Marines.

7. The Peruvian peace proposals

It has been alleged that the Government ordered the sinking of the Argentine Cruiser in order to undermine a peace initiative by the President of Peru. However, Ministers in London had no knowledge of this initiative, until three hours after the General Belgrano was torpedoed. It should be recalled that Mr Clive Ponting, who said that he was 100% behind the Government's policy in the South Atlantic, has described this allegation as 'incredible' (Daily Telegraph, 5th February 1985). The Defence Secretary, Mr Michael Heseltine, told the Foreign Affairs Select Committee on 7th November 1984 that:

"She (the Prime Minister) did not know at the time, of the Peruvian peace initiative. She did not know, until after the Belgrano had been sunk, of the Peruvian peace initiative. She could not have known of the Peruvian peace initiative because information about it was not available in London at any of the relevant times."

He described any linkage of the two matters as a "monstrous distortion." It is often stated that the sinking of the General Belgrano ended all hope of a negotiated settlement. But in fact intensive negotiations continued for over two weeks after the 2nd May.

8. Conclusion

The responsibility for the heavy loss of life resulting from the sinking of the General Belgrano lies entirely with the Galtieri junta in ordering an unprovoked invasion of British sovereign territory. The sinking of the Cruiser indeed probably prevented further loss of life, because, after 2nd May 1982, the Argentine fleet took no further part in the campaign.

Mr Heseltine summed up the whole controversy in his speech to the Conservative Party Conference at Brighton on 12th October 1984:

"On 1st May the Argentine air force attacked our fleet. That night the Belgrano sailed towards our fleet. The commander of the British Task force in the South Atlantic believed that she was a threat. He asked permission to sink her. The Prime Minister was advised that British lives were at risk. The evidence was overwhelming, the advice categorical, the counter-arguments non-existent. The War Cabinet's agreement was immediate and any other decision would have been unforgivable.

I say to all those pursuing this detailed questioning for incidental information that they should address the central responsibility. The Prime Minister had to protect the lives of our Servicemen. Let them tell us where they stand on that issue. The Prime Minister took the right decision. She took it at the right time and she deserves the credit for what she did."

9. Postscript - The Government's Evidence to the Foreign Affairs Select Committee

The facts about the controversy surrounding the Government's evidence to the Foreign Affairs Select Committee in July are fully explained in Mr Heseltine's evidence to the Select Committee on 7th November 1984, which has been published as House of Commons Paper 11-i.

RT/JR
13.02.85

Following are the texts:

Dear Mr. Foulkes,

Thank you for your further letter of 27 September about events at the end of April and the beginning of May 1982.

The tone of your further letter suggests a remarkable absence of understanding or sympathy for the overriding concern of Ministers and their senior advisers at that time to protect the lives of those serving with the Task Force. Nor do you seem to appreciate that timely decisions had to be taken, in constantly changing circumstances and on the basis of sometimes limited and imperfect information. If, as you seem to imply, you believe that Ministers did not act in good faith and reasonably, I would prefer you to say so openly. I am myself entirely content to accept the verdict of the British people on whether the Government were right to respond to Argentine aggression and to take those actions which we and our senior professional advisers believed necessary to protect British lives.

As I explained in my letter to you of 19 September and in my letter of today's date to Dr. David Owen (copy attached) John Nott's statement of 4 May must be seen in the context of the preoccupations of Ministers and Parliament at that time. It is also simply not true to suggest that the Government has not sought to rectify "the errors and misleading impressions", as you put it, in that statement. My letter of 4 April 1984 to Mr. Denzil Davies dealt with the question of when the General Belgrano was first sighted by HMS CONQUEROR. The Annex to my letter to you of 19 September gave a great deal of further detail about events at that time including the question of the Belgrano's course and position. My letter to Dr. Owen deals with the question of the alleged attack by CONQUEROR on one of the Belgrano's escorting destroyers. I have to say that the provision of this further information seems merely to prompt further questions of an increasingly detailed kind. Some, at least of these questions seem to be of doubtful relevance. None of this further detail has altered the Government's explanation of why it was necessary to alter the Rules of Engagement on 2 May and to attack the General Belgrano. Nor does it cast doubt in any way on our rejection, since questioning began on this issue, of alternative hypotheses put forward by Mr. Dalyell and others. I have explained previously that it is now possible to give some of this further information which we were reluctant to reveal in 1982, as it has lost some of its operational significance.

You ask a number of questions about the reasoning behind the creation of the MEZ and the TEZ and the changes which were made in the Rules of Engagement. These are matters which the Foreign Affairs Committee can no doubt address, if they wish, when the Defence Secretary appears before them. I cannot say with certainty what influence the MEZ and the TEZ exerted on Argentine operations. At all times the Task Force had Rules of Engagement which enabled it to respond to the threat presented by Argentine forces, but the precise circumstances in which Argentine ships and aircraft could be engaged varied as the situation—and in particular the position of the Task Force and the threat which Argentine military forces could pose against it—developed. The warning which was issued to the Argentine Government on 23 April was reported to the United Nations on 24 April and met our obligations with regard to the attack on the Belgrano. The changes that were made in the Rules of Engagement took full account of diplomatic, military and legal considerations and of our best assessment of the threat. The Chief of the Defence Staff and the Service Chiefs of Staff were responsible for giving professional military advice, taking account of the views of the operational commanders.

You ask a number of questions about the activities of the "War Cabinet". As was explained in the White Paper on the Falklands Campaign, the group of Ministers who conducted the higher management of the crisis met almost daily. The Foreign Secretary raised in writing on 1 May whether there was a need for a further warning to the Argentine Government. The Attorney General was present when Ministers met on 2 May. My letter to Dr. Owen deals with the question of when Ministers knew of the precise course of the Belgrano on 2 May. I have already explained to you that this was irrelevant to the decision to permit the ship to be attacked.

It would not be right for me to comment on questions 8 and 14 in your letter. Nor will I place the log of CONQUEROR's movements in the Library of the House of Commons: the submarine's log is classified.

Finally, you ask whether any material has been made available to Ministers since May 1982 which would have led us

to take different actions then. I dealt with this point directly in my letter to you of 19 September, but I repeat that no evidence has at any time become available to the Government which would make Ministers change the judgment they reached on 2 May that the Belgrano posed a threat to the Task Force. The ship was sunk solely for that reason.

Yours sincerely,
Margaret Thatcher.

George Foulkes, Esq., M.P.

Dear Mr. Foulkes,

You wrote to me on 23 August and 14 September about decisions taken by the Government at the time of the Falklands conflict.

Your questions reflect a number of fundamental misconceptions about the situation in the South Atlantic in April and May 1982. I am enclosing, as an Annex to this letter, a statement of the position which should clear up these misconceptions, and remove any doubts in your mind about the reasons for our actions.

To put the matter briefly, in April 1982 Argentina had attacked and invaded British territory; despite intense and continuing diplomatic efforts, Argentina refused to comply with a mandatory resolution of the United Nations Security Council to withdraw its forces; with all-party support, and in exercise of our inherent right of self-defence under Article 51 of the UN Charter, the British Government despatched the Task Force to the South Atlantic; by the end of April as it approached the Falkland Islands the Task Force was increasingly vulnerable to Argentine attack; by 2 May it had already been attacked by Argentine aircraft and there were clear and unequivocal indications that it was under further threat from a strong and co-ordinated pincer movement by the major units of the Argentine Navy, including the cruiser 'General Belgrano' and the aircraft carrier '25 de Mayo'. The then Argentine Operations Commander, South Atlantic, has since confirmed publicly that his warships had indeed been ordered to attack. No Government with a proper sense of responsibility could have refrained from taking appropriate measures to counter the threats to the Task Force, and to ensure its safety to the maximum extent possible. Risks could not be taken, especially when hostilities had been so clearly embarked upon by the Argentines.

Your questions about the Argentine aircraft carrier and the events on 2 May are answered in the Annex.

You also asked whether a Polaris submarine was deployed as described in the New Statesman article on 23 August. There was no change in the standard deployment pattern of our Polaris submarines during the conflict. Moreover, the Government gave a categorical assurance at the time that nuclear weapons would not be used in the Falklands conflict (see the statement made by Viscount Trenchard in the House of Lords on 27 April 1982—Hansard Vol. 429, Col. 778).

I have given you in the Annex as full an account of these matters as, I am advised, is consistent with national security. I must make it clear that it would be, and will remain, quite wrong for me to disclose all the material that was available to Ministers at the time. To do so would still risk irreparable damage to national security and could put lives at risk in the future.

Those who seek to criticise the Government's actions (including people outside this country who have every reason to discredit the Government of the United Kingdom) are not subject to the same constraints and have felt free to make a large number of assertions. I have already explained why I cannot make public everything which would make it possible to discuss whether those assertions are true or false. In these circumstances, I must emphasise the central point. On the basis of all the material that was available to Ministers at the time, my colleagues and I were satisfied that we took the right decisions in order to protect the lives of our forces. Nothing that has since been put forward—and I can assure you that it has all been examined with the utmost care—has led me or any of my colleagues to have any doubts that we were right.

Yours sincerely,
Margaret Thatcher.

George Foulkes, Esq., MP.

The Prime Minister: Yes.

Annex to Prime Minister's letter to George Foulkes, Esq. MP dated 19.9.84.

1. The threats which faced the Task Force at the end of April and the beginning of May 1982 can only be appreciated in the light of the situation in the South Atlantic at that time.

2. On 2nd April 1982, the process of diplomatic negotiations over the Falkland Islands was abruptly interrupted by Argentina's unprovoked armed invasion of the Islands. Having obtained control of the Islands, the Argentines then refused to comply with mandatory Resolution 502 of the United Nations Security Council, which demanded an immediate withdrawal of their forces.

3. In exercise of the inherent right of self-defence under Article 51 of the United Nations Charter, and in parallel with intense but ultimately unproductive diplomatic activity, the British Task Force was despatched at the beginning of April, with all-party support, following Argentina's action, which was wholly inconsistent with international law and the UN Charter. 28,000 British Servicemen and civilians eventually sailed in the Task Force; it was the foremost and continuing duty of the Government to take such decisions as were necessary to protect them as the events of the moment demanded.

4. On 7th April, the Defence Secretary had announced the establishment, as from 12th April, of a 200 nautical mile Maritime Exclusion Zone around the Falkland Islands; but it was made clear in the announcement that this was 'without prejudice to the right of the United Kingdom to take whatever additional measures may be needed in exercise of its right of self-defence, under Article 51 of the United Nations Charter.' Mr. Nott told the House of Commons that if it became necessary, the British Government would use force to achieve the objective of securing Argentine withdrawal. He added: 'We hope that it will not come to that. We hope that diplomacy will succeed. Nevertheless, the Argentines were the first to use force of arms in order to establish their present control of the Falklands . . .'

5. In late April 1982 the Task Force was strung out between Ascension Island and the Falklands and vulnerable to attack. On 23rd April 1982, the Government accordingly sent the following message to the Argentine Government, making it clear that the terms of the communication came into effect immediately:

"In announcing the establishment of a Maritime Exclusion Zone around the Falkland Islands, Her Majesty's Government made it clear that this measure was without prejudice to the right of the UK to take whatever additional measures may be needed in the exercise of its right of self-defence under Article 51 of the United Nations Charter. In this connection, HMG

now wishes to make clear that any approach on the part of Argentine warships, including submarines, naval auxiliaries, or military aircraft which could amount to a threat to interfere with the mission of British Forces in the South Atlantic will encounter the appropriate response. All Argentine aircraft including civil aircraft engaging in surveillance of these British Forces will be regarded as hostile and are liable to be dealt with accordingly."

It is clear from the above text that the warning applied outside the Exclusion Zone as well as within it. This message was notified to the United Nations Security Council and circulated accordingly on 24th April. It was also released publicly.

6. On 28th April 1982 the Government announced the establishment of a 200 nautical mile Total Exclusion Zone around the Falkland Islands, effective as from 30th April, which would apply to all Argentine ships and aircraft. The announcement again stressed that 'these measures are without prejudice to the right of the United Kingdom to take whatever additional measures may be needed in exercise of its right of self-defence, under Article 51 of the UN Charter'.

7. On 30th April, Ministers met to consider the implications of the capability of the aircraft carried by the Argentine aircraft carrier, the '25 de Mayo', to threaten our forces from the air at substantial distances from the Argentine mainland. After the most careful consideration of the legal, military and political issues, Ministers decided that our forces should be permitted to attack the '25 de Mayo' on the high seas (that is both within and outside the Total Exclusion Zone), in circumstances in which it posed a military threat to the Task Force. As set out in paragraph 5 above, a warning that Argentine warships threatening the Task Force would meet with an appropriate response had already been delivered to the Argentine Government on 23rd April; and Ministers concluded that no further warning was needed. There is no truth in the suggestion that the Foreign Secretary and the Attorney General opposed or dissented from the decision of 30th April. But on 1st May, the day he left for Washington, the Foreign Secretary raised the need for a further warning to the Argentine Government. The matter had been taken no further, however, when the general situation changed completely: first, with the attacks which the Argentine Air Force launched for the first time on the Task Force on 1st May and second, with the clear and unequivocal indications which became available that weekend that the Argentine Navy was committed to hostile action against the Task Force.

8. On 1st May 1982 the Task Force came under attack for the first time from the Argentine airforce, operating from the mainland. As the Defence Secretary said in the House of Commons on 4th May: 'On 1st May the Argentines launched attacks on our ships, during most of the daylight hours. The attacks by Argentine Mirage and Canberra aircraft operating from the mainland were repulsed by British Sea Harriers. Had our Sea Harriers failed to repulse the attacks on the Task Force, our ships could have been severely damaged or sunk. In fact, one Argentine Canberra and one Mirage were shot down and others were damaged. We believe that another Mirage was brought down by Argentine anti-aircraft fire. One of our frigates suffered splinter damage as a result of the air attacks and there was one British casualty whose condition is now satisfactory. All our aircraft returned safely. On the same day, our forces located and attacked what was believed to be an Argentine submarine which was clearly in a position to torpedo our ships. It is not known whether the submarine was hit. The prolonged air attack on our ships, the presence of an Argentine submarine close by, and all other information available to us, left us in no doubt of the dangers to our Task Force from hostile action'. All British units were on maximum alert to deal with any naval or air attacks.

9. As Admiral Woodward has explained "Early on the morning of 2nd May, all the indications were that the '25 de Mayo', the Argentine Carrier, and a group of escorts had slipped past my forward SSN barrier to the north, while the cruiser General Belgrano and her escorts were attempting to complete the pincer movement from the south, still outside the Total Exclusion Zone." The Argentine Operations Commander in the South Atlantic at the time, Admiral Juan Jose Lombardo, confirmed without hesitation on the BBC Panorama programme on 16 April this year that the Argentine Navy, as we thought, were attempting to engage in a pincer movement against the Task Force, using the '25 de Mayo' and its escorts in the north and the 'General Belgrano' and its escorts attempting to complete the movement from the south.

10. As was further explained in the Prime Minister's letter to Mr. Denzil Davies, HMS Conqueror had sighted the Belgrano for the first time on 1st May. On 2nd May, in response to the threat to the Task Force, Admiral Woodward sought a change to the Rules of Engagement to enable Conqueror to attack the Belgrano outside the Exclusion Zone. On the basis of the clear and unequivocal indications available to the Government that the Argentine Navy posed a real and direct threat to the Task Force and those sailing with it and on the advice of their most senior military advisers, Ministers decided at 1 pm that the Rules of Engagement should be changed to permit attacks on all Argentine naval vessels on the high seas, as had previously been agreed for the '25 de Mayo' alone (see paragraph 7 above). The necessary order conveying this change was sent by Naval Headquarters at Northwood to HMS Conqueror at 1.30 pm (all timings in this and the following paragraphs are given in London time). Shortly after 3 pm, HMS Conqueror reported the position of the Belgrano at 9 am and 3 pm that day. HMS Conqueror had not then received the order changing the Rules of Engagement. The limitations in communications with our submarines operating in the far South Atlantic meant that submarine operations there could not be monitored and controlled hour by hour. It was not until after 5 pm that HMS Conqueror reported that she had received and understood the new order and intended to attack. The Belgrano was attacked just before 8 pm.

11. Conqueror's report on the Belgrano's position was received by Northwood at 3.40 pm and made known to senior naval officers there and at the Ministry of Defence later that afternoon. The report showed that the Belgrano had reversed course. But she could have altered course again and closed on elements of the Task Force, acting in concert with the carrier to the north. In the light of the continued threat posed by Argentine naval forces against the Task Force, the precise position and course of the Belgrano at that time was irrelevant. For this reason, the report was not made known to Ministers at the time.

12. No evidence has at any time become available to the Government which would make Ministers change the judgement they reached on 2nd May that the Belgrano posed a threat to the Task Force. In the Panorama interview which is referred to earlier, Admiral Lombardo stated that the decision to sink the Argentine cruiser had been tactically sound, and one which he too would have taken had he been in Britain's position. It is, of course, the case that after the sinking of the Belgrano major Argentine warships remained within 12 miles of the Argentine coast and took no further part in the campaign.

13. As to subsequent operations by HMS Conqueror, immediately after the attack upon the Belgrano Conqueror herself came under attack from the Argentine escorting destroyers and, to evade this, moved away from the area. As her continuing role was to protect the Task Force from the threat posed by Argentine warships, she subsequently patrolled to the north and west of the area where the Belgrano had been sunk; when on 4th May Conqueror signalled that she was returning to that area, she was ordered not to attack warships engaged in rescuing survivors from the Belgrano.

14. Attention has been focused on inaccuracies in the statement made by the then Defence Secretary, Mr. Nott, in the House of Commons on 4th May. It should be borne in mind that this statement had to be prepared in fast-moving and sometimes confused circumstances while Ministers were preoccupied with continuing threats to the Task Force. It was explained in the letter to Mr. Denzil Davies why it was then possible to correct earlier statements which were made in good faith and to give further information about the Conqueror's operation. It would have been inappropriate to have given details at the time about the circumstances in which Conqueror detected and tracked the Belgrano and other aspects of the engagement since these could well have provided information valuable to the Argentine Navy.

15. The need to do everything we could to protect the lives of some 10,000 British personnel—Service and civilian then in the Task Force and at risk from the Argentine Navy—was the sole reason for the attack on the Belgrano. No other consideration entered the calculations of the Ministers concerned, and in particular there was no question of taking the action in order to undermine peace proposals put forward by the President of Peru, about which Ministers in London had no knowledge at the time. As has been frequently made clear the first indications of these proposals did not reach London from

Washington until 11.15 pm London time on 2nd May—over three hours after the attack on the *Belgrano*—and from Lima until 2 am London time on 3rd May.

16. Diplomatic action was, however, also pursued vigorously. Every effort was made to secure by diplomatic means the objective of the withdrawal of the Argentine forces. As the Prime Minister said in the House of Commons on 29th April 1982, it was the British Government's earnest hope that this objective could be achieved by a negotiated settlement. But by 29th April, the initiative of the US Secretary of State, Mr. Haig, had foundered on Argentine obduracy. On 30th April, he announced that the United States Government had had reason to hope that the United Kingdom would consider a settlement on the lines of the second set of proposals formulated by the US Government; but the Argentine Government had informed the Americans on 29th April that they could not accept it. As General Galtieri later explicitly admitted in an interview with an Argentine newspaper, Argentine domestic political opinion made it impossible for the Junta to agree to a solution that would entail the withdrawal of Argentine forces. The British authorities by contrast, continued the search for a negotiated settlement until 17th May.

17. The measures taken in late April and early May 1982 were designed clearly and exclusively to safeguard the lives of those serving with our forces, by responding to the threat posed to our ships in order to ensure, in particular, the safety of our two aircraft carriers on which the protection of the Task Force ultimately depended. There was no question of any attempt to destroy the prospects for a negotiated settlement.

ADDENDUM

Reform of Section 2 of the Official Secrets Act

The Franks' Committee, which was appointed in April 1971 to review the operation of section 2 and which reported in September 1972, recommended its repeal and its replacement by a new Official Information Act, which would protect a more limited range of information. This was followed in July 1978 by the publication by the then Labour Government of a White Paper setting out their proposals for legislation based broadly on the Franks' Committee's recommendations.

In 1979, the Government introduced its own Protection of Official Information Bill which was broadly based on the Franks' Committee report. It would have replaced section 2 of the Official Secrets Act 1911 with new provisions to protect certain information and articles from unauthorised disclosure. Official information and official articles would have been protected only if they concerned the following matters: defence or international relations, but only if its unauthorised disclosure would be likely to cause serious injury to the interests of the nation or endanger the safety of a citizen of the United Kingdom and Colonies; security or intelligence; the enforcement of the criminal law and the safe keeping of persons in custody; the authorised interception of telecommunications or postal communications; and confidential matter obtained from foreign governments or international governmental organisations or obtained from or relating to individuals or certain bodies (including commercial firms and also bodies carrying on nationalised industries).

It would have been an offence (among other things) for a crown servant to have disclosed any protected information or article "contrary to his official duty". No definition of "official duty" was contained in the Bill. A prosecution for the disclosure of material in the defence or international relations category could have been undertaken only if a Minister had certified that its disclosure would have been likely to cause serious injury to the interests of the nation or endanger the safety of a citizen of the United Kingdom or colonies or both. Such a certificate could not be challenged.

The Bill obtained a Second Reading in the House of Lords but was the subject of much Parliamentary and Press criticism, in particular because of the blanket protection given to any disclosure of information relating to security and intelligence and interception. Introduction of this Bill also coincided with the revelations about the spying activities of Antony Blunt. It was suggested that these would not have emerged if the new Bill had been law. It was decided to withdraw the Bill because there was insufficient support for it for the Government to be able to proceed.

Ponting Case

The main criticism of section 2 of the Official Secrets Act has been that it is a catch-all offence which covers all official information, whatever its nature. The Ponting case, however, raises a totally different issue. The jury's decision to acquit Mr Ponting suggests that they declined to accept the judge's direction as to whether or not it was Mr Ponting's duty, "in the interests of the state" to communicate the documents in question to Mr Dalyell.

It is easy to say that section 2 should be repealed. It is another matter to devise a broadly acceptable measure which defines the information which genuinely needs protection from disclosure, and also makes clear who has the right to apply the definition to specific material.

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JA VC/33

10 DOWNING STREET

From the Principal Private Secretary

18 February 1985

BELGRANO DEBATE

We spoke yesterday about your Secretary of State's speech in the House of Commons today and the documents which it will be necessary to lay in the Library of the House.

I reported to the Prime Minister that the exhibits at the trial included the minutes of 9 May from the Minister of State's office to Mr. Ponting, Mr. Ponting's submission of the same date, the minute of 10 May from PS Minister of State to you and your minute of 11 May to PS Minister of State: these refer to a discussion which Mr. Stanley had had with Mr. Coles here and were the occasion of a story in The Observer yesterday.

Although these documents give some scope for mischief to those who might wish to suggest - as The Observer did yesterday - that Mr. Stanley's contact with No. 10 was with the Prime Minister herself, the Prime Minister agrees that it would be right for all the documents exhibited at the trial to be made available to the House of Commons. If it is necessary in the debate to deal with the references to Mr. Stanley's contacts with Mr. Coles, the point will need to be made that the Prime Minister was not involved in these discussions which were part of the process of consultation between Departments in preparing advice for Mr. Heseltine and the Prime Minister on replies to Mr. Dalyell.

We agreed that, in order not to extend the range of documents laid in the Library beyond those exhibited at the trial, your Secretary of State would not quote in his speech from Mr. Ponting's minute of 10 April about the reply to Mr. Dalyell's letter of 5 April to the Prime Minister.

I should be grateful if you and John Oughton could ensure that any references in your Secretary of State's speech or Mr. Stanley's speech to consultation with No. 10 are cleared with this office.

I am copying this letter to John Oughton in Mr. Stanley's Office, and Richard Hatfield (Cabinet Office).

Richard Mottram, Esq.,
Ministry of Defence.

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10 DOWNING STREET

From the Private Secretary

18 February, 1985.

Attached is a copy of the latest letter from the Leader of the Opposition about the prosecution of Mr. Ponting. This is just to record that the Prime Minister does not intend to reply to the letter, and indeed it seems that the letter has been written in the expectation that there would be no reply.

I am sending copies of this letter and its enclosure to Janet Lewis-Jones (Lord President's Office), David Morris (Lord Privy Seal's Office), Henry Steel (Law Officers' Department), and Murdo Maclean (Chief Whip's Office).

(Timothy Flesher)

Denis Brennan, Esq.,
Ministry of Defence.

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10 DOWNING STREET

From the Private Secretary

18 February, 1985

I undertook to let you have, for defensive purposes, the answers to those of Mr. Kinnock's questions in his letter of 14 February which relate specifically to the Prime Minister and her office. The answers are as follows:-

Question 2

The Prime Minister is answering a question today to the effect that while she has no recollection of the specific occasion it is possible that the Secretary of State for Defence reported orally on or shortly after 26 July.

Question 3

Refer to Question 2. The Prime Minister would not, of course, have made any comment on the question of prosecution since the investigation had yet to be concluded.

Question 4

Yes.

Question 5

Yes.

Question 6

Because the reference to the DPP of a case involving a senior Ministry of Defence official was clearly sufficiently important to merit being drawn to the Prime Minister's attention.

Question 7

No, but my office is usually kept informed.


Question 8

No.

Question 9

There is no record on our papers of such a request having been made but perhaps you could check yours to make sure. In any event the implication of this office having been informed of the reference to the DPP is that we would be notified of the outcome of that reference.

/The

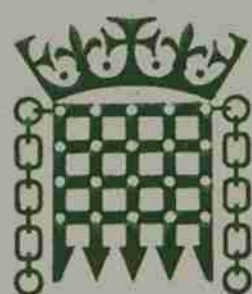


The rest of Mr. Kinnock's questions relate specifically to internal Ministry of Defence communications.

(Timothy Flesher)

D. Brennan, Esq.,
Ministry of Defence

TF



HOUSE OF COMMONS
LONDON SW1A 0AA

The Office of the Leader of
the Opposition

17 February 1985

Dear Prime Minister,

Thank you for your letter of 15 February.

I note that you say that Ministers were not involved in the Law Officers' decision to prosecute Mr Ponting. On that basis, your refusal to answer the questions which I put to you in my letter of 14 February is even more difficult to understand.

With regard to the more immediate matter of Monday's debate:

Last Thursday you put down a motion for debate on the Sinking of the General Belgrano. Then, in your letter last Friday, you said that the matter of Mr Ponting's prosecution could be pursued in the debate.

My view - as I said twice in the House last week - is that the debate must be about the conduct of Ministers and the matters which I raised in my question to you first on Tuesday and then on Thursday about the proposed deception of Parliament by Ministers.

That is the essence of the amendment which I have put to your Motion. They are the "matters to be pursued" in Monday's debate.

Yours sincerely
Neil Kinnock

NEIL KINNOCK

Rt Hon Margaret Thatcher MP

PRIME MINISTER

Ponting Debate: Exposure of Documents

It was agreed on Thursday that Mr. Heseltine would have to quote in the debate some internal minutes of advice from Mr. Ponting and would have to lay in the Library the documents from which he quoted. Since the Opposition would no doubt then ask for other documents which the Defence had in court, we were inclined to think that it would be best if he laid in the Library all documents which were exhibited in the trial.

From the chronology set out below you will see that some of these documents would contain references to discussions between John Stanley and John Coles. Contrary to what the Observer said today, you did not have any discussions with Mr. Stanley, but the Opposition will no doubt try to create scepticism about that.

I have considered the possibilities of limiting the range of documents which Mr. Heseltine would publish, in the interests of minimising the mischief which can be made about No. 10's role. There are four options:-

- (a) Mr. Heseltine only lays in the Library documents from which he quotes (and he could easily avoid quoting any which mention No. 10).
- (b) Mr. Heseltine lays in the Library only documents which he quotes but gives a descriptive memorandum about the rest.
- (c) Mr. Heseltine lays in the Library all the documents which were exhibited at the trial: this would include the documents marked with an asterisk on the attached chronology.

- (d) Mr. Heseltine lays in the Library all documents made available to the Defence: this would be a slightly wider category which would include Ponting's minute of 10 April quoted in the original draft of Mr. Heseltine's speech, which you saw yesterday.

Options (a) and (b) are unlikely to satisfy the Opposition, since Ponting and his lawyers know that the other documents exist and would put the Opposition up to press for their publication. So I am inclined to think that we should go for option (c) or (d), despite the mischief that this will enable people like Mr. Dalyell to make about the so-called "role of No. 10".

Agree? Or would you like to have a word with Mr. Heseltine tomorrow morning?

FERB

17 February, 1985

PONTING: CHRONOLOGY

1984

6 March

Denzil Davies writes to Prime Minister about Belgrano on behalf of Shadow Cabinet

19 March

Tam Dalyell writes to S/S, Defence with nine questions

22 March

Heseltine commissions Ponting to prepare "Crown Jewels"

29 March

Ponting submits "Crown Jewels" recommending uninformative reply to Dalyell

30 March

Meeting at No. 10 to discuss reply to Davies at which it is agreed to reveal first date of sighting Belgrano

4 April

Prime Minister replies to Davies

5 April

Dalyell writes to Prime Minister asking questions on Prime Minister's letter to Davies

6 April

John Coles writes to Ministry of Defence saying that he is inclined to advise Prime Minister not to answer Dalyell's questions but to refer him to letter to Davies

10 April

Ponting advises within Ministry of Defence that he "would not dissent from the suggestion in the letter from John Coles". [This minute was made available to Ponting's Defence but was not exhibited in court.]

12 April

Prime Minister replies to Dalyell as suggested by John Coles.

Ponting advises that S/S, Defence can answer eight of the nine questions in Dalyell's letter of 19 March (contrary to his original advice of 29 March)

13 April

~~*~~ Flag A

John Stanley dissents from Ponting's advice. He minutes that he has discussed with John Coles



/who

This was not an exhibit

who agrees that Heseltine should rest on Prime Minister's reply to Davies

18 April

Heseltine replies to Dalyell's letter of 19 March as advised by Stanley, i.e. that he cannot usefully add to Prime Minister's letter of 5 April to Davies and 12 April to Dalyell

24 April

Ponting writes anonymously to Dalyell urging him to put his questions down as PQs. He finishes "You are on the right track. Keep going."

1 May

Dalyell writes again to S/S, Defence, tables four questions as PQs to Defence and one to Prime Minister

2 May

Dalyell suspended from House. PQs to Defence lapse.

9 May

* Flag B

Stanley discusses with Coles reply to Dalyell's PQ and suggests that PM replies to Dalyell with "It is not our practice to comment on military operational matters or the details of military operations"

* Flag C

Ponting advises that Stanley's reason "suggested after discussion with No. 10" for not answering Dalyell will not stand up

10 May

* Flag D

Stanley disagrees with Ponting in minute to S/S, Defence and proposes line quoted under heading of 9 May above

11 May

* Flag E

Heseltine agrees with Stanley that Dalyell's questions should not be answered but rules that his suggested reason should not be used; and that the answer should simply refer back to Prime Minister's letter of 4 April to Davies. This line is adopted in the Prime Minister's reply.

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MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~930 7022~~x 218 2111/3

MO 5/21

15th February 1985

New Robin,

THE SINKING OF THE BELGRANO

We spoke about the background to the Defence Secretary's speech opening Monday's Debate, and about press reports of further inquiries following Mr Ponting's trial.

/ I attach a draft of Mr Heseltine's speech which he has yet to consider in detail. I should be grateful for any comments which you or copy addressees of this letter may have by not later than midday on Monday. I should, of course, be happy to receive these on the telephone.

I am copying this letter and the attachment to Len Appleyard (FCO), Hugh Taylor (Home Office), David Morris (Lord Privy Seal's Office), Henry Steel (Attorney General's Chambers) and Richard Hatfield (Cabinet Office).

Yours etc,

Richard Mottram

(R C MOTTRAM)

F E R Butler Esq

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Second Draft

THE SINKING OF THE BELGRANO

Mr Speaker, The House will understand that I must make a lengthly and detailed speech on what is an important issue involving the rights of Parliament and the duties of Ministers, national security, and the relationship between Ministers, their colleagues, and Civil Servants.

It may be helpful if I summarise at once the ground I intend to cover and the approach I intend to adopt.

I do not intend to do more than outline the background that led the the decision to sink the Belgrano.

I will set out rather more fully the events that surrounded the decision itself, although this is for completeness rather than because I have anything new to say.

I was not involved in the decision to prosecute Mr Ponting. Neither I nor John Stanley had any contact directly or indirectly with the Law Officers or their officials in this context. The Attorney General has set out the position to the House in the clearest language.

I have nothing to add to his statement.

My only involvement in the matter came many months later when it was necessary to consider requests from Mr Ponting's lawyers that classified documents belonging to my Department should be disclosed to the Court.

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I was consulted over the disclosure of one of these documents - the one now known as the "Crown Jewels".

The disclosure of a number of internal Ministry of Defence documents to the Court creates a most unusual situation.

Advice to Ministers on policy matters is disclosed to this House only in carefully defined areas, such as the outcome of studies related to efficiency.

It is a wholly desirable position carefully to restrict such disclosures.

If Civil Servants are to be protected in the views they express, if the concept that advice given to one Government is not made available to another is to be maintained, and if the proper accountability of Ministers - and not Civil Servants - to Parliament is to be preserved, we must maintain this position.

However, the essence of this debate centres on the allegations made by a Civil Servant about the behaviour of Ministers.

Mr Ponting has made the most serious allegations on oath about my conduct in discharging my responsibilities as the Secretary of State for Defence.

Most extreme allegations have been made about the Prime Minister and about my Rt Hon Friend, the Minister for the Armed Forces.

In these quite deplorable circumstances, the Government has decided - exceptionally - to reveal the advice given to Ministers by officials, which was quoted largely in open Court.

I shall quote from the advice Mr Ponting gave me.

When I do so I shall make available the full text of his advice to the Select Committee on Foreign Affairs and place copies in the Library of the House.

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I further intend to enable members of the Foreign Affairs Committee to have access to the document known as the "Crown Jewels" under appropriate security arrangements, and I propose to discuss how this can best be done with the Chairman of the Committee.

The House will want to judge Mr Ponting's assertions about integrity in the light of the advice he gave to Ministers at the time.

The House will be better able to judge then to what extent it is upon Mr Ponting's concept of truth that we should rely.

I shall specifically deal with the events associated with the letter written on behalf of the Shadow Cabinet by The Rt Hon Member for Llanelli, the letter I received in March from the Hon Member from Linlithgow, the preparation in the light of these letters of the document known as the "Crown Jewels", and the subsequent handling of Mr Dalyell's questions.

I shall want to deal also with the events that occurred later arising from a request from the Foreign Affairs Committee for a note of all changes in the Rules of Engagement issued to HM Forces in the South Atlantic during the Falklands campaign. Our response to that request, which has popularly become known as the "Stanley Memorandum" although the reply was approved personally by me, is the specific subject of the Opposition amendment today. It is this memorandum that is supposed to have tipped Mr Ponting over and to have driven him to leak.

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On this basis the Opposition have been persuaded, I presume, to draft their rather narrow amendment.

We shall see if the House believes that they were any better served by Mr Ponting than I was.

Mr Speaker, when I first became personally involved in this matter I had no first hand knowledge of the events which had taken place in the South Atlantic, save as a member of the Cabinet involved in general policy discussions and as a member of the public able to read the media reports.

I recall that the decision to send the Task Force was given all-Party support by this House in 1982.

But this House will also remember that the Hon Member for Linlithgow never agreed with that judgement.

Some would regard that independence of mind on his part as an act of personal courage.

No-one would question his right to such a view however much they disagreed with it.

But during my early days as the Defence Secretary from the beginning of 1983 it was he alone who pursued a campaign based upon this hostility and with changing centres of attack.

[Page 5 yet to be drafted]

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The Government's position was clear.

Towards the end of April 1982 the first elements of the Task Force were moving towards the Falkland Islands.

As they moved southwards from Ascension Island they were vulnerable to attack.

While an Exclusion Zone had been established around the Falkland Islands to avoid Argentina consolidating her illegal occupation, measures to defend our own forces had overriding priority.

On 23rd April the Government issued a warning to the Argentine Government making it clear that, notwithstanding the imposition of an Exclusion Zone, any approach on the part of Argentine warships, including submarines, naval auxiliaries, or military aircraft which could amount to a threat to interfere with the mission of British Forces in the South Atlantic would encounter the appropriate response.

At the end of April, the Task Force was close to the Falkland Islands.

It had limited defences against attack, particularly from the air.

It was operating 8000 miles away from home against forces operating close to their own mainland.

Argentina could bring to bear both land-based aircraft and those on the aircraft carrier the 25 de Mayo which greatly increased the reach and flexibility of the Argentine air threat.

Argentine ships could move quickly from the safe haven of areas close to the Argentine coast to positions where they could threaten our forces.

The Royal Navy had no such easy options.

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On 2nd May, after hostilities had already commenced, there were clear and unequivocal indications that the Task Force was under further threat from a strong and co-ordinated pincer movement by the major units of the Argentine Navy, including the cruiser - the General Belgrano - and the aircraft carrier. On the advice of their most senior military advisers, Ministers decided at 1pm that day that the Rules of Engagement should be changed to permit attacks on all Argentine naval vessels on the high seas.

The General Belgrano was attacked just before 8pm that day. Following that attack, the Argentine Navy played no further part in the Falklands campaign.

On 4th May John Nott described to the House the circumstances of the attack on the Belgrano.

He said that the Belgrano had been detected at 8pm on 2nd May and that the group of which she was a part was closing on elements of our Task Force.

Both the White Paper "The Falklands Campaign: The Lessons" and Admiral Sir John Fieldhouse's official despatch also referred to detection on 2nd May.

We now know that these statements were inaccurate and I will return the Government's present view on this matter later.

Interest in these and other questions was heightened by the publication of a book on the sinking of the Belgrano by Messrs Gavshon and Rice.

From the time of publication in March 1984 a range of details was available that raised a host of new issues and questions.

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Two particular issues emerged.

First the date on which the Belgrano was detected.

Secondly the course of the Belgrano and the orders under which she was operating from the time when she was first picked up by HMS Conqueror to that when she was sunk.

It was understandable that for the first time the Shadow Cabinet should become involved as a result of the claims being made.

I must also tell the House, that with the intervention of the Shadow Cabinet in this matter, I too decided that it was necessary for me to take a close interest in the precise events which had occurred in the South Atlantic, in a way in which the allegations made by the Hon Member for Linlithgow had never persuaded me was necessary.

The Rt Hon Member for Llanelli wrote on behalf of the Shadow Cabinet to the Prime Minister on 6th March.

His letter focussed on the issue of when the Belgrano had first been located and sighted, but also asked about the ship's course when it was sunk.

His letter was referred to Mr Ponting, as the Head of the appropriate Division, for advice and for a draft reply.

I gave no guidance to Mr Ponting about the advice he should provide, but the Minister for the Armed Forces went further and asked that the option of admitting for the first time that the Belgrano was sighted on 1st May and not 2nd May should be addressed.

Mr Ponting submitted his advice through the Minister for the Armed Forces and it reached my office on 21st March.

I intend to quote from Mr Ponting's advice and also from the Minister for the Armed Forces' manuscript note written on that advice.

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I will, as I have said, make these documents available.

Mr Ponting wrote:

"You asked for a draft reply to send to No 10 for the Prime Minister to send to Denzil Davies and the Shadow Cabinet. Minister(AF) asked me to prepare a draft admitting for the first time that the Belgrano was sighted on 1st May and not 2nd May, this is draft 2 attached. I have however prepared an alternative reply, draft 1, which maintains the existing public line. There are no operational or intelligence reasons for withholding the 1st May date and the choice between the drafts is therefore essentially political."

Mr Ponting went on to set out the advantages and disadvantages of each alternative course but left the issue to me. He said the choice was "essentially political".

The Minister for the Armed Forces added a manuscript note making it clear that he had sought drafts on both bases and referring the matter to me.

It is clear beyond doubt that the Minister for the Armed Forces was determined that I, not him, should be able to make a proper judgement about how the Prime Minister should be advised to reply to the Shadow Cabinet.

In practice, Mr Speaker, I did not put either of Mr Ponting's alternative drafts to the Prime Minister.

The explanation is simple.

On March 19th, the Hon Member for Linlithgow wrote to me a letter

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asking 9 questions.

These concerned the date of the detection of the Belgrano as had the letter from the Rt Hon Member for Llanelli.

But Mr Dalyell went on to ask a number of other questions concerning the course followed by the Belgrano, the details of the attack on her, and others relating to the Argentine aircraft carrier.

I decided that, as a result of the events I have described, I could not properly discharge my duty to Parliament unless I had before me an account of events in the South Atlantic that no-one until that time had considered necessary.

I had played no personal part in those events and could therefore review the evidence entirely dispassionately.

Mr Ponting was asked to prepare that document - the document known as the "Crown Jewels".

I must now read to the House the instructions that were sent to Mr Ponting about what was required.

The House will remember that the central issue of this debate is whether Ministers sought to cover up the events we are discussing.

My Private Secretary, Richard Mottram, wrote to Mr Ponting on 22nd March.

I quote the third, fourth, and fifth paragraphs of his minute:

"The Secretary of State wishes to know the substance of what happened at the beginning of May 1982 in relation to the Belgrano and the Argentine aircraft carrier in order to judge how much of this can properly be made public without security implications.

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For the purpose of considering the substance, he would be grateful for a detailed chronology of the events leading up to the sinking of the Belgrano. This should cover the answers to the questions raised by Mr Dalyell in his latest letter together with those to the following questions:

- a. What rules of engagement in relation to attacks on Argentine ships were in force prior to 2nd May?
- b. What was the nature of the intelligence which showed that the Belgrano group was a threat to the Task Force, when was it first available and when was it drawn directly to the attention of Ministers?
- c. What was the precise sequence of events and their timings which led to the change in the rules of engagement enabling Conqueror to sink the Belgrano? When was the request initiated, what chain did it pass through, when was it put to Ministers? What was the nature of the decision communicated to HMS Conqueror?
- d. What was the sequence of events in relation to the Peruvian peace initiative and when and in what form was this available to Ministers in London?
- e. Was any intelligence received which might have suggested that the Argentine Navy had been ordered on or about 1st May to return to port? If so, when was it received and what happened to it?

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f. Do we know why the then Secretary of State referred in his statement to the House on 4th May 1982 to the Belgrano being detected at 8pm London time on 2nd May?

This list of questions is simply those which occur to me and is not meant to be exhaustive. What the Secretary of State is seeking is a comprehensive account of events which covers all the information and not just that which underpins the main defensive line we have used hitherto. I would be happy to have this in log form with the relevant documents enclosed - given the possible sensitivity of some of the information involved there would be no need of course to copy it widely within the Department.

Additionally, I should be grateful for a draft reply to Mr Dalyell's latest letter together with advice on whether the line proposed to be taken with Dalyell affects the line proposed to be taken with Denzil Davies."

Mr Ponting's reply to this minute is the now famous document, the "Crown Jewels".

It consists of Mr Ponting's advice, an unclassified draft reply to Mr Dalyell's letter, and a log and supporting documentation dealing with highly sensitive operational and intelligence aspects of the sinking of the Belgrano.

The document is classified TOP SECRET, CODEWORD.

That classification would have been applied by Mr Ponting reflecting the classification of some of his source material.

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Let me deal first with the conclusions which Mr Ponting reached. He concluded, as was disclosed in open Court, that on the basis of the information in the "Crown Jewels" the arguments put forward by Mr Dalyell and his supporters could be refuted. But because of the classification of the material it was not possible to use it in public to refute detailed allegations.

Mr Ponting's

As to what should be said to Mr Dalyell, / advice was that the draft reply was simple because whatever general line was taken these issues related to detailed operational and intelligence information.

He submitted a draft reply to Mr Dalyell.

His draft reads as follows:

"Thank you for your letter of 19th March.

As I expect you know the Prime Minister has, in a letter to Denzil Davies, confirmed that the Belgrano was sighted on 1st May. However, the other questions you have raised in your letter all concern detailed operational and intelligence matters on which I am not prepared to comment."

That represents Mr Ponting's advice to me on 29th March as to how I should reply to Mr Dalyell.

It presented me starkly with an agonising choice between national security and public accountability.

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Mr Ponting's role in the "Crown Jewels" is clear.

He informed me that -

- the long running arguments of the hon Member for Linlithgow did not stand.
- that an effective negation of his case was incompatible with national security.
- that the hon Member for Linlithgow should be sent a six line reply closing down that line of inquiry;

I could simply have accepted Mr Ponting's advice that day and sent a reply on the basis he proposed.

I refused to do so.

I was scheduled to leave for a NATO meeting the following Monday.

There was therefore great urgency.

I called a series of meetings on Friday 30th March and on Sunday 2nd April.

Their purpose was to address how far information could be disclosed in answer to Mr Davies and Mr Dalyell without security implications.

We had before us Mr Ponting's advice which leaned towards disclosure over the question of when the Belgrano was sighted but was quite clear about Mr Dalyell's questions.

At the end of the first long meeting on this matter I reached a preliminary conclusion which was recorded at the time and made known amongst others to Mr Ponting.

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The issue was where we should draw a proper line upon which we could stand absolutely firmly on the argument that to disclose any more information would be contrary to national security. The conclusion I reached was that it might well now be possible to reveal that the Conqueror first detected the Belgrano group on 30th April 1982 and first sighted the Belgrano itself on 1st May but that the Government should not allow itself to be driven beyond that point whatever the pressures. Mr Ponting at no stage during those discussions dissented from that conclusion.

Before implementing it I decided to hold another meeting on Sunday 2nd April at which, at my request, the Head of the appropriate intelligence agency and other intelligence experts were present.

That meeting addressed in full the intelligence background to the action taken by the Government on 2nd May 1982 and what might be said in response to the claims about the interception of Argentine orders to her fleet which were being made by Mr Dalyell, Messrs Gavshan and Rice and others.

The House will of course appreciate that the information with which we were confronted was largely the product of Argentine sources anxious beyond doubt to probe the scale of our understanding of their activities.

It was obvious that once the Government had confirmed that the Belgrano had reversed course at 9am on 2nd May and had headed for a number of hours in a westerly direction, the focus of attention would be on the intelligence assessment which led to

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the decision to sink the ship and allegations about Argentine orders to recall her fleet to port as part of the so-called Peruvian peace initiative.

As events have shown, the disclosure of information about the movements of the Belgrano has led precisely to detailed questions of this kind.

The advice put to me at the time by those responsible was that, in accordance with long-standing precedents, it would not be possible safely to comment on these matters.

I concluded therefore that the preliminary judgement I had reached on Friday 30th March should stand, that is we should not enter into debate with Mr Dalyell about events at the beginning of May 1982.

It has now been alleged that this decision was all to do with political embarrassment.

I refute this allegation.

At that time any political embarrassment that might be said to exist concerned the date when the Belgrano had been detected. I concluded that to maintain this statement made originally to the House by John Nott was no longer defensible.

I so advised the Prime Minister.

She immediately and without qualification agreed.

The Prime Minister replied to Mr Denzil Davies on 4th April essentially on the basis of the advice that I had given her the previous Friday.

Her reply was in much fuller terms than Mr Ponting had originally suggested and along the lines that I myself suggested.

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The despatch by the Prime Minister of her letter to Denzil Davies opened the way for me to deal with Mr Dalyell's original 9 questions in his letter to me of 19th March.

I was about to do so when Mr Dalyell himself wrote to the Prime Minister pursuing issues raised in her letter to the Rt Hon Member for Llanelli.

Mr Dalyell said referring to the Prime Minister's own letter:

"You stressed that on 2nd May we had indications about the movements of the Argentine fleet which led to Admiral Woodward's request for a change in the Rules of Engagement."

He asked:

"What precisely were those indications?"

He went on to say:

"My information is that the Argentine fleet was by that time under orders to return to base and you knew that. Gavshon and Rice in their book set precise times (2000 hours on 1st May and 0119 hours on 2nd May) when those orders were sent by Admiral Allara, and by the Naval Command in Buenos Aires. The text of one of those messages is included in their book."

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Mr Speaker, what the Hon Member for Linlithgow was doing within one day of the Government's response was to attempt to draw us precisely into those areas of security which we had anticipated and on which we knew we could not comment.

In line with the approach which I has previously discussed with the Prime Minister, it was suggested that she should reply very briefly to Mr Dalyell making it clear that his purpose in asking these questions was in order to establish his contention that the attack on the Belgrano was related to the Peruvian peace proposals and in these circumstances it was not useful to prolong these exchanges. *Mr. Ponting was asked to advise and did not dissent from this suggestion. The Prime Minister* ~~she~~ replied along these lines on 12th April.

Before the Prime Minister replied, Mr Ponting as the responsible official was invited to comment on the approach she should adopt. He said, and I quote from his minute of 10th April:

"I would not dissent from the suggestion in the letter from John Coles (who was one of the Prime Minister's Private Secretaries at the time) that the Prime Minister should avoid detailed exchanges with Tam Dalyell and that a general reply would be sufficient."

The House will realise that, because Mr Dalyell had written on 5th April to the Prime Minister and attention was focussed on her reply, I had still at this stage yet to reply to Mr Dalyell's earlier letter of 19th March which had been at the heart of the "Crown Jewels" exercise from which Mr Ponting had already submitted to me one draft reply that I have already read to the House.

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On 12th April Mr Ponting submitted further advice on these questions.

The advice he gave was diametrically opposed to his earlier draft.

While he had told me on 29th March that it was not possible to answer Mr Dalyell's questions because they touched on operational and intelligence matters, he now told me on 12th April that the answers were not classified and could not properly be denied to Parliament.

The Minister for the Armed Forces, having read Mr Ponting's advice, minuted me to point out that it was inconsistent with the line which the Prime Minister had just taken with the agreement of all concerned, including Mr Ponting, in her own reply to Mr Dalyell.

The Minister for the Armed Forces could not have behaved more properly or more speedily.

But it would have made no difference if he had not minuted me because I was already fully aware of the background to these issues and that for no apparent reason Mr Ponting had changed his advice and now sought to reverse my earlier decision.

I therefore replied in general terms to the Hon Member for Linlithgow on 18th April along lines consistent with the decision the Prime Minister and I had taken in the light of the advice of our most senior advisers on matters affecting national security and in conformity with Mr Ponting's own original advice.

Mr Ponting made no protest about my answer through any established channels of complaint open to members of Her Majesty's Civil Service.

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We should now move on to the heart of the Opposition's amendment - that in connection with the memorandum to the Foreign Affairs Committee I submitted a misleading account of changes in the Rules of Engagement during the Falklands campaign.

We should move on not only because it is specifically referred to in the Opposition's amendment but also because it is my handling of that incident that Mr Ponting has produced as the justification for the leak by him of what is known as the "Legge Memorandum".

I say we should move on, Mr Speaker, but Mr Ponting's position does not seem to me to fit quite so conveniently with what I know of his explanations.

He says, I believe, that he leaked for the first time after Ministers had given advice to the Select Committee which was a cover-up which he could not tolerate.

I think words about truth and honour are involved.

He has in this connection indulged in unforgiveable assertions about my Rt Hon Friend the Minister for the Armed Forces, whose behaviour, he has hinted, persuaded him to take so serious a step.

I must take the House back to my rejection of Mr Ponting's inconsistent advice on 12th April.

On 19th August 1984 Mr Dalyell is quoted in the Observer as having received three documents.

The first was postmarked 24th April and sent to him at the House of Commons in a plain envelope similar to that containing the other papers which he subsequently received in mid-July.

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The House will appreciate that on 24th April neither I nor my Rt Hon Friend, the Minister for the Armed Forces, had ever had to deal with the question of what should be said concerning Rules of Engagement.

We had not been asked any questions about this and neither of us served in the Ministry of Defence during the Falklands campaign. The Foreign Affairs Committee had made no request to my Department about this matter.

When Mr Dalyell's reference to an anonymous letter appeared in August, there was little my Department could be expected to do. No-one knew from where it had come.

The night of Mr Ponting's acquittal, that is Monday 11th February, the News at Ten carried an interview with Mr Ponting which, I believe, was a shortened version of one shown earlier that evening on Channel 4.

I am placing in the Library a transcript of part of that interview made at my request by my staff.

The film appeared to show Mr Ponting typing an anonymous letter which was sent to Mr Tam Dalyell.

It showed the envelope in which it was sent which is postmarked 24th April.

I will place in the Library a copy of the contents of that letter transcribed from the copy shown on the television screen.

I will now read the contents of that anonymous letter to the House:

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[TRANSCRIBED FROM THE NEWS AT TEN, 11TH FEBRUARY 1985 INTERVIEW
WITH MR PONTING]

" Dear Mr Dalyell,

For what I hope will be obvious reasons I cannot give you my name but I can tell you that I have full access to exactly what happened to the Belgrano. You have probably seen by now that Michael Heseltine has not covered any of the questions that you posed in your letter in March. This was against the advice of officials but in line with what John Stanley recommended. None of the information is classified and to get answers you should put the questions down as ^{P.Qs} ~~Parliamentary Questions~~. The answers will be quite interesting. In addition you might like to consider another linked question. Did the change in the rules of engagement on 2nd May refer only to the Belgrano or did they go wider? When were the rules of engagement changed to allow an attack on the 25 de Mayo? Was this on 2nd May or was it earlier? If so, when?

You are on the right track. Keep going."

CONFIDENTIAL

CONFIDENTIAL

You will see, Mr Speaker, that this letter, if Mr Ponting is as he appears to claim, the author, is not consistent with Mr Ponting's argument that he was driven to leak by my behaviour or by the behaviour of my Rt Hon Friend, the Minister for the Armed Forces, in connection with the matter which is the subject of the Opposition's amendment.

We were still some 11 weeks away from the submission of my memorandum to the Foreign Affairs Committee.

No questions about Rules of Engagement had yet been put to us. That is not to say that questions had not been drafted. They had.

By Mr Ponting.

Not for Ministers, but in an anonymous letter to Mr Dalyell.

And, sure enough, on 27th May Mr Dalyell wrote to me and there, as large as life, were Mr Ponting's questions.

So the constitutional novelty that this House is expected to support, if the Opposition have their way, is that the most trusted Civil Servants in the most secure parts of our Defence Establishment should be free anonymously to draft questions for Opposition backbenchers to submit to Ministers so that the self same leaking Civil Servants may brief the Ministers on the answers which they consider appropriate.

The Opposition may perhaps be beginning to wonder, Mr Speaker, if they have been any better served by Mr Ponting than I have.

CONFIDENTIAL

CONFIDENTIAL

I now come finally, Mr Speaker, to the issue of the memorandum I submitted to the Foreign Affairs Committee on Rules of Engagement.

I say "I submitted" deliberately because that memorandum has come to be called the "Stanley Memorandum".

I made clear to the Foreign Affairs Committee, when I gave evidence to them, that it was a memorandum which I approved and which is therefore my responsibility.

My Rt Hon Friend, the Minister for the Armed Forces, certainly advised me.

That is what he is there to do.

But I decided to send in the memorandum and I am wholly responsible for what happened.

So what did happen?

The Foreign Affairs Committee were not investigating the sinking of the Belgrano.

The terms of reference of their inquiry are clear.

They were and I quote:

"To examine progress towards the restoration of diplomatic and commercial relations between the United Kingdom and Argentina since June 1982; to examine the future constitutional and economic development of the Falkland Islands; and to examine the prospects for a negotiated settlement of the UK/Argentine dispute over the Falkland Islands in the light of the establishment of a democratic regime in Buenos Aires and in the light of previous failures to secure such a settlement."

CONFIDENTIAL

CONFIDENTIAL

In his letter of 28th June, The Clerk the the Foreign Affairs Committee asked for:

"a note of all changes in the Rules of Engagement issued to HM Forces in the South Atlantic between 2nd April and 15th June 1982 and confirming the accuracy of Mr Pym's statement to the Committee on 11th June that changes in the Rules of Engagement: "happened quite a number of times in the course of the war."

This request presented my Department with a difficulty. A comprehensive list of all the changes in the Rules of Engagement would have been classified, but we were advised that the Committee would prefer the note to be unclassified. Ministers therefore received a draft addressing the issue that had provoked the original enquiry but in a document which was not in itself classified.

The memorandum was not misleading.

It never purported to be a comprehensive list of all the changes in the Rules of Engagement and could never have been read as such.

If the Foreign Affairs Committee wished in the light of our advice still to receive a comprehensive list, they had a simple remedy open to them and that was to ask again for such a list.

I would have supplied it on a classified basis.

This I subsequently did.

The House will realise that I have discussed this matter with the Foreign Affairs Committee when I appeared before them.

CONFIDENTIAL

CONFIDENTIAL

It would be quite wrong for me to anticipate their views.

But I must provide for the House my views about the significance of the so-called the "Legge Memorandum".

Paragraph 1 of that memorandum sets-out the basis of the request from the Committee.

Paragraph 2 sets out 5 reasons why I should not comply with the Committee's request in full.

The first reason is in itself decisive.

I will read it to the House.

I quote:

"Firstly, the ROE themselves are classified, and are drawn from the Fleet operating and tactical instructions which is a classified document. The Committee has indicated that they would prefer the note to be unclassified."

The second reason leaves no responsible Secretary of State any discretion.

I will read it to the House:

"Secondly, some of the ROE are still in force for our Falklands garrison. We run the risk of undermining their effectiveness if they were published and debated openly by the Foreign Affairs Committee."

The third and fourth reasons are about the time involved and the problems of converting the rules to layman's language.

CONFIDENTIAL

CONFIDENTIAL

They are not compelling.

The fifth reason is presumably that which motivates the Opposition today.

It reads:

"In addition, a full list of changes would provide more information than Ministers have been prepared to reveal so far about the Belgrano affair."

Taken out of context by someone unaware of the circumstances it sounds damaging.

But in the context of the first two reasons it is clearly not the reason why I did not give the Foreign Affairs Committee a full list of ROE changes.

My duty is first and foremost national security.

The House will realise that in this case Ministers followed the official and expert military advice of the Department. I have never doubted that it was right.

The House will know that as soon as the memorandum had been sent to the Select Committee, Mr Ponting leaked to Mr Tam Dalyell, who took the document to the Foreign Affairs Committee, the advice of his colleague, Michael Legge.

Mr Ponting's explanation is that this was the straw that broke the camel's back.

His sense of integrity no longer permitted him to hold back from sending the papers he leaked to a wider world.

CONFIDENTIAL

CONFIDENTIAL

Mr Speaker, there is one small gap in the logic of Mr Ponting's position.

Mr Ponting's position would perhaps have a momentary credibility if his first exposure to his colleague's work was when it was presented, beyond his influence, to the Foreign Affairs Committee. The facts are diametrically opposed to this version of events.

Michael Legge's name appears at the bottom of the Legge Memorandum. Michael Legge was the Head of Defence Secretariat 11 at the time. But the memorandum was not the sole product of Michael Legge's Division.

It was the joint work of two civilian divisions, together with military advice.

Michael Legge's was one of those Divisions.

Mr Ponting's was the other.

Michael Legge submitted his first advice to the Minister for the Armed Forces on 6th July.

He sent a copy to me on the same day.

He also sent a copy to Mr Ponting.

Ministers made no change to the basic approach in the draft memorandum.

It was ready for issue to the Foreign Affairs Committee on 16th July.

And Mr Ponting, upon whom I was entitled to rely for advice, spent 10 days agonising with his conscience - in total and absolute silence.

CONFIDENTIAL

CONFIDENTIAL

He made no protest to the Minister for the Armed Forces.

He made no protest to me.

He made no protest to any of his senior Civil Service colleagues.

And so, Mr Speaker, we have a constitutional novelty.

That senior and trusted Civil Servants, upon whom Ministers are entitled to rely for their loyal and conscientious service, are now allowed to sit silent, tortured in agonies of guilt, whilst they watch Parliament deceived, so that the moment it happens they may leak anonymously the advice of their own Civil Service colleagues which they did nothing to influence.

Mr Speaker, this Government, this Prime Minister, my Rt Hon Friend the Minister for the Armed Forces, myself, those official advisers with whom we have worked in a spirit of trust and mutual loyalty, have fully discharged our duties and have misled no-one. The House will judge whether Mr Ponting can say the same.

CONFIDENTIAL

SIR EWAN BROADBENT - INTERVIEW ON PONTING PROSECUTION

Transcript from: BBC Radio 4, World at One, 15 February 1985

INTERVIEWER: (Brian Widlake) ... One of the aspects of the Clive Ponting row which MPs are concerned about is the role of Tory Ministers in seeking to prosecute Clive Ponting. The Government in the last few days has maintained that it was entirely the decision of the Crown's law officers and had nothing to do with Ministerial interference, recommendations or feelings. One of the senior civil servants closely involved with the Ponting affair last August, the month it was discovered that Mr Ponting was the leaker, was Sir Ewan Broadbent. He is now retired but at that time he was Second Permanent Secretary of the Ministry of Defence. I've been exploring the sequence of events that led up to Mr Ponting's prosecution with Sir Ewan and I asked him first when it was that he'd first heard that Mr Ponting was the Ministry of Defence mole?

BROADBENT: It was on the Friday afternoon of the 10 August when the Ministry of Defence police officer who was conducting the inquiry told me the stage his investigations had reached.

INTERVIEWER : And those investigations had by then reached a stage when there was clear evidence that Mr Ponting had leaked the documents?

BROADBENT: So it seemed. He was in the course of of interviewing Mr Ponting. And at the stage he'd reached then he reported back and I agreed that Mr Hasty-Smith, who was in charge of personnel, should see Mr Ponting. There were various discussions went on. And then I was informed quite late that afternoon that Mr Ponting had written out a statement.

INTERVIEWER : Confessing to what he had done?

BROADBENT: Yes.

INTERVIEWER : Mr Ponting claimed in court that it was on that day he was told that if he confessed and resigned that would be the end of the matter. Who made that offer?

BROADBENT: I'm not aware that there was an offer. I did not see Mr Ponting myself. It ~~was~~ was the head of personnel, Mr Hasty-Smith, who did. I certainly saw Mr ~~Hasty-Smith~~ Hasty-Smith and the Ministry of Defence chief inspector who did the inquiries two or three times on the Friday. And they certainly assured me that when they had his written statement that there had been no bargain struck. I think that one must bear in mind that at the end of those several days Mr Ponting must himself have ~~been~~ been a very worried man. It must have been a period of great tension for him and he could well have thought in his own mind that if he wrote out his statement and at the same time wrote out an offer of resignation to the Department that that would be the end of the matter.

INTERVIEWER : Did you yourself ever discuss on that day with Mr Hasty-Smith the possibility, as it were, of an amnesty of that kind with Mr Ponting?

BROADBENT: No.

INTERVIEWER : What happened then because we were now at the evening of Friday 10 August - did you go home for weekend, what?

BROADBENT: I asked Mr Hasty-Smith to see Mr Ponting and to see him off the premises. I I was aware in the course of the day that we were likely to reach this stage. I recognised that it would be necessary to talk to the Director of Public Prosecutions. This was August as you know, it so happened that he was on leave that week but was going to be back on the Monday morning. And I therefore arranged to see him on the Monday morning.

INTERVIEWER : So as far as you were concerned Saturday and Sunday of that weekend was a quiet weekend?

There was no telephone activity at all?

INTERVIEWER : Not on this case.

INTERVIEWER : Now we come to the Monday and that was a day when the DPP, Sir Thomas Heatherington, came back off holiday.

BROADBENT Yes.

INTERVIEWER : You contacted him then did you?

BROADBENT: I went over to see him at 11 o'clock. I told him what had gone on with the investigations by the Ministry of Defence police. And he said that in the light of the seniority, in the light of recent precedents, eg, Miss Tysdale, he would want to talk to a law officer. I left him. I returned to the Ministry of Defence via the Manpower and Personnel Office, who are in overall responsibility for a civil service member. I told them what was ~~xx~~ going on and they noted and said it was of course now ~~xxx~~ up to the DPP. I got back to my office and round about lunchtime the Solicitor General phoned me and asked one or two questions. So that made it absolutely clear to me that it had been referred to a law officer and that their processes were in hand. The next thing I did was to go down that afternoon to see Mr Heseltine at his home. That is perhaps not so odd as it sounds in that he was on leave. He was about to go away to Cyprus on holiday and I thought it both courteous and correct to go down and see him and ~~xx~~ update him before he went off.

INTERVIEWER : What did you tell him exactly?

BROADBENT: I told him what had gone on in the way of the investigations by the Ministry of Defence police. What had happened in the way of the confession and what I had done in the way of action within Whitehall that morning.

INTERVIEWER : Did you tell him that Sir Patrick Mayhew, the

Solicitor General, had phoned you which indicated that Sir Thomas Heatherington, the DPP, had already been ~~xxx~~ in touch with Sir Parrick?

BROADBENT: Yes.

INTERVIEWER : What were Mr Heseltine's comments when you told him all this?

BROADBENT : So far as Mr Ponting was concerned he expressed the view that if it were left to him he would like to see action taken under the Official Secrets Act. But at the same time he said of course it was now a matter for the law officers.

INTERVIEWER : In other words he was indicating his preference to you, his personal preference to you, that he would like to see Mr Ponting prosecuted?

BROADBENT: Well like is perhaps not the right verb. But I mean that would be his perhaps chosen course of action yes.

INTERVIEWER : Did you subsequently indicate to anyone, whether it was the DPP or any law officer, that those were Mr Heseltine's opinions?

BROADBENT: No I didn't. He did not ask me to do so and I saw no need to do so because we both recognised that at that stage action lay with the law officers.

INTERVIEWER : Do you know if when he had heard the news from you Mr Heseltine had contacted the Prime Minister at all? She was of course on holiday as well.

BROADBENT: I don't know. I mean that should be for him to say. But I see no reason why he should. He gave no indication that he was going to. He noted the situation and that it rested now with the law officers.

INTERVIEWER : When did the DPP get the papers from the Ministry

of Defence concerning the Ponting evidence?

BROADBENT: Well I think that was on the Thursday. I say I think because the DPP was then in contact with the Ministry of Defence police, whose relationship with him was that of any normal police force.

INTERVIEWER : And when was the decision taken to prosecute Mr Ponting?

BROADBENT: Certainly we heard about it on the Friday afternoon.

INTERVIEWER : So as far as you're concerned really that is your total involvement with the Ponting affair and that is a pretty accurate record of your conversations and what you said to whom and so forth?

BROADBENT: Yes exactly.

INTERVIEWER : Who took the decision to send the Ponting papers to the DPP?

BROADBENT: Oh I did. It was quite clear to me that in the light of what had been stated by him and in the light of his seniority and the nature of the subject matter that certainly there was enough prima facie case for the DPP to be consulted before we proceeded administratively. Once the case was ~~xxx~~ established it was clear that there was a course of action, either action was taken under the Official Secrets Act or action was taken under the disciplinary process. The choice between those lay initially with the law officers.



10 DOWNING STREET

cc Press Office
LPres
LPS
MOD
C. Whip
A. Gen.

ECU

THE PRIME MINISTER

15 February, 1985.

Dear Mr. Kinrade,

I have received your further letter of 14 February about the Law Officers' decision to prosecute Mr. Ponting.

You are trying to make a distinction between the decision of the Law Officers on 17 August and the period leading up to that decision. You accept my assurance that neither I nor other Ministers were involved in the decision on 17 August: you refuse to accept my assurance as regards the period leading up to that date.

Ministers were not involved at any stage in the Law Officers' decision to prosecute Mr. Ponting and did not seek to influence their decision either directly or indirectly by any of the means implied in the 16 questions attached to your letter. If you want these matters to be pursued, there is a full opportunity for debate on Monday.

Yours sincerely
Margaret Thatcher

The Right Honourable Neil Kinnock, M.P.



10 DOWNING STREET

THE PRIME MINISTER

CE MOD

15 February, 1985.

Dear Mr. Kinross.

Thank you for your letter of 1 February about the suggestion, made during the trial of Mr. Ponting, that Admiral Sir John Fieldhouse has claimed that the reference in his Official Despatch on the Falklands conflict to the date on which the Belgrano had first been sighted was altered by officials to make it consistent with earlier public statements. I answered this point in reply to an Oral Question by Mr. Tam Dalyell on 12 February and I enclose the relevant extract from the Official Report.

Yours sincerely

Margaret Thatcher

The Right Honourable Neil Kinnock, M.P.

answerable that I was not involved in the decision to prosecute Clive Ponting. I ask the right hon. Gentleman to accept that explicitly.

Sir Peter Blaker: Has my right hon. Friend's attention been drawn to the fact that Mr. Ponting said in court that there was a good military case for attacking the Belgrano and that he had seen nothing to support the contention that the ship was sunk to end a Peruvian peace plan? Does that not mean that the contention that the hon. Member for Linlithgow (Mr. Dalyell) wished to prove when he started his line of questioning was wrong?

The Prime Minister: The Belgrano was sunk for the protection of our armed forces, our naval forces, the Hermes and the Invincible. May I make it clear to everyone that, so long as this Government are in power, the protection of our armed forces will be our prime consideration, whatever the Opposition say. I challenge the Leader of the Opposition: will he or will he not accept my assurance? May I tell him that I was on holiday when the decision was taken.

Mr. David Steel: Has the Prime Minister noted the determination of the jury to distinguish clearly between loyalty to a Government and the security of the state? Will she therefore welcome, indeed rejoice at, this reaffirmation of basic democratic values by a cross-section of the British people and will she demand higher standards from her Ministers?

The Prime Minister: I accept the decision of the court—of course I do. I always have—but I stress that two things are vital. The first is that Ministers are able fully to trust civil servants. I hope that the right hon. Gentleman agrees with that and does not in any way endorse or condone the breach of trust that occurred.

Secondly, I wholly and utterly insist that there are some things in security and intelligence which, for the safety of our forces or the safety of the state, the Government must keep secret. To put it in specific terms:

"The Government has concluded that information relating to security and intelligence matters is deserving of the highest protection whether or not it is classified. This is pre-eminently an area where the gradual accumulation of small items of information apparently trivial in themselves could eventually create a risk for the safety of an individual or constitute a serious threat to the interests of the nation as a whole."

That was the view of the last Labour Government when they were in power, set out in a White Paper brought before this House by the then Home Secretary in 1978. It is something that we endorse.

I again ask the right hon. Gentleman, will he accept the assurance I have given that I had nothing to do with the prosecution of Clive Ponting? If not, he is the smaller a man because of his refusal.

Q2. Mr. Ward asked the Prime Minister if she will list her official engagements for Tuesday 12 February.

The Prime Minister: I refer my hon. Friend to the reply that I gave some moments ago.

Mr. Ward: May I draw my right hon. Friend's attention to the announcement by the National Union of Teachers this lunch-time that it intends to call a series of strikes? Does she not find this a strange way for teachers to carry out their duties and responsibilities to the young people of this country?

The Prime Minister: I agree with my hon. Friend. Children are in the care of teachers and it is a tragedy if

teachers do anything to jeopardise the future of children in order to go on strike. But I must say that I do not believe that many teachers will go on strike. I think that they will prefer to look after their charges.

Mr. Dalyell: Who was it who altered Sir John Fieldhouse's official commander-in-chief's report without Sir John Fieldhouse's knowledge?

The Prime Minister: I understand from Admiral Fieldhouse that during the drafting of his dispatch at Northwood he queried the date in the sentence on the detection of the Belgrano but agreed that it should be left as 2 May in order to protect sensitive operational and intelligence information. The second of May was therefore the date in the dispatch that Admiral Fieldhouse submitted to the Ministry of Defence. It was not altered by officials there.

Q3. Sir John Farr asked the Prime Minister if she will list her official engagements for 12 February.

The Prime Minister: I refer my hon. Friend to the reply that I gave some moments ago.

Sir John Farr: In view of the rising costs of Trident, will my right hon. Friend consider whether there are new ways of ensuring that a far greater domestic content is included in the contract? Given the increasing cost of purchases from America, an additional input from the British end would be very helpful to British industry.

The Prime Minister: Of course, a very considerable part of the Trident order has been placed in Britain as, indeed, all the submarine orders have been. I shall see whether we can achieve anything more, but the whole Trident programme will give us far more deterrence than any other programme on which we could spend that same amount of money.

Dr. Owen: The Prime Minister is a Member of the House and is aware of the convention that when the record of the House is printed it is accurate. When that record has been shown to be inaccurate and statements have been made to the House that have subsequently been shown to be untrue, they have been corrected. Why has the Prime Minister not come to the House today to correct the many mistaken statements that have been made by her and her Ministers, the most recent of which was on 21 February 1984, and is reported in column 695 of *Hansard*. She said that all the facts had been revealed and went on to say:

"All the facts are there. They support the Government's case."—[*Official Report*, 21 February, 1984; Vol. 54 c. 695]

All the facts were not revealed. They do not support the Government's case. There are misleading statements on the record, and the Prime Minister owes it to the House to put the record straight.

The Prime Minister: The right hon. Gentleman wrote a very long letter to me in the autumn. I answered his allegations fully in my letter to him of 8 October. He replied to that, and I answered again on 16 November. I have also answered very extensive letters from other right hon. and hon. Members, and I believe—although I speak from memory—that some of them have been reproduced in *Hansard*.

Several Hon. Members rose—

Mr. Speaker: I shall take the private notice question and then points of order.

Later—

SECRET : CMO



10 DOWNING STREET

From the Private Secretary

14 February 1985

Dear Richard,

SINKING OF THE BELGRANO: DISCLOSURE OF INFORMATION TO
THE FOREIGN AFFAIRS COMMITTEE

I wrote to you on this subject on 7 February. The matter was reviewed by the Prime Minister with Ministers directly concerned following Cabinet today.

It was agreed that the Defence Secretary should say, in his speech in the debate on 18 February, that the Government would let the Foreign Affairs Committee see the documents in question (the 'Crown Jewels') and that he would invite the Chairman to discuss the details. It would be made clear that this was an exception, made because of the recent Court case, and the rules set out in the Lord Privy Seal's answer to a question on 12 May 1983 stood.

In dealing with any questions before the debate on 18 February, the reply should be that the matter was being given careful consideration and the Defence Secretary would deal with it in his speech to the House on 18 February.

As regards the conditions under which the Committee would be allowed to see the documents, the Defence Secretary would let his colleagues have detailed recommendations. The presumption should be that the members of the Committee and its Clerk would be allowed to see and examine the documents under supervision on Ministry of Defence premises, but should not be allowed to retain them or to make notes. The documents would not become the Committee's property and could not be published in evidence.

The question was also raised whether the Defence Secretary should reveal in his speech the official advice tendered to him on what should be revealed to Parliament about the Belgrano. There were evident risks in going beyond established rules: on the other hand, much of the material had already been made available in Court.

/It was agreed

SECRET : CMO

SECRET : CMO

It was agreed that the Defence Secretary could draw upon papers which had been requested in the Ponting case and given in open court (subject to taking advice on whether this definition is secure against further pressure to extend it), and subsequently lay such papers in the Library of the House.

I am copying this letter to the Private Secretaries to the Foreign and Commonwealth Secretary, Home Secretary, Lord Privy Seal, Chief Whip and Attorney General and to Sir Robert Armstrong.

*Yours sincerely,
Charles Powell*

CHARLES POWELL

Richard Mottram, Esq.,
Ministry of Defence.

SECRET : CMO

I have today written to her having received assurances that she was not involved in the decision to prosecute and on that point I am prepared to accept her assurance. I have said this to the Prime Minister in my letter of reply and enclosed several other questions relating to the decision to prosecute.

(Subject to taking advice on whether this definition is secure against further pressure to extend it)

MOTION FOR BELGRANO DEBATE

That this House recognises that the sinking of the General Belgrano was a necessary and legitimate action in the Falklands ~~conflict~~ (campaign), and agrees ~~that~~ the protection of our armed forces in ~~any future conflict~~ must be the prime consideration in determining how far matters involving national security and the conduct of military operations can be disclosed ~~to Parliament on a public basis.~~

agreed with R. Murray.

told Chris Roberts

at 5.30pm 14/2



HOUSE OF COMMONS
LONDON SW1A 0AA

The Office of the Leader of
the Opposition

14 February 1985

Dear Prime Minister,

Thank you for your further letter.

As I said in my letter yesterday, the decision to prosecute Clive Ponting involved a number of stages. Today, by letter and in the House of Commons, I accepted your assurances that you and your Ministers were not involved in what I referred to as the third stage - the joint decision of the Law Officers on 17 August. However, as you are aware, I raised a considerable number of other questions all of which are legitimate enquiries in these particular circumstances.

I regret that you cannot see your way to answer those questions which are, I am sure, of interest not only to me, but also to the country as a whole.

I am still awaiting full and adequate answers to the questions outstanding.

Yours sincerely,
Neil Kinnock

NEIL KINNOCK

Rt Hon Margaret Thatcher MP



10 DOWNING STREET

THE PRIME MINISTER

14 February 1985

Dear Mr. Kinnoch,

I have read your letter of 14 February. You apply the terms "scepticism", "incredulity" and "profound disbelief" to the statements in my letter. Those phrases and your further sixteen questions make clear that you continue to doubt my assurances that Ministers were not involved in the decision to prosecute Mr. Ponting. So, despite what you said in the House today, your letter shows that you are maintaining the position you took in the House on Tuesday.

I have given you a full and meticulous account of the matters relevant to the point you raised. I have taken the initiative to restore the relationship which should exist between a Prime Minister and Leader of the Opposition. I am sorry that you have not been able to respond.

Yours sincerely
Margaret Thatcher

The Rt. Hon. Neil Kinnoch, M.P.

PONTING: EMPLOYMENT IN THE MINISTRY OF DEFENCE

The conditions of service of Civil Servants of Mr Ponting's grade require them to serve where they are posted. If Mr Ponting were to return to the Civil Service, it would be wholly inappropriate to post him to the Ministry of Defence.

14 February 1985



HOUSE OF COMMONS
LONDON SW1A 0AA

The Office of the Leader of
the Opposition

14 February 1985

Dear Prime Minister,

Thank you for your lengthy letter which benefitted by being rather more informative and less melodramatic than your previous correspondence.

There remain a number of questions arising from the issues and from your letter which need to be answered in greater detail and I enclose them on a separate sheet.

In addition, there are features of this matter which generate scepticism.

The suggestion, for instance, that nearly three days could pass between the time that an admission was made by a senior civil servant on an issue of great importance and the time that the Secretary of State for his Department - especially the Defence Ministry - was informed is, for obvious reasons, very difficult to believe.

In addition, you will be familiar with the consideration put by Mr Sam Silkin QC, former Attorney General, in his letter to the Times on 26 September last that:

"the Law Officers must take instructions from nobody; but they are free to consult colleagues, particularly those with a departmental concern and, as Sir John Simon rightly said, there are times when they would be fools not to do so. In a case such as the Ponting case it is hard to believe that there are no aspects of the public interest upon which consultation with colleagues could have assisted the Law Officers in reaching their eventual and independent decision."

That has been and is the widely understood position of Law Officers and Departmental Ministers in cases of this nature. The idea that there was no consultation of the kind to which Mr Silkin refers has been greeted by many - including myself - with incredulity.

Further, because of your reputation for detailed acquaintance with Departmental affairs, I share the widespread surprise that you played no active part in matters between the discovery of the leak on 26 July and the authorisation of the prosecution of Mr Ponting on 17 August.

These and other considerations combine to produce profound disbelief.

I am prepared to accept what you say in your letter as an accurate account of the joint decision of the Law Officers on 17 August. As far as the wider questions of Ministerial conduct are concerned, I have again to say that my further judgement must depend upon full disclosure on these matters and upon full answers to the questions which I append.

Your sincerely
Neil Kinnock

NEIL KINNOCK

Rt Hon Margaret Thatcher MP

QUESTIONS ARISING FROM THE PRIME MINISTER'S
LETTER OF 13 FEBRUARY

1. When Mr Heseltine was first made aware on 26 July of the fact that Ministry of Defence documents had been leaked to Mr Dalyell, did he express any opinion or issue any instruction as to whether or not the individual responsible, if and when identified, should be prosecuted?
2. Were you made aware, by Mr Heseltine or anyone else, of the fact that documents had been leaked to Mr Dalyell, and that an investigation had been ordered, before you received a telex on Monday 13 August? If so, when?
3. If you were made aware of the fact of the leak or the investigation, or both, before 13 August, did you express any view on the matter and, if so, what was your view?
4. Could you confirm the implication in your letter that you were first made aware of Mr Ponting's admission in the telex you received on 13 August?
5. Will you confirm the implication of your letter that you received no other communications on the matter between the telex on 13 August and the second telex on 17 August, and that you had no contact with Ministerial colleagues or with officials on the matter between those two events?
6. Why were you informed, on Monday 13 August, of the outcome of the investigation and the referral to the DPP?
7. Is it standard practice that you be kept informed of the outcome of any investigation involving the Official Secrets Act, or involving a member of the Civil Service?
8. Had you issued a specific instruction to that effect, or requested that you be kept informed in this case?

9. When your Private Office was notified on Monday 13 August by Mr Heseltine's Private Office of the outcome of the investigation, did they request that they be immediately notified of the outcome of the Law Officers' and the DPP's deliberations?

10. On receipt of the telex on 13 August, did you ask to be immediately informed of the Law Officers' decision, as you were on 17 August?

11. Can you confirm the implication of your letter that the first time Mr Heseltine knew of the outcome of the investigation and Mr Ponting's admission was on the afternoon of Monday 13 August, and that that was the first time he knew of Sir Ewen Broadbent's communications with the DPP and the Solicitor General?

12. At the meeting between Sir Ewen Broadbent and the Secretary of State on Monday 13 August, was Mr Heseltine told that Mr Ponting had already submitted a letter of resignation? Did he express a view on whether that resignation should be accepted? Did he, while recognising that the responsibility for authorising a prosecution lies with the Law Officers, express a view as to whether or not a prosecution should be brought?

13. When was Mr John Stanley first made aware of the leaking of the documents to Mr Dalyell?

14. When was Mr Stanley first told of the establishment of an investigation?

15. Can you confirm the implication of your letter that the first time Mr Stanley was made aware of Mr Ponting's admission was on 15 August?

16. Can you confirm that neither you, nor Mr Heseltine nor Mr Stanley discussed this whole affair, with each other or with other Ministerial colleagues or with officials or at any time before Monday 13 August?



10 DOWNING STREET

THE PRIME MINISTER

13 February, 1985

Dear Mr. Steel

Thank you for your letter of 13 February.

I am grateful for your acceptance of my assurance that I took no part in the decision to prosecute Mr. Clive Ponting.

You ask for clarification of two particular points. First, I confirm that neither Michael Heseltine nor any other Minister decided or was consulted about referral of the papers to the Director of Public Prosecutions. As I said in my letter to Dr. David Owen of 14 September, of which I enclose a copy, the matter was referred to the Director of Public Prosecutions by officials of the Ministry of Defence on 13 August. Later that day, after the reference had been made, the Secretary of State for Defence and I were informed. Second, the decision to prosecute Mr. Ponting was taken by the Law Officers on 17 August. Subsequently I was informed of that decision by my Private Office. I did not discuss the matter at any time with John Stanley or with any other Ministers or officials or with the Law Officers. My approval was neither sought nor given since, as I said in my letter to Dr. Owen, it would be entirely improper for me or my colleagues to interfere with the exercise of the Law Officers' quasijudicial functions.

On the other matters you raise, you will of course have the opportunity to put your points in the debate on Monday.

I must make it clear, however, that the Government will continue to take very seriously its duty to ensure that information is not released which might endanger the security of the people of the Falklands and our Armed Forces who are still there.

Yours sincerely

Margaret Thatcher

The Rt. Hon. David Steel, M.P.

THE RT. HON. DAVID STEEL, M.P.



HOUSE OF COMMONS
LONDON SW1A 0AA

13th February 1985.

Dear Prime Minister,

Yesterday you explicitly assured the House that you were not involved in the decision to prosecute Clive Ponting. I accept that. The Attorney-General also said with great care that neither he nor the Solicitor-General nor any of his officials was in contact with other Ministers before he took the decision to prosecute. I accept that also.

Nevertheless I should be grateful if you would quickly confirm two points to clarify this matter. First, that the person who decided to refer the matter to the Director of Public Prosecutions was Michael Heseltine, thus overriding the previous view of his officials and the Ministry of Defence police that Mr. Ponting should not be prosecuted but his resignation required; and second, that while you were on holiday in Switzerland you were telephoned (by John Stanley?) and told of the referral to the DPP and that you signified your approval of the decision to prosecute? This is not of course the same thing as being involved in that decision itself.

Some clarification on this issue might resolve the unseemly row between yourself and the Leader of the Labour Party.

In any case I believe Mr. Kinnock to be wrong in concentrating on the side issue of who decided to prosecute. What the House and the public are entitled to know is who authorised the whole series of misleading statements about the sinking of the Belgrano.

(cont'd)

It is not good enough two years after these hostilities to dwell on the security of our forces, though of course that must have been the priority consideration at the time. The jury saw the details which have been denied to us, and still acquitted Mr. Ponting. The continued efforts to mislead Parliament were exposed in the trial, and it is on this that the debate on Monday should concentrate.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Paul Hirst". The signature is written in a cursive, flowing style.

The Rt. Hon. Mrs. Margaret Thatcher, M.P.,
The Prime Minister,
10 Downing St.



File

10 DOWNING STREET

THE PRIME MINISTER

13 February, 1985

Dear Mr. Owen

Thank you for your letter of 13 February.

The main points you make in the letter are essentially a reiteration of those made in your previous letter of 25 September. They amount to the proposition that the Government has tried systematically to mislead the House about the sinking of the General Belgrano and has failed to set the record straight. I sent you a very full reply to your allegations on 8 October and, in response to a subsequent letter from you, on 16 November. Moreover, I have published, on 29 October, an extremely detailed account of events leading up to and following the sinking of the Belgrano. I enclose a copy of the relevant section of the Official Report. In these circumstances, I do not accept your assertion that a further statement from me of the kind you propose is needed.

You also refer to discussions between myself and Sir Clive Whitmore. The Defence Secretary called on me on Friday, 30 March to discuss the reply which I sent to Denzil Davies on 4 April and brought with him his Permanent Secretary, Sir Clive Whitmore to that meeting. My discussions on that subject were with the responsible Secretary of State.

On the prosecution of Mr. Ponting, I am grateful for your acceptance of my assurance that I was not involved in the decision taken by the Law Officers. I attach a copy of a letter which I have sent to Mr. Kinnock today setting out once again the circumstances leading to the decision taken by the Law Officers. As you will see, that letter covers all the particular points you raise on this matter.

Yours sincerely

Roger Thatcher

The Rt. Hon. David Owen, MP

THE RT HON DR DAVID OWEN MP



HOUSE OF COMMONS
LONDON SW1A 0AA

13 February 1985

The Rt Hon Mrs Margaret Thatcher MP
Prime Minister
10 Downing Street
London SW1

Dear Mrs Thatcher,

I am amazed to hear that at present you do not intend to open the debate on Monday in order to explain fully to the House of Commons the circumstances surrounding the misleading statements which you and your Ministers have, on a number of specific occasions, given to the House of Commons and why you do not appear to think it necessary as the Head of the Civil Service to explain and justify the involvement of the machinery of Government and individual civil servants from the level of Sir Clive Whitmore - Permanent Under Secretary of State at the Ministry of Defence - downwards in the systematic attempt to mislead, not only individual Members of Parliament but the Select Committee established by the House of Commons to investigate all aspects of this sorry affair.

On 11 September 1984, in a speech at Buxton, I said:

"The Government should issue a White Paper immediately correcting the record. This they unwisely did not do after the war was over - when they issued on 14 December Cmnd 8758 which contained wrong information about the Belgrano. To put the full facts before the country and the world will not bring discredit, it will restore honour.

In particular, they should correct any mis-statements made to the House of Commons and they should answer any follow-up questions put to them by the Select Committee, with the accepted proviso that some intelligence information may not be able to be published.

If this was done promptly and quickly this whole episode could be set aside. There is no party political advantage here."

/...

I re-iterated this view in a letter to you on 13 September. You subsequently admitted to me in correspondence on 8 October that "Ministers were not informed at the time of the precise course of the Belgrano when she was sunk. Indeed this information did not come to Ministers' attention until the end of November 1982 when all the details were eventually considered to deal with Parliamentary Questions".

Mr Heseltine was not appointed Secretary of State for Defence until January 1983. Since Sir John Nott has retired from the House of Commons it is only yourself who is in a position to explain to the House of Commons why the White Paper, "The Falklands Campaign; the Lessons" continued to carry inaccurate statements and known to be so by Ministers.

The House of Commons deserves a personal explanation from yourself as to why:

- you did not take the opportunity to correct the record in a Written Answer in Hansard on 13 December, 1982 (Col 11)
- you did not take the opportunity to correct the record in a Written Answer in Hansard on 16 December, 1982 (Col 200 and 201)
- you did not take the opportunity to correct the record in a Written Answer in Hansard on 20 December, 1982 (Col 353)

The House of Commons also needs to hear from you as to what discussions you had with Sir Clive Whitmore over the letter that was drafted by Sir Clive Whitmore in the presence of Mr Ponting and which you sent to Mr Denzil Davies on 4 April 1984 and which was published in Hansard on 13 April 1984.

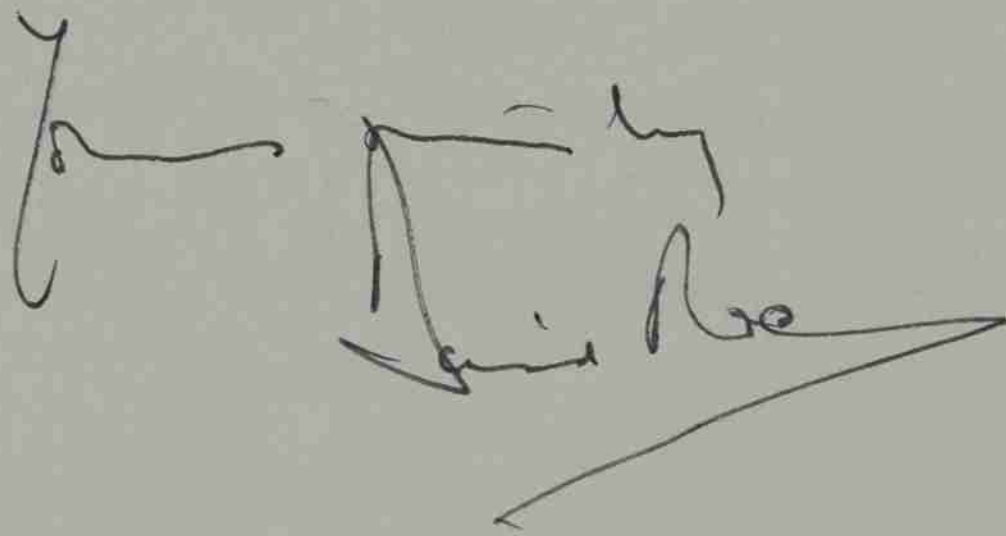
You also gave no explanation, when I raised this matter in the House yesterday, as to why in an Oral Answer on 21 February 1984 you still tried to pretend to the House of Commons that all the facts had been given to the House and that they supported the Government's case, when Ministers knew - and had known since November 1982 - that the facts were incorrect.

In relation to what was said in the House yesterday, it is surely time that we re-establish as early as is humanly possible, that misleading statements given to the House of Commons are corrected personally at the earliest opportunity when found to be incorrect and because of that all important convention Members of Parliament accept the truth of each other's statements. I do not therefore seek to challenge the assurance that you as Prime Minister were not involved in the decision to prosecute but I do think that you owe it again to the House of Commons to elaborate further on your statement in Col 162 of 12 February, that Ministers had no role whatsoever in the prosecution.

/...

We do need to know what the role of Mr Heseltine and Mr Stanley was in bringing the matter to the attention of the Director of Public Prosecutions and to the Solicitor General. What consultations they had, if any, with other Ministers, since from the information that was given in court it does appear that Ministers had a role in the prosecution even though the actual decision as to whether to prosecute was taken by the Solicitor General and the Attorney General. We also need to know, if you were not consulted personally, to what extent your office was informed and whether or not they informed you as well about whether to refer the case to the DPP.

I am sure against this background you will be prepared to recognise that a debate on Monday in which you did not take part would be one which would devalue the House of Commons.

A handwritten signature in black ink, appearing to read 'David Owen', with a long horizontal flourish extending to the right.

David Owen



Leo

WJ

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG
CABINET OFFICE

MR PONTING

Thank you for your minute of 12 February
(A085/488) which the Prime Minister has seen and
noted.

RB

13 February, 1985

CONFIDENTIAL

LOBBY BRIEFING

time: 4 pm

date: 13/2/85

We repeated the morning Lobby.

PONTINGRAMA

We said that we understood the form for Monday's debate was presently being discussed. We agreed that Mr Heseltine was a likely speaker, but we knew of no intention for the Prime Minister to speak. We did not know whether Mr Stanley would be winding up.

We did not know at what time the Prime Minister would be replying to Mr Kinnock's second letter, or to the letters received from Messrs Steel and Owen. As far as the Steel letter was concerned, the answers would be no, no and no again, while the other two would have to involve a degree of re-education. The PM's words in her letters reflect her concern and her intention to obtain a withdrawal, but she was quite relaxed about her own position. We thought it a pity that the authors of the recent spate of letters had not done their homework and gone back to letters sent to them last year which answered many of the points they were now making anew. We were not aware of any sanctions that could be applied against the Opposition, we would just keep battering away. Nor were we aware of any suggestion to discontinue co-operation through the usual channels.

Asked about the timetable of events at the time of the decision to prosecute Ponting, we drew on the PM's letter of 8 October 1984 to Mr Kinnock. We stressed that neither Mr Heseltine nor the Prime Minister knew of any amnesty suggestion being made to Ponting, and noted that only the Attorney General could have made such an offer and that he had denied any such suggestion was made. We also noted that in the course of the trial both the MOD Police and the MOD's Director of Establishments had denied that such an offer was made. We said that the Prime Minister had been informed of the decision to prosecute by her Private office, while on holiday in Austria.

We repeatedly stressed that Ministers had not been involved in the decision to prosecute, and we noted that the Civil Service hated leakers too, which was why there was so much anger around - it was after all a question of the integrity of the Civil Service too. Ponting had other courses open to him rather than leaking, within the MOD and up to either the Secretary of State or the Head of the Civil Service, or even resignation.

We said that it was a perfectly normal practice to write different drafts/briefs based on different sets of assumptions about the confidentiality of source documents.

IRM



10 DOWNING STREET

THE PRIME MINISTER

13 February, 1985.

Dear Mr. Kinross

Thank you for your letter of 13 February.

You have asked for a full explanation of the events leading to the prosecution of Mr. Ponting and of the decision itself. We have already corresponded on this matter, but in view of your request, I will set out these matters again covering the further points raised in your letter.

When the two Ministry of Defence documents sent to Mr. Dalyell were given to Mr. Heseltine by the Chairman of the Foreign Affairs Committee on 26 July, he arranged for them to be forwarded to the Director of Ministry of Defence Security. It was decided that an investigation should be undertaken by the Ministry of Defence Police into the circumstances in which the documents had come into the hands of Mr. Dalyell. No Ministers, of course, took part in that investigation in any way.

The Police investigation resulted in an admission by Mr. Ponting at about 1800 hours on Friday 10 August that he had sent the documents in question to Mr. Dalyell. You say that Mr. Ponting stated on oath that he was told that he would not be prosecuted but allowed to resign. The Principal Establishments Officer of the Ministry of Defence, Mr. Hastie-Smith, has stated on oath that, at his interview with Mr. Ponting on the afternoon of 10 August, at no time

did he offer him immunity from prosecution in return for a confession. From his previous experience as Head of the Legal Secretariat in the Ministry of Defence until March 1984, Mr. Ponting would have been aware that in this kind of case a decision on prosecution would not be taken within the Ministry of Defence. It is, of course, a matter for the Law Officers. In addition, when Mr. Ponting came to see Mr. Hastie-Smith on 14 August, he was handed a letter telling him that the possibility of prosecution was still under consideration. The question of immunity from prosecution in return for his statement of admission was not mentioned. Ministers were not involved in any way in these discussions.

Following Mr. Ponting's admission and in view of the prima facie evidence of a breach of the Official Secrets Act, an oral report was made to the Director of Public Prosecutions by the senior Ministry of Defence official concerned, Sir Ewen Broadbent, at 1100 hours on Monday 13 August; and, after consultation with the Solicitor General, the Director asked for a very early Police report. At about lunchtime on 13 August, Sir Ewen Broadbent was telephoned by the Solicitor General about the case. It was not until that afternoon, after the matter was therefore in the hands of the Law Officers, that Sir Ewen Broadbent reported to Michael Heseltine who was on leave at his home outside London, where matters stood. This was the first Michael Heseltine knew of the outcome of the investigation and no other Defence Minister had been involved. Michael Heseltine noted the report and that the decision whether or not to prosecute rested with the Law Officers.

John Stanley, who was on leave and out of London, received a written brief on 15 August. This was the first time he was made aware of the outcome of the investigation by the Ministry of Defence Police and of the reference to the Director of Public Prosecutions, which had taken place on 13 August. John Stanley was not involved at any time in the decision to prosecute.

I was myself in Austria and was informed by my Private Office by telex on the afternoon of 13 August of the events that had taken place and I noted the position without comment.

The police report was received by the Director of Public Prosecutions on 16 August. The Solicitor General and the Director of Public Prosecutions considered that report on 17 August, and both formed the view that this was a serious breach of duty and trust by a senior civil servant. They decided to consult the Attorney General and he was telephoned on the same day. The facts as reported by the Director of Public Prosecutions were explained to the Attorney General. The nature of the documents which had been communicated was described, and the Attorney General was told that the Director of Public Prosecutions and the Solicitor General advised a prosecution. As he told the House yesterday, the Attorney General too decided that the case fell within his published guidelines on the criteria for prosecutions, and that there should be a prosecution.

In reaching that decision, the Law Officers did not seek the view of, or consult with, any of their Ministerial colleagues nor was the view of any other Minister conveyed to them. In common with other Ministers, I was informed of the decision after it had been made, by a telex from my Private Office on 17 August. My approval was neither sought nor given; either would have been an entirely improper interference with the quasi-judicial function of the Law Officers.

You have also asked for an explanation why a prosecution was authorised if the documents involved did not prejudice national security. Section 2 of the Official Secrets Act is, of course, not limited to the protection of national security. Civil servants, whatever their rank, have a special degree of responsibility imposed on them by the nature of their office and their duties, and by the confidence that is thereby reposed in them. The Attorney

considered that, particularly in view of his seniority, Mr. Ponting's breach of responsibility and trust was so serious as to warrant prosecution under Section 2 of the Act. Mr. Ponting's subsequent acquittal in no way invalidates that decision and, indeed, there has been no suggestion, even from the defence lawyers that there was not a case to go to the jury.

I have set out in some detail the events which led to the Law Officers' decision to prosecute Mr. Ponting, and the considerations which led them to take that decision, because I attach very great importance to ensuring public confidence in the independence from Government of our judicial process including the quasi-judicial role of the Attorney General in deciding whether to prosecute. I believe that I have covered all the points which you raised and have explained fully the events leading up to the decision to prosecute Mr. Ponting.

I am greatly concerned that the exchanges yesterday seriously damaged in a quite unnecessary way the appropriate relationship which ought to exist between the Prime Minister and the Leader of the Opposition. In view of the very full explanation which the Attorney General and I have given, I ask you now to withdraw your charge that I was involved in that decision.

Yours sincerely

Raymond Baxter

The Rt. Hon. Neil Kinnock, M.P.

● Foreign Affairs Select Committee

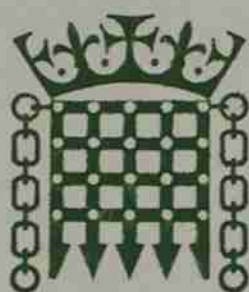
Sir A Kershaw Chairman.

Conservatives

Robert Harvey
Ivan Lawrence
Jim Lester
Norman St John-Stevens *
Peter Thomas *
Bowen Weiss

Labour

Dennis Canavan
Ian Mikardo
Nigel Spearing
Michael Welsh.



HOUSE OF COMMONS
LONDON SW1A 0AA

The Office of the Leader of
the Opposition

13 February 1985

Dear Purnell Anwar,

I have your further letter, in which you repeat your statement that you were not involved in the decision to prosecute Mr Ponting.

That decision involved a number of stages, including firstly, of course, the decision not to fulfill the arrangement by which Mr Ponting had been given to understand that he would not be prosecuted but allowed to resign; secondly, the subsequent submission of the police report to the Director of Public Prosecutions and the Law Officers, and thirdly, their decision to authorise proceedings.

You will recall telling me, in your letter of 19 September 1984 enclosing a copy of your letter of the 14th September to David Owen, that on Monday 13th August - three days before the police report reached the Director of Public Prosecutions - "the Defence Secretary and I were told of the outcome of the inquiry (i.e. by the Ministry of Defence) and that the matter had been referred to the Director", but that "in the succeeding days" neither you nor other Ministers intervened.

In view of the fact that Mr Ponting has stated on oath that he was told he would not be prosecuted but allowed to resign, and in view of the fact that Prosecuting Counsel told the court that there had been no damage to national security, it is obviously essential that a full and adequate explanation of the involvement of you and your Ministers in the decision to prosecute Mr Ponting is given to the House.

Unless and until I receive that full and adequate explanation, my words to the House stand.

Yours sincerely
Neil Kinnock

NEIL KINNOCK

The Rt Hon Margaret Thatcher MP



10 DOWNING STREET

file

THE PRIME MINISTER

12 February 1985

Dear Mr. Kinross

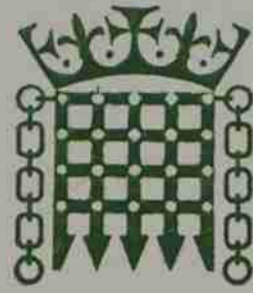
Thank you for your letter of 12 February.

You are avoiding the point. I told you, and the Attorney General confirmed, that I was not involved in the decision to prosecute Mr. Ponting. You said that you did not believe me.

An honourable man would substantiate or withdraw. You have not substantiated, and I know you cannot do so. Will you withdraw?

Yours sincerely
Neil Kinnock

The Right Honourable Neil Kinnock, M.P.



HOUSE OF COMMONS
LONDON SW1A 0AA

The Office of the Leader of
the Opposition

12 February 1985

Dear Prime Minister,

I have your letter.

As I repeatedly said in the House this afternoon, my words stand unless and until an adequate explanation is given of the decision to prosecute Mr Ponting.

That is necessary since Mr Ponting testified on oath that his superiors told him that it "would be the end of the matter" if he resigned from the Civil Service and he was plainly given to understand that he would not be prosecuted.

When even the prosecuting counsel in the trial said "it is not suggested that the disclosures in fact damaged national security", there is obviously further reason to secure an explanation of the decision to prosecute.

I note your statement this afternoon that you were not involved and Ministers had no role in the decision to prosecute Mr Ponting. It is clear from your letter that you maintain your position. So do I.

Yours sincerely
Neil Kinnock
NEIL KINNOCK

The Rt Hon. Margaret Thatcher MP



10 DOWNING STREET

THE PRIME MINISTER

12 February 1985

Dear Mr. Kinnoch

In the House of Commons this afternoon you used these words:-

"The Rt. Hon. Lady says now, and she has said to me before, that she was not involved in the decision to prosecute. Frankly, I do not believe the Rt. Hon. Lady."

The statement that the Leader of the Opposition does not believe a statement by the Prime Minister - both Privy Counsellors - before the whole House of Commons is as serious a charge as could be made. Your charge is utterly untrue. If you cannot substantiate it - and you cannot - I must demand that you withdraw it and apologise unreservedly and immediately.

Yours sincerely

Margaret Thatcher

The Rt. Hon. Neil Kinnock, MP.



With permission, Mr. Speaker, I would like to make a statement on my decision to prosecute Mr. Ponting. On 13 August 1984 certain facts were drawn to the attention of the DPP by the Ministry of Defence. In my absence the DPP consulted my H and L Friend the Solicitor-General the same day. On 16 August 1984 a report by the MOD police was sent to the DPP. My H and L Friend and the DPP considered that report on 17 August and both formed the view that this was a serious breach of duty and trust by a senior civil servant. They decided to consult me and I was telephoned on the same day. The facts as reported by the DPP were explained to me. The nature of the documents which had been communicated was described and I was told that the DPP and the SG advised a prosecution. Having considered the facts myself I too decided that the case fell within my published guidelines and that there should be a prosecution.

Neither I nor the S.G. nor any of my officials sought the view of or consulted any other Minister, nor was the view of any other Minister conveyed to us before the decision was taken.



SUPPLEMENTARIES

Q. You only prosecuted Ponting because you had prosecuted Tisdale.

A. Consistency is a proper but not the only objective of prosecution policy.

Q. Does not the fact that he was acquitted show that he should not be prosecuted?

A. This question can only mean that no prosecution should be launched unless the prosecution was 100% convinced. To put such a question shows a total misconception of the duties of the prosecuting authority.

Q. Does not the acquittal show that Ponting was right in what he did?

A. The Judge has ruled on the law and the jury have given their verdict.

FRANKS

I still believe that the Act is too widely drawn - but so long as it remains on the Statute Book I have to apply the law but I have a discretion which excludes the ^{inappropriate} ~~ridiculous~~ case. I look at each case on its own facts.



SUPPLEMENTARIES

CART AND HORSES

The jury's verdict was given on the particular facts of the case and does not establish any rule of law or any precedent in law.

I will continue to apply this law as it is, looking at each case on its own particular facts.

WHY PROSECUTE INSTEAD OF DISCIPLINARY?

In my view the breach of duty and trust was so serious that it should be considered by a Court.

FRANKS

My duty is to enforce the criminal law. I must not usurp the function of Parliament by effectually ^{repeal} ~~repeal~~ repealing legislation.



3

Is it right to invoke S.2 of the Official Secrets Act when there is no breach of security involved?

Section 2 is there not only to protect national security. Civil servants, whatever their rank, have a special degree of responsibility imposed on them by the nature of their office and of their duties and by the confidence that is thereby reposed in them. Mr Ponting was a senior officer and his breach of responsibility and trust was accordingly greater.

Will the Government now repeal S.2 of the Official Secrets Act? How do the Government defend their failure to repeal or amend S.2 in view of what they said about it when they were in opposition?

The Franks Report on the Official Secrets Act was published in 1972. It recommended the wholesale reconstruction of the relevant provisions, including S.2. The Labour Government held office from 1974-1979 and could have introduced legislation to implement the Franks Report during those five years, but they did not. In 1979 this Government introduced The Protection of Official Information Bill which was largely based on the Franks Report. But it did not find favour with the other House and was withdrawn.



Q. Why did you not consult other Ministers in the circumstances to inform yourself of considerations affecting the public interest?

A. There is no doubt that I would have been entitled to consult other Ministers to inform myself as to the public interest. I decided, however, in the circumstances that it would not have assisted ^{me} to reach a decision.

Ponting was told that no further job could be ~~find~~ found for him in the MOD on security grounds. He had 14 days to appeal against their decision.

If he wished to remain in the public service the MOD would cooperate with MPO to see if there were other openings for him.

Since he had not resigned, he would be bound by Civil Service rules as regards public appearances, the publication of books and articles & so on.

Prime Minister

Ref. A085/488

MR BUTLER

Mr Ponting

Mr Ponting will be seen by the Principal Establishment Officer of the Ministry of Defence on the morning of 14 February.

2. It is possible, perhaps likely, that Mr Ponting will say that he has no wish to continue a career in the Civil Service, and that he wishes to resign. That would be accepted, with no financial consequence beyond making up his back pay for the period he has been under suspension.

3. If, however, Mr Ponting does not indicate a wish to resign, or positively indicates a wish to continue as a civil servant, he will be told that he cannot resume his career in the Ministry of Defence. He will be warned that it will not be easy or quick to find him a satisfactory alternative posting, but that the Ministry of Defence would ask the Cabinet Office (MPO) to explore possibilities.

4. In the circumstances I think that, if he were to indicate a wish to continue in the Civil Service, we can do no less than this. It would not be easy and might be impossible to find a suitable position for him, given what he has done; and his enthusiasm for continuing with the Service (if that was his wish) might fade, depending on what he could be offered and how long it took to offer it to him.

5. I am sending a copy of this minute to the Chancellor of the Duchy of Lancaster.

Approved by
ROBERT ARMSTRONG
and signed in his absence

12 February 1985

12th Feb.1985

PRIME MINISTER.
FROM DAVID WOLFSON.

1. PONTING WAS PROSECUTED AND ACQUITED. WE MUST AVOID, AT ALL COSTS, LETTING HIM BECOME PERSECUTED AND A MARTYR! IF HE WITHDRAWS HIS RESIGNATION, HIS TRANSFER MUST BE HANDLED WITH GREAT CARE OR WE WILL BE SEEN TO BE OVERTURNING THE DECISION OF A JUDGE AND JURY. THAT WOULD BE AS DAMAGING AS THE VERDICT ITSELF. WE ARE THE PARTY OF THE RULE OF LAW.

2. THE COAL DISPUTE. DON'T GET TOO HOOKED ON THE POLICY OF NO NEGOTIATIONS WITHOUT NUM AGREEMENT TO TERMS. IT IS SPLENDID AS A STRATEGY: WE DON'T WANT TALKS IF WE KNOW THEY MUST FAIL. BUT IT IS NOT A MORAL PRINCIPLE. IT WOULD BE BETTER, IN CERTAIN CIRCUMSTANCES, TO HAVE ANOTHER ROUND OF QUICKLY ABORTED TALKS THAN HAVE PUBLIC OPINION BELIEVE WE, NOT SCARGILL, ARE IN THE WRONG. I CAN SEE A POSSIBILITY, WHICH YOU SHOULD NOT IGNORE, THAT THE COAL BOARD MIGHT BE BETTER TO START TALKS WITH A DEMAND THAT ITEM ONE ON THE AGENDA IS THE QUESTION WHICH IS AT THE ROOT OF THE STRIKE: SCARGILL'S ABSURD DEMAND THAT NO UNECONOMIC PIT SHOULD EVER CLOSE. THE TALKS WOULD BREAK DOWN. WE SHOULD THEN HAVE TO ARGUE PUBLICLY THAT £1 BILLION PER YEAR IS AN UNREASONABLE SUM TO KEEP OLD PITS GOING, ELECTRICITY DEAR, OTHER INDUSTRIES PENALISED AND JOBS LOST AND SO ON. WE CAN PRAY IN AID THE NACODS SETTLEMENT. THIS ARGUMENT IS EASY, BUT THE ARGUMENT THAT NCB SHOULD NOT TALK UNTIL SCARGILL AGREES TO CLOSE UNECONOMIC PITS MAY BE MORE DIFFICULT TO WIN IN PUBLIC. WE AREN'T WRONG TO TRY, BUT THE PRINCIPLE WE CAN'T GIVE UP IS THE CLOSURE OF UNECONOMIC PITS, NOT THE REFUSAL TO HAVE TALKS UNTIL THIS IS AGREED BY THE NUM IN ADVANCE.

News release

Further information from:

01 219 6395

OR

01 219 5531

Not for publication before:

IMMEDIATE RELEASE

SDP

STATEMENT BY THE RT HON DR DAVID OWEN MP, LEADER OF THE
SOCIAL DEMOCRATIC PARTY, COMMENTING ON CLIVE PONTING'S ACQUITTAL
11 FEBRUARY 1985

"The Jury's verdict is a triumph for commonsense. It demonstrates that the interests of the state are not synonymous with the interests of a Government and that neither Mr Heseltine nor Mrs Thatcher are the sole arbiters of what is represented by the national interest, and that civil servants are not expected by the citizen to be party to misleading Parliament. This is further proof that Section 2 of the Official Secrets Act urgently needs to be repealed."

"The No 10 briefing machine is now busy setting up Mr Stanley, the Minister of State in the Ministry of Defence, to be the Government's fall guy over the Ponting acquittal. The truth is that it is the Prime Minister and the Prime Minister alone who is responsible. Whereas Mr Heseltine was responsible for the conduct of Mr Stanley and Sir Michael Havers for the Director of Public Prosecutions, it is the Prime Minister who from 4 May 1982 bears the responsibility for persistently and systematically misleading both the House of Commons and the country. Tomorrow the House of Commons wants to hear from the organ grinder - not the monkey nor Tarzan. The nation deserves nothing less than an apology."

CLIVE SHERIDAN PONTINGINDEX TO AND LIST OF EXHIBITS

<u>EX.NO</u>	<u>POLICE REF</u>	<u>DESCRIPTION</u>	<u>PAGE NO</u>
1	RCM/1	Copy of draft letter sent to Tam Dalyell MP	1 - 2
2	RCM/2	Copy of loose minute sent to Tam Dalyell MP	3 - 5
3	RCM/3	Envelope addressed to Tam Dalyell MP	6
4	TGH/1	Draft letter from float file of Head of DS5	7 - 8
5	TGH/2	Loose Minute from Head of DS11 found in DS5 file	9 - 11

CHRONOLOGICAL SEQUENCE:-

<u>EX.NO</u>	<u>DATE</u>	<u>DESCRIPTION</u>	<u>PAGE NO</u>
	6/3/84	Letter from Denzil Davies MP to Prime Minister	12
	16/3/84	Minute from Ponting to ^{APs/} Secretary of State with two draft replies	13 - 18
	19/3/84	Letter from Tam Dalyell MP to Secretary of State	19
	22/3/84	Minute to Ponting requesting details chronology of events leading up to sinking of the Belgrano and draft reply to Tam Dalyell	20 - 21
	4/4/84	Letter from Prime Minister to Denzil Davies MP	22 - 24
	5/4/84	Letter from Tam Dalyell MP to Prime Minister	25 - 28
	9/4/84	^{Further} Minute to Ponting requesting reply to letter from Tam Dalyell MP	29
	12/4/84	Minute from Ponting to ^{PS/} Secretary of State with draft reply and minute to No. 10	30 - 35
	12/4/84	Letter from Prime Minister to Tam Dalyell MP	36
	18/4/84	Letter from Secretary of State to Tam Dalyell MP	37

<u>EX. NO</u>	<u>DATE.</u>	<u>DESCRIPTION</u>	<u>PAGE NO</u>
	1/5/84	Letter from Tam Dalyell MP to Secretary of State	38
	2/5/84	Minute to Ponting to draft reply to letter from Tam Dalyell MP	39
	9/5/84	Minute to Ponting from ^{APS/} Minister (AF)	40
9 4 8	9/5/84	Minute from Ponting to ^{PS/} Secretary of State with draft reply and minute to No 10	41 - 46
	10/5/84	Minute from ^{PS/} Minister (AF) to ^{PS/} Secretary of State	47
	11/5/84	Minute from ^{PS/} Secretary of State to ^(PS/) Minister (AF)	48
	14/5/84	Letter from Secretary of State to Tam Dalyell MP	49
	27/5/84	Letter from Tam Dalyell MP to Secretary of State	50 - 52
	11/6/84	Letter from Secretary to State to Tam Dalyell MP	53
	3/7/84	Minute from DS11 to DS5	54 - 56
	4/7/84	Minute from DS5 to DS11	57 - 60
5	6/7/84	Minute from Head of DS11 to Minister (AF)	61 - 63

<u>EX. NO</u>	<u>POLICE REF</u>	<u>DESCRIPTION</u>	<u>PAGE NO</u>
6	TGE/3	Statement under caution of Clive Ponting	64 - 65
7	RMES/1	Official Secrets Act Declaration Form	66 - 67
10		Copy of letter of resignation of Clive Ponting	68
11		Letter dated 14/8/84 from Hastie-Smith to Ponting	69

EXHIBIT No: 1

Thank you for your letter of 1 May about the sinking of the General Belgrano. As you know the Prime Minister has already written to Denis Davies setting out the background to the sinking of the Belgrano and the reasons why that decision was taken. Perhaps I could reply to your more detailed questions about the events as you have set them out.

1. As the Prime Minister has pointed out, HMS Conqueror did not detect the General Belgrano on its sonar on 30 April 1982; it made contact with an accompanying oiler auxiliary.

2&3. Again as the Prime Minister has already said, the first visual contact with Belgrano was at 2pm London time on 1 May. At the time Belgrano was conducting a RAS with the oiler. The position at 3pm London time was 54.07S 064.24W - Course 125, Speed 8 knots.

4. There is no continuous log of the Belgrano's movements but its position is known at certain times:-

<u>London time</u> (1 MAY)	<u>Position</u>	<u>Course</u>	<u>Speed (knots)</u>
520	55.20S 060.14W	090	13
525	55.20S 057.22W	reversed course	
3pm	55.16S 060.18W	270	14
5pm	55.27S 061.25W	280	11

5. 11 knots.

6. This was an operational decision taken by the CO of HMS Conqueror. He chose the Mk 8 torpedo because he considered it to have a better chance of penetrating the cruiser's armour and

with torpedo bulges. The Mk 1 is an impact weapon. DISPERSE has both impact and proximity fuses.

7. No order was sent from Northwood to sink the Belgrano. The change in the Rules of Engagement agreed by Ministers was signalled by Northwood at 1.30pm London time on 2 May. The message was first received by HMS Conqueror at 3pm London time but because the transmission was garbled it was not decoded by the submarine until 5pm. The only messages sent by HMS Conqueror were at 3pm London time reporting the position of the Belgrano at 9am and 3pm and at 5pm saying that it was about to attack the Belgrano. As you will appreciate from this outline communications with a nuclear submarine, submerged and in contact with the enemy on the other side of the world are extremely difficult. Conqueror was only in contact with the UK for very short periods and at extended intervals.

8. HMS Splendid did not detect the Argentine CVA.

9. I am afraid that it is not possible for me to answer this question since it deals with intelligence matters.

I would also emphasise a crucial point made by the Prime Minister. The primary responsibility of the Government was to protect the Task Force. The exact position and course of the Belgrano at any moment were irrelevant to the decision to alter the rules of engagement. Ships by their very nature can quickly change their course and speed and throughout the 2 May Belgrano, in conjunction with other units of the Argentine fleet, posed a major threat to the Task Force which it would have been irresponsible for Ministers to ignore.

... of the ...
... the Foreign Affairs Committee asked ...
... listing the charges ... to the ...
... attached copies of the relevant ...
... transcripts of the evidence and the note from the ...
... to the Committee.

... We have discussed the form of our response with the Defence
Committee Staff, ... who had particular responsibility
for ROE ... We have also borne in mind
the statements made ... by Ministers on the subject of the
... Our advice is that we should not provide the ...
with a note listing all the charges. There are a number of reasons
for this. Firstly the ROE themselves are classified, and are drawn
from the Fleet Operating and Tactical Instructions which is a
classified document. The Committee have indicated that they would
prefer the note to be unclassified. Secondly some of the ROE are



... difficulty of assembling the information from ...
... would be an extra step involving exercise, not a ...
... of the difficulty of assembling the information from ...
... could be risk, but also because the RIZ would have to be ...
... of their format could be all ...
... to the system. To assist a full list of charges ...
... the Ministers have been prepared ...
... about the Belgrano affair. For instance, the list ...
... 23 April-7 May would show that the ...
... of the Argentine aircraft carrier 25 DENTON outside the Total ...
... Zone was permitted from 30 April, and that the change ...
... of 3 May was not restricted to BELGRANO but included all Argentine ...
... over a large area. It would also reveal that whilst the ...
... and ROE changes for the MIZ and IIZ were simultaneous, ...
... until 7 May before the appropriate warning was ...
... for the 3 May change.

3. I therefore recommend that we should avoid these difficulties ...
... providing the Committee with a more general narrative, explaining ...
... when changes were made to ROE, but emphasising that our ...
... a continual and routine process, thus confirming the thrust ...
... of Mr Pyne's evidence. I attach a draft on these lines. Since it ...
... specify any ROEs it would pose no problems from ...
... point of view. It is consistent with previous ...
... statements by Ministers and others, including Admiral Woodward, ...
... of ROE which led to the sinking of the Belgrano. ...
... avoids any reference to the underlying system ...
... of ROEs or the mechanism for their approval, since neither aspect ...
... was touched on by Mr Spearling.

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EXHIBIT No: 2 (Cont)

... for Brazil on 11 July. If
... is content to clear the attached draft by that date
... Lady Young will submit it together with the other notes. If
... Tuesday evening 10 July is not possible it will be
... for MOD to submit the note direct to the SAC; you will
... the Clerk to the Committee has in any case asked for receipt
... by 13 July. The SAC are quite content for MOD to submit
... if necessary.

J N LUGGE
Head of DS11
MB9326 3276MB

~~EXHIBIT~~ EXHIBIT No: 3

Mr. Dalrymple MP

House of Commons

LONDON

SW



Jan Dalrymple MP
House of Commons

Thank you for your letter of 1 May about the sinking of the General Belgrano. As you know the Prime Minister has already written to Dennis Davies setting out the background to the sinking of the Belgrano and the reasons why that decision was taken. Perhaps I could reply to your more detailed questions about the events as you have set them out.

1. As the Prime Minister has pointed out, HMS Conqueror did not detect the General Belgrano on its sonar on 30 April 1982; it made contact with an accompanying oiler auxiliary.

2&3. Again as the Prime Minister has already said, the first visual contact with Belgrano was at 2pm London time on 1 May. At the time Belgrano was conducting a RAS with the oiler. The position at 3pm London time was 54.07S 064.24W - Course 125, Speed 8 knots.

4. There is no continuous log of the Belgrano's movements but its position is known at certain times:-

<u>London time</u> (1 MAY)	<u>Position</u>	<u>Course</u>	<u>Speed (knots)</u>
5am	55.20S 060.14W	090	13
9am	55.20S 057.22W	reversed course	
3pm	55.16S 060.18W	270	14
8pm	55.27S 061.25W	280	11

5. 11 knots.

6. This was an operational decision taken by the CO of HMS Conqueror. He chose the Mk 8 torpedo because he considered it to have a better chance of penetrating the cruiser's armour and

EXHIBIT No: 4 (CONT)

anti-torpedo bulges. The Mk C is an impact weapon. TIGERFISH has both impact and proximity fuses.

7. No order was sent from Northwood to sink the Belgrano. The change in the Rules of Engagement agreed by Ministers was signalled by Northwood at 1.30pm London time on 2 May. The message was first received by HMS Conqueror at 3pm London time but because the transmission was garbled it was not decoded by the submarine until 5pm. The only messages sent by HMS Conqueror were at 3pm London time reporting the position of the Belgrano at 9am and 3pm and at 5pm saying that it was about to attack the Belgrano. As you will appreciate from this outline communications with a nuclear submarine, submerged and in contact with the enemy on the other side of the world are extremely difficult. Conqueror was only in contact ^{with the UK} for very short periods and at extended intervals.

8. HMS Splendid did not detect the Argentine CVA.

9. I am afraid that it is not possible for me to answer this question since it deals with intelligence matters.

I would also emphasise a crucial point made by the Prime Minister. The primary responsibility of the Government was to protect the Task Force. The exact position and course of the Belgrano at any moment were irrelevant to the decision to alter the rules of engagement. Ships by their very nature can quickly change their course and speed and throughout the 2 May Belgrano, in conjunction with other units of the Argentine fleet, posed a major threat to the Task Force which it would have been irresponsible for Ministers to ignore.

CONFIDENTIAL

RECEIVED
11.6 JUL 1984
7 of 6 JULY
MINISTRY OF DEFENCE

10/21 (M) (AF)

Secretary of State
10/21 (M) (AF)

WAS

100 - Falkland Islands Department

HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE: SOUTH ATLANTIC ROE

1. Following evidence from Mr Francis Pym on the sinking of the General Belgrano, the Foreign Affairs Committee asked Lady Young to provide a note listing the changes made to the Rule of Engagement during Operation Corporate. I attach copies of the relevant extracts from the transcripts of the evidence and the note from the Clerk to the Committee.

2. We have discussed the form of our response with the Defence Committee Staff, DSE and DTM who had particular responsibility for ROE during Operation Corporate. We have also borne in mind the statement made to date by Ministers on the subject of the Belgrano. Our advice is that we should not provide the Committee with a note listing all the changes. There are a number of reasons for this. Firstly the ROE themselves are classified, and are drawn from the Fleet Operating and Tactical Instructions which is a classified document. The Committee have indicated that they would prefer the note to be unclassified. Secondly some of the ROE are

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Thirdly, the production of a full list of ROE changes would be an extremely time-consuming exercise, not only because of the difficulty of assembling the information from all the relevant sources, but also because the ROE would have to be presented at a length since their format would be almost incomprehensible to the layman. In addition, a full list of changes would provide more information than Ministers have been prepared to reveal so far about the Belgrano affair. For instance, the list of changes in the period 20 April-7 May would show that the movement of the Argentine aircraft carrier 25 DUMYD outside the Total Exclusion Zone was permitted from 30 April, and that the change on 2 May was not restricted to BELFRANO but included all Argentine warships over a large area. It would also reveal that whilst the public warnings and ROE changes for the EEZ and EEZ were simultaneous, there was a delay until 7 May before the appropriate warning was issued for the 2 May change.

I therefore recommend that we should avoid these difficulties by providing the Committee with a more general narrative, explaining broadly when changes were made to ROE, but emphasising that changes were a continual and routine process, thus confirming the thrust of Mr Fyfe's evidence. I attach a draft on these lines. Since it does not actually specify any ROEs it would pose no problems from a security point of view. It is consistent with previous public statements by Ministers and others, including Admiral Woodward, about the change of ROE which led to the sinking of the Belgrano. The draft deliberately avoids any reference to the underlying system of ROEs or the mechanism for their approval, since neither aspect was touched on by Mr Spearhead.

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EXHIBIT No: 5 (Cont)

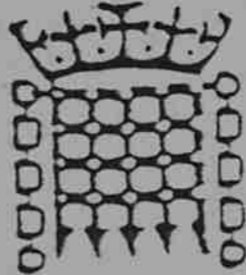
... for Secretary for ... of ... 10 July. ...
... (IT) is content to clear the attached draft by that ...
... Leung Young will submit it together with the other notes. If
... Tuesday evening 10 July is not possible it will be
... for MOD to submit the note direct to the PAC; you will
... the Clerk to the Committee has in any case asked for receipt
... material by 13 July. The PAC are quite content for MOD to submit
... direct if necessary.

J. M. Legge

J M LEGGE
Head of DS11
MB9326 3276ME

CONFIDENTIAL

FROM: RT HON DENZIL DAVIES MP, LABOUR PARTY SPOKESMAN ON DEFENCE AND
DISARMAMENT



HOUSE OF COMMONS
LONDON SW1A 0AA

6 March 1984

The Rt Hon Margaret Thatcher MP
House of Commons

Dear Prime Minister

I am writing on behalf of the Shadow Cabinet to ask for your comments on the serious discrepancies which exist between the Government's version of the circumstances surrounding the sinking of the General Belgrano by HMS Conqueror on 2 May 1982 and statements made regarding the affair in two recent publications.

The Government maintains, in paragraph 110 of the Falklands Campaign: the Lessons, Cmd 8758 that the Conqueror detected the Belgrano on 2 May 1982. Yet in the book "Our Falklands War: the men of the Task Force tell THEIR story", by Geoffrey Underwood, the Commander of the Conqueror is reported to have said that he visually sighted the Belgrano early in the afternoon of 1 May and followed it for over 30 hours.

In another book published on 5 March, "The Sinking of the Belgrano", by Desmond Rice and Arthur Gavshon, the authors also maintain that the General Belgrano had been located 48 hours before it was sunk and was then trailed for more than 30 hours. They further assert that when the Belgrano was sunk it was on course for the Argentine coastline.

Because of the widespread concern regarding the reasons behind the sinking of the Belgrano, I should be grateful for your comments.

Yours sincerely

A handwritten signature in cursive script that reads "Denzil Davies".

RT HON DENZIL DAVIES MP

10/255/2/9/49-11

16 March 1984

CONFIDENTIAL
32
C(2)(b)

APS/Secretary of State thro' PS/Minister(AF)

Copy to:
PS/FJS
Sec/ONS
DUS(P)
DUS(N)
AUS(NS)
DWW
DNOI

LETTER FROM THE SHADOW CABINET TO THE PRIME MINISTER ON
GENERAL BELGRANO

You asked for a draft reply to send to No 10 for the Prime Minister to send to Denzil Davies and the Shadow Cabinet. Minister(AF) asked me to prepare a draft admitting for the first time that BELGRANO was sighted on 1 May and not 2 May, this is Draft 2 attached. I have however prepared an alternative reply, Draft 1, which maintains the existing public line. There are no operational or intelligence reasons for withholding the 1 May date and the choice between the drafts is therefore essentially political.

2. Any decision to admit the 1 May date will need to take into account that:

a. Sir John Nott in the Commons on 4 May 1982, the Official Despatch and the Falklands White Paper all say that BELGRANO was detected on 2 May.

b. On 10 December 1982 Mr Dalyell was told by Mr Blaker that it would not be in the public interest to say at what time the first contact with BELGRANO was made by an RN submarine.

c. The Government has frequently taken the line that the affair has been fully explained and the Prime Minister took this position on 21 February 1984 in the Commons in response to a supplementary from Mr Dalyell.

However, if it were decided to admit the 1 May date it might be possible to argue:

a. Sir John Nott's statement was clearly meant to refer to sinking (5pm London time) not detection.

DRAFT 1

1. Thank you for your letter of 6 March, about the sinking of the Argentine cruiser General Belgrano on 2 May 1982.

2. I do not accept that there are serious discrepancies in the Government's explanation of the reasons for the sinking of the General Belgrano. We have consistently made it clear that the cruiser was sunk for military reasons because she presented a threat to the Task Force.

3. Paragraph 110 of Command 8758 described the events of 2 May which led to the sinking of the Belgrano. As Lady Young explained on 13 July 1983 it was not intended to say when the cruiser was first located. In fact we have consistently said that it would not be in the public interest to say when the Belgrano was first located. That remains the position. In any case the time at which Belgrano was first located is not relevant to the decision to attack her. It was on 2 May that the Task Force Commander, in the light of the threat posed by the Belgrano group as part of the wider configuration of Argentine Naval Forces, sought and obtained a change in the Rules of Engagement to enable Belgrano to be attacked outside the Total Exclusion Zone.

4. When she was attacked Belgrano was on a course of 280°. She had made many changes of course during the day and could have done so again at any time. Her precise course at any given moment was irrelevant to the threat that she presented.

5. You allege that there is "widespread concern regarding the reasons behind the sinking of the Belgrano". I do not believe that

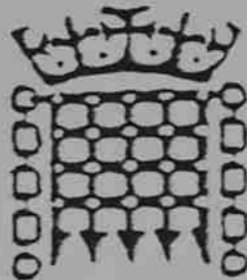
so. It is fully understood that the Government's overriding
and proper concern was to take the necessary measures to protect
the Task Force - which had been sent to the South Atlantic with
all-party support.

DRAFT 2

1. Thank you for your letter of 6 March, about the sinking of the Argentine cruiser General Belgrano on 2 May 1982.
2. I do not accept that there are serious discrepancies in the Government's explanation of the reasons for the sinking of the General Belgrano. We have consistently made it clear that the cruiser was sunk for military reasons because she presented a threat to the Task Force.
3. Paragraph 110 of Command S758 described the events of 2 May which led to the sinking of the Belgrano. As Lady Young explained on 13 July 1983, it was not intended to say when the cruiser was first located. The Government has declined to give this information before now for security reasons, because of the insight it would give into our knowledge of Argentine naval movements. Although this is still an important constraint on what we can say about the events of the time, this constraint is now of less importance and I can confirm that Belgrano was first sighted by HMS Conqueror on the afternoon of 1 May.
4. The time that Belgrano was first sighted is not of course relevant to the decision to attack her. As Peter Blaker explained in a written answer on 29 November 1982, it was on 2 May that the Task Force Commander, in the light of the threat posed by the Belgrano group as part of the wider configuration of Argentine Naval Forces, sought and obtained a change in the Rules of Engagement to enable Belgrano to be attacked outside the Total Exclusion Zone, and therefore it was on 2 May that the ship was sunk.

When she was attacked Belgrano was on a course of 210°. She had made many changes of course during the day and could have done so again at any time. Her precise course at any given moment was irrelevant to the threat that she presented.

6. You allege that there is "widespread concern regarding the reasons behind the sinking of the Belgrano". I do not believe that is so. It is fully understood that the Government's overriding and proper concern was to take the necessary measures to protect the Task Force - which had been sent to the South Atlantic with all-party support.



HOUSE OF COMMONS
LONDON SW1A 0AA

Monday 19 March 1984

RECEIVED BY
23 MAR 1984
HEAD OF DSE

Rt Hon Michael Helestone
Ministry of Defence
Main Building
Whitehall
London SW1

Dear Michael,

In view of Cecil Parkinson's interview on TV-AM last Sunday week, and the Prime Minister's reply to my question on the matter (Wednesday 14 March), I would be most grateful if you would respond to the following questions.

1. At what time on 30 April 1982 did HMS Conqueror first detect the Belgrano on its sonar? What was the estimated position, course and speed of the Belgrano at the time?
2. At what time did HMS Conqueror come into visual contact with the Belgrano on 1 May 1982 and what was the course, speed and position of the Belgrano at the time?
3. At what time on 1 May 1982 did HMS Conqueror observe the RAS involving the Belgrano and an oiler and what was the course, speed and position of the Belgrano at the time?
4. What was the course followed by the Belgrano throughout the period in which it was being tracked by HMS Conqueror?
5. What was its speed when it was attacked?
6. Why were Mk 8 torpedoes used in preference to Mk 24s and can both of these weapons be set for proximity detonation?
7. At what time was the order to sink the Belgrano sent from Northwood on 2 May? Were any signals sent or received by HMS Conqueror between the issuing of that order and its execution?
8. When did HMS Splendid first detect the Argentinian CVA on 1 May, for how long did it maintain contact and what was the course and speed of the CVA during this time?
9. Was the CVA under surveillance by aircraft or satellite at any time on 30 April to 2 May? If so, what information concerning course, speed and signals exchanges was obtained during this period?

Yours sincerely

Tam Dalyell

Tam Dalyell M P

19



Copy to:
PS/Minister (AF)
Sec/VCNS
MA/DCDS (I)
AUS (NS)
DNOT

MO 5/21
22nd March 1984

RH

DS5 Not agreed with
APS/SofS on 23/3
NMB
RHH 23/3

Head of DS5
CP 23/3

SINKING OF THE BELGRANO

You submitted on 16th March (not to all or needed) advice on the response which might be made to Denzil Davies's letter of 6th March about the circumstances surrounding the sinking of the BELGRANO and in particular when HMS CONQUEROR first detected the ship. The Secretary of State has now received the attached letter from Tam Dalyell posing another 9 questions. Further allegations arising from the book published by Messrs Rice and Gavshon seem likely to arise.

2. Before reaching a view on the line to be taken in the Denzil Davies letter, the Secretary of State wishes to consider the implications of a more forthcoming line for how we would handle new allegations arising from the Gavshon book and how we would respond to Dalyell. The Secretary of State has therefore decided that it would be preferable to delay a reply to Denzil Davies for the time being while we look at the wider context and I have agreed this approach with No 10.

3. The Secretary of State wishes to know the substance of what happened at the beginning of May 1982 in relation to the BELGRANO and the Argentine aircraft carrier in order to judge how much of this can properly be made public without security implications. For the purpose of consideri



10 DOWNING STREET

THE PRIME MINISTER

MR DAVIES
WILL NOT
RECEIVE.

THIS UNTIL

1615 TODAY

4 AM 84

Dear Mr. Davies,

Thank you for your letter of 6 March about the sinking of the General Belgrano.

The background to this event is worth recalling. On 30 April the Total Exclusion Zone was established around the Falkland Islands. On 1 May attacks by Vulcan and Sea Harrier aircraft were carried out on Stanley airfield as part of the process of enforcing the Total Exclusion Zone. On the same day the Task Force came under attack for the first time from the Argentine airforce and some Argentine aircraft were shot down. We were all very conscious of the risk that these assaults on the Task Force would be backed up by attacks by surface ships and submarines of the Argentine Navy and by aircraft from their carrier, the 25 de Mayo. All British units were on maximum alert to deal with any naval or air attacks.

HMS Conqueror, on patrol south of the Falkland Islands, detected an Argentine oiler auxiliary which was accompanying the Belgrano on 30 April. She sighted the Belgrano for the first time on 1 May when it was accompanied by two destroyers armed with Exocet missiles. Paragraph 110 of Command 8758 describes the events of 2 May which led to the sinking of the cruiser. As Janet Young explained in the House of Lords on 13 July 1983, that account was not intended to say when the cruiser was first located. The essential point is that it was on 2 May that we had indications about the movements of the Argentine fleet which led the Task-Force Commander, Admiral Woodward, to request a change in the Rules of Engagement to permit the Belgrano to be attacked outside the Total Exclusion Zone.

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/ The

The circumstances on that day have been well described by Admiral Woodward in his lecture at the Royal United Services Institute on 20 October 1982:

"Early on the morning on 2 May, all the indications were that 25 de Mayo, the Argentinian carrier, and a group of escorts had slipped past my forward SSN barrier to the north, while the cruiser General Belgrano and her escorts were attempting to complete the pincer movement from the south, still outside the Total Exclusion Zone. But Belgrano still had Conqueror on the trail. My fear was that Belgrano would lose the SSN as she ran over the shallow water of the Burdwood Bank, and that my forward SSN barrier would be evaded down there too. I therefore sought, for the first and only time throughout the campaign, a major change to the Rules of Engagement to enable Conqueror to attack Belgrano outside the Exclusion Zone."

Ministers agreed to the proposed change in the Rules of Engagement at about 1 p.m. London time on 2 May. Orders were sent immediately to HMS Conqueror, which attacked the Belgrano at 8 p.m. London time. Because of the indications that the Belgrano posed a threat to the task force, her precise position and course at the time she was sunk were irrelevant.

The first indications of the possible Peruvian peace proposals reached London from Washington at 11.15 p.m. London time and from Lima at 2 a.m. London time on 3 May.

My comments on paragraph 3 about the first contacts with the Belgrano group go further than we have been prepared to do hitherto. I have only felt able to do this now as, with the passage of time, those events have lost some of their original operational significance.

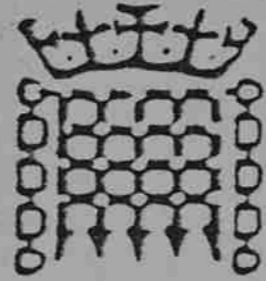
/Throughout

Throughout the events described above it was a major concern of the Government to protect by all the means available the Task Force which had been despatched to the South Atlantic with all-party support.

Yours sincerely

Reginald D. H. H. H.

The Rt. Hon. Denzil Davies, M.P.



5/4/84

HOUSE OF COMMONS
LONDON SW1A 0AA

The Prime Minister.

Dear Prime Minister,

Denzil Davies has very kindly given me a copy of your letter to him of April 4th, 1984, responding to his letter of March 6th, 1984, written at the behest of the Shadow Cabinet. Denzil will be replying doubtless, as he thinks fit, after consideration with Shadow Cabinet colleagues. In the meantime, you are aware of my own interest, and I would like to say that your reply does go some way towards confirming a number of facts, to which I have been drawing attention in recent months. You also confirm some of the information contained in the recently published book, "The Sinking of the Belgrano" by Desmond Rice and Arthur Gavshon, about which I am asking you in an Oral Question, Number 5, on Thursday April 12th.

However, your letter, Prime Minister, still leaves a number of serious questions, unanswered and unclear. In view of the Government's ever-changing explanations about the circumstances surrounding your order to sink the Belgrano, it would be helpful if you would address yourself to the following issues:

1. Paragraph 2 of your letter. In backgrounding the military situation on May 1, 1982, you say the air attacks on Port Stanley Airfield were for the purpose of enforcing the Total Exclusion Zone. Since cluster bombs, air-burst shells, and other anti-personnel devices were used, Prime Minister, how can you really suggest that this was part of the process of enforcing the Total Exclusion Zone?
2. Paragraph 3 of your letter. Was HMS Conqueror^S instructed to search for and locate the Belgrano by Admiral Woodward, by Fleet Headquarters, Northwood, or by whom? In other words, who perceived the Belgrano Group to be a threat to the Task Force in general, and as you have argued on Television, our Carriers in particular? Candidly, I have suspected



HOUSE OF COMMONS
LONDON SW1A 0AA

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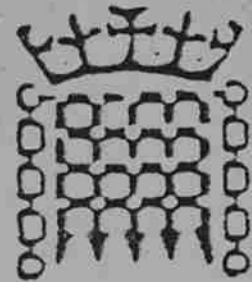
for many months that the notion that the Belgrano Group were endangering the Task Force emerged as a post-facto rationalisation.

3. Paragraph 3 of your letter. You relate that Admiral Woodward asked for a change in the Rules of Engagement to permit the Belgrano to be attacked outside the Total Exclusion Zone - and, as we all know, you and Members of the War Cabinet agreed to that change. Why then did your former Defence Minister, (Sir) John Nott, a Member of the War Cabinet, who participated in the deliberations on the matter, mislead the House of Commons without any corrective by you, by saying on 4th and 5th May that the decision to torpedo the Belgrano was taken by the Submarine Commander? Parliament, Press, and People were deceived why?

4. Paragraph 3 of your letter. You refer to destroyers armed with Exocet missiles. Do I take it that the Government is backing away from its original claim that Belgrano also was armed with Exocets?

5. Paragraph 3 of your letter. Can you explain why the Conqueror detected an Argentine oiler auxiliary in the Belgrano Group, when the signals from the 44 year old iron-clad, USS Phoenix (Belgrano) were considerably stronger?

6. Paragraph 3 of your letter. You stress that on 2 May "we had indications about the movements of the Argentine Fleet" which led to Admiral Woodward's request for a change in the Rules of Engagement. What precisely were those "indications"? My information is that the Argentine Fleet was by that time under orders to return to base, and you knew that Gavshon and Rice in their book cite precise times (20.00 hours on May 1, and 01.19 hours on May 2) when those orders were sent by Admiral Allara, and the Naval Command in Buenos Aires. The text of one of those messages is included in their book.



HOUSE OF COMMONS
LONDON SW1A 0AA

3

7. Paragraph 5 of your letter. You quote Admiral Woodward as saying that his request for a major change to the rules of engagement in order to attack the Belgrano was "the first and only time throughout the campaign" he had made such a request. This is just not true, Prime Minister, because when Conqueror was in Argentine Territorial Waters he again asked for a change in the Rules of Engagement, so as to be able to operate within those waters. (Reference Gavshon and Rice, Page 135.)

8. Paragraph 5 of your letter. Prime Minister, will you please explain how the Belgrano and her Group, sailing on a 280 degree course, (confirmed to me in Parliamentary answers), sailing West North West, could in any way have been completing a pincer movement? Have you ever heard of naval ships engaging in a pincer movement while retreating to home port in an opposite direction? And, can you explain how on earth it was that a huge, slow-moving hulk like the ancient Carrier, 25th May, could have "slipped past" the sophisticated, speedy nuclear powered submarine, presumably HMS Splendid, which was "trailing her" and which had been built at a cost of many millions to the British tax-payer?

9. Paragraph 6 of your letter. Will you explain, Prime Minister, your assertion that it was irrelevant to the sinking that the Belgrano was heading homewards and well outside the Exclusion Zone and nowhere near the Burdwood Bank?

10. Paragraph 7 of your letter. Has your Government enquired into the reasons why the British Embassies in Washington and Lima took so long to report on the Peruvian Peace Initiative, and its preparation, if, as you claim "first indications" only reached London at 23.15 hours on May 2, and 0200 hours May 3 respectively? Did you know that an Associated Press Despatch from Lima, timed 23.44 hours, EST, May 2, said that

Document to P.
raising draft
NOT

M1

Head of D.S.S.....

Our reference NO 5121
of 22 March 1985

1. Would you please let me have by 13.00 hrs Tuesday 10 April
the draft of a letter for the Secretary of State to send to
..... Daily Mail E.S.S. in reply to E1.
If the draft reply is not self-explanatory, it should be
accompanied by a short minute providing background information.

2. The above deadline has been set to accord with the Secretary
of State's wish that replies which he sends to such letters
should be answered speedily. If you are unable to provide the
draft by the above date you should telephone this office to
discuss the action which needs to be taken in the interim.

3. I should be grateful if you would bear in mind the following
points:

a. Drafts should be informal in tone. Members of
Parliament will usually show the reply to their
constituents, unless specifically asked not to do so.

b. Any departmental action which might prejudice
the Minister's decision must now be suspended until
the case has been considered by the Secretary of State.

c. The Secretary of State has expressed the wish
that his letters should, if possible, be short, clear
and concise, and drafts should preferably be no more
than two sides of double-spaced type-script in length.

d. The draft reply should be cleared at a level not
lower than Principal.

e. If any other Minister within the Department has been
previously involved in this case, it is most important that
the advice for the Secretary of State should be submitted
through the relevant Minister's office.

9 April 84.....

for (B P NEALE)
APS/Secretary of State
Room 6164
Tel: 218 6169/7899

FILE - KCM

ND

1 pointed out the ambiguity on Day.

[Handwritten signature]

First Draft of Mr. P. C(2)(e)

D/DS5/9/9/46-54

12 April 1984

PS/Secretary of State (thro' PS/Minister(AF))

- Copy to:
- PS/US of S(AF)
- PS/PUS
- Sec/VCNS
- PS/DUS(P)
- PS/DUS(W)
- DCDS(I)
- AUS(NS)
- DNOT
- DNW

BELGRANO

I attach a draft reply for Secretary of State to send to Tam Dalyell in reply to his letter of 19 March. This submission has been delayed whilst the Prime Minister decided how to reply to the letter from the Shadow Cabinet. The FCO cleared their replies to the points raised by Tam Dalyell in the Foreign Affairs debate with No 10 and in view of the implications of some of the proposed answers to the questions I suggest that you may wish to do the same and a draft is attached.

2. In her letter to Denzil Davies the Prime Minister confirmed that the BELGRANO group was first detected on 30 April and that the ship was sighted for the first time on 1 May. We have already given the position and course of the BELGRANO at the time it was sunk and the information about its course from 1 May until it was attacked is not classified and if these questions were asked as PQs we would have no reason for not giving the answers. The draft reply does therefore provide answers to Mr Dalyell's questions about the course of the BELGRANO. This information will reveal for the first time that BELGRANO reversed course at 9am London time (ie 11 hours before she was attacked and about 4 hours before the change in the ROE's was agreed by Ministers). The answer to question 7 is therefore important in establishing the limited communications with CONQUEROR and that the major change in course by BELGRANO was not reported to Northwood until 3pm. This would still leave open the question of whether a further change in ROE's should have been made between 3pm and 5pm perhaps leading to the position that BELGRANO should not be attacked whilst she continued on the course of 270° but only if she reversed direction again. The reply to this charge would be that BELGRANO was still a threat and the ROE's were already extremely complicated and that clear simple rules have to be given to commanders particularly when communications are extremely difficult.

3. We have not admitted before that HMS SPLENDID did not detect the

25 DE MAYO but this is important in establishing why that ship was not attacked when the ROE's were changed. It would be possible to answer question 9 in the negative but this would, in conjunction with the answer to question 8, unduly restrict the available sources for our information about the movements of 25 DE MAYO which we cannot acknowledge in public. It is also important to leave the impression that we knew, as we did, the movements of the 25 DE MAYO so that the second, and most potent, arm of the 'pincer attack' on the Task Force can be substantiated. We have not admitted in public that the ROE's were changed on 30 April to allow an attack on the 25 DE MAYO outside the TEZ.

C S Ponting

C S PONTING
Head of DS5

Att

31

-2-

CONFIDENTIAL

BELGRANO

I have already let you have our comments on the letter from Tom Dalyell to the Prime Minister following her letter to Denzil Davies and you have also seen the suggested replies to the questions raised by Mr Dalyell in the Foreign Affairs debate.

The Secretary of State for Defence has also received the attached letter from Mr Dalyell about the detailed military events surrounding the sinking of the Belgrano. We have delayed replying to this letter until the Prime Minister had replied to Denzil Davies because much of the letter deals with the first detection and sighting of the Belgrano.

I attach the draft reply which it is proposed to send to Mr Dalyell. This gives, for the first time, detailed information about the position and course of the Belgrano up to the attack on 2 May. We have already given the position and course of the Belgrano when it was attacked and the information in the draft reply is unclassified. Although this reply will for the first time reveal that Belgrano made a major change of course at 9am London time (ie 11 hours before she was attacked and 4 hours before Ministers agreed to the change in the rules of engagement) we have no reason for withholding this information. Mr Dalyell will no doubt argue that this change of direction was away from the Task Force, possibly towards home and that the ship therefore no longer represented a threat. The answers to question 7 are therefore very important in establishing that this information was not available at Northwood until 3pm and that the change in the rules of

engagement was passed to the submarine at the same time.

We have not previously revealed that HMS Splendid did not detect the 25 de Mayo - it has always been assumed in the past that contact was lost. However, this answer will help to establish why this ship - a higher value target than Belgrano - was not attacked. The answer does not reveal that Ministers agreed to change the rules of engagement on 30 April to allow the 25 de Mayo to be attacked outside the TEZ.

I would be grateful if you could obtain the Prime Minister's agreement to the attached draft. I am copying this letter to Peter Ricketts (FCO) for any comments he may have.

Tam Dalyell MP
House of Commons

Thank you for your letter of 19 March about the sinking of the General Belgrano. As you know the Prime Minister has already written to Denzil Davies setting out the background to the sinking of the Belgrano and the reasons why that decision was taken. Perhaps I could reply to your more detailed questions about the events as you have set them out.

1. As the Prime Minister has pointed out, HMS Conqueror did not detect the General Belgrano on its sonar on 30 April 1982; it made contact with an accompanying oiler auxiliary.

2&3. Again as the Prime Minister has already said, the first visual contact with Belgrano was at 2pm London time on 1 May. At the time Belgrano was conducting a RAS with the oiler. The position at 3pm London time was 54.07S 064.24W - Course 125, Speed 8 knots.

4. There is no continuous log of the Belgrano's movements but its position is known at certain times:-

<u>London time</u> (2 May)	<u>Position</u>	<u>Course</u>	<u>Speed (knots)</u>
5am	55.20S 060.14W	090	13
9am	55.20S 057.22W	reversed course	
3pm	55.16S 060.18W	270	14
8pm	55.27S 061.25W	280	11

5. 11 knots.

6. This was an operational decision taken by the CO of HMS Conqueror. He chose the Mk 8 torpedo because he considered it to have a better chance of penetrating the cruiser's armour and

anti-torpedo bulges. The Mk 8 is an impact weapon. TIGERFISH has both impact and proximity fuses.

7. No order was sent from Northwood to sink the Belgrano. The change in the Rules of Engagement agreed by Ministers was signalled by Northwood at 1.30pm London time on 2 May. The message was first received by HMS Conqueror at 3pm London time but because the transmission was garbled it was not decoded by the submarine until 5pm. The only messages sent by HMS Conqueror were at 3pm London time reporting the position of the Belgrano at 9am and 3pm and at 5pm saying that it was about to attack the Belgrano. As you will appreciate from this outline communications with a nuclear submarine, submerged and in contact with the enemy on the other side of the world are extremely difficult. Conqueror was only in contact for very short periods and at extended intervals.

8. HMS Splendid did not detect the Argentine CVA.

9. I am afraid that it is not possible for me to answer this question since it deals with intelligence matters.

I would also emphasise a crucial point made by the Prime Minister. The primary responsibility of the Government was to protect the Task Force. The exact position and course of the Belgrano at any moment were irrelevant to the decision to alter the rules of engagement. Ships by their very nature can quickly change their course and speed and throughout the 2 May Belgrano, in conjunction with other units of the Argentine fleet, posed a major threat to the Task Force which it would have been irresponsible for Ministers to ignore.



10 DOWNING STREET

THE PRIME MINISTER

12 April 1984

E12
9/1/84
(Received in MOD
18 April on request)

Dear Mr. Dalyell.

Thank you for your letter of 5 April about the Belgrano.

I take it that your objective in asking these further questions of detail is to try, as you have tried for some two years, to establish your contention that the Belgrano was attacked in order to destroy the prospects for peace negotiations based on the Peruvian proposals. That is simply not true.

Geoffrey Howe will be replying to the various questions you raised in the Foreign Affairs Debate on 22 March. But since I have made the Government's position absolutely clear yet again in my letter of 4 April to Denzil Davies, I do not think it useful to prolong these exchanges.

Yours sincerely
Margaret Thatcher

Tam Dalyell, Esq., M.P.



9/7/46

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 5000
DIRECT DIALLING 01-218 2111/3

MO 5/21

18th April 1984

Internals:

- PS/Minister (AF)
- PS/US of S (AF)
- PS/PUS
- Sec/VCNS
- PS/DUS (P)
- PS/DUS (Navy)
- DCDS (I)
- AUS (NS) *SP 24/4*
- Hd of DSS
- DNOT
- DNW
- File: D/S of S/71/84

[Handwritten signature]

Copies:

- Mr A J Coles, No 10
- Mr P F Ricketts, FCO

RH *ND*
Pi

Thank you for your letter of 19th March asking some questions about the circumstances surrounding the sinking of the General Belgrano. Since you wrote this letter, you have seen the Prime Minister's letter to Denzil Davies of 4th April and you have yourself had a further round of correspondence in your letter of 5th April and the Prime Minister's reply of 12th April. There is nothing that I can usefully add.

[Handwritten signature]

Michael Heseltine

15. 15
RECEIVED
24 APR 1984
MINISTRY OF DEFENCE

Tam Dalyeli Esq MP

RECEIVED BY

19 APR 1984

HEAD OF DSS

37

E6

Letter from
T.D. B.(2)(6)



HOUSE OF COMMONS
LONDON SW1A 0AA

1 May 1964

Dear Michael,

Thank you for your letter of 18th April concerning my questions on the circumstances surrounding the sinking of the GENERAL BELGERIAN.

While I appreciate the comments concerning the correspondence with the Prime Minister, my questions to you were of a specific nature which concern your Ministry.

I would therefore appreciate a reply to these questions from you.

Yours sincerely
Tam Dalyell

Tam Dalyell

Rt Hon Michael Heseltine ~~PC~~ MP

MINISTERIAL BUSINESS: TO BE GIVEN PRIORITY AT ALL TIMES

*Document
raising draft
1002 from MRP.*

CLASSIFICATION: *Unclassified*

PRIVATE OFFICE REFERENCE: *D/S → S/71/84*

Head of DSS

The "General Belzoni"

MINISTERIAL BUSINESS: TO BE GIVEN PRIORITY AT ALL TIMES

MINISTERIAL BUSINESS: TO BE GIVEN PRIORITY AT ALL TIMES

1. In consultation with the other Directorates or Divisions concerned, please advise the Secretary of State, with a draft as necessary, on the ~~enclosed~~ ^{enclosed} communication at E.C from *Tam Dalyell MP* dated *1st May*.
2. Please submit advice by no later than *Friday 11th May*, *together with a draft reply on requirements*.
3. The attachment must be placed on a Departmental registered file.
4. I am copying this minute, with the attachment, to:

<i>PS/Minter (AF)</i>	<i>DCDS (I)</i>
<i>PS/US & S (AF)</i>	<i>ANS (NS)</i>
<i>PS/Ans</i>	<i>DNOT</i>
<i>Sec/UCNS</i>	<i>DNW</i>
<i>PS/Dus (P)</i>	
<i>PS/Dus (Navy)</i>	

[Large diagonal slash mark]

Date: *21 May 1984*

[Signature]

APS/S of S
MB ~~21118~~ 6169

34

39

MINISTERIAL BUSINESS: TO BE GIVEN PRIORITY AT ALL TIMES



MINISTER OF STATE FOR
THE ARMED FORCES

LOOSE MINUTE

D/MIN(AF)/JS/5/1/5

9 May 84

Hd of DS5

PQ 9143C

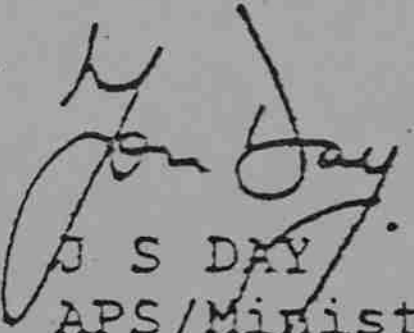
1. Mr Dalyell's oral PQ 9143C to the Prime Minister has not been affected by his recent suspension from the Commons. Minister(AF) has consulted Secretary of State on how we should answer this particular question, and the Secretary of State has proposed that the reply to PQ 9143C should be as for PQ 9153C (which did fall with Mr Dalyell's suspension);

"I have nothing to add to the letters to the Rt Hon Member for Llanelli of 4 and 12 April from my Rt Hon Friend the Prime Minister and my subsequent letter to the Hon Member of 18 April."

2. The Minister has subsequently discussed a slight variation of the Secretary of State's answer with No 10, so as to provide a justification for effectively declining to answer PQ 9143C. The Minister's revised answer to PQ 9143C would be as follows:

"It is not our practice to comment on military operational matters [or the details of military operations]. The circumstances leading to the sinking of the BELGRANO were described in my letter to the Rt Hon Member for Llanelli of 4 April."

3. The Minister would be grateful for your comments on the above answer, which he intends to be the answer by reference to which subsequent Questions on the BELGRANO's movements on 1 and 2 May can be answered.


J S DAY
APS/Minister(AF)
MB 6113 6326 MB

D/DS5/9/9/46-95

9 May 1984

PS/Secretary of State thro' PS/Minister (AF)

Copy to:
PS/US of S (AF)
PS/PUS
Sec/VCNS
PS/DUS (P)
PS/DUS (N)
DCDS (I)
AUS (NS)
DNOT
DNW

BELGRANO

You asked for advice on the further letter from Tam Dalyell of 1 May following S of S's reply on 18 April to his original letter of 19 March asking detailed questions about the sinking of the BELGRANO. Tam Dalyell has also asked the first four of the questions in his letter of 19 March as PQ's and although these lapsed following his suspension they will, no doubt, be retabled shortly. APS/Minister (AF) has asked separately (not to all or needed) for advice on these questions. All this activity raises general points about the handling of these questions from Tam Dalyell.

2. Minister (AF) has suggested, following a discussion with No 10, that all the questions, in particular the PQ's, should be answered as follows:

"It is not our practice to comment on military operational matters [or the details of military operations]. The circumstances leading to the sinking of the BELGRANO were described in my (the PM's) letter to the Rt Hon Member for Llanelli of 4 April".

Unfortunately I do not believe that it is possible to sustain this line. We have already given substantial information about the BELGRANO including its position and course when attacked and the Prime Minister has recently confirmed the date of the first detection of the group and the first sighting of the BELGRANO. The information on the position of the BELGRANO when first sighted and the course up until the time it was attacked is unclassified and available without disproportionate effort and in accordance with the normal rules for answering PQ's there is no reason for withholding this information. I can therefore only advise that we should stick to the original answers to the PQ's which I submitted on 2 May.

3. There are also sound tactical reasons for answering the

questions posed by Mr Dalyell in his letter rather than allowing the information to emerge in pieces via PQ's. The four PQ's tabled by Mr Dalyell will reveal that BELGRANO reversed course at 9am London time but the advantage of answering his letter is that the answer to question 7 enables us to bring out the very limited contacts with HMS CONQUEROR. Without this answer the reply to question 4 on the course of the BELGRANO could give a misleading impression of the information available in London when the ROE's were changed. A draft to Mr Dalyell is attached and as I suggested in my earlier minute you may wish to clear this with No 10 and a draft is attached.

C S PONTING
Head of DS5

Att

Tam Dalyell MP
House of Commons

Thank you for your letter of 1 May about the sinking of the General Belgrano. As you know the Prime Minister has already written to Denzil Davies setting out the background to the sinking of the Belgrano and the reasons why that decision was taken. Perhaps I could reply to your more detailed questions about the events as you have set them out.

1. As the Prime Minister has pointed out, HMS Conqueror did not detect the General Belgrano on its sonar on 30 April 1982; it made contact with an accompanying oiler auxiliary.

2&3. Again as the Prime Minister has already said, the first visual contact with Belgrano was at 2pm London time on 1 May. At the time Belgrano was conducting a RAS with the oiler. The position at 3pm London time was 54.07S 064.24W - Course 125, Speed 8 knots.

4. There is no continuous log of the Belgrano's movements but its position is known at certain times:-

<u>London time</u> (2 May)	<u>Position</u>	<u>Course</u>	<u>Speed (knots)</u>
5am	55.20S 060.14W	090	13
9am	55.20S 057.22W	reversed course	
3pm	55.16S 060.18W	270	14
8pm	55.27S 061.25W	280	11

5. 11 knots.

6. This was an operational decision taken by the CO of HMS Conqueror. He chose the Mk 8 torpedo because he considered it to have a better chance of penetrating the cruiser's armour and

anti-torpedo bulges. The Mk 8 is an impact weapon. TIGERFISH has both impact and proximity fuses.

7. No order was sent from Northwood to sink the Belgrano. The change in the Rules of Engagement agreed by Ministers was signalled by Northwood at 1.30pm London time on 2 May. The message was first received by HMS Conqueror at 3pm London time but because the transmission was garbled it was not decoded by the submarine until 5pm. The only messages sent by HMS Conqueror were at 3pm London time reporting the position of the Belgrano at 9am and 3pm and at 5pm saying that it was about to attack the Belgrano. As you will appreciate from this outline communications with a nuclear submarine, submerged and in contact with the enemy on the other side of the world are extremely difficult. Conqueror was only in contact for very short periods and at extended intervals.

8. HMS Splendid did not detect the Argentine CVA.

9. I am afraid that it is not possible for me to answer this question since it deals with intelligence matters.

I would also emphasise a crucial point made by the Prime Minister. The primary responsibility of the Government was to protect the Task Force. The exact position and course of the Belgrano at any moment were irrelevant to the decision to alter the rules of engagement. Ships by their very nature can quickly change their course and speed and throughout the 2 May Belgrano, in conjunction with other units of the Argentine fleet, posed a major threat to the Task Force which it would have been irresponsible for Ministers to ignore.

DRAFT LETTER FROM PS/SECRETARY OF STAFF TO No 10BELGRANO

The Secretary of State for Defence has received the attached letter from Mr Dalyell about the detailed military events surrounding the sinking of the Belgrano. The original reply to this letter was delayed until the Prime Minister had replied to Denzil Davies because some of the questions deal with the first detection and sighting of the Belgrano. My Secretary of State originally took the view that we should not answer these questions but before his suspension Mr Dalyell put down the first four questions as PQ's. Although these have now fallen we can expect them to be retabled shortly. In these circumstances it is better to answer the letter from Mr Dalyell because it enables us to give a fuller picture than just the first four questions. In particular question 7 enables us to explain the limited contacts with CONQUEROR otherwise the answer to question 4 could give a misleading impression of the information available in London when the ROEs were changed.

I attach the draft reply which it is proposed to send to Mr Dalyell. This gives, for the first time, detailed information about the position and course of the Belgrano up to the attack on 2 May. We have already given the position and course of the Belgrano when it was attacked and the information in the draft reply is unclassified. Although this reply will for the first time reveal that Belgrano made a major change of course at 9am London time (ie 11 hours before she was attacked and 4 hours before Ministers agreed to the change in the rules of engagement) we have no reason for withholding this information. Mr Dalyell will no doubt argue

that this change of direction was away from the Task Force, possibly towards home and that the ship therefore no longer represented a threat. The answers to question 7 are therefore very important in establishing that this information was not available at Northwood until 3pm and that the change in the rules of engagement was passed to the submarine at the same time.

We have not previously revealed that HMS Splendid did not detect the 25 de Mayo - it has always been assumed in the past that contact was lost. However, this answer will help to establish why this ship - a higher value target than Belgrano - was not attacked. The answer does not reveal that Ministers agreed to change the rules of engagement on 30 April to allow the 25 de Mayo to be attacked outside the TEZ.

I would be grateful if you could obtain the Prime Minister's agreement to the attached draft. I am copying this letter to Peter Ricketts (FCO) for any comments he may have.

RESTRICTED



MINISTER OF STATE FOR
THE ARMED FORCES

30
Rejection of MR P's
advice

S/21

LOOSE MINUTE

D/MIN(AF)/JS/5/1/5

10 May 84

PS/S of S

Copy to:

PS/US of S(AF)

PS/PUS

Sec/VCNS

PUS/DUS(P)

PS/DUS(N)

NA/DCDS(I)

AUS(NS)

DNOT

DNW

Hd of DS5

BELGRANO

Reference:

A. D/DS5/9/9/46 - 85 dated 9 May 84 (attached, not for copy
addressees)

Minister(AF) disagrees with the advice in the attached Minute of 9 May from the Head of DS5. He believes that to reply as Head of DS5 has proposed would be in complete contradiction to

- a. The Prime Minister's letter of 12 April in reply to Mr Dalyell's of 5 April which asked a series of naval operational questions (for example, Question 6) and,
- b. the Secretary of State's letter of 18 April in reply to Mr Dalyell's of 19 March which did so similarly.

Both the Prime Minister and S of S relied basically by referring back to the Prime Minister's letter of 4 April to Denzil Davies.

2. The line Minister(AF) proposes is that contained in Paragraph 2 of APS/Minister(AF)'s minute of 9 May (attached) to Head of DS5. The Question to the Prime Minister asks for details of HMS CONQUEROR's "sonar stalk" of the BELGRANO and Mr Stanley personally has no difficulty whatsoever on operational grounds of declining to give this information. The text of the draft letter to Mr Dalyell, attached to Head of DS5's Minute, abundantly illustrates, in Minister(AF)'s view, the depth of the water Secretary of State would get into if he were to send it. He would be grateful for S of S's views before his departure this evening since we shall need to advise No 10 tomorrow of the draft reply to PQ 9143C.

Francis

P M W FRANCIS

47



Copy to:
PS/USC&S (AF)
PS/PUS
Sec/VCNS
PS/DUS (P)
PS/DUS (N)
MA/DCDS (I)
AUS (NS)
DNOT
DNW
Hd of DS5

MF
31

no 5/41

17th May 1984

*Confirmation of
rejection of Mr.
P's advice by
Ses.*

PS/Minister (AF)

BELGRANO

The Secretary of State has seen your minute of 10th May together with that from Head of DS5 of 9th May.

2. The Secretary of State agrees with Minister (AF)'s view that we should not enter into a detailed point-by-point answer by letter to the questions which Mr Dalyell has raised. He intends instead to reply to Mr Dalyell's latest letter of 1st May broadly on the lines of the attached draft - I have yet to clear the precise words with him. The Secretary of State recognises that Mr Dalyell may yet table a series of detailed questions which he would propose to reply to by referring back to the account of the circumstances surrounding the sinking of the Belgrano which has already been given in the Prime Minister's letter.

3. As to the terms of the answer by the Prime Minister to PQ 91430, the Secretary of State can see the difficulty raised by Head of DS5 over using explicitly the argument that it is not our practice to comment on military operational matters or the details of military operations. This is not entirely consistent with the Prime Minister's letter of 4th April to Mr Denzil Davies which provided further detail and said that ~~she~~ she felt able to do so now as, with the passage of time, those events have lost some of their original operational significance. The Secretary of State would prefer to reserve the argument that we could not reveal operational matters for those cases where it is the professional judgement of those concerned within the Department that there are genuine security objections to giving this information. He would, therefore, prefer to stick with the approach originally agreed with Minister (AF) and perhaps the answer might be the second sentence of the Minister's revised formulation that is:

"The circumstances leading to the sinking of the BELGRANO were described in my letter to the Rt Hon Member for Llanelli of 4th April."

48

R C Mottram
(R C MOTTRAM)



9/9/46
36

PS/Minister (AF)
PS/US of S (AF)
PS/PUS
Sec/VCNS
PS/DUS (P)
PS/DUS (N)
MA/DCDS (I)
DUS (NS)
DNOT
DNW
Head of DS5

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000
DIRECT DIALING 01-218 6169

D/S of S/71/84

D.S. .b
RECEIVED
16 MAY 1984
MINISTRY OF DEFENCE

15 May 1984

15/5

Thank you for your further letter of 1st May.

Your purpose in asking the questions you put to me is to pursue your campaign that the Belgrano was attacked in order to destroy the prospects for peace negotiations rather than for the military reason that she posed a threat to the Task Force. I do not believe that there is any point in prolonging this argument by a further round of detailed correspondence.

Michael Heseltine

Tam Dalyell Esq MP

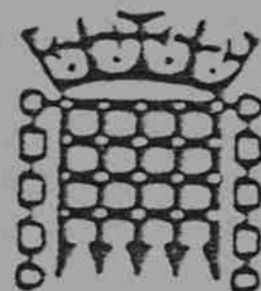
RE

15 MAY 1984 49

HEAD OF

71/84

27/5/84



HOUSE OF COMMONS
LONDON SW1A 0AA

Rt Honourable Michael Heseltine MP.

Dear Michael.

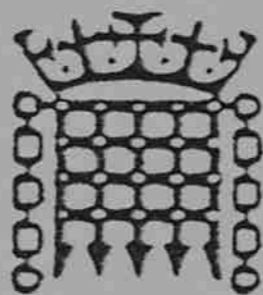
Henry Porter's piece - I was unable to reach him when he phoned me at the Commons on Thursday, and did not talk to him at all about it! - in the Sunday Times prompts me about my letter of 19th March, your reply of 18th April, my response, and your letter of 14th May.

Where in Denzil Davies's letter from the Prime Minister of 4th April, or for that matter anywhere else in the House or in Ministry of Defence Statements are the answers to my question of 19th March to be found? You know perfectly well that it is not a question of getting your Civil Servants to do voluminous research - it is a simple matter of reference to the log-book of the Conqueror. It's not that you can't easily answer the questions: it is rather that you don't want to.

But there is a wider issue. Irrespective of new facts that emerge about the sinking of the Belgrano, and new information coming from Members of the Task Force and others, are we to take it that Defence Ministers will be refusing to reply?

Does this not raise important issues about Ministerially being accountable to Parliament?

Was it ^{on} the advice of your officials that the questions I posed in my letter have not been answered? I would be surprised if it were so, since I have a high regard for the industry and integrity of Ministry of Defence officials with whom I have dealt, and have found that they regard answering serious questions from MPs, who themselves have worked on a topic, as part of their day-to-day job.



HOUSE OF COMMONS
LONDON SW1A 0AA

Besides the original questions of 18th March, I am also interested in the question of whether the change in the rules of engagement on the 2nd May 1982 referred only to the ^(X)Belgrano, or did they go wider?

When were the rules of engagement changed to allow an attack on the Carrier, 25th of May?
^(Y) Was this on May 2nd, or was it earlier? If so, when?

It will surely be not the least trouble for your officials to provide answers to these questions if you and John Stanley have a mind to ask them to do so.

As the late Dick Crossman's PPS, I saw how many MPs took up hours and hours of Civil Service time to little purpose. If you were to ask your colleagues in DHSS, Dept of Employment, Scottish Office, and most other Departments, you will find that I hardly trouble them, and have cases sorted out at the local level. I don't think I've bothered Ministers at Social Security on a personal case this year, for that very reason, of being concerned about Civil Service valuable time.

But the whole subject of the Falklands is very different. Over £3 million per day: Sunday Times figures, not mine, which would be larger. No negotiation, to the point that Alfonsín has begun to make hard line speeches (ie at Commodore Rivadavia on 7th May). The possibility of a re-play, God help us, of uncertain outcome, but certainly more bloodshed. You know about the Meko 140s and 360s, the re-furbished Lockheed Electras, the Shy-Hawks with spare parts, and I gather, Sidewinder, etc etc etc.

Above all, there is the question of the veracity or mendacity of the British head of Government. Against these background situations, you really cannot plead "Civil Service Time"!

Your
51
12/2/82



Ascension Island lies right on the volcano ridge

Volcano threat to Falklands 'bridge'

by Simon Winchester

THE BRITISH government is spending tens of millions of pounds to build a permanent air base on its vital South Atlantic staging post of Ascension despite warnings that the island is an active volcano with a history of highly dangerous eruptions.

The Ministry of Defence has ignored advice from geologists who stress the need for a volcanic hazard survey of the island; and, to the surprise and chagrin of volcanologists, the government has refused permission for scientists to go there to assess the likelihood of an eruption.

The leading expert on the geology of Ascension, Dr David Bell of University College, Oxford, says the island has "a very vigorous volcanic history" and that it is, in his opinion, "unwise" of the RAF and other defence organisations to deploy such an immense amount of capital without being fully aware of the risk that might be being run.

Bell says that Ascension lies only 90 miles west of the Mid-Atlantic Ridge, a volcanic structure running between the North and South Poles.

"You have only to look at the islands on or near the ridge to see how great the risk might be," he told *The Sunday Times*. "Iceland, right on the ridge, has continuous activity. Jan Mayen Island has an active volcano; so has the Azores. Tristan da Cunha blew up in 1961; and we believe there was an eruption on Bouvet Island in the 1960s, too."

"In addition to this we have to remember that the type of rocks on Ascension are those characteristic of very hot, very fast and very dangerous eruptions. It is not an island where you would just get slow-moving lava flows, like Hawaii. Here you would get sudden, very violent explosions - just like Mount St Helens [in Washington State, America, which erupted in May 1980, killing 61 people]."

The Ministry of Defence and the Foreign Office have been made aware of the risk, having been in close contact with Bell and other specialists shortly after the Falklands war, when the government was beginning its build-up on Ascension.

There has been an American base and a monitoring station of the American National Aeronautics and Space Administration (Nasa) on Ascension for some years.

There is also a vital outstation of GCHQ - the government's spy centre - on the island's eastern side (operating under the title of the Composite Signals Organisation) and a highly secret and largely underground base operated by the American electronic intelligence organisation, the National Security Agency. Bell and others assume that geologists have been barred from the island because of recent developments of these intelligence stations.

"Until the Falklands war we would get our people on to Ascension with almost no trouble at all," says Bell. "But since then all our applications to go have been turned down."

Ascension's principal visible role post-Falklands has been as a mid-ocean staging post for the Falklands air bridge. (It has always been a staging post for secret military operations; the South Africans have apparently landed cargo planes there, bringing Mirage fighters southwards from Israel to Cape Town.)

The new British air base has almost been completed at what is called the Two Boats site, halfway up the main volcano's flanks, at a reported cost of £40m. (The cost is hidden in the price for what is being called "Margaret Thatcher International Airport", currently under construction on East Falkland.) The base was seriously damaged earlier this summer by floods.

16 **WHATEVER** MPs' views on the Falklands war, Tam Dalyell, the Old Etonian Labour member, has won much admiration for his dogged pursuit of the government over the sinking of the General Belgrano two years ago. He is thought to have contributed greatly to the House's knowledge, even if he has occasionally irritated

members by raising the topic in debates ranging from stubble burning to tax reform. So it must be regretted that Michael Heseltine, secretary of state for defence, wrote recently to him saying that he was no longer prepared to waste his civil servant's time by researching the answers to Tam's penetrating questions.

CONFIDENTIAL

DOSE MINUTE

DFC
C37/A

D/DS11/1/1/9

3 Jul 84

DS5a - Mr Miller
DS5b - Mr Darms
DS8b -
DNW -
ROW5 -

Copy to:
PS/Minister(AF)

HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE SOUTH ATLANTIC ROES

1. The FAC have been taking evidence from FCO ministers past and present on, amongst other topics, the sinking of the Belgrano and the peace efforts which were taking place around the same time. I attach the relevant transcripts of evidence, together with a note from the clerk to the Committee asking for a note on the changes to the Rules of Engagement for the South Atlantic between 2 April and 15 June.
2. I have had a first stab at this, based on a quick look through our files, and I attach a draft for your consideration. I am advised that the response should be unclassified, in common with all the other evidence taken to date. This makes the task of drafting slightly easier, and it also means we can dispense with the option of actually listing the ROEs and changes to them as these are classified. In any case I do not think the Committee would be particularly enlightened by receiving a list of the various numbered rules and their prefixes and suffixes, together with a note of where they applied and when changes were made; the necessary commentary and amplification would make the note very long and tortuous, and would not illustrate the main theme any better than a general narrative. I trust you agree this approach. We might strengthen the draft by means of one or two more examples of ROE being invoked to deal with specific circumstances. Can DS5 and DNW find any more appropriate ones? Otherwise I should be grateful for any corrections of fact or emphasis; particularly from DS5b with relation to the Belgrano aspects, lest I have departed inadvertently from the public line and risked a breach in our united front.
3. Time is very short, as the Committee have asked for a note by Friday 13 July. We will need to clear our contribution (which will be submitted by the FCO) with Minister(AF) and may be Secretary of State. Could you therefore seek the agreement of your Directors/ Heads of Division to the draft, or any alterations, and let me have comments by close of play tomorrow Wednesday 4 July. I should be happy to discuss any points with you. We will then submit to Minister(AF) hopefully on 5 July.

J C S BAKER

DS11
MB9346 7446MB

5A

CONFIDENTIAL

E50



LEPYD: P3/HM(AF) PS/DUN
 PS/US/AF PS/DUN
 PS/PUS MA/DCDS(1)
 Sec/VLWS AW(US)
 PS/DUS(P) DNOT
 DNW
 HdDSS

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 8000
DIRECT DIALING 01-218 2111/3

RECEIVED BY

13 JUN 1984

MO 5/21

HEAD OF DSS5

11th June 1984

9/2/86

NO

Much as expected.

Questions (X) & (Y) in the
Dalyell letter are close to
the bone!!

L.S. EB
 RECEIVED
 13 JUN 1984
 MINISTRY OF DEFENCE

Thank you for your letter of 27th May about your questions on the sinking of the BELGRANO.

You refer to the diary piece in the "Sunday Times" which claimed that I was not prepared to answer your questions because to do so would waste the time of my officials. In fact I have never suggested that it would be disproportionately expensive to deal with the questions you have posed in our recent correspondence: cost is not the consideration.

Rather, my refusal to answer the many detailed questions you have put to me, to which you have now added some more in your latest letter, rests on the fact that, as I said in my letter of 14th May to you, your purpose is to pursue your campaign to demonstrate your belief that the BELGRANO was attacked in order to destroy the prospects for peace negotiations and not because she posed a threat to the Task Force. Since, as the Prime Minister made clear yet again in her letter of 12th April to you, your contention is simply not true, I remain of the view that there is nothing to be gained from providing the detailed answers you are seeking.

Michael Heseltine

Tam Dalyell Esq MP

53

EST
EST

CHANGES IN THE SOUTH ATLANTIC RULES OF ENGAGEMENT DURING OPERATION CORPORATE APRIL-JUNE 1982

1. The system of Rules of Engagement which was employed during Operation Corporate was based on the standard Royal Navy Fleet Operational and Tactical Instructions which would be used in a NATO conflict. This had two main advantages; first that it was familiar to the units of the task force, and second that it is inherently flexible, allowing changes to be made to ROE quickly when circumstances dictated that a change was necessary.
2. The ROE were changed continually. This was to be expected, as a result of the change in the Task Forces position, its proximity to Argentina and the Falkland Islands, the political and diplomatic policy which was being pursued in parallel with its voyage south, new missions which were allocated to it by the War Cabinet, and the nature of the Argentine response. Decisions to change the ROE were made by the War Cabinet (OD(SA)), on the advice of the Chiefs of Staff; their own experts were evaluating the need to make these changes as a continual process of evolution in response to the factors listed above.
3. Examples of major changes in the ROE reflected the major milestones of the campaign. For instance the declaration of the Maritime Exclusion Zone (MEZ) on 12 April when our submarines first reached the vicinity of the Falklands was accompanied by changes to the ROE for submarines which allowed them discretion to attack certain targets within the zone. There were special ROE devised on 15/16 April 1982 for the operation to recapture South Georgia, because the ROE under which the task force was making its transit from Ascension were not appropriate for a direct operation against Argentine held territory. Similarly the rules were of necessity changed again when the MEZ was

translated into the Total Exclusion Zone on 30 April. Separate ROE existed for the Terminal Control Area established round Ascension. There were also numerous minor adjustments to meet various circumstances. Examples include the provision of ROE to deal with Argentine Boeing 707 aircraft which began to shadow the fleet south of Ascension Island, and the restrictions on ROE for engaging submarines which had to be imposed if the units of the Task Force were within the 200 nautical mile limits of Brazil and Uruguay, lest we engaged neutral submarines in error.

4. The change which was made in the ROE to allow the attack on the General Belgrano outside the Total Exclusion Zone was thus part of a regular process. It only differed because it was the one occasion during the conflict when the Task Force Commander himself made a specific request to his Commander in Chief to change the ROE because he had information about the Argentine intentions which was not available in London. This he considered, in his professional judgement, would render him unable to guarantee the safety of his forces or the success of his mission if he was constrained within the ROE that existed at that point; hence his request to change the ROE to allow the attack on the cruiser. This was put to the Chiefs of Staff by the CINCFLEET at Northwood, and approved by the War Cabinet in the normal way.

D/DS5/9/9/45

4 July 1984

MINISTRY OF DEFENCE		
D.S. 11		
20 JUL 1984		
FILE	11	9

DS11

Copy to:
 DS8b
 DNW
 ROW5

HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE: SOUTH ATLANTIC ROE

Reference: D/DS11/1/1/9 dated 3 July 1984

1. The draft note to the FAC attached to the Reference does not really answer the question posed by Mr Spearing (what were the changes in ROE, with dates, reasons, and outcome) nor even the weaker version put by the Clerk (a note of all changes in ROE). I understand the difficulties involved in a full answer, but clearly the covering note to Ministers will need to explain carefully why we are not answering the Committee's question. We need to be clear whether our grounds for not doing so are that:

- a. a full list would be classified, or
- b. production of a full list would be excessively time-consuming, or
- c. the information for a complete list is simply not available?

2. However, I would have thought that a more comprehensive list of major changes (paraphrased into English), to meet the spirit if not the letter of the Committee's request, would have been feasible even at the unclassified level. We are dealing with events of more than two years ago. On the other hand, such a list would give more information than Ministers have been prepared to reveal so far about the Belgrano affair. The list of changes in the period 30 April - 7 May would show that engagement of 25 DE MAYO outside the TEZ was permitted from 30 April, and that the change on 2 May was not restricted to BELGRANO but included all Argentine warships over a large area. In the case of the KEZ and TEZ it will be seen that public warnings and ROE changes go hand in hand, while in the case of the 2 May change the appropriate warning was not issued until 7 May.

3. I therefore accept that we should follow the lines of your draft. I attach a revised version which attempts to avoid some of the pitfalls. In particular:

- a. there is an attempt to indicate why a full answer has

not been given (the large number of changes) and to confirm Francis Pym's point that the Belgrano change was one of a series of major changes;

b. the question-provoking distinction between 'major' and 'minor' ROE changes is played down;

c. I have attempted to relate the list of changes to the earlier discussion of factors - although there are no examples relating to political/diplomatic policy;

d. I thought we ran the risk of protesting too much about the BELGRANO change.

N F DARMS
DS5
MB 8384 2287 MB

E51
2371

CHANGES IN THE SOUTH ATLANTIC RULES OF ENGAGEMENT DURING
OPERATION CORPORATE APRIL-JUNE 1982

1. Rules of Engagement (ROE) - the detailed guidance given to Commanding Officers prescribing the circumstances in which they may engage the enemy - were changed very frequently during Operation Corporate - there were some [] changes between 2 April and 15 June 1982. The ROE were updated continually, reflecting changes in the Task Force position and its proximity to Argentina and the Falkland Islands; the political and diplomatic policy which was being pursued in parallel with the military approach; the allocation of new missions to the Task Force by the War Cabinet (OD(SA)); and the nature of the Argentine response. The ROE and their evolution in response to these factors was kept under close political control by the War Cabinet.
2. For example the declaration of the Maritime Exclusion Zone (MEZ) on 12 April when our submarines first reached the vicinity of the Falklands was accompanied by changes to the ROE for submarines which allowed them discretion to attack certain targets within the zone. There were special ROE devised on 15/16 April 1982 for the operation to recapture South Georgia, because the ROE under which the task force was making its transit from Ascension were not appropriate for a direct operation against Argentine held territory. Similarly the rules were of necessity changed again when the MEZ was translated into the Total Exclusion Zone on 30 April. Separate ROE existed for the Terminal Control Area established round Ascension. ... Examples reflecting Argentine response to our operations ~~are~~ the provision of ROE to deal with Argentine Boeing 707 aircraft which began to shadow the fleet south of Ascension Island, and ^{the} change in the ROE which allowed the attack on the General Belgrano outside the Total Exclusion Zone.

3. This last change was thus part of a continuing evolutionary process. It only differed because it was the one occasion during the conflict when the Task Force Commander himself made a specific request to his Commander in Chief for a major change to the ROE.

LOOSE MINUTERetype for
Det Insp Broome
dated 2 October 1984

D/DS11/10/6/7

6 Jul 84

PS/Minister(AF)

Copy to:
APS/Secretary of State
AUS(D Staff)
Head of DS5
Head of DS8
DROW
DNW
FCO - Falkland Islands Department

HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE: SOUTH ATLANTIC ROE

1. Following evidence from Mr Francis Pym on the sinking of the General Belgrano, the Foreign Affairs Committee asked Lady Young to provide a note listing the changes made to the Rule of Engagement during operation Corporate. I attach copies of the relevant extracts from the transcripts of the evidence and the note from the Clerk to the Committee.
2. We have discussed the form of our response with the Defence Commitments Staff, DS5 and DNW who had particular responsibility for ROEs during Operation Corporate. We have also borne in mind the statements made to date by Ministers on the subject of the Belgrano. Our advice is that we should not provide the Committee with a note listing all the changes. There are a number of reasons for this. Firstly the ROE themselves are classified, and are drawn from the Fleet Operating and Tactical Instructions which is a classified document. The Committee have indicated that they would prefer the note to be unclassified. Secondly some of the ROE are

till in force for our Falklands garrison. We run the risk of undermining their effectiveness if they were published and debated openly by the FAC. Thirdly the production of a full list of all changes would be an extremely time consuming exercise, not only because of the difficulty of assembling the information from departmental records, but also because the ROE would have to be paraphrased at some length since their format would be almost incomprehensible to the layman. In addition a full list of changes would provide more information than Ministers have been prepared to reveal so far about the Belgrano affair. For instance, the list of changes in the period 20 April-7 May would show that the engagement of the Argentine aircraft carrier 25 DEMAYO outside the Total Exclusion Zone was permitted from 30 April, and that the change on 2 May was not restricted to BELGRANO but included all Argentine warships over a large area. It would also reveal that whilst the public warnings and ROE changes for the MEZ and TEZ were simultaneous, there was a delay until 7 May before the appropriate warning was issued for the 2 May change.

3. I therefore recommend that we should avoid these difficulties by providing the Committee with a more general narrative, explaining broadly when changes were made to ROE, but emphasising that changes were a continual and routine process, thus confirming the thrust of Mr Pym's evidence. I attach a draft on these lines. Since it does not actually specify any ROEs it would post no problems from a security point of view. It is consistent with previous public statements by Ministers and others, including Admiral Woodward, about the change of ROE which led to the sinking of the Belgrano. The draft deliberately avoids any reference to the underlying system of ROEs or the mechanism for their approval, since neither aspect was touched on by Mr Spearing.

5. Lady Young will be submitting a number of notes to the Committee prior to her departure for Brazil on Wednesday 11 July. If Minister(AF) is content to clear the attached draft by that stage then Lady Young will submit it together with the other notes. If clearance by Tuesday evening 10 July is not possible it will be necessary for MOD to submit the note direct to the FAC; you will see that the Clerk to the Committee has in any case asked for receipt of material by 13 July. The FCO are quite content for MOD to submit direct if necessary.

J M LEGGE
Head of DS11
MB9326 3287ME

MINISTRY OF DEFENCE POLICE

STATEMENT OF Clive Sheridan PONTING
 AGE 38 (born: 13.4.46)
 OCCUPATION Civil Servant
 ADDRESS 103, Cloudesley Road, London N1

I Clive Sheridan PONTING wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so but that whatever I say will be given in evidence. (sgd) C S PONTING

I am sorry that I breached the trust the Department had in me, and that I photocopied and sent two documents to Tam DALYEL, MP. I did this because I believed that Ministers within this Department were not prepared to answer legitimate questions from an MP about a matter of considerable public concern simply in order to protect their own political position. I copied the documents on the machine in the DS5 Registry and typed the envelope on a friend's typewriter at home. I wish to express my regret for my actions and any embarrassment that may have caused the Department. (sgd) C S PONTING
 witness (sgd) R D BROOME Detective Inspector

I have read the above statement and I have been told that I may correct, alter or add anything I wish. This statement is true. I have made it of my own free will. (sgd) C S PONTING

64

MINISTRY OF DEFENCE POLICE

(Continuation of statement of Clive Sheridan PONTING)

The above statement was taken by me in MOD Main Building in the presence of Detective Inspector Broome; statement commenced at 6.5pm, 10 August, 1984 and completed at 6.15pm the same date. It was read over to and by Mr PONTING who was invited to make any correction or alteration he wished before signing it.

(sgd) T G HUGHES DCI

Signed _____

Signature witnessed by _____

FA
100

OFFICIAL SECRETS ACTS

DECLARATION

Declaration to be signed by members of Government Departments on appointment and, where desirable, by non-civil servants on first being given access to Government information

My attention has been drawn to the provisions of the Official Secrets Acts, which are set out on the back of this document, and I am fully aware of the serious consequences which may follow any breach of those provisions.

I understand that the sections of the Official Secrets Acts, set out on the back of this document, cover material published in a speech, lecture, or radio or television broadcast, or in the Press or in book form. I am aware that I should not divulge any information gained by me as a result of my appointment to any unauthorised person, either orally or in writing, without the previous official sanction in writing of the Department appointing me, to which written application should be made and two copies of the proposed publication be forwarded. I understand also that I am liable to be prosecuted if I publish without official sanction any information I may acquire in the course of my tenure of an official appointment (unless it has already officially been made public) or retain without official sanction any sketch, plan, model, article, note or official documents which are no longer needed for my official duties, and that these provisions apply not only during the period of my appointment but also after my appointment has ceased. I also understand that I must surrender any documents etc. referred to in Section 2(1) of the Act if I am transferred from one post to another, save such as have been issued to me for my personal retention.

Signed Colin King

Date 7 August 1970

Form E 74. (Code 5748)

[R.M.H. 5/15]

EXTRACTS FROM THE OFFICIAL SECRETS ACTS, 1911 AND 1920

Section 2 of the Official Secrets Act, 1911, as amended by the Official Secrets Act, 1920, provides as follows:—

"2 (1) If any person having in his possession or control any secret official code word, or pass word, or any sketch, plan, model, article, note, document, or information which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Her Majesty, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Her Majesty, or as a person who holds or has held a contract made on behalf of Her Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract,—

(a) communicates the code word, pass word, sketch, plan, model, article, note, document, or information to any person, other than a person to whom he is authorised to communicate it, or a person to whom it is in the interests of the State his duty to communicate it, or
(aa) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety or interests of the State:

(b) retains the sketch, plan, model, article, note, or document in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof: or

(c) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code or pass word or information:

that person shall be guilty of a misdemeanour.

(1A) If any person having in his possession or control any sketch, plan, model, article, note, document, or information which relates to munitions of war, communicates it directly or indirectly to any foreign power, or in any other manner prejudicial to the safety or interests of the State, that person shall be guilty of a misdemeanour.

(2) If any person receives any secret official code word, or pass word, or sketch, plan, model, article, note, document, or information, knowing, or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, sketch, plan, model, article, note, document or information is communicated to him in contravention of this Act, he shall be guilty of a misdemeanour, unless he proves that the communication to him of the code word, pass word, sketch, plan, model, article, note, document, or information was contrary to his desire."

Section 1 (2) of the Official Secrets Act, 1920, provides as follows:—

"(2) If any person—

(a) retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government Department or any person authorised by such department with regard to the return or disposal thereof: or

(b) allows any other person to have possession of any official document issued for his use alone, or communicate any secret official code word or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police constable: or

(c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale any such die, seal or stamp as aforesaid

he shall be guilty of a misdemeanour."

EXHIBIT 10

EXHIBIT No: 10

HEAD OF DSS

10 August 1984

Dear Mr Hashe-Suth

In the circumstances to which you
are already aware I wish to resign, with immediate
effect, from the Civil Service and the Ministry of Defence.

Yours sincerely

Robert

CONFIDENTIAL



H. STEEL, CMG OBE
LEGAL SECRETARY

LAW OFFICERS' DEPARTMENT
ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

11 February, 1985

Dear Jan,

PONTING CASE

As promised, I enclose suggested answers to the questions which we are bound to receive when the Ponting trial is over, perhaps later today. If Ponting is convicted we can almost certainly shelter behind the probability of an appeal, but there will still be awkward questions about the Official Secrets Act itself. If he is acquitted, we shall have a rough time.

As I said to you on the telephone, what I am now sending to you is very much open to suggestions for improvement or amplification. I am copying it, and this letter, to Geoffrey Kenton in the DPP's office and (because I do not know who the proper recipient in MOD is) to Desmond Bowen in Clive Whitmore's office in MOD. Their suggestions, too, will be welcome.

*Yours ever,
Henry Steel*

H STEEL

Miss J Caines
Press Office
No.10 Downing St
London SW1

THE PONTING CASELINE TO BE TAKEN WITH PRESS AND OTHER ENQUIRIESA IF PONTING CONVICTED

- (i)
- Unless it has definitely been announced that he will not appeal

In view of the forthcoming appeal [of the possibility that Mr. Ponting will appeal], it would not be proper to make any comment on the case. [This should be the response to all questions about the facts of the case, the decision to prosecute or Ponting's future.]

- (ii)
- If it has been definitely announced that he will not appeal

- (a)
- Why was Ponting prosecuted?

[The decision to prosecute was not a matter for the Government but for the Attorney-General, acting in his quasi-judicial capacity.]
The verdict of the jury demonstrates that the prosecution was fully justified.

- (b)
- Is it right to invoke s.2 of the Official Secrets Act when there is no breach of security involved?

Section 2 is there not only to protect national security. Civil servants, whatever their rank, have a special degree of responsibility imposed on them by the nature of their office and of their duties and by the confidence that is thereby reposed in them. Mr. Ponting was a senior officer and his breach of responsibility and trust was accordingly greater. The Attorney-General considered that this breach could not be allowed to go unpunished.

- (c)
- Would it not have been sufficient to deal with the case as a disciplinary matter?

The law treats such breaches as criminal offences and the Attorney-General, acting in his quasi-judicial capacity, decided that this was too serious a breach to be dealt with otherwise than under the criminal law.

[If the sentence was substantial:

The Judge showed by his sentence that that view was correct.]

[If the sentence was nominal or light:

The fact that the Judge has not imposed a substantial sentence, for the reasons which he has given, does not mean that that view was not correct.]

(d) Did not the Franks Report recommend that this sort of case should be dealt with only as a disciplinary offence?

Yes. But that was merely one of a series of recommendations which the Franks Report put forward as part of a wholesale reconstruction of the law relating to the protection of official information. This Government attempted to introduce legislation effecting such a reconstruction but it did not commend itself to Parliament. In the meantime, the law is what it is and the Attorney-General has the duty of enforcing it as it is, dealing with each case on its own merits. He cannot treat it as though it had been amended by the Franks Report.

B IF PONTING IS ACQUITTED

(a) Questions relating to the propriety of prosecuting him

Draw on A(ii) (a)-(d), as appropriate.

(b) Does not the fact that he was acquitted show that he should not have been prosecuted?

No. The jury found that he had a good defence to the charge on the facts of the case as they emerged. But even Mr. Ponting's lawyers did not suggest that there was not a case to go to the jury.

- (c) Does the verdict mean that a civil servant may freely disclose information which his Minister wishes to withhold from Parliament/the public?

The Judge stated the law on this point in his summing up and it would be wrong for us to try to gloss it or elaborate on it.

The jury's verdict was given on the particular facts of the case and does not in itself establish any rule of law or any precedent in law.

- (d) Does the acquittal not show that Ponting was right in what he did?

The jury has acquitted him of having committed the particular offence with which he was charged under s.2 of the Act. That does not alter the Government's view that it is thoroughly reprehensible for a civil servant, especially a senior civil servant, to break the trust and confidence that is reposed in him because of his office.

- (e) What will now happen to Ponting? Will he be reinstated?

[Answer to be supplied by MOD.]

C GENERAL

- (a) Was any pressure put on the Attorney-General by other Ministers to prosecute Ponting?

No. The Law Officers did not seek the views of any other Minister, nor did they consult with any other Minister, nor was the view of any other Minister conveyed to them, before they took their decision to prosecute Mr. Ponting.

- (b) Will the Government now repeal s.2 of the Official Secrets Act?/ How do the Government defend their failure to repeal or amend s.2 in view of what they said about it when they were in opposition?

The Franks Report on the Official Secrets Act was published in 1972. It recommended the wholesale reconstruction of the relevant

provisions, including s.2. The Labour Government held office from 1974-1979 and could have introduced legislation to implement the Franks Report during those five years, but they did not. In 1979 this Government introduced The Protection of Official Information Bill which was largely based on the Franks Report. But it did not find favour with the House and was withdrawn. The Prime Minister told the House as recently as 27 March 1984 that the Government had no plans to introduce further legislation.

SECRET: CMO



JDZ ACP.
SUBJECT
c. Master Set
6

10 DOWNING STREET

From the Private Secretary

7 February, 1985.

Sinking of the Belgrano: Disclosure of Information to the
Foreign Affairs Committee

The Prime Minister discussed this matter, on the basis of the Defence Secretary's minute of 4 February, with colleagues this morning. The Lord President, the Foreign Secretary, the Defence Secretary, the Home Secretary, the Lord Privy Seal, the Chief Whip, the Attorney General and Sir Robert Armstrong were present.

Attention was drawn to the answer given by the Lord Privy Seal to a question in the House on 12 May 1983 (annexed to your Secretary of State's minute). It was agreed that the Government should rest so far as possible on this. It was agreed that the Defence Secretary would speak informally to the Chairman of the Committee and two senior Privy Councillors on it to explain the reasons why the Government thought it inappropriate to release the documents to them, in the light of the established guidelines.

I am sending copies of this letter to the Private Secretaries of those attending the meeting.

C.D. Powell

Richard Mottram, Esq.,
Ministry of Defence.

SECRET: CMO

TMS

5

PRIME MINISTER

Sinking of the Belgrano: Disclosure of Information
to the Foreign Affairs Committee

There is to be a meeting after Cabinet to discuss the Foreign Affairs Committee's request to see the 'Crown Jewels'.

The Defence Secretary and the Foreign Secretary are opposed. The Lord Privy Seal is inclined to try to find an arrangement to satisfy the Committee. The Chief Whip may be concerned with the implied reflection on the integrity of members of the House in refusing to show them documents which have been seen by jurors and Court officials.

You will recall the problem which arose over the Trade and Industry Committee's request to see British Shipbuilders' Corporate Plan (they were suspected of being the source of an earlier leak of British Steel's Corporate Plan).

As the Defence Secretary's minute (attached) points out, there are strong grounds of precedent for refusing the request, in particular the Leader of the House's reply to a Question in 1983 (also attached). There are undoubtedly security considerations involved.

Against this, it might be argued that a compromise should be sought whereby the Chairman of the Committee is allowed to see the documents on the Committee's behalf. But once locked into a negotiation with the Committee, there will be the risk of getting carried further down the road. Paragraph 4 of the Defence Secretary's minute spells out what he regards as the essential safeguards in any such arrangement.

C.D.P.

C. D. POWELL

6 February, 1985

MO 5/21

PRIME MINISTERSINKING OF THE BELGRANO: DISCLOSURE OF INFORMATION TO THE FOREIGN AFFAIRS COMMITTEE

You recently agreed that, following a request from the Defence Counsel, the detailed and highly classified chronology of the key events leading up to the sinking of the Belgrano and supporting documents which has collectively become known as the "Crown Jewels" should be made available to the Court in the current hearing of Regina v Ponting. The Foreign Affairs Committee have now requested the Ministry of Defence to provide them with these documents "on the same basis" as they were provided to the Court. The Clerk to the Committee has asked for the documents to be in his hands by noon on 5th February.

2. There would not appear to be any possible intermediate courses of action; we have a straight choice between meeting the Committee's wishes or refusing to provide the documents. I need hardly rehearse the advantage of the latter course: concern to protect the extremely sensitive information derived from intelligence sources contained in some of the documents has been the overriding consideration which has dictated our policy on the amount of information we have been prepared to disclose. However a refusal will undoubtedly promote a strong reaction from the Committee on the grounds that we are denying the House information which has been made available to a considerable number of members of the public (the jury and court officials) in the Ponting case. Moreover, while it is not normal practice to make information classified above "Secret" available to Select Committees, the "Osmotherly Rules" which give guidance on the provision of information to such committees make it clear that "Top Secret" information can be



disclosed on the personal authority of a Minister. (Although those guidelines have not been published openly, they have been made available to the Liaison Committee and to the individual Select Committees).

3. Nevertheless, in their report in 1978 the Select Committee on Procedure recognised (para 7.13) that Ministers may wish to resist requests for information on grounds of national security, although it should be ultimately the responsibility of the Minister concerned to justify such a decision. In his reply to a question from the Chairman of the Liaison Committee on 12th May 1983 (copy attached) the Leader of the House said that "there is a long-standing convention under which the Government do not provide information or answer questions in Parliament on matters of security and intelligence, and the Government would regard itself as bound by that convention in relation to Departmental select committees no less than in relation to Parliament itself". If we are to refuse to provide the documents, I believe that this long-established policy provides the strongest grounds for so doing.

4. On the other hand, if we do decide to release the papers, we should have to make clear to the Committee that we regard this case as wholly exceptional and are meeting their request solely because the document has already been made available to a court. We would also need to consider carefully the security arrangements which would apply. The Committee have asked for the papers on the "same basis" as they were provided to the Court, but in this case both jurors and the court officials were subject to security vetting, a process which I do not believe it would be acceptable to ask members of the House to undergo. Moreover, the documents have been made available only while the Court has been in session and the jury have not been allowed to keep notes on them; they will be returned to the Ministry of Defence after the trial. If we met the Committee's request the documents would under normal procedure become the property of the House: while there is an understanding that classified material should be available to members only during Committee meetings or on request in the Committee Office,



once papers are released to the House, the Government has no further control over them. In this case I think that we would have to make it a condition of release that the documents were not copied, were safeguarded under arrangements acceptable to my Department, and were returned to the Ministry of Defence at the end of the Committee's enquiries. If the Committee refused to agree to these conditions, then we should not give them the documents.

5. Finally, if the papers are to be released, I believe that we should submit them under a covering memorandum which would explain the context in which they were commissioned and some of the technical jargon used and would correct some inaccuracies which have been identified since the documents were prepared.

6. This is clearly a difficult and finely-balanced decision, and I would welcome an early opportunity to discuss it with you and other colleagues concerned. My own preference is to withhold the papers but I feel that we shall need to be very sure of our ground before we embark on this course.

7. I am copying this minute to the Lord President, the Foreign and Commonwealth Secretary, the Home Secretary, the Lord Privy Seal, the Attorney General, the Chief Whip and the Secretary to the Cabinet.

Handwritten signature

Ministry of Defence
4th February 1985

Local Authority	Conversion	Length (Miles)
Cornwall	Wadebridge to Padstow	6
Cumbria	Cumbria Cycleway	2
Derbyshire	Tissington Trail	12
	High Peak Trail	16
Devon	Barnstaple to Braunton	4
Durham	Derwent Way	7
	Brandon to Bishop Auckland	9
	Deerness Walkway	7
	Waskerley Way	9
	Lancaster Valley	5
East Sussex	East Grinstead to Groombridge	10
Greater Manchester	Whitworth Road	1
	Altwood	1
	Monton Green Walkway	1
Hertfordshire	Cole Green Way	4
	Ayot Green Way	4
	St. Albans to Hatfield	2
	Harpenden to Hemel Hempstead	1
Kent	Whitstable	1
Leicestershire	Great Central Railway	1
Lincolnshire	Spa Trail	3
Norfolk	Hellesdon to Attlebridge	4
	Aysham to Stalham	10
North Yorkshire	Scarborough to High Hawsker	19
Oxfordshire	Banbury Mineral Railway	1
	Cycle Track	
Staffordshire	Manifold Trail	8
Tyne and Wear	Newburn Cycleway	1
West Midlands	West Bromwich Parkway	3
	Kingswinford Branch	3
	Dudley to Priestfield	1
West Sussex	Worthway	5
Wiltshire	Swindon Old Town to Toothill	2

Mr. Steen asked the Secretary of State for Transport how many miles of cycle tracks are now available in London and Greater London; and what plans there are for extending cycle provisions through and around the London and Greater London parks.

Mrs. Chalker: Lengths of cycle track have been provided in the past alongside a number of trunk roads in London, but only a few miles are reserved exclusively for use by cyclists. The needs of cyclists are now considered during the preparation of all new trunk road schemes.

Provision of other cycle schemes in London is the responsibility of the Greater London council and the London boroughs, and details are not available in the Department. However, we are funding innovative elements of the GLC's ambassador route at Albert gate and Albion gate.

Serpell Report

Sir David Price asked the Secretary of State for Transport whether he is now in a position to respond to the various options proposed for the future of British Rail in the Serpell report; and if he will make a statement.

Mr. David Howell: The Serpell report presented broad illustrations about the cost of the rail network, not policy options. The report also identified scope for substantial cost savings while keeping the railway at broadly its present size. So the future of a modern and efficient railway does not mean providing ever increasing subsidies from the taxpayer. Nor does it require embarking on a major programme of route closures; and the Government do not intend to do so.

Railway Wagons

Mr. Race asked the Secretary of State for Transport, pursuant to his reply to the hon. Member for Wood Green on 15 March, *Official Report*, c. 105, how many of the wagons specified were built, or are planned to be built, outside the United Kingdom.

Mr. Eyre: Of the 428 new wagons referred to in that reply, one order for 25 wagons was placed outside the United Kingdom.

Contracts are placed by the grant applicant, not the Government, and I cannot forecast the source of wagons not yet ordered.

Volvo Cars (Investigations)

Mr. Arthur Lewis asked the Secretary of State for Transport whether he will make a statement on the progress of investigations into apparent faults on the automatic transmission of certain Volvos 343 and 345; and whether, until the problem is cleared and his investigation proves that no danger or damage to the public or drivers of these vehicles is involved, he will seek to make a temporary order banning these vehicles from the public highway.

Mrs. Chalker: My Department is investigating the allegation that Volvo 300 series cars fitted with automatic transmission can move off from rest at an uncontrolled speed. The investigation is being carried out in co-operation with Volvo Car Concessionaires Ltd., the Motor Industry Research Association and Volvo BV, the Dutch manufacturers. As yet no cause for these cars behaving in this way has been identified, but the investigations are being pursued as quickly as possible.

HOUSE OF COMMONS

Select Committees

Mr. du Cann asked the Lord President of the Council if he will publish the Government's reply to the report of the Liaison Committee on the Select Committee system.

Mr. Biffen: The Government's reply, which was conveyed in a letter dated 27 April from me to my right hon. Friend the Member for Taunton (Mr. du Cann) as Chairman of the Liaison Committee was as follows:

"I am writing to let you know the outcome of the consideration which Ministers have recently been giving to the recommendations made by the Liaison Committee in their First Report (Session 1982-83) on the select committee system. This

report is acknowledged as a most valuable and comprehensive progress report on the work of the Departmental select committees since their establishment in 1979.

It is noted that the Committee's principal conclusion is that the work of the new committees, whilst making great demands on Members, has 'considerably extended the range of the House's activity, strengthened its position relative to that of the Government, and deepened the quality of its debates'. The Committee's view confirms that of the Government that the Departmental committees have now established themselves as an important part of the general structure of Parliamentary scrutiny. The importance of the position they occupy in relation to Ministerial accountability to Parliament is indicated by the fact that there had by November 1982 been 190 Ministerial appearances before them.

The Government recognise, furthermore, the significant part that has been played by the Liaison Committee itself in the achievements of the new select committee system; in facilitating co-ordination and the avoidance of overlap between select committee enquiries (paragraph 81); in encouraging the economic use of resources (paragraph 76); and generally in serving as a focal point for the consideration of matters affecting select committees as a whole. I am particularly pleased in this respect to see the references in the report to the productive exchanges which have taken place between the Committee and the Government, and with the House of Commons Commission. The Government share the Committee's view (paragraphs 83 and 84) that in order to help facilitate further co-ordination in the work of select committees it is desirable that individual committees should in future be able to show their evidence to other committees, and that they should be given the power to join with other committees in order to take evidence, deliberate or make reports. It is proposed to table the necessary amendments to Standing Orders in due course.

The first six specific conclusions and recommendations made in the report (Paragraphs 24, 27, 40, 42, 33 and 39) all relate to various aspects of the structure of the select committee system. Of these recommendations it is proposed that two should be decided by a new Parliament—those relating to the question of whether the terms of reference of the Home Affairs Committee should be extended to include the Law Officers Department and the Lord Chancellor's Department (paragraph 24) and the proposed changes in sizes of membership of select committees (paragraph 33). It would also seem appropriate that, as I said recently in the House (OR, 30 March, 1983, cols. 396-7) with reference to the contrary recommendation made by the Select Committee on Standing Orders (Revision), any decision by the House with regard to the repeal of the sub-section of the Standing Order relating to the Nationalised Industries Sub-Committee (paragraph 40) should take account of the outcome of the Parliamentary Control of Expenditure (Reform) Bill now before the House. I have also noted the Committee's comments (paragraph 23) about the Industry and Trade Committee.

The Committee also recommend (paragraph 39) that the House should have a further opportunity to decide whether more Departmental select committees should have the power to appoint a sub-committee. The Government fully recognise that this question must ultimately be for the House to decide. Their concern remains, however, to achieve the necessary balance between any further extensions of the select committee system at the present time and the Government's aim of maintaining strict control over the running costs of public administration, including manpower.

The following two recommendations, those relating to paragraphs 48 and 50, refer to matters concerned with the submission of Government evidence to select committees. The first concerns the need for committees to be able to bring to the Floor of the House disputes between Ministers and select committees about the disclosure of information. The Government welcome the Committee's acknowledgement (paragraph 48) that the Government's commitment to make every effort to ensure that the fullest possible information is made available to the select committees has been satisfactorily honoured. For their part the Government are pleased to recognise the manner in which it has generally proved possible to reach agreement on these matters within the longstanding conventions that have applied in this field under successive administrations.

Nevertheless, as the Committee point out, there is always the possibility of differences of opinion arising between Ministers and select committees as to whether it would be in the public

interest for particular information to be disclosed. The Government recognise the importance of the undertaking they have given to seek to provide time on the Floor, if there should be evidence of widespread general concern in the House regarding an alleged Ministerial refusal to disclose information to a select committee.

As regards the Committee's recommendation (paragraph 50) that the Central Policy Review Staff should inform the appropriate select committees of the conclusions they reach in their investigations, and should make available to committees the evidence they have gathered, the Government remain of the view that reports made by the CPRS are generally in the nature of confidential advice to Ministers, and that it would accordingly be contrary to the conventions applying to the disclosure of information to select committees for such reports to be made available to them.

On a further matter relating to evidence to select committees, it would be wrong for me to pass over without comment the statement in paragraph 25 of the report that "one Government activity which already falls within the ambit of the Departmental select committees is the work of the security services". It is by no means clear to me that the security and intelligence agencies are to be regarded as being within the ambit of any of the Departmental select committees. Even, however, if it was accepted that they were to be so regarded, the Government's view is that the committees would be right to continue to refrain from inquiries in this field, for the reasons which the report indicates. As you know, there is a long-standing convention under which the Government do not provide information or answer questions in Parliament on matters of security and intelligence, and the Government would regard itself as bound by that convention in relation to Departmental select committees no less than in relation to Parliament itself.

With regard to the other recommendations made in the report, the Government note the Committee's view (paragraph 58) that the House should make clear that it would not expect paired Members, who are absent abroad on select committee work, to break short visits in order to participate in a division. It is appreciated that the recall of Members in such circumstances can involve expense and the risk of apparent discourtesy. In some cases such recalls may be considered essential, but it is hoped that discussions through the usual channels can avoid this whenever possible.

As regards the recommendation that the Government should give an undertaking that "more days will be made available for debates on select committee reports in future" (paragraph 65), this is clearly one aspect of the need to which the Committee attach cardinal importance and in which the Government fully concur—"that the House and its committee system should not work in isolation from each other". As the report recognises, however, it is by no means necessary that a select committee report should be specifically debated in order for it to be influential on the formation of views in the House or elsewhere or to provide the basis of informed debate.

For example, the reports of the Foreign Affairs Committee on the British North America Acts were highly relevant to the debates on the Canada Act. Reports made by the Treasury and Civil Service Committee have been of great value to the House in the consideration of the Government's Public Expenditure White Papers; and reports by the Defence Committee have provided a similar background for debates on Defence expenditure.

It would, in the Government's view, be inappropriate, in view of the pressures of other urgent matters on Parliamentary time, for time on the Floor to be allocated in advance each session to the debate of a fixed number of select committee reports. I would hope, however, that it may be possible in future to provide more time for such debates, especially when a report arouses particular interest.

In respect of debates in the Scottish and Welsh Grand Committees, the Committee's suggestion that at least one day a session might usefully be devoted to debates on reports made by the Scottish Affairs and Welsh Affairs Committees has also been noted. The topics for debates in the Welsh Grand Committee and for Matter Day debates in the Scottish Grand Committee are at present decided following discussion between the Government and the Opposition. As the report acknowledges, however, on two occasions during 1982, when the Scottish Grand Committee

debated youth unemployment and training, and road and sea transport, these debates were closely related to enquiries made by the Scottish Affairs Committee.

The Government also note the view of a majority of the Committee that the work of select committees might, in certain circumstances, be considerably enhanced by being televised. The House gave leave to Mr. Austin Mitchell on 13 April, under the "10-minute rule" Bill procedure, to bring in a Bill for this purpose.

Proposals for televising proceedings, whether on the Floor or in Committee, have been regarded by successive administrations as a House, rather than a Government, matter. But Members will no doubt wish to consider the Committee's majority view in the light of the progress of Mr. Mitchell's Bill, and assess whether they would wish the further consideration of this issue to be in the context of a further general debate on the televising of Parliamentary proceedings. If the House decided in principle in favour of the televising of proceedings, whether generally or only in respect of proceedings in select committees, a decision could then be taken as to whether the question of the method of implementation should be referred to the Committee on Sound Broadcasting.

In conclusion, I recall that when the new system of select committees was first established the then Leader of the House, Norman St. John-Stevas, gave an undertaking that all Ministers would seek to make it a success, and to co-operate fully in the provision of official evidence. I would like to take the opportunity provided by this progress report to renew, on behalf of the Government, the observations made on that occasion.

With regard to the future, it would seem clearly of great importance as emphasised in the report, that the work of the Departmental select committees should, wherever possible, be integrated with the other work of the House and with other procedural changes aimed at strengthening Parliamentary powers of scrutiny. The part which select committees are able to play in relation to the new "Estimates Days", and other changes designated to strengthen Parliamentary control over expenditure, will no doubt be significant in this respect.

I noted some time ago a comment quoted in a review of the new select committee system by the Outer Circle Policy Unit that "nowhere else are Ministers and their senior civil servants questioned so closely and so publicly about their activities; or their replies evaluated so critically". It is clearly of the highest importance to the House that this reputation is maintained and enhanced.

NORTHERN IRELAND

Political Developments

1. Mr. Flannery asked the Secretary of State for Northern Ireland if he will consider approaching the major political parties of the United Kingdom and the Republic of Ireland to discuss the developing situation in Northern Ireland.

Mr. Prior: I am always ready to discuss developments in Northern Ireland with representatives of the constitutional parties in the United Kingdom. I am also happy to explain Government policy to representatives of such parties from the Republic of Ireland and to hear their views. But I must emphasise that the constitutional future of Northern Ireland is a matter for the people of Northern Ireland, and the Government and Parliament of the United Kingdom.

Kinsale Gas

2. Mr. Stallard asked the Secretary of State for Northern Ireland when he expects to reach an agreement with the Republic of Ireland Government concerning the piping of Kinsale gas to Northern Ireland.

Mr. Adam Butler: Negotiations between the United Kingdom and the Republic of Ireland Government on the terms of a supply of Kinsale natural gas to Northern

Ireland have been continuing during recent weeks. Both parties have been faced with areas of real difficulty, but I very much hope that negotiations will be concluded one way or the other as soon as possible.

Substandard Housing

6. Mr. Ron Brown (Leith) asked the Secretary of State for Northern Ireland how many houses are currently classed as substandard in Northern Ireland.

Mr. David Mitchell: The house condition survey 1979 indicated that 142,588 dwellings required substantial repair, improvement or renewal.

Labour Statistics

9. Mr. R. C. Mitchell asked the Secretary of State for Northern Ireland how many young people between the ages of 16 and 18 years were unemployed in Northern Ireland at the latest available date.

Mr. Adam Butler: At 14 April 1983 there were 13,614 unemployed claimants in Northern Ireland between the ages of 16 and 18 years inclusive.

Mr. Parry asked the Secretary of State for Northern Ireland if he will make a statement on the latest unemployment figures in the Province.

Mr. Adam Butler: At 14 April 1983 there were 116,373 unemployed claimants in Northern Ireland, which was 20.9 per cent. of all employees. That was an increase of 2,704 since last month, accounted for in part by the influx of Easter school leavers.

Finance Allocation

10. Mr. Campbell-Savours asked the Secretary of State for Northern Ireland what are the principal reasons that led Her Majesty's Government to decide on the level of allocation of moneys to Northern Ireland which do not apply to the rest of the United Kingdom.

Mr. John Patten: The public expenditure allocation for Northern Ireland is decided as part of the annual public expenditure survey. The allocation is a positive response to Northern Ireland's special needs, which are a unique combination of social and economic disadvantages coupled with a necessarily high expenditure on law and order.

Management Development Programme

17. Mr. Trippier asked the Secretary of State for Northern Ireland if he has any plans to review the range of aids available under the management development programme in Northern Ireland.

Mr. Adam Butler: It is hoped to expand the scope of the management development programme later this year and the programme is also under review to determine whether any modification in its application to particular sectors might be desirable.

Improvement Grants

21. Mr. William Ross asked the Secretary of State for Northern Ireland if he has any plans to relax the floor area conditions for dwellings on which improvement grants are being paid.

Mr. David Mitchell: Not at present.

00
PRIVATE AND CONFIDENTIAL



HOUSE OF COMMONS
LONDON SW1A 0AA

Prime Minister

We are
working on
a reply

ODD *RA*

1/2

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ODP
or TF

The Office of the Leader of
the Opposition

mt

1 February 1985

Dear Prime Minister,

I am sure that your attention will have been drawn to a report in The Guardian today which suggests that "Admiral Sir John Fieldhouse, Chief of Naval Staff during the Falklands conflict, told a top-level meeting in Whitehall last year that Ministry of Defence officials had changed his account of when the Argentine cruiser, the General Belgrano, was first sighted in order to make it consistent with earlier public statements".

The Guardian adds that "Although officials denied the claim, Mr. Richard Mottram, Private Secretary to the Defence Secretary, Mr. Michael Heseltine, acknowledged that Sir John had made the assertion, and that there was an argument about it".

You will, I am sure, recognise the importance of clearing this matter up. I would be grateful for your observations. Because of the potential sensitivity of the issues raised by an alleged alteration to a Commander-in-Chief's report I am not making this letter public knowledge.

Yours sincerely
Margaret Thatcher

Rt. Hon. Margaret Thatcher MP

DEPARTMENT/SERIES <i>PREM 19</i> PIECE/ITEM <i>1626</i> (one piece/item number)	Date and sign
Extract/Item details: <i>Letter Powell to Steel dated 28 January 1985</i>	
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Mr. Powell



Foreign and Commonwealth Office

London SW1A 2AH

28 January 1985

H Steel Esq CMG OBE
 Law Officers' Department
 Royal Courts of Justice
 Strand
 London WC2

John Henry,
 PONTING

On re-reading this morning my letter of 26 January I have noticed a mistake, in the form of the omission of a word, which I ought to have spotted earlier. The last sentence of paragraph 6 should have read "It would of course be clearly understood that there would be no question of producing except in camera those documents which have a very high sensitivity on security grounds" (ie the word "except" had got lost). I am sorry about this.

I am sending copies of this letter to Charles Powell, Richard Mottram and Tony Hetherington, and also to Len Appleyard here.

John Freeland,

JL

John Freeland
 Legal Adviser



The National Archives

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10 DOWNING STREET

Prime Minister

Channel 4 e Ponting

An informal approach was made by the Home Office to the Director-General of the IBA this afternoon.

It transpired that the IBA were aware of all the points which had occurred to us. They are thinking about them carefully, but have not yet reached a conclusion.

C D P

23/11

FROM THE PRIVATE SECRETARY



HOUSE OF LORDS,
SW1A 0PW

23rd January 1985

CONFIDENTIAL

C.D. Powell Esq.,
Private Secretary to
The Right Honourable
The Prime Minister,
10 Downing Street,
London, SW1.

TF B me
CD 24/

Dear Charles,

Proposed Coverage of the Ponting Case

Thank you for your letter of 22nd January.

As agreed, the Lord Chancellor discussed this matter with the Home Secretary and the Attorney-General this morning. It was agreed that there were serious grounds for concern about Channel 4's proposed coverage of the Ponting case.

There was discussion whether such broadcasts were likely in themselves to constitute a contempt of court. The Attorney-General said however that on the basis of information provided to him by the solicitors acting for Channel 4, which made it clear that Channel 4 had taken legal advice on the matter and had taken care to design the programme to minimise the risk of contempt proceedings, he had decided that he would not proceed against Channel 4 at least in advance of the first broadcast. He would however monitor the broadcasts carefully to see whether grounds for legal proceedings emerged.

In further discussion it was agreed that an informal approach should be made on behalf of the Home Secretary to the Director General of the Independent Broadcasting Authority to ensure that the Authority was aware of the nature of the programme and was aware of the wider implications of the issues of principle to which it gives rise.

I am copying this letter to the recipients of yours to me of 22nd January.

*Yours sincerely,
Richard*

Richard Stoate

SECURITY

Routing 8/84

WFO 4 PM

23 JAN 1985

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The National Archives

LETTERCODE/SERIES <i>PROEM 19</i>	Date and sign
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MR BUTLER

with
FERB

I have seen the Lord Chancellor's minute of 21 January about Channel 4's plans to cover the Ponting case.

2. I very much share the Lord Chancellor's apprehensions about this proposal, which seems likely to undermine the fairness and effectiveness of trial by jury, not only in this case but (if it became infectious) in other cases.

3. I think that the Independent Broadcasting Authority has power to ban the transmission of any programme, though I do not know whether this power is in any sense conditional. I should have thought that there was a strong case of public interest for inviting the IBA to consider banning this programme.

REA

ROBERT ARMSTRONG

23 January 1985



10 DOWNING STREET

From the Private Secretary

22 January 1985

Proposed Coverage of the Ponting Case

The Prime Minister has seen the Lord Chancellor's minute of 21 January on this subject and shares his view of the serious implications of Channel 4 Television's proposed method of covering the Ponting trial.

BF || The Prime Minister agrees that the Lord Chancellor should discuss this with the Home Secretary and the Attorney-General. She hopes that this can be done rapidly, and would like to be informed of the results.

The Prime Minister has asked whether this is not a matter for the IBA. The Lord Chancellor will no doubt wish to consider in his talk with the Attorney-General and the Home Secretary whether it should be raised with the IBA and, if so, the precise grounds for doing so.

I am copying this letter to the Private Secretaries to the Foreign Secretary, Home Secretary, Secretary of State for Defence, Attorney-General and Sir Robert Armstrong.

Charles Powell

TPJ

Richard Stoate, Esq.,
Lord Chancellor's Office.

FROM:

THE RT. HON. LORD HAILSHAM OF ST. MARYLEBONE, C.H., F.R.S., D.C.L.



HOUSE OF LORDS,
SW1A 0PW

CONFIDENTIAL

Prime Minister

Prime Minister
Agree to encourage the
Lord Chancellor to discuss this
with the A-G & Home Secretary,
and report further to you?

C.D.P. 21/1

Yes
MB

Is it relevant matter for
the D.A.?

Proposed Coverage of the Ponting Case

I wish to share with you and other selected colleagues my anxieties about the serious implications for our whole method of trial by jury in criminal cases raised by a proposal of Channel 4 Television to transmit daily half-hour programmes on the Ponting trial, beginning at the Central Criminal Court on 28th January, using actors to read selections from a transcript of the proceedings taken from shorthand records to be made in court.

Channel 4's motives are quite certainly political and the material will probably be used to attack the Government. But this is not my concern. My concern is about the wider implications. I am informed that the Lord Chief Justice and the Senior Presiding Judge, Lord Justice Watkins, equally have reservations about the possible effect of such broadcasts on the fairness of this and any other trial.

Under the law, there is nothing I can do to prevent Channel 4 people from making shorthand notes in court. I have seen to it that no special facilities or privileges will be afforded to them and they will be treated in exactly the same way as other members of the media. It has also been made clear to Channel 4 that neither I nor my Department have, or is to be represented as having, "authorised" any particular use of the material so acquired. I have also warned the media that nothing that I can do or say can protect them if for any reason they transgress the rules about contempt of court.

Channel 4 claim in their prospectus that "there will be no attempt to dramatise or re-enact the courtroom proceedings". Nevertheless there could in my judgment still be a risk of contempt when Channel 4 come to make their broadcasts, because it will be possible to give a false impression of the proceedings by means of prejudicial selection of passages and the intonation, facial expressions, gestures and other techniques available to the actors. But this is not the whole point, and I proceed on the assumption that no contempt is involved. The jury could not easily be prevented from watching the programmes even if the judge were to warn the jury in appropriate terms. They would then have a selection of the evidence in the forefront of their minds when they come to give their verdict in place of the impartial review of the whole case which it is the function of the summing up to give.

/...

Any question arising from the committal of a contempt is for the courts. I myself cannot and would not wish to intervene. Nevertheless, I thought that you and those to whom I am sending copies of this minute would wish to be aware of this development. If it is, as I suspect, a trial run for a general practice we shall be well on the way to substitute trial by television for trial by jury. Quite apart from this it will be impossible to assess the effect on individual witnesses, jurors, and even judges of the knowledge that this kind of technique in reporting may have. I would like to have a good talk about the implications of this in general with Michael Havers and Leon Brittan. But my own view is that the powers at present available to deal with this kind of thing are unsatisfactory. Trial in camera would prevent the evil but introduce another which would be worse.

I am copying this minute to Geoffrey Howe, Leon Brittan, Michael Heseltine and Michael Havers and to Sir Robert Armstrong.

H: of S^t M.

21st January, 1985

SUBJECT
cc Master.

10 DOWNING STREET

2 p. 0/10
LPO
AAZ
cc Mr. G. G. G. G.

From the Private Secretary

16 January 1985

BELGRANO

The Foreign Secretary informed the Prime Minister this evening of the discussions which he had had with colleagues in recent days on the question whether to meet the request of Defence Counsel in the Ponting trial for release to them of an expurgated version of the document known as the Crown Jewels. Agreement had been reached that it would be harmful to the prosecution to release an expurgated version since it would give a misleading and damaging picture of events. Instead, the Government should make available, and themselves be prepared to put in evidence, under appropriate safeguards, the unexpurgated document with a request that the proceedings be held in camera. GCHQ had been fully consulted and had reluctantly acquiesced in the recommendation. A decision was needed urgently so that the document could be made available by the end of the week and the process of positive vetting of jurors begun without delay.

The Prime Minister said that it was curious that the defence had taken the risk of asking for a partial version of a document which, in its full form was likely to be damaging to their case. She assumed that the intelligence implications of releasing the document even under safeguards had been fully considered. With the assurance that the relevant part of the trial would indeed be held in camera, she agreed that the unexpurgated document should be made available to the court.

I am copying this letter to Henry Steel (Law Officers' Department) and Richard Mottram (Ministry of Defence).

CHARLES POWELL

Len Appleyard, Esq.,
Foreign and Commonwealth Office.

FDA sponsors Ponting defence fund

THE FDA, TOGETHER WITH THE 1984 CAMPAIGN FOR FREEDOM OF INFORMATION AND THE NATIONAL COUNCIL FOR CIVIL LIBERTIES, IS SPONSORING A DEFENCE FUND FOR FDA MEMBER CLIVE PONTING AND A CAMPAIGN TO HAVE HIS PROSECUTION DROPPED.

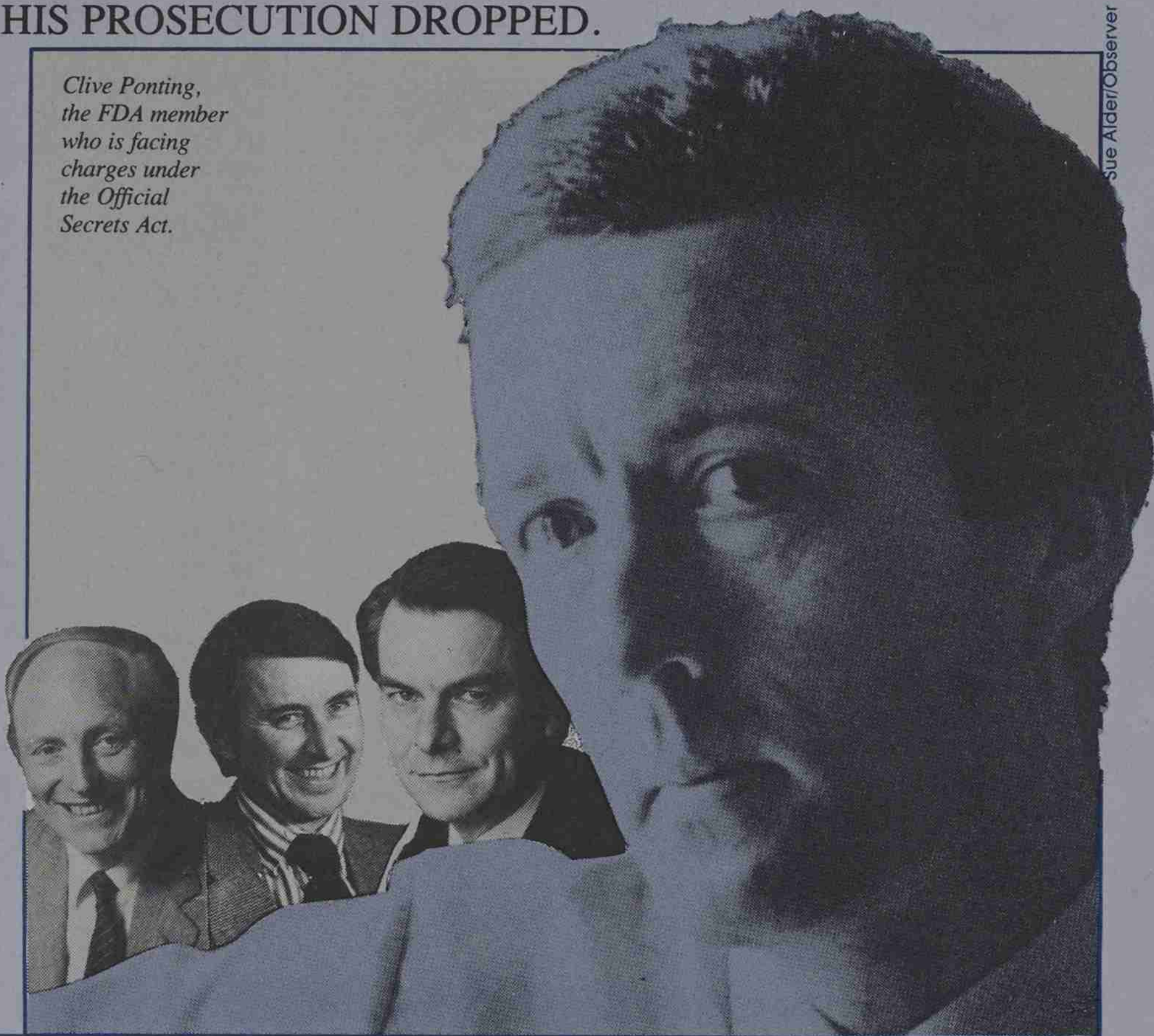
Clive Ponting who is charged with "leaking" two MoD documents on the handling of enquiries concerning the sinking of the Belgrano during the Falklands campaign, is pleading not guilty. The defence fund is for the legal costs and the campaign is for the withdrawal of the prosecution under section 2 of the Official Secrets Act.

The leaders of the three main opposition parties — Neil Kinnock, David Steel and David Owen — have agreed to be patrons of the defence fund.

Speaking at a press conference to announce the setting up of the fund, FDA general secretary John Ward said: "By supporting the defence fund the FDA is not retracting from its often stated position that civil servants should not leak. But this case confirms our view of the need for a freedom of information act which would give the public access, as of right, to the information which they need to make political judgments about how their government has performed in their name."

FDA members who wish to contribute to the fund should send their donations to: **The Clive Ponting Defence Fund, 1 Euston Road, London NW1 2SA.**

Clive Ponting, the FDA member who is facing charges under the Official Secrets Act.



Sue Alder/Observer

CBI condemns statistics cuts

"The government's policy of giving priority to its own statistical needs is ill-conceived since business users' needs cannot be divorced from government needs," said Sir Adrian Cadbury speaking on behalf of the CBI at a recent seminar on the theme "Statistics by or for the Government".

"We would urge the government to increase the resources allocated to the Government's Statistical Service. Good statistics are fundamental to the efficient functioning and planning of government and industry and hence should be accorded due priority," said Sir Adrian.

Given the CBI's campaign only a few years ago against the demands on firms of excessive form filling, Sir Adrian's comments are noteworthy. Cynics, however, could argue that the CBI is shutting the stable door after the horse has bolted.

Other speakers at the seminar perhaps more predictably attacked the approach, embodied in the Rayner statistics review, that the government should collect only the information it needs. Bill Callaghan TUC pointed out that users had a high degree of confidence in government statistics and cited the Retail Prices Index. "The more policy differences between the government and the TUC are based on anecdote and not fact, the more difficult it will be to resolve these differences," he said.

Bill Callaghan then went on to argue for consultation arrangements between government and users of statistics. These would provide the government with a forum to voice its legitimate concerns about the costs of collecting, collating and publishing statistics, while at the same time enabling it to be informed of the priorities and concerns of users.

Dr David Mayes for the Statistics Users' Council, as well as generally criticising the Rayner approach, also highlighted particular

statistical lacunae. For example he pointed to the paucity of data on distribution (the last census of distribution was in 1971 and the last comprehensive study of wholesaling was in 1974) and on the pattern of employment (the census of employment becoming three yearly instead of annual).

John Butcher, Under Secretary of State for Trade, said the government had to balance its own needs and the essential demands of industry against its public expenditure constraints.

In discussion it was put to the minister that the reduction in the numbers of government statisticians was far more severe than that in the civil service generally. This suggested that the government saw the GSS as an easy option for cuts and had little regard for the wider costs and benefits of government statistics. The minister's claim that the cuts in statistical posts were based on sound management grounds did not convince all his audience.

New pay scales

Below we reprint the new salary scales effective 1 April 1984. These rates represent an increase of 4% on all scale points, except scale maxima and flat rates where a 5% increase has been applied.

UNIFIED GRADES

Grade 4
£26450

Grade 5
£20013
£21372
£22283
£23194
£24317

Grade 6
£16229
£16997
£18333
£19853
£21834

ADMINISTRATION GROUP

Principal (Also Economic adviser, Statistician)
£12895
£13352
£13900
£14506
£15083
£15660
£16389
£17489

HEO (D) (Also Senior econ assistant, Senior assistant statistician)
£8493
£8856
£9135
£9463
£9852
£10729

AT (Also Econ assistant, Assistant statistician)
£6017
£6596
£7142
£7689
£8492

LEGAL CATEGORY

Senior legal assistant
£14977
£15858
£16597
£17258
£17814
£18716
£20283

Legal assistant
£7636 £10290
£7938 £10557
£8224 £10848
£8431 £11286
£8710 £11892
£8995 £12986
£9281 £13352
£9562 £14199
£9918

CURATORS

Principal keeper
£22698
£23357
£24317

Curator A
£20013
£21407
£22762

Curator B
£16278
£17422
£18333
£20283

Curator C
£11519 £14506
£12294 £15083
£12986 £15660
£13352 £16389
£13900 £17489

Curator D
£9849
£10234
£10557
£10921
£11347
£11772
£12257
£13144

Curator E
£8069
£8339
£8553
£8856
£9135
£9463
£9852
£10729

Curator F
£6017
£6596
£7142
£7689
£8492

Pay '84: Exchange of letters Treasury to CCSU — 11 September 1984

"At meetings with Ministers and officials in the last few weeks it has been made clear that the Government is not in a position to improve its pay offer to you of 31 May, and that it is not prepared to agree to arbitration this year in circumstances in which the award might add to the cost of that offer.

I think it would be right for us to ensure that staff receive the increases represented by the 31 May offer (and their arrears) without further delay. If this is to be done by the end of October we should take the necessary steps by the end of next week. I hope that you will agree that it would be right for us to do this."

CCSU to Treasury — 19 September 1984

"Thank you for your 11 September letter.

The CCSU notes your desire to implement the Government's pay offer in October and would not wish to interfere with that arrangement. However, I must make absolutely clear that the offer in no way discharges either the 1984 pay claim or the findings of the OME Report and as such remains unacceptable to us.

I must also record the sense of bitterness and unfairness felt by civil servants throughout the country. This has been heightened by the Government's discriminatory treatment towards the Civil Service in refusing to honour the Arbitration Agreement despite arbitration being available to other workers in the public service."

INSPECTORS OF TAXES

Inspector of taxes (grade 3)

£6017 £8856
£6596 £9135
£7032 £9498
£7676 £9934
£8303 £10420
£8442 £10629
£8628 £11375

Special increase: £786
Special allowance: £786

INSPECTORS OF SCHOOLS—SCOTLAND

Inspector (higher grade)
£22602

Inspector
£14977 £18333
£15660 £19804
£16389 £20478
£16986 £21841
£17504

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BOOKS SECRETS

FDA member **Clive Ponting**, who is facing charges under section 2 of the Official Secrets Act, reviews *The Secrets File* — a collection of essays on the effects of secrecy in Britain today and proposals for change.

Excessive and unnecessary secrecy is an endemic disease in British administration at all levels: Des Wilson's book* gives a convincing diagnosis of the causes of secrecy, a vivid picture of its effects and a prescription for overcoming it. The work, intended partly as a 'handbook' for the 1984 Freedom of Information campaign, consists of a series of essays which in the space of 150 pages bring together many disturbing examples of official secrecy in action and some telling quotes from practitioners and analysts alike.

Des Wilson rightly identifies section 2 of the Official Secrets Act as the fundamental measure that has to be repealed if the ethos of administration is to be changed and genuine progress made towards FoI. He quotes for instance from the 1972 Franks report: "We found section 2 a mess. Its scope is enormously wide. Any law which impinges on the freedom of information in a democracy should be much more tightly drawn. A catch-all provision is saved from absurdity in operation only by the sparing exercise of the Attorney-General's discretion to prosecute."

He might well have gone further and quoted from the evidence given to the Franks Committee by the Hon Mr Justice Caulfield (the judge in the Jonathan Aitken secrets trial in 1970) "I could add many other worries I have about this section but perhaps it is sufficient to say that I think the section in its present form could be viciously or capriciously used by an embarrassed executive."

Secrecy is always attractive to those in power and it is increasing: such is the depressing message of this book, which points out that there are now over 100 statutes making the disclosure of information by civil servants and others a criminal offence. Only last year for instance Water Authorities, who have the power to tax ordinary citizens, were given the right to hold all their meetings in secret.

All the contributors rightly ask whether the excessive level of secrecy has in fact produced good government and wise decision taking over the last 30 years. This book (like others listed in the short bibliography of worthwhile further reading) and the record would suggest not. As Sir John Hoskyns, former Head of the Number 10 Policy Unit has said "Open government . . . is not some fashionable option, but a precondition for any serious attempt to solve Britain's underlying problems."

The essays in the middle of the book act as a case file on the level of secrecy in Britain. Maurice Frankel shows how secrecy has enabled a cosy relationship to develop between the authorities and the polluter where the

interests of the latter are given far greater weight than the interests of the general public. Ron Bailey demonstrates that the same general principles apply at local level where authorities put greater emphasis on their relationship with local interests than on their responsibility to the public, even to the extent of refusing to allow elected councillors to see vital information affecting their constituents.

As David Steel emphasises in his introduction information is power. The case for much greater freedom of information is that it gives a wider access to power and more chance for ordinary individuals and their elected representatives to have a say in the decision taking process. How can this be achieved? There is no evidence to suggest that voluntary disclosure works as the abortive Croham Directive in the mid-1970's illustrated. The only alternative, if power in Britain is not to become more centralised and arbitrary, is repeal of the Official Secrets Act and introduction of a full Freedom of Information Act.

James Michael shows that Britain is almost alone among Western democracies in not having a statutory right of access to information. He also demonstrates that the experience of Canada, Australia and New Zealand proves that freedom of information is compatible with the Westminster model of democracy. Des Wilson describes the growth strength of feeling (including within the FDA) and the encouraging response of all three opposition parties who are now firmly committed to a FoI statute. But he also records

the negative response from the Prime Minister in her letter to the Campaign. She argued against any change to the current system because "Ministers' accountability to parliament would be reduced, and parliament itself diminished . . . In our view the right place for Ministers to answer for their decisions in the essentially 'political' area of information is in parliament."

This book is above all a call for action: the Freedom of Information Campaign, in the energetic and capable hands of Des Wilson, will not go away and is gaining support steadily. Influential organisations are members and there is an impressive list of supporters, including many senior ex-civil servants. In the coming Parliamentary session a number of bills will be introduced with all-party support. They may fail this time, but the likelihood is that in the not too distant future they will succeed and British administration will have to learn to live in a very different environment.

The 'Secrets File' deals with a vitally important subject. As David Steel says in the introduction: "Two clear messages emerge from this book: first, that the level of secrecy in Britain today has reached proportions that seriously undermine the health of our democracy; second, that this is a cause that should have the support of all who are concerned with the quality of that democracy, no matter which political party they support, or what their level of involvement in public life."

**The Secrets File: The Case for Freedom of Information in Britain Today*, edited by Des Wilson, Heinemann £4.95.

NEWS

Improvements to PCSPS announced

Parliament has agreed changes to the Principal Civil Service Pension Scheme which introduce some improvements to benefits. These changes follow lengthy negotiations between the CCSU and the Treasury and are summarised below.

Part-timers

From 1 October 1982 the minimum number of hours of part-time staff which will count as qualifying service for pension purposes will be 15 hours. Staff in post on that date who were working full-time or part-time for at least 15 hours a week may also count continuous part-time service of less than 18 hours a week provided it occurred on or after 1 June 1972, subject to certain conditions.

Medical retirement

Staff on long term sick leave who exhaust their entitlement to sick pay and are on pension rate of pay, will no longer lose out if and when they are subsequently retired on ill-health grounds. From 1 August 1984 the limitations on the service enhancements will apply from the last day of reckonable service. This will ensure that staff will not receive a lower pension than they would have had, had it been possible to reach an earlier decision on medical retirement.

Transfer period

The Treasury are now able to pay a transfer value in respect of staff leaving the service with less than five years qualifying service provided that it is at least one year.

Death benefits

Staff can now nominate anyone to receive the lump sum benefit (one year's pensionable pay) should they die in service. Prior to this change a death benefit was paid to a spouse (if nominated) or to the personal representative of their estate. Members wishing to nominate an individual to receive the death benefit, or to change an existing nomination should contact their establishment/superannuation division.

Child benefits

The period of payment for child benefits has been extended until the end of the holiday following the last term of full-time education or until the 19th birthday (if before the end of the holiday) or the commencement of full-time employment.

Tapering of compensation payments

The six-months pensionable pay compensation payment for premature retirement on redundancy is reduced during the last three years to normal retirement age. From 14 March 1983 this reduction will be done monthly rather than in six month steps.

Added years

It will cost more to purchase added years in the future than it has in the past but the contributions and benefits can be varied if the financial position of the purchaser worsens. In the event of health retirement or death in service the purchaser will be credited with the full number of years that has been contracted to buy. At present the purchaser gets what has been paid for. This concession brings with it a health declaration which the purchaser will have to sign before entering into the agreement.

The Principal Civil Service Pension Scheme (Amendment) Scheme is now in operation. General Circular GC/237 contains the scheme.

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Pay now and pay later

by John Ward

Following consultation within the FDA, and in other unions, letters were exchanged with the Treasury to secure payment of the increase while at the same time protecting the position for future negotiations (see box on page 2).

To convey the widespread resentment of civil servants over the handling of 1984 pay a meeting was arranged between the Chancellor of the Exchequer and the CCSU's major policy committee (MPC) on 2 October. Peter Stokes, AIT president, who under the agreement between the FDA and the AIT is our second representative on the MPC told the Chancellor that this administration had sapped the sense of loyalty to government and even department; the only motivating factor remaining for senior grades was their self esteem. Unless the government sees the opportunity offered by the 1985 pay negotiations to disabuse civil servants of the idea that it dislikes them, there was a danger of many giving up.

Looking back at 1984

A year ago we were expressing cautious optimism that the government's agreement to an OME survey of the year's pay movements in the private sector albeit to inform and not constrain negotiations, might at least put comparability back on the agenda. In the event the arbitrary 3% pay factor set by the government for pay increases in the public service effectively pre-empted the independent evidence provided by the OME.

Inevitably this has led some other unions — and indeed some FDA members — to question the value of another OME survey. The CCSU had felt inhibited from claiming more than the upper quartile. On the other hand the government felt no qualms about paying an increase less than the lower quartile to many civil servants.

There are various practical difficulties about an OME survey:

- to obtain a satisfactory response it is necessary to ask only a few, simple questions. It is therefore difficult to pick up any differences in treatment for people at different salary levels and changes in fringe benefits may not be detected; and,
- if the important January pay settlements are to be included the report cannot be delivered until just before the operative date (April 1). This puts the unions at an immediate disadvantage in the negotiations.

As far as the FDA is concerned however the government's cavalier attitude to the OME survey was a major factor in bringing home to members the extent to which the government was discriminating against the civil service over pay. The executive committee is strongly in favour of an OME report for 1985, if only to keep the principle of external comparisons by an independent body alive.

Delay

A major factor in this year's delay was the attempt to achieve arbitration. This involved a series of letters and meetings with different ministers before the government was finally shown to be breaking the long-standing arbitration agreement. Or, as the government prefers to express it, refusing arbitration on grounds of public policy, namely the need to control public expenditure. This outcome unfortunately discredited the existing arbitration agreement almost as much as it did the government.

1984 was the fourth year in which the civil service unions cobbled together a common CCSU claim. Since they were all probably unhappy about some aspect of the original claim it is hardly surprising that the resulting increase pleased nobody. Whether more would have been achieved separately is doubtful but a number of unions are now asking whether, if the unity is largely spurious, a different approach is needed next year.

Pay 1985

The CCSU has already debated at length three of the main issues which affect pay 1985:

- Should there be a common claim?
- Should there be another OME survey?
- Should there be a campaign in conjunction with other civil service unions?

The FDA executive committee has also discussed these matters. It adopts an entirely pragmatic approach to a CCSU claim. If the eventual claim is in the interests of FDA grades it will support it. If not it would consider whether more could be achieved in separate negotiations, perhaps with other unions who share similar objectives.

The difficulty of seeking separate negotiations is that the FDA has sole

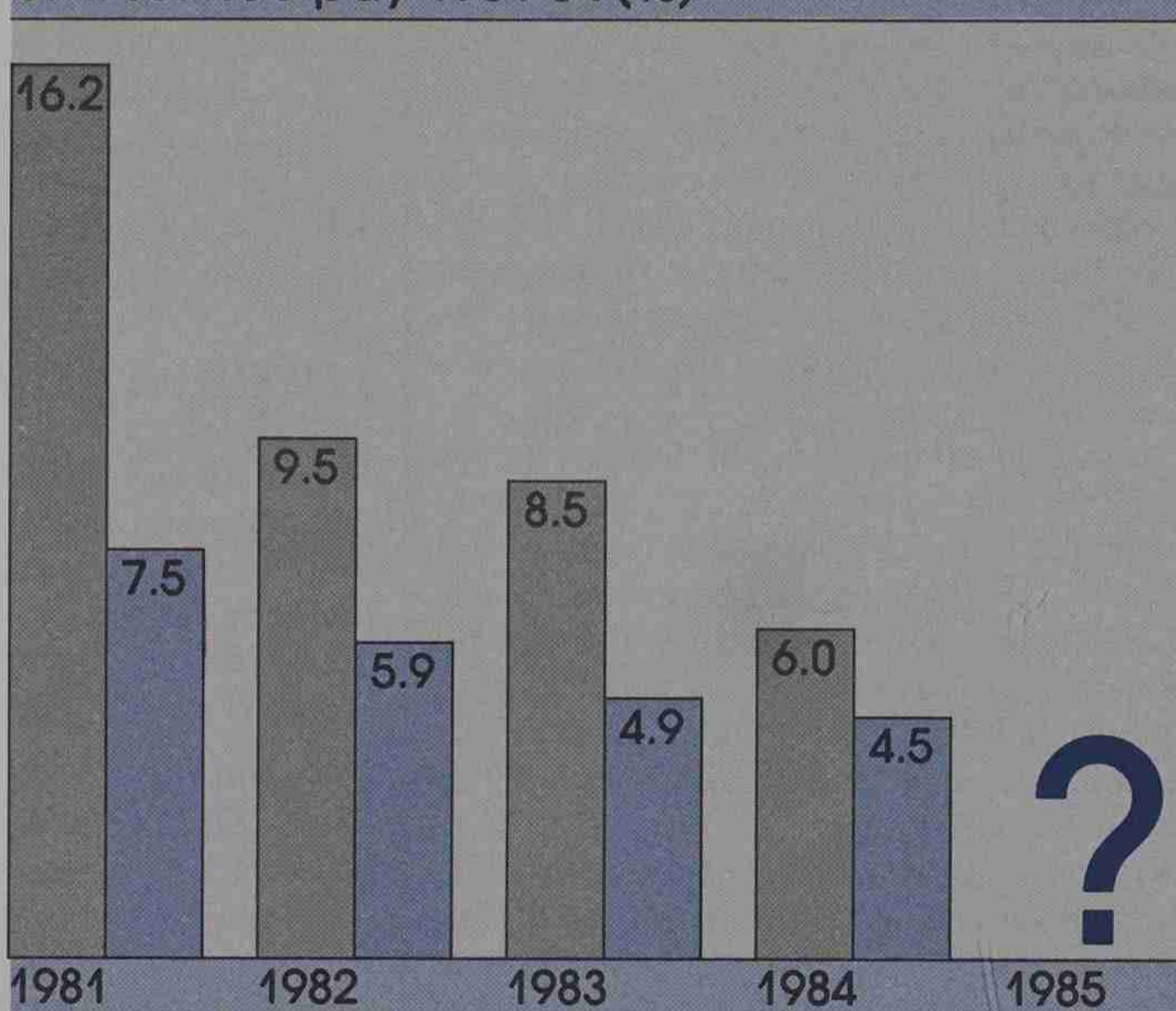
negotiating rights for only a few grades and the official side may decline to negotiate seriously with the FDA alone if the other unions represents far greater numbers. On the other hand there appear to be serious recruitment and retention problems for a number of FDA grades and we shall take every opportunity to bring this home to the official side.

We have argued strongly in the CCSU for another OME survey but not everybody shares our enthusiasm and time is running out. If agreement seems unlikely it may be necessary to approach the official side direct, preferably with other unions who share our views.

The EC has reservations about a public service unions' pay campaign, especially if it extends beyond pay into areas which many will see as overtly political. We must recognise that other civil service unions are, if anything, even more concerned about jobs. If your members are being made redundant through the government's privatisation methods you become a little impatient if the FDA insists that the CCSU should not be seen to oppose government policy. We have to weigh up whether a broadly based campaign of this nature might be counter-productive in terms of securing a better pay deal for civil servants; or alternatively whether the FDA's involvement might help focus the campaign on issues like the comparability principle for public service pay.

The key to pay 1985 will of course be public expenditure and cash limits, about which there have been no announcements as we go to press. □

Increases in outside earnings and civil service pay 1981-84 (%)



1981, 82, and 83: Increase in New Earnings Survey male non-manual average earnings, excluding overtime.

1984: OME survey.

1981, 82, 83, 84. Average increase in Civil Service pay rates.

How will you invest your lump sum?

Any member retiring in the next few months, or who has retired recently, would do well to attend one of Peter Scott-Malden's seminars on the Financial Aspects of Retirement.

These seminars have drawn golden opinions from participants over the last few years, and have become one of the recognised privileges of FDA membership. To book, contact Mrs Julie Cockle at FDA HQ.

Seminars are held at 5.30 pm and last about 1 1/2 hours. Dates are: Wednesday 21 November; Tuesday 4 December.

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FDA writes to HOTGAS

THE FDA HAS WRITTEN TO TONY WILSON, THE NEW HEAD OF THE GOVERNMENT ACCOUNTANCY SERVICE (HOTGAS) TO SET OUT OUR VIEWS ON THE RECRUITMENT AND CAREER DEVELOPMENT OF ACCOUNTANTS.



Tony Wilson
The new
HOTGAS

The submission, drawn up by the FDA's new accountants' panel makes a number of points. On recruitment, the FDA notes that because of the relative decline in civil service salaries, accountants can now only easily be recruited at principal level. The paper says:

"It is important that the civil service gets its necessary share of able, recently qualified accountants by offering realistic salaries to recruits. Nevertheless we are concerned that the bringing in of accountants at principal level can demoralise those recruited at SEO a few years ago. They feel that despite their postqualification experience they are being valued less than those who have recently passed their examinations.

"This problem is exacerbated in the many areas where senior accountants do work scarcely distinguishable from those at principal level. Such problems of demotivation could be overcome if there was a more concerted attempt to offer principal vacancies to accountants at SEO level before carrying out external recruitment. To this end the inter-departmental trawling procedures should be improved to ensure that they operate as intended. In particular posts at principal level and above should not be advertised

externally until a servicewide trawl has been carried out.

"In addition there should be reviews of senior accountant and principal level accountant posts. In many areas it is not practicable to distinguish between higher and lower quality work and it is more efficient for one accountant to handle a case from start to finish. In such areas where the work of senior accountants is not readily distinguishable from their colleagues at principal level and grading owes more to date of entry to the civil service than quality of work, there should be upgrading."

On career development the FDA says: "If the Government Accountancy Service is to recruit, retain and motivate accountants of the necessary calibre it must provide career opportunities. We consider that GAS should have a career structure in which the career grade is at least grade 6. This would bring government accountants into line with other comparable civil service specialists eg fully trained tax inspectors and lawyers. (By career grade we mean the grade which all members of the career structure expect to reach before they retire unless they have significant weaknesses.)"

The FDA adds: "There should be adequate training budgets and provision

for release for training so that accountants can keep abreast of new developments in their profession. (Regrettably some accountants are currently finding it very difficult to secure the necessary time off and training facilities even to meet the standards prescribed by their professional body.) There should also be training provisions to enable accountants to develop managerial skills to supplement their accountancy expertise. In addition it should be made much easier than it is now for accountants to move from one department to another, either on level transfer or promotion so that they can broaden their civil service experience." □

Plan to tighten business appointments rules

The Treasury and Civil Service Select Committee has proposed changes to the rules governing the acceptance of outside appointments by crown servants. The Select Committee's recommendations include the following:

- for under secretaries and above an extension of the maximum two year period of delay to five years;
- officials of the rank of under secretary and above leaving the public service should be required to give a written undertaking to abide by a code of conduct under which they would be prohibited for a period of five years from representing their new employer on specific and significant matters for which they were responsible in their official capacities;
- the rules should state specifically that all under-secretaries and above need to apply for approval to take up business appointments, and other civil servants need to when there has been contact with the prospective employer or they have been responsible for anyone having such

contact or the employer concerned has extensive dealings with the civil servant's Department. Contact is to be understood as meaning not only face-to-face dealings but also involvement in such dealings behind the scenes;

- if a civil servant has not had previous contact with his prospective employer or has had contact but of an insignificant kind, the question of whether or not the prospective employer has extensive dealings with the civil servant's Department needs to be taken into account in deciding whether to approve the business appointment. If the employer has, it is important to establish, having regard to the nature of the work being offered, if the civil servant is being recruited because of his knowledge of the working of the government machine or his professional knowledge of some area of government activity and can be expected to have dealings with his old Department. If the answer is in the affirmative the question to be weighed is whether, following a move, any potential damage to the Department's interest is outweighed by any potential public benefit;
- the Advisory Committee should consider all applications from under secretaries and above;

- the Government should add two senior back bench Members of the House of Commons to the Advisory Committee.

Union evidence

The FDA, in evidence to the Select Committee, maintained that the present rules provide sufficient safeguards against possible abuses and that it is in the public interest to foster mutual understanding of the civil service and business. The movement of personnel can help in this. (See *FDA News*, June '84).

The Executive Committee is of the view that the recommendations seem likely seriously to restrict FDA members' freedom to seek further employment outside the civil service. There is particular concern about the position of those in the tax inspectorate; while a ban of five years could be tantamount to an absolute ban on a job since no employer could be expected to keep an appointment open for five years.

The Government is now considering the report and we will be seeking consultations with the official side if any changes to the present rules seem imminent. □

*See also back page—Impact on tax inspectorate.

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5. The car has not been modified from maker's specifications.
6. I have not at any time been retused insurance and am not at present subject to special terms.

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NEWS

Miners' hardship fund

The TUC has asked affiliated unions to appeal to their members to make donations to the Miners' Solidarity Fund. This fund is separate from the NUM's own funds with non-NUM trustees and is used exclusively to relieve hardship in the coalfields.

Although the FDA Executive Committee has decided not to make a donation from the Association's funds, it has agreed to draw the existence of this appeal to members so that those who wish to do so can contribute individually. The details are: Miners Solidarity Fund — Account No. 30000009 Sorting Code 08-90-75 Co-operative Bank. Sheffield.

Beneficial loans

Firstly may I thank the many correspondents, — to some of whom I have not yet been able to respond. The information and views you gave have been most valuable in impressing upon the Treasury the nature of the still unresolved problems.

A meeting was held on 5 October with Treasury officials when a very full and frank exchange of views took place.

It is hoped that the bridging loan problem will be resolved by totally ignoring such bridging loans when calculating whether there is a beneficial loan charge. The precise wording to achieve this is still being considered with the Revenue.

On the general issue it is clear that from the

Private office allowances rise

The new private office allowances, with effect from 1 April 1984 are:

Grade of PS	Nature of post	Allowance
Principal	Principal private secretary to minister in charge of major department when senior official is permanent secretary	£3023
	Principal or sole private secretary to a minister in other cases	£2091
HEO(D)	Any private secretary post according to circumstances	£1867 £1290
AT	a £1290 post between and	£ 777
		£1557

NOTES

1 The private secretary allowance payable to officers above the rank of principal and equivalent is £2091.

2 Staff in overtime grades may receive overtime payments in lieu of a private secretary allowance.

date of change in the tax laws, the employer is prepared to accept a permanent devaluation of the advances scheme on residential moves in the public interest — ie, civil servants who were moved subsequently must grin and bear the changed terms.

For those who already had advances however, and who were thus disadvantaged from the terms on which they undertook their new commitments, the Treasury did agree to look again to see if anything more could be done to assist such cases.

John Sentinella

London allowances

With effect from 1 October 1984.

London allowances are:

Inner: £1300

Intermediate: £730

Outer: £520

SMALL ADS

Same day loans and postal loans unsecured: £100 to £2,000. Secured loans 1,000 to £20,000. Full Mortgages arranged for civil servants. Arrears cases considered for written quotations: Richmond Investments Limited. 4 The Green, Richmond, Surrey. Telephone 01-940 9835/2929

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FDA News welcomes members' letters and suggestions for future articles, as well as reports from branch secretaries on developments in their branches.

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FDA 10/84

The tax inspectorate - career or life sentence?

Members who have read the accounts in the daily press of the report from the Treasury and Civil Service Committee on the acceptance of outside appointments by crown servants may well have gained the impression that the report is only concerned with moves to the private sector by the most senior civil servants. This is not so. The report does in fact have the most disturbing implications for all members of the inspectorate. If its recommendations were to be fully implemented it could become extremely difficult for inspectors to move into any taxation job in the private sector.

Whilst the report pays lip-service to the individual rights of civil servants and to the common law principle that "an employer may not impose restraints on the employment of an individual once he has left his employ unless he can justify those restraints as being reasonable", its broad thrust is that the present rules are "tilted too much in the direction of freedom of movement and too little in the direction of removing the suspicion of impropriety". The MPs on the committee make no bones about the fact that they want to see "a significant tightening of the system".

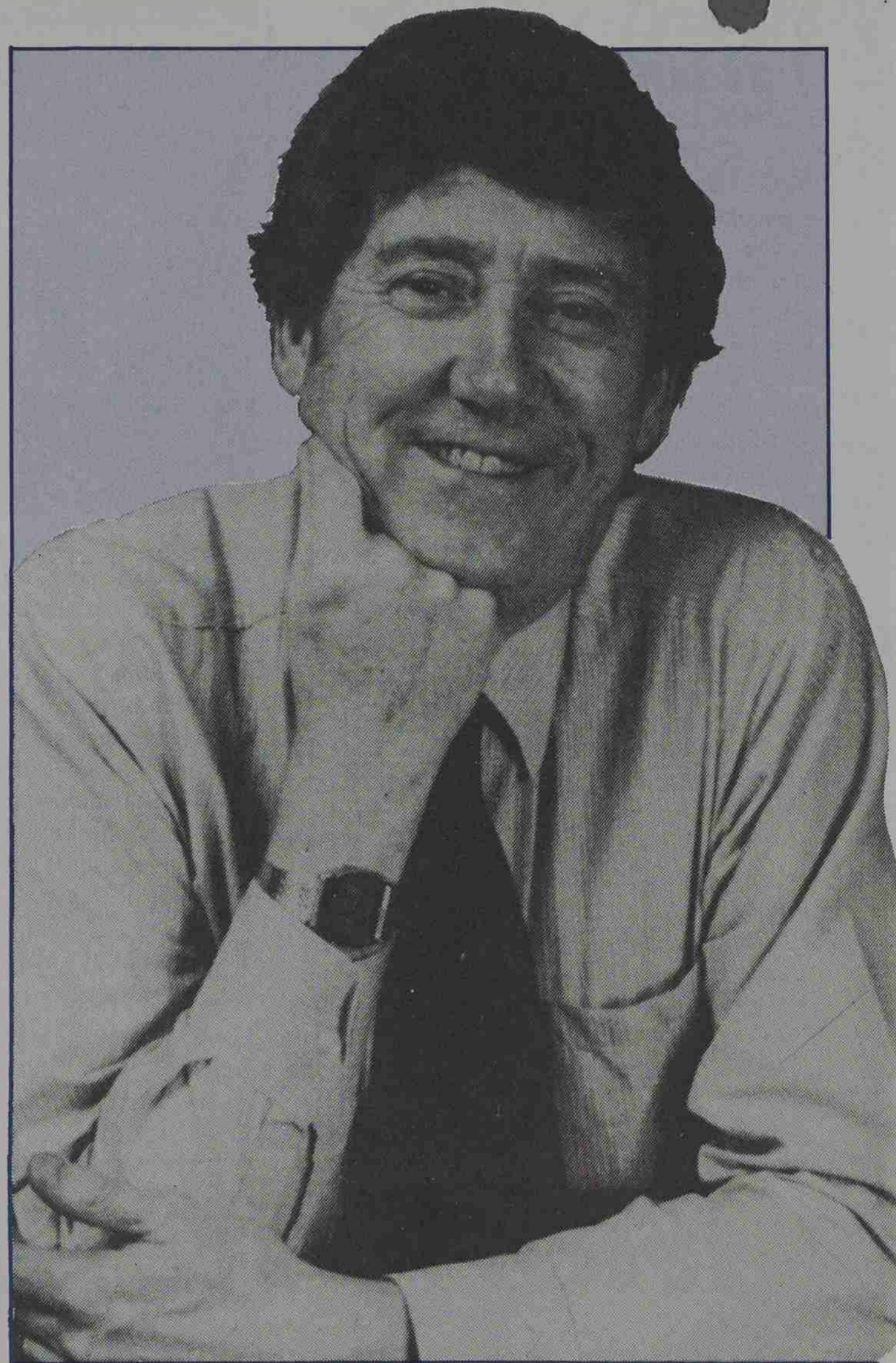
Evidence given to the committee by the CCSU to the effect that significant numbers of tax inspectors would be unable to leave the civil service to take up posts as tax advisers if the UK adopted the US approach whereby ex-officials are precluded from having dealings with their former colleagues seems to have carried little weight.

For the inspectorate the key recommendation is that all civil servants should require permission for a move to the private sector not only if they have had official contact with the prospective employer but also if "the employer concerned has extensive dealings with the civil servant's department" and "the civil servant is being recruited because of . . . his professional knowledge of some area of government activity". Any doubts about the interpretation of these phrases are removed by the fact that the committee quote as an example "the tax inspector (who) is going to a firm which specialises in the handling of the tax affairs of its clients". It is quite clear that any move to the tax department of a commercial group or a professional firm would be within the scope of the proposed rules.

The committee recommend that, in these circumstances, "the question to be weighed is whether, following a move, any potential damage to the department's interests is outweighed by any potential public benefit". If this test, with its absence of any reference to the rights of the individual concerned, were to be rigorously applied it could be used to refuse permission for almost any move into private sector tax work; and there will clearly be a temptation to adopt a rigorous interpretation if wastage rates are high among the best inspectors.

The proposed penalty for infringement of the rules would be an unspecified abatement of pension rights.

The committee's recommendations contain two further obstacles to movement. The first is a proposed rule that offers of outside employment "may be discussed with prospective employers, but the offer should first be reported to those in authority and appropriate permissions sought." It is not clear what the committee mean by appropriate permissions, but it is quite clear that a requirement to report any proposed discussion about outside employment in advance would by itself deter many people from entering into such discussions, and it is difficult to see why the right to keep such discussions private should be denied to civil servants when it is widely exercised in the private sector.



Austin Mitchell MP, chairman of the sub-committee of the Treasury and Civil Service Select Committee which recently reported on the acceptance of outside appointments by crown servants.

Secondly, there is a recommendation that "if the prospective employer is operating in a competitive field it is necessary to establish that competing firms do not object to the appointment." Given the extent of competition for tax staff such a rule would seem to be unworkable for the tax inspectorate, but this could be used as a further reason for blocking moves, rather than be seen as a good reason for dropping the rule.

It must, of course, be emphasised that at present these are merely recommendations from a committee of MPs. Before they can be put into effect they have to be accepted by Government and then translated into national and departmental rules. What emerges from this process may have a very different appearance from the present proposals, and the AIT, through CCSU, will seek to ensure that it does. Meanwhile, however, it is right that members should know what may be lying in wait around the corner.

Peter Stokes

AIT changes

Following the resignation from the department of Richard Savage, Val Price (Finchley) has been appointed as one of the Association's joint honorary secretaries. The consequential vacancy on committee has been filled by the co-option of M G Fletcher (inspector(P) — Strand).

PERSONAL AND CONFIDENTIAL



file No
CDP

10 DOWNING STREET

From the Private Secretary

10 October 1984

THE BELGRANO

Thank you for your helpful letter of 10 October which usefully supplements our own records. You will, I am sure, clear with us in due course the line which you propose to take in dealing with any questions about these exchanges at Mr. Ponting's trial.

I am copying this letter to Henry Steel (Law Officers' Department).

CHARLES POWELL

Richard Mottram, Esq.,
Ministry of Defence.

CST

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MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~XXXXXX~~ 218 2111/3

MO 5/21

10th October 1984

*Pl. keep on
file with our own
pps. attached
o/m*

Dear Charles,

THE BELGRANO

You telephoned me about references in today's papers to exchanges between Mr Stanley and No 10 Downing Street on the terms of the replies to Mr Dalyell about the sinking of the Belgrano.

There were three sets of exchanges about the handling of Mr Dalyell's questions:

a. The first concerned Mr Dalyell's letter to the Prime Minister of 5th April following up her letter of 4th April to Mr Denzil Davies. The key documents here, as we discussed, are John Coles' letter to me of 6th April and Nick Evans' reply of 11th April. Incidentally, both Mr Ponting and Minister (AF) are recorded on internal minutes here as supporting the idea of a general reply to Mr Dalyell from the Prime Minister.

b. In April there were discussions within the Ministry of Defence about the response to be made by the Defence Secretary to the separate letter he had received from Mr Dalyell on 19th March. I attach a copy of an internal minute here dated 13th April to me from PS/Minister (AF) which records a conversation between Mr Stanley and Mr Coles about the handling of these questions. The Secretary of State subsequently sent Mr Dalyell a reply on 18th April, which was copied to Mr Coles, referring back to the Prime Minister's letter to Mr Davies (further copy attached for ease of reference).

c. Mr Dalyell returned to the charge at the beginning of May asking again for a reply to his original letter. Mr Ponting put up further advice dated 9th May, paragraph 2 of which reports a conversation between Mr Stanley and

C Powell Esq



No 10 Downing Street. I also attach for completeness a subsequent minute from Mr Stanley's office of 10th May and my reply of 11th May. Following this Mr Heseltine replied to Mr Dalyell on 14th May again declining to answer his original 9 questions (copy attached).

You will see that the accounts in today's newspapers are somewhat garbled in respect of these exchanges.

I might incidentally also add that I am seeking the advice of my Permanent Under Secretary about how I should respond to questions on these exchanges and others between Ministers and officials if I am questioned about them at Mr Ponting's trial.

I am copying this letter and the attachments to Henry Steel (Attorney General's Chambers).

Yours etc,

Richard Mottram

(R C MOTTRAM)



MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

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D/S of S/71/84

14 May 1984

Thank you for your further letter of 1st May.

Your purpose in asking the questions you put to me is to pursue your campaign that the Belgrano was attacked in order to destroy the prospects for peace negotiations rather than for the military reason that she posed a threat to the Task Force. I do not believe that there is any point in prolonging this argument by a further round of detailed correspondence.

Michael Heseltine

Tam Dalyell Esq MP



Copy to:
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no 5/21

11th May 1984

PS/Minister (AF)

BELGRANO

The Secretary of State has seen your minute of 10th May together with that from Head of DS5 of 9th May.

2. The Secretary of State agrees with Minister (AF)'s view that we should not enter into a detailed point-by-point answer by letter to the questions which Mr Dalyell has raised. He intends instead to reply to Mr Dalyell's latest letter of 1st May broadly on the lines of the attached draft - I have yet to clear the precise words with him. The Secretary of State recognises that Mr Dalyell may yet table a series of detailed questions which he would propose to reply to by referring back to the account of the circumstances surrounding the sinking of the Belgrano which has already been given in the Prime Minister's letter.

3. As to the terms of the answer by the Prime Minister to PQ 9143C, the Secretary of State can see the difficulty raised by Head of DS5 over using explicitly the argument that it is not our practice to comment on military operational matters or the details of military operations. This is not entirely consistent with the Prime Minister's letter of 4th April to Mr Denzil Davies which provided further detail and said that ~~she~~ she felt able to do so now as, with the passage of time, those events have lost some of their original operational significance. The Secretary of State would prefer to reserve the argument that we could not reveal operational matters for those cases where it is the professional judgement of those concerned within the Department that there are genuine security objections to giving this information. He would, therefore, prefer to stick with the approach originally agreed with Minister (AF) and perhaps the answer might be the second sentence of the Minister's revised formulation that is:

"The circumstances leading to the sinking of the BELGRANO were described in my letter to the Rt Hon Member for Llanelli of 4th April."

R C Mottram
(R C MOTTRAM)
PS/S of S

RESTRICTED

DRAFT LETTER FROM THE SECRETARY OF STATE TO MR TAM DALYELL

Thank you for your further letter of 1st May.

Your purpose in asking the questions you put to me is to pursue your campaign that the Belgrano was attacked in order to destroy the prospects for peace negotiations rather than for the military reason that she posed a threat to the Task Force. I do not believe that there is any point in prolonging this argument by a further round of detailed correspondence.



MINISTER OF STATE FOR
THE ARMED FORCES

5/21

LOOSE MINUTE

D/MIN(AF)/JS/5/1/5

10 May 84

PS/S of S

Copy to:
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BELGRANO

Reference:

A. D/DS5/9/9/46 - 85 dated 9 May 84 (attached, not for copy addressees)

Minister(AF) disagrees with the advice in the attached Minute of 9 May from the Head of DS5. He believes that to reply as Head of DS5 has proposed would be in complete contradiction to

- a. The Prime Minister's letter of 12 April in reply to Mr Dalyell's of 5 April which asked a series of naval operational questions (for example, Question 6) and,
- b. the Secretary of State's letter of 18 April in reply to Mr Dalyell's of 19 March which did so similarly.

Both the Prime Minister and S of S relied basically by referring back to the Prime Minister's letter of 4 April to Denzil Davies.

2. The line Minister(AF) proposes is that contained in Paragraph 2 of APS/Minister(AF)'s minute of 9 May (attached) to Head of DS5. The Question to the Prime Minister asks for details of HMS CONQUEROR's "sonar stalk" of the BELGRANO and Mr Stanley personally has no difficulty whatsoever on operational grounds of declining to give this information. The text of the draft letter to Mr Dalyell, attached to Head of DS5's Minute, abundantly illustrates, in Minister(AF)'s view, the depth of the water Secretary of State would get into if he were to send it. He would be grateful for S of S's views before his departure this evening since we shall need to advise No 10 tomorrow of the draft reply to PQ 9143C.

P M W Francis
P M W FRANCIS
PS/Minister(AF)



MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-216 9000
DIRECT DIALLING 01-216 2111/3

MO 5/21


18th April 1984

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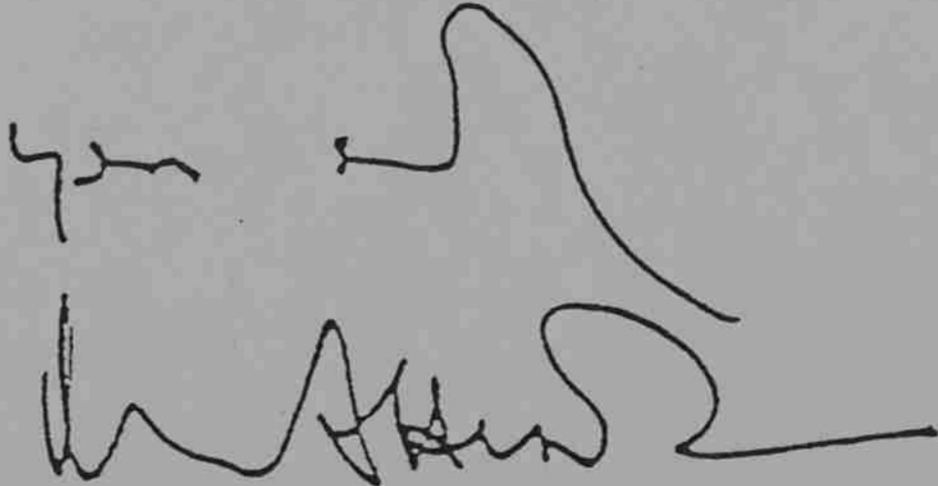
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AUS (NS)
Hd of DS5
DNOT
DNW
File: D/S of S/71/84

Copies:

Mr A J Coles, No 10
Mr P F Ricketts, FCO



Thank you for your letter of 19th March asking some questions about the circumstances surrounding the sinking of the General Belgrano. Since you wrote this letter, you have seen the Prime Minister's letter to Denzil Davies of 4th April and you have yourself had a further round of correspondence in your letter of 5th April and the Prime Minister's reply of 12th April. There is nothing that I can usefully add.



Michael Heseltine

Tam Dalyell Esq MP



MINISTER OF STATE FOR
THE ARMED FORCES

LOOSE MINUTE

D/MIN(AF)/JS/5/1/5

13 April 1984

PS/S of S

Copy to:
PS/US of S(AF)
PS/PUS

BELGRANO

Reference: D/DS5/9/9/46-54 dated 12 April 1984

Minister(AF) does not agree with the draft reply to Tam Dalyell's letter of 19 March to S of S, attached to Head of DS5's minute of 12 April, because he feels that it is incompatible with the way in which the Prime Minister has just replied to a series of 11 related questions to her in his letter of 5 April.

2. Mr Stanley has discussed with John Coles today how we should deal with the 9 questions in Dalyell's letter of 19 March and he thinks - and John Coles agrees - that S of S should take basically the same line as in the Prime Minister's latest reply to Dalyell which effectively is on the military - not the diplomatic side - to rest on what the Prime Minister said to Denzil Davies in her letter of 4 April.

3. Minister(AF) has also discussed with John Coles how we would respond if Dalyell's 9 questions were either tabled as PQs or as a further letter from Denzil Davies on behalf of the Shadow Cabinet. The view he and John Coles both take is that we should wait and see until after next Monday's Panorama programme, and the Easter Recess, as to whether the Shadow Cabinet or Dalyell are going to run this issue before deciding whether to go any further than the Prime Minister's latest reply to Dalyell.

P M W FRANCIS
PS/Minister(AF)
MB 6113 6385 MB



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01~~XXXXXX~~ 218 2111/3

MO 5/21

11th April 1984

Dear Jim,

NR 11/4
f.c.

THE BELGRANO

In your letter of 6th April to Richard Mottram you suggested that the Prime Minister would not wish to answer the specific questions posed by Mr Dalyell in his letter of 5th April and suggested a general line which the Prime Minister might take at her Questions tomorrow. We here would be content with this. You also asked for material for supplementaries on the questions themselves in case the Prime Minister judged that it was appropriate to go into the detail. This is now attached: it has been cleared with Admiral Woodward. I gather that the FCO are separately submitting advice on Question 10 about reports of the Peruvian peace plan.

I am copying this letter to Peter Ricketts (FCO).

Yas wt

Neil Evans

(N H R EVANS)

A J Coles Esq

Belgrano: Mr Dalyell's letter

original with
able

You owe Mr Dalyell a reply to his letter of 5 April at Flag 'A'.

✓ He has a Question on the Belgrano at No 5 tomorrow. We do not recommend that you reply before then since he will only exploit whatever you say.

But in case you take a different view I attach a reply. The FCO and MOD agree that you should not answer his letter in detail. Our objective must be to try to bring this controversy, such as it is, to an end as soon as possible.

✓ You will recall that the Foreign Secretary is about to send Mr Dalyell a detailed reply to the eleven Questions which he posed during the Foreign Affairs Debate on 22 March.

We recommend that your Answer to Mr Dalyell's Oral Question tomorrow should follow the terms of the proposed letter from you to him, ie. there is no point in prolonging all these exchanges because his basic contention is simply not true.

We have commissioned answers to the detailed questions which he put in his letter of 5 April to you. These are at Flag 'B'. You will want to have these by you at Question Time in case you decide at the time that you must deal with a detailed Question.

A.J.C.

11 April 1984

1. If air attacks on Port Stanley Airfield were for the purpose of enforcing the Total Exclusion Zone why were cluster bombs, air-burst shells, and other anti-personnel devices used if this was part of the process of enforcing the Total Exclusion Zone?

The closure of Port Stanley airfield was an important part of enforcing the Total Exclusion Zone as was made clear from the start. The attacks were intended to close this supply route and to destroy aircraft on the ground. It was for the operational commanders to select the most appropriate weapons for the task.

Was HMS Conqueror instructed to search for and locate the Belgrano by Admiral Woodward, by Fleet Headquarters, Northwood, or by whom? In other words, who perceived the Belgrano Group to be a threat to the Task Force in general, and as you have argued on Television, our Carriers in particular? Candidly, I have suspected for many months that the notion that the Belgrano Group were endangering the Task Force emerged as a post-facto rationalisation.

CONQUEROR was under the operational command of Flag Officer Submarines at Northwood. Naturally both he and CINCFLEET were concerned about all movements of the Argentine fleet. Admiral Woodward, commanding the surface Task Groups in the South Atlantic, asked for a change in the Rules of Engagement on 2nd May because of the threat posed by BELGRANO as part of the wider disposition of Argentine naval forces. Although this request came from Admiral Woodward the threat to the Task Force was clear at all levels of command and the request was endorsed by Ministers.

3. Admiral Woodward asked for a change in the Rules of Engagement to permit the Belgrano to be attacked outside the Total Exclusion Zone - and, as we all know, you and Members of the War Cabinet agreed to that change. Why then did your former Defence Minister, (Sir) John Nott, a Member of the War Cabinet, who participated in the deliberations on the matter, mislead the House of Commons without any corrective by you, by saying on 4th and 5th May that the decision to torpedo the Belgrano was taken by the Submarine Commander? Parliament, Press, and People were deceived - why?

As Sir John Nott made quite clear on 4 and 5 May 1982, the Task Force - including submarines - operated under strict political control with Rules of Engagement approved by Ministers. It was for local commanders to take decisions within those rules.

. You refer to destroyers armed with Exocet missiles. Do I take it that the Government is backing away from its original claim that Belgrano also was armed with Exocets?

Sir John Nott made quite clear in the House of Commons on 4th May 1982 that BELGRANO was not armed with Exocet.

5. Can you explain why the Conqueror detected an Argentine oiler auxiliary in the Belgrano Group, when the signals from the 44 year old iron-clad, USS Phoenix (Belgrano) were considerably stronger?

For technical reasons connected with sound propagation under water.

You stress that on 2nd May "we had indications about the movements of the Argentine Fleet" which led to Admiral Woodward's request for a change in the Rules of Engagement. What precisely were those "indications"? My information is that the Argentine Fleet was by that time under orders to return to base, and you knew that. Gavshon and Rice in their book cite precise times (20.00 hours on May 1st, and 01.19 hours on May 2nd) when those orders were sent by Admiral Allara, and the Naval Command in Buenos Aires. The text of one of those messages is included in their book.

The Rules of Engagement were changed because the indications were that the BELGRANO Group, in conjunction with the Argentine Task Groups to the north of the Falklands, presented an urgent and immediate threat to our ships. There were no indications that the Argentine Fleet was homeward bound.

7. You quote Admiral Woodward as saying that his request for a major change to the rules of engagement in order to attack the Belgrano was "the first and only time throughout the campaign" he had made such a request. This is just not true, Prime Minister, because when Conqueror was in Argentine Territorial waters he again asked for a change in the Rules of Engagement, so as to be able to operate within those waters. (Reference Gavshon and Rice, Page 130.)

I have no reason to doubt Admiral Woodward's statement which I quoted in my letter to the rt honourable Member for Llanelli.

Prime Minister, will you please explain how the Belgrano and her Group, sailing on a 280 degree course, (confirmed to me in Parliamentary answers), sailing West North West, could in any way have been completing a pincer movement? Have you every heard of naval ships engaging in a pincer movement while retreating to home port in an opposite direction? And, can you explain how on earth it was that a huge, slow-moving hulk like the ancient Carrier, 25th May, could have "slipped past" the sophisticated, speedy nuclear powered submarine, presumably HMS Splendid, which was "trailing her" and which had been built at a cost of many emillions to the British tax-payer?

9. Will you explain your assertion that it was irrelevant to the sinking that the Belgrano was heading homewards and well outside the Exclusion Zone and nowhere near the Burdwood Bank?

Warships can change their speed and course at will, and can travel many miles, in any direction, in a few hours. That is why the course and position of BELGRANO at any particular moment were irrelevant to the threat that she posed.

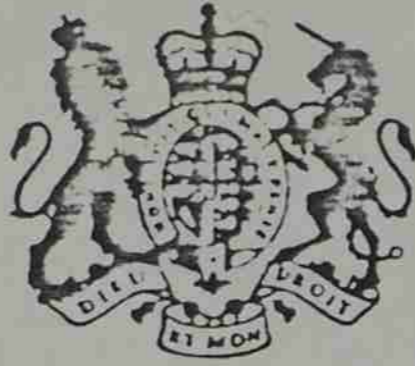
On how the northern half of the pincer slipped past the submarine barrier, I cannot add to my previous letter.

10. Has your Government enquired into the reasons why the British Embassies in Washington and Lima took so long to report on the Peruvian Peace Initiative, and its preparation, if, as you claim "first indications" only reached London at 23.15 hours on May 2, and 0200 hours May 3 respectively? Did you know that an Associated Press Despatch from Lima, timed 23.44 hours, BST, May 2 said that President Fernando Belaunde Terry has announced that Britain and Argentina that night would end hostilities over the Falklands? Reuters and other international wire services carried similar reports.

Our Embassies in Washington and Lima reported, fully and promptly, all the relevant information that was available to them. Agency reports of President Belaunde's press conference in Lima on 2 May reached London slightly earlier than the telegram from our Embassy because the then Ambassador was personally briefed by the Foreign Minister immediately after the press conference. All the reports of the Peruvian ideas were sent after the Belgrano had been sunk. President Belaunde's press conference was itself held four hours after the sinking.

11. In what way would earlier disclosure of "first contacts" with the Belgrano Group have prejudiced operations? Disclosure for instance after the end of hostilities in June 1982? Don't you think that it would be far better if you and your Government were to be open and truthful with the House of Commons and the British People?

The Government's overriding concern has been to ensure that information should not be made available that would be valuable to the Argentine navy in any future conflict. The Argentine Government have, of course, refused to declare a formal end to hostilities. With the passage of time we judge that that risk in this particular case has diminished.



10 DOWNING STREET

cc TF
SS

original held by
CPLs.

From the Private Secretary

6 April 1984

Belgrano

I enclose a copy of a letter which the Prime Minister has received from Mr. Tam Dalyell which has been prompted by the Prime Minister's letter of 4 April to Mr. Denzil Davies.

You will note that Mr. Dalyell has an Oral Question down for answer by the Prime Minister on Thursday 12 April.

In his present letter he asks a number of detailed questions. Subject to your views, I am inclined to advise the Prime Minister not to answer these questions but to reply in the following sense: she takes it that Mr. Dalyell is still trying, as he has tried for the last two years or so, to establish his contention that the Belgrano was attacked in order to destroy the prospects for peace negotiations based on the Peruvian proposals; that is simply not true; she has made the position on this matter absolutely clear yet again in her letter of 4 April to Mr. Denzil Davies; in these circumstances she does not think it useful to prolong these exchanges.

I should be grateful for advice by mid-day on Wednesday, 11 April as to whether the Prime Minister should reply in the above terms.

It would, in any case, be useful if you could let me have brief answers (in a form usable in the House of Commons) to Mr. Dalyell's questions in case he pursues any of these points on 12 April. This is not to say that the Prime Minister would necessarily enter into the substance of the matter in any exchanges with Mr. Dalyell but it will be useful to have the option of so doing if we judge that that is the best tactic. Could this line to take also be available by lunchtime on Wednesday 11 April.

I am copying this letter and enclosure to Peter Ricketts (Foreign and Commonwealth Office).

A. J. COLES

Richard Mottram, Esq.,
Ministry of Defence.

Reminded!
M.D.
11.5 am.
11/4



10 DOWNING STREET

THE PRIME MINISTER

8 October 1984

Dear Mr. Kinross,

Thank you for your letter of 28 September in reply to mine of 19 September, in which you raise further questions about the sinking of the General Belgrano, and the prosecution of Mr. Ponting.

On the basis of all the information available, the General Belgrano threatened the safety of our forces and the decision to attack the ship was necessary. I am glad that you accept that information relevant to military dispositions and intelligence should not be made public. In my letter of 19 September to Mr. George Foulkes I gave a detailed account of the events leading up to the decision to sink the General Belgrano, within these security constraints. I do not accept that, apart from this consideration, there has been a refusal to deal with doubts raised about the Government's conduct.

As regards Mr. Ponting, you say that the contents of my letter conflict with information you have received from other sources. Since you do not reveal what those sources are I cannot comment on them but I can assure you that nothing in your letter causes me to withdraw or amend the account I have given you. Your specific questions could be answered only by publishing the contents of confidential exchanges between officials and Ministers, and between the Law Officers and the Director of Public Prosecutions. It would be improper for me to do so and your questions are anyway irrelevant to the question of the propriety of the actions of Defence Ministers or the Law Officers.

/As regards

LR.

file

*cc MOD
FCO*

Henry Reed.

As regards your other points about the role of the Law Officers, I made clear to you in my previous letter that the Director of Public Prosecutions first consulted the Solicitor General on 13 August 1984 and briefed him on the facts of the case. There was more than adequate time between 13 August and 17 August for the Solicitor General to weigh up the question whether, if the evidence proved sufficient for proceedings, a prosecution under the Official Secrets Act would be in the public interest. On 17 August the Law Officers received a police report together with the available evidence. The Solicitor General discussed this with the Director of Public Prosecutions and also consulted the Attorney General. The Law Officers satisfied themselves that the evidence before them was sufficient and they then decided that a prosecution would indeed be in the public interest. The papers to be considered were very few by the standards of most criminal cases that come before the Law Officers and the suggestion that the Law Officers did not have time to study them thoroughly before reaching their decision is unfounded. It was unnecessary for them to consult Treasury Counsel or any other outside Counsel. There is no practice or convention that they should do either in this type of case or in any other. It is only where there is particular difficulty or complexity about evidence or where the law is uncertain that the Law Officers or the Director of Public Prosecutions sometimes seek advice from outside Counsel. In the Law Officers' view there were no such evidential difficulties or uncertainties here.

You will appreciate that once the Law Officers were satisfied that the evidence was sufficient, the decision whether proceedings would be in the public interest was a matter for their judgement and no one else's. In this context, and given the quite unjustifiable attacks in the media and elsewhere on the role of Ministry of Defence Ministers in this case, I would make the general point that

/cases

cases involving prosecutions under the Official Secrets Acts are entirely for the Law Officers. That is the constitutional position and it is one which Defence Ministers scrupulously respected in the Ponting case as they do in all others concerning their Department.

Mr. Ponting's case is sub judice and the committal proceedings are now imminent. You will therefore not expect me to go beyond what I have already said about it: it would be wrong for me to do so.

As for the matters raised in the last paragraph of your letter, the information which you asked for is always treated as confidential under every Administration.

Yours sincerely

Raymond Sherrin

The Rt. Hon. Neil Kinnock, M.P.



Charles
Some amendments
suggested below.

FERB

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~830 7822~~ 218 2111/3

FERB

MO 22/5

4th October 1984

Do you have any
views on this? It ~~looks~~
strikes a note of hiding
behind the rules but that's
probably inevitable. Any amendments
before I get it typed?

CJP 4/x

Dear Charles,

MR PONTING

/ Thank you for your letter of 27th September. I attach a draft
reply from the Prime Minister to Mr Kinnock which has been cleared
with the Director of Public Prosecutions and the Law Officers
Department.

I hope to let you have shortly draft replies to the further
letters from Dr Owen and Mr Foulkes about the attack on the Belgrano.

I am copying this letter and the attachment to Janet Lewis Jones
(Lord President's office), Colin Budd (FCO), Hugh Taylor (Home Office),
Henry Steel (Law Officers' Department), Richard Hatfield (Cabinet
Office) and to the Director of Public Prosecutions.

Yours etc,

Richard Mottram

(R C MOTTRAM)
Private Secretary

C Powell Esq

Belgrano
Cah LPOAAS

Please type for
PM's signature
OK.

DRAFT REPLY FROM THE PRIME MINISTER TO MR KINNOCK

Thank you for your letter of 28th September in reply to mine of 19th September, in which you raise further questions about the sinking of the General Belgrano, and the prosecution of Mr Ponting.

2. ~~I can assure you that,~~ On the basis of all the information available, the General Belgrano threatened the safety of our forces and the decision to attack the ship was necessary. I am glad that you accept that information relevant to ~~current~~ military dispositions and intelligence should not be made public. In my letter of 19th September to Mr George Foulkes I gave a detailed account of the events leading up to the decision to sink the General Belgrano, within these security constraints. I do not accept that, apart from this consideration, there has been a refusal to deal with doubts raised about the Government's conduct.

3. ~~Turning to your points about Mr Ponting, I am sorry~~ the contents of my letter conflict ~~so directly~~ with information you have received from other sources. ~~Unfortunately as you do not reveal what those sources are I am unable to comment on their reliability or otherwise.~~

nothing in your letter causes me to withdraw or amend the account I have given you.

~~As for your specific questions, you must surely realise that the information you request could be revealed only by publishing the contents of confidential exchanges between officials and Ministers, and between the Law Officers and the Director of Public Prosecutions.~~

It would be quite improper for me to do so and ~~none of your questions~~ ~~are anyway~~ ~~which irrelevant to the question of~~ ~~raise any point about~~ ~~behave on~~ ~~the propriety of~~ ~~the actions of~~ ~~Defence~~ ~~the~~ ~~Minister~~ ~~or~~ ~~the~~ ~~Law~~ ~~Officers.~~

As regards ~~other~~ your other points
you raised ~~some~~ questions about the role of the Law Officers,

7. ~~As~~ I made clear to you in my previous letter ^{that} the Director of Public Prosecutions first consulted the Solicitor General on 13th August 1984 and briefed him on the facts of the case. There was more than adequate time between 13th August and 17th August for the Solicitor General to weigh up the question whether, if the evidence proved sufficient for proceedings, a prosecution under the Official Secrets Act would be in the public interest. On 17th August the Law Officers received a police report together with the available evidence. The Solicitor General discussed this with the Director of Public Prosecutions and also consulted the Attorney General. The Law Officers satisfied themselves that the evidence before them was sufficient and they then decided that a prosecution would indeed be in the public interest. The papers to be considered were very few by the standards of most criminal cases that come before the Law Officers and the suggestion that the Law Officers did not have time to study them thoroughly before reaching their decision is ~~unfounded.~~ ^{unfounded.} quite absurd. It was unnecessary for them to consult Treasury Counsel or any other outside Counsel. There is no practice or convention that they should do either in this type of case or in any other. It is only where there is particular ~~evidential~~ ^{about evidence} difficulty or complexity or where the law is uncertain that the Law Officers or the Director of Public Prosecutions sometimes seek advice from outside Counsel. In the Law Officers' view there were no such evidential difficulties or uncertainties here.

8. You will appreciate that once the Law Officers were satisfied that the evidence was sufficient, the decision whether proceedings would be in the public interest was a matter for their judgement and

no one else's. In this context, and given the quite unjustifiable attacks in the media and elsewhere on the role of Ministry of Defence Ministers in this case, I would make the general point that cases involving prosecutions under the Official Secrets Acts are entirely for the Law Officers. That is the constitutional position and it is one which Defence Ministers scrupulously respected in the Ponting case as they do in all others concerning their Department.

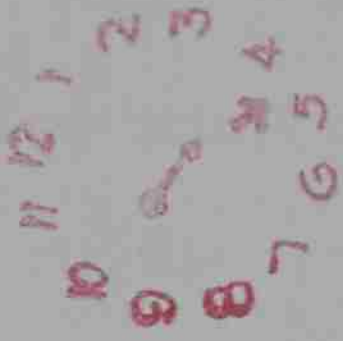
6. ~~I must remind you that~~ Mr Ponting's case is sub judice and ~~that~~ the committal proceedings are now imminent. You will therefore not expect me to go beyond what I have already said about it: ~~indeed~~, it would ^{be wrong} ~~not be proper~~ for me to do so.

7. As ^{for} ~~to~~ the matters raised in the last paragraph of your letter, the information which you asked for is ^{always treated as} confidential ~~and I am not under~~ ^{every Administration.} ~~able to make it available to you.~~

Secomny Aug 27

Belgram

- 4 OCT 1984



Secomny

Belgram

Secomny



ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

Rt. Hon. John Morris QC. MP.
House of Commons
London SW1A 0AA

2 October 1984

Dear John.

attached
Thank you for your letter of 26 September.

*WBM
2/26*

As regards your first point, I do not agree that any inference of the sort that Sam Silkin suggested can properly be drawn from the Prime Minister's letter. I therefore see no reason to correct it. The principles stated by Hartley Shawcross in 1951 (and by John Simon and others on other occasions) are of course perfectly familiar to me - I have, after all, been a Law Officer of the Crown in two Administrations and for a total now of something like 8 years - and I did not need reminding of them. If I had thought it helpful, before the decision to prosecute Mr Ponting was taken, to consult with any of my Ministerial colleagues in order (in Hartley Shawcross's phrase) "to acquaint myself with any considerations affecting public policy", you may be sure that I would have done so: I did not think that it would be helpful and I did not do so. I was in discussion with the Solicitor General at this time and he shared my view. This, I trust, gives you the confirmation that you asked for that the Prime Minister's statement (which you quaintly described as her "initial assertion") was correct.

As regards your second point, all that I need say is that I have no reason whatever to think that Mr Ponting cannot or will not get a fair trial and I am satisfied that the reasons why it was thought that it would be in the public interest that he should be prosecuted remain valid.



- page two -

I do not know if you have it in mind to publish this exchange of letters. I should have no objection.

Yours etc. Michael

From: The Rt. Hon. John Morris, Q.C., M.P.

13/17/1984



HOUSE OF COMMONS
LONDON SW1A 0AA

By Hand

September 26, 1984.



ACK 26 Sept

Dear Michael

Your attention will have been drawn to Sam Silkin's letter in today's Times. There are two matters about which I would appreciate your observations.

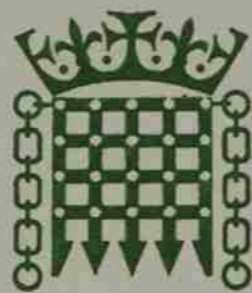
First, the inference which Mr Silkin draws attention to that from the Prime Minister's letter it would have been wrong for the Law Officers to have consulted or to have heard the views of departmental ministers. I am sure you would wish to clarify this. I, of course, assume that the Prime Minister's initial assertion "that the Law Officers did not seek the view of, consult with, nor was the view of any other Minister conveyed to them," is correct. Perhaps you would confirm this too.

Secondly, Mr Silkin draws attention to the fact that the Attorney's consent is not a final act, and the need to consider "with the deepest anxiety ... before he decides to allow events to take their course." The way the situation has developed underlines what I am sure you have very much in mind, the need for continued consideration. Mr Silkin sets out those matters.

In all the circumstances I would be grateful for your views.

Rt. Hon. Sir Michael Havers Q.C., M.P.,
Attorney General,
Attorney General's Chambers,
The Law Courts,
Strand,
London E.C.4.

Asked 28/9
CMAA
PC



HOUSE OF COMMONS
LONDON SW1A 0AA

The Office of the Leader of
the Opposition

September 28th 1984

Dear Prime Minister,

Thank you for your letter of 19 September.

You suggest that lives might in future be jeopardised by too full an account of the circumstances surrounding the decision to sink the General Belgrano. I must repeat that it is quite clear that any matter relating to military dispositions, intelligence sources or other matters affecting the security of our forces which are still in operation can and should be excluded from any reply you give to me or any other enquiry.

As I have repeatedly said, if, on the basis of all the information available, it was properly decided that the General Belgrano threatened the safety of our forces, then the decision to attack was necessary. That is not, and never has been the issue at stake. The issue is the detail of the conduct of your Government at the time of the attack and in response to subsequent questions. Your continuing refusal to deal with the doubts which have properly been raised about your Government's conduct can only serve to sustain those doubts.

On the question of the decision to prosecute Mr Clive Ponting, I find your reply entirely unsatisfactory because it conflicts so directly with information about the events of 10th - 16th August that has come from other sources.

I must therefore ask for clear and complete replies to the following questions :

.../2

2.

September 28th 1984

The Rt Hon Margaret Thatcher MP

1. Did the Secretary of State express to Sir Ewen Broadbent his view that Mr Ponting should be prosecuted? If he did not, what treatment did he recommend for Mr Ponting's case?

2. Did the Ministry of Defence police recommend that a prosecution should be brought or did they not? Was their recommendation made known to Mr Heseltine on the 13th August?

3. Did the senior officials of the Ministry of Defence themselves endorse the MoD police recommendation, or did they not? Did they advise the Secretary of State accordingly?

4. What assessment was offered, either by the Ministry of Defence police or by the civil servants, of the possible damage which would have been caused by the leaking of the documents in question to Mr Dalyell? Was their assessment made known to the Secretary of State?

5. Did the report which was transmitted to the Director of Public Prosecutions on 16th August and, through him, to the Law Officers, make any recommendation as to prosecution and did this differ from the recommendation earlier made?

You state that 'the Law Officers did not seek the view of, or consult with, any other Minister, nor was the view of any other Minister conveyed to them'. Your account of the role of the Law Officers raises important questions. As the former Attorney-General, Sam Silkin QC, has pointed out, the Law Officers - in arriving at an independent decision - must consider whether a prosecution would serve the public interest. Your letter makes it quite clear that the Law Officers' decision to proceed with the prosecution of Mr Ponting was made only one day after the DPP received the report of the police enquiry. In such a brief period, was there really time for proper consideration of all aspects of the case by the Law Officers who were, after all, making their decision on the basis of a report completed after the meeting on 13th August?

The timing of the decision was also such that the Law Officers can scarcely have had time to study the papers with the usual thoroughness or to commission senior counsel's opinion before authorising the prosecution. It is extraordinary that they should have acted in this way, given the history of prosecutions

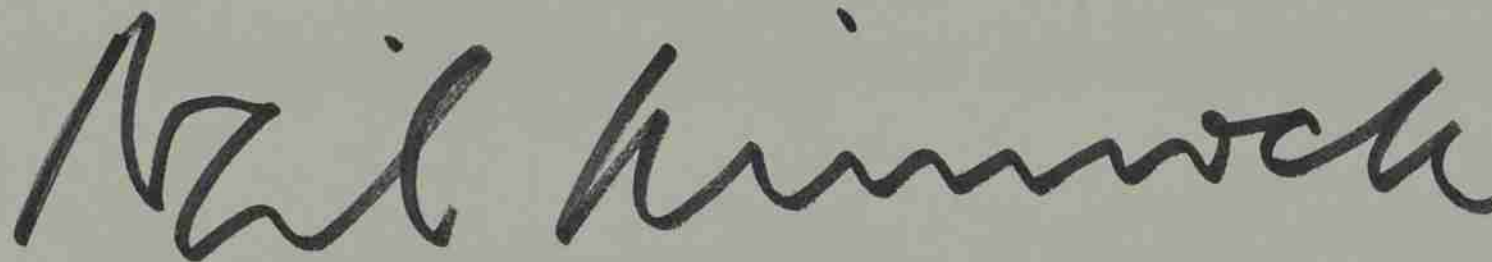
3.

September 28th 1984
The Rt Hon Margaret Thatcher MP

under Section 2 of the Official Secrets Act and the doubts which are known to exist inside and outside the Civil Service about the use of this Section. Why was the matter considered so urgent as to demand a decision within such an unusually short time?

Finally, I would be grateful if you would tell me in how many cases, during your administration, service and civilian personnel from the Defence Department and other Crown servants have been the subject of reports to the Law Officers in relation to possible proceedings under the Official Secrets Act; in how many such cases has such a prosecution not been proceeded with, and what were the reasons for the decision in each case.

Yours sincerely



Neil Kinnock MP

The Rt Hon Margaret Thatcher MP



no use.
cfo.

10 DOWNING STREET

From the Private Secretary

27 September 1984

Mr. Clive Ponting

I enclose a copy of a letter to the Prime Minister from the Leader of the Opposition putting a number of specific questions about the prosecution of Mr. Ponting. I should be grateful if work could be put in hand urgently on a draft reply.

I am sending a copy of this letter and enclosure to Colin Budd (Foreign and Commonwealth Office), Hugh Taylor (Home Office), Henry Steel (Law Officers' Department) and Janet Lewis-Jones (Lord President's Office).

(C.D. POWELL)

Richard Mottram, Esq.,
Ministry of Defence.

use

2. Further

For inf

By 21

for leak file

CONFIDENTIAL

Ref. A084/2527

MR INGHAM

MIO

Thank you for your minute of 18 September.

2. I agree that we should proceed as you propose in the last paragraph of your minute. I am asking Mr Davie to put you in touch with one of our investigators, so that he can consider whether there is a prima facie case for mounting a full-scale investigation.

ROBERT ARMSTRONG

ROBERT ARMSTRONG

21 September 1984

CONFIDENTIAL



10 DOWNING STREET

THE PRIME MINISTER

September 1984

Thank you for your letter of 14 September.

The first part of your letter dealt with the sinking of the General Belgrano. I am publishing today, in reply to a letter which I have received from Mr. George Foulkes, a further statement of the circumstances surrounding that decision, designed to correct a number of misconceptions which were reflected in Mr. Foulkes' letter to me and in recent press accounts. I enclose a copy of my reply. As you acknowledge, Michael Heseltine also agreed, as long ago as 26 July, to assist with the inquiry being undertaken by the Select Committee on Foreign Affairs and will be giving evidence before them when Parliament returns.

There has been no desire or intention on the part of the Government to mislead or misinform Parliament on this matter; and I entirely refute your suggestion that there was either operational confusion or error in communications with the Task Force. As I have said in my reply to Mr. Foulkes, nothing that has been put forward since we took our decision about the Belgrano has led me or any of my colleagues to doubt that the decision was right and necessary in the interests of safeguarding British lives. But Ministers have to take the responsibility, with the help of our security experts' advice, of deciding at what point it is necessary to withhold information in the interests of national security. To go beyond that point in order to

justify the Government's decisions and thus to jeopardise lives in the future would be the height of irresponsibility. I can say specifically that Geoffrey Howe and I know of no basis for your suggestion that senior Foreign Office officials have given advice in the terms described in your letter.

The latter part of your letter deals with the treatment of Mr. Ponting. I have given an account of the decisions relating to the charging of Mr. Ponting in my reply to Dr. David Owen, a copy of which I also enclose. There are only two points which I would add. The first is that there is no long-established convention of the sort described in your letter: the Law Officers consider each case on its merits in deciding whether proceedings should be brought. The second point is to stress again that decisions on these matters are taken by the Law Officers, not by Ministers. Your letter and last Sunday's Observer allege that Michael Heseltine overruled advice given to him and insisted that Mr. Ponting be prosecuted. This is not so.

The Director of Public Prosecutions had been advised of the case on the morning of 13 August, and after consultation with the Solicitor General had already asked for a very early police report. When the senior Ministry of Defence official, Sir Ewen Broadbent, who had earlier briefed the Director of Public Prosecutions, reported to Michael Heseltine later that afternoon, he informed him of the stage reached. Michael Heseltine noted the report and that the decision whether or not to prosecute rested with the Law Officers. Neither I nor any other Ministers in the Ministry of Defence or elsewhere intervened in the succeeding days. The Director of Public Prosecutions received the detailed police report on 16 August and consulted the Law Officers who decided on 17 August to proceed with the prosecution. The Law Officers did not seek the view of, or consult with, any other Minister, nor was the view of any other Minister

conveyed to them, before they took their decision to prosecute Mr. Ponting.

The Rt. Hon. Neil Kinnock, MP.



fe 18c

10 DOWNING STREET

From the Principal Private Secretary

18 September 1984

Belgrano and Ponting: Letter from
Mr. Kinnock

BF |

As soon as the Prime Minister replies to Mr. Foulkes, we would like simultaneously to release a reply to the letter of 14 September from the Leader of the Opposition which David Barclay sent to you on the same day. I attach a draft on which I should be grateful for comments from you, John Ringguth (Law Officers' Department) and Len Appleyard (FCO) by close of play this evening if possible.

I am also sending a copy of this letter and the enclosure, with a copy of Mr. Kinnock's letter, to Sir Robert Armstrong.

E. E. R. BUTLER

Richard Mottram, Esq.,
Ministry of Defence.

NC

CONFIDENTIAL

Ref. A084/2500

MR INGHAM

c Mr Butler

MIO

Thank you for your minute of 17 September.

2. As I told you, I was content that you should take the line you proposed at yesterday's meeting of MIO.
3. As to whether to have a leak inquiry, there seem to me to be two arguments against:
 - (1) This was an "embarrassment" leak rather than a "security" leak.
 - (2) It was clearly an oral leak, and the chances of tracking it down look pretty remote.
4. On the other hand, the institution of an inquiry might have some deterrent effect for the future; I can see that in certain circumstances you might want to say that an inquiry had been instituted, even if it was thought unlikely that there could be a positive result.
5. It might be possible to "set a trap", as you suggest; but that would need very careful handling: it would not necessarily be successful, and it could explode in one's face.

RTA

ROBERT ARMSTRONG

18 September 1984

CONFIDENTIAL

01-405 7641 Ext. 3050

*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, W.C.2.

18th September 1984

R. Butler, Esq.,
Private Secretary,
10 Downing Street,
LONDON, SW1

Dear Robin,

R. V. PONTING

I refer to our telephone conversation of last night.

The note from MOD basically accords with our view. The only comments on the note we have are these:- At Para. 3. the Solicitor General does not recall having told Sir Ewen Broadbent on the 13th August 1984 that his provisional view was in favour of a prosecution; at paragraph 7 it would be correct to say in the last sentence that the Solicitor General indicated to the Director that he would be prepared to grant his fiat.

The relevant guidance regarding investigations of leaks would appear to be "Security in Government Departments Chapter 18" (May 1982), a copy of which I enclose. In particular, I draw to your attention paragraphs 18.5 and 18.6. I also enclose a note of a meeting on the 16th May 1984 in which leak procedures were discussed (see in particular paragraph 7). Lastly, I enclose notes of a meeting held on the 17th December 1980 in which leak procedures were discussed. You will see at para. 4a that the then Legal Secretary to the Law Officers set out the sort of considerations he would take into account when advising

.....

01-405 7641 Ext.

*Communications on this subject should
be addressed to*

THE LEGAL SECRETARY
ATTORNEY GENERAL'S CHAMBERS

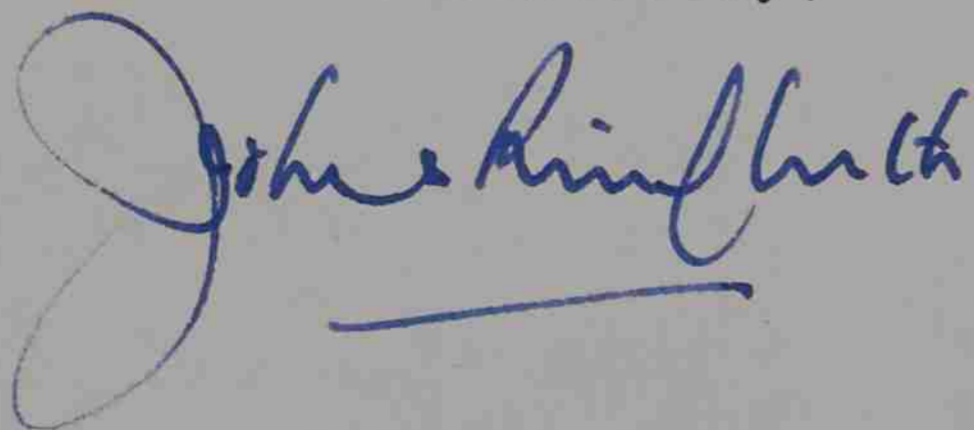
ATTORNEY GENERAL'S CHAMBERS,
LAW OFFICERS' DEPARTMENT,
ROYAL COURTS OF JUSTICE,
LONDON, W.C.2.

-2-

the Attorney General in Official Secrets cases. This may erroneously form the basis for the so-called convention of which the article in the "Observer" spoke. In any event, if this ever were policy, it appears to have been superseded.

Lastly, I suggest that the Prime Minister's response to Mr. Kinnock should knock on the head the suggestion that the Law Officers consulted or were consulted by any other Ministers. I suggest a sentence - "The Law Officers did not consult any of their ministerial colleagues in reaching their decision to prosecute Mr. Ponting, nor were the views of any of their ministerial colleagues communicated to them."

Yours sincerely,

A handwritten signature in blue ink, appearing to read "John Ringguth", with a horizontal line underneath.

J. S. RINGGUTH

CHAPTER 18

BREACHES OF SECURITY OR COMPROMISES OF INFORMATION: LOSSES AND LEAKS

GENERAL

18.1 Breaches of security can be divided into:

- a. **Losses** when classified material or security keys are missing or there is reason to believe that such material or keys have been compromised, or
- b. **Leaks** when a report in the news media, or other information, gives rise to suspicion that there has been an unauthorised disclosure of classified information, or sensitive, unclassified information.

The investigation of a leak may result in the discovery of a loss or vice versa, but in general the two types of breach and the procedures for dealing with them are different.

18.2 There must be an **immediate** investigation. It should therefore be impressed on all staff that they must report any breach or suspected breach of security to their Branch or Departmental Security Officer as soon as it is discovered.

18.3 Each Department should have a recognised procedure for making investigations into breaches which should be set in motion as soon as a report of a breach is received. Since delay will allow the trail to grow cold, investigations should be completed as quickly as the need for thoroughness and precision allows.

Possibility of Criminal Proceedings

18.4 Those responsible for investigating breaches, whether in the form of leakages or losses, should bear in mind that such breaches may constitute an offence against the Official Secrets Acts and a prosecution may have to be considered. Departmental enquiries should therefore not be pursued in such a way as to prejudice a prosecution.

18.5 Where preliminary enquiries point to a possible breach of the Acts, and the Security Service or the police have not taken over the investigation (see paragraphs 18.12 and 18.13), Departments should consult the Director of Public Prosecutions (DPP) if the breach occurred in England or Wales; or the Crown Office if in Scotland. In cases of urgency, special secrecy or exceptional difficulty, the DPP or the Crown Office can be consulted orally.

18.6 In cases in which the Security Service or the police have assumed responsibility for the enquiries, the Security Service or the Chief Officer of the police force concerned will if necessary consult the DPP or the Crown Office direct.

METHODS OF INVESTIGATION**LOSSES****Responsibility for Investigation**

18.7 It is the responsibility of Departments to institute investigations into losses. If the loss relates to a document originating in another Department, the matter should be reported to that Department and the 2 Departments should consult to decide which of them should lead the investigation. Where the document was issued by an interdepartmental committee, the matter should be reported to the Secretary, who will in turn refer to the Management and Personnel Office or the Department primarily concerned, to decide who should investigate.

18.8 Responsibility should be placed on a particular individual - hereinafter referred to as the Investigating Officer - who should normally be a member of the departmental security staff. The Investigating Officer should always have ready access to an appropriate senior official who should be consulted if the breach appears to be serious.

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18.9 When a loss occurs the main objectives will be:

- a. to find out exactly what happened;
- b. to assess the degree of compromise and minimise the damage done;
- c. to prevent a recurrence.

18.10 The Investigating Officer's first task, therefore, will be to ascertain, in consultation with the appropriate branch, the basic facts of the loss, and then determine the reasons for the loss and assess its seriousness.

18.11 If the loss was due to carelessness the Investigating Officer will not normally need to call upon outside assistance. He should however take into account the guidance contained in paragraphs 18.4-18.6.

18.12 If the Investigating Officer, by virtue of his enquiries, considers that espionage or subversion is or may be involved, he should immediately report the facts to the Security Service, who will determine whether or not there is a prima facie case for suspecting espionage or subversion. The Security Service will investigate if in its opinion there is such a case.

18.13 However, there may be rare occasions when the Investigating Officer suspects, in circumstances not covered by paragraphs 18.4-18.6 or 18.12 that a criminal offence may have been committed (eg where a break-in has occurred) and decides that police assistance is needed. On such occasions, in the Metropolitan district, police assistance should be sought through the Deputy Assistant Commissioner Special Branch, New Scotland Yard; elsewhere through the Chief Constable. The Security Service should also be informed.

18.14 If the help of the Security Service or police is necessary, it should be sought as early as possible.

18.15 If at any point during the investigation it becomes apparent that the loss has resulted in an **actual** compromise of material, the Investigating Officer should inform the senior official (see paragraph 18.8). The action to be taken in the event of a compromise is set out in paragraphs 18.32-18.34.

LEAKS

18.16 Leaks usually take the form of reports in a newspaper or in other media which appear to involve the unauthorised disclosure of classified information, or sensitive, unclassified information which may be protected by a privacy marking such as "Commercial in Confidence". Such disclosure will have been made either by word of mouth, whether deliberately or carelessly, or following the unauthorised sight or passage of a document. First news of a leak may come direct from a journalist, either because he is attempting to verify the information he has received or because he wishes the Department to know that he has gained access to classified information. In the rare cases where this occurs before publication has taken place, it may be possible to seek an injunction to prevent publication in breach of Crown copyright and/or in breach of confidence (see paragraph 18.33 below).

18.17 Any apparent leak which comes to notice should be reported promptly to the Permanent Secretary of the Department who should arrange for the Departmental Security Officer to make immediate preliminary enquiries. The object of these enquiries should be to determine in consultation with the branch responsible for the subject matter and the Departmental Press Officer, whether there is firm evidence of a leak. It should be borne in mind that what looks like a leak may be no more than intelligent deduction or speculation or an unfounded claim by a journalist that the article he has written is based on unauthorised disclosure.

18.18 Several factors will contribute to the decision to mount a leak investigation, including the intrinsic importance of the information leaked, how widely it was circulated and the resources available for investigation. The Permanent Secretary of the Department concerned will be responsible, in consultation with the Chairman of the Official Committee on Security, for deciding whether an investigation should take place.

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18.19 In general there is likely to be advantage in pursuing an investigation in those cases where:

- a. the consequences of the leak (including political consequences) are serious;
- b. a specific document can be identified from the contents of the leak;
- c. the authorised circulation of the leaked document was small;
- d. it has been possible to take the decision to investigate promptly.

18.20 In all cases Permanent Secretaries will wish to exercise their discretion. There may be instances where all the criteria above are satisfied but where an investigation would not be justified and, equally, where the investigation of an apparently 'oral' leak would be worthwhile. There are 2 risks attached to frequent investigations into leaks which do not satisfy the criteria in paragraph 18.19: first, they might devalue investigations generally and result in their being taken less seriously by staff; second, they might encourage individuals in the belief that they can disclose classified information with impunity.

Leaks Involving More than one Department

18.21 If the leaked information was available within more than one Department enquiries should be made as quickly as possible in all the Departments concerned. The responsibility for initiating these procedures lies with the Department primarily concerned, that is, the Department whose information has been leaked.

18.22 The initiating Department should consult the other Departments concerned, at Permanent Secretary level, about the leak. If it is not clear that the leak has occurred in the initiating Department, each Permanent Secretary should be invited to instruct his Departmental Security Officer to conduct prompt but discreet enquiries to see if it can be quickly established from which Department the information was leaked. If this can be done, responsibility for investigating the leak will pass to the appropriate Permanent Secretary. If it cannot be established, the initiating Department will retain the responsibility for the investigation until the source of the leak has been established.

18.23 Any leak involving Sigint information must be investigated in accordance with the procedures laid down in Chapter X of "Instructions and Regulations concerning the Security of Signal Intelligence" (IRSIG).

The Leak Procedure

18.24 When the preliminary enquiries (see paragraph 18.17) indicate that there has been a leak the Permanent Secretary of the initiating Department (or of the Department primarily concerned if this has been established) should inform the Chairman of the Official Committee on Security, with copies to the Private Secretary to the Prime Minister, the Director General of the Security Service, and the Legal Secretary to the Law Officers' Department (or, for Scotland, the Crown Agent) giving the result of the preliminary investigation and his conclusion about the likely damage caused. He should recommend whether or not circumstances warrant a full investigation. When an investigation is recommended, the Departmental Security Officer should, in consultation with his Permanent Secretary, take any reasonable steps likely to assist the investigation, in order to minimise delay.

18.25. The Legal Secretary to the Law Officers' Department (or the Crown Agent) should inform the Chairman of the Official Committee on Security whether the Attorney General (or the Lord Advocate) is satisfied that it would not at that stage be appropriate to institute an investigation by the Security Service or the police.

18.26 If the Chairman of the Official Committee on Security agrees that there should be no investigation, the Department concerned should submit, either at Permanent Secretary level to the Chairman of the Official Committee on Security or at a lower level to the Management and Personnel Office Secretary to the Official Committee, a report of the circumstances of the leak, any preliminary or other investigation which has taken place and the conclusions and lessons which can be drawn, together with any background information which is likely to be of use to the Central Panel of Investigators in future investigations. The Central Panel is described in paragraph 18.32.

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18.27 If the Chairman of the Official Committee agrees that an investigation should take place, the Management and Personnel Office will recommend that an investigator from the Central Panel of Investigators takes charge of the investigation. He will be directly responsible to the Permanent Secretary concerned but he should work closely with the Departmental Security Officer and his staff. If, exceptionally, and with the agreement of the Chairman of the Official Committee on Security, an investigator who is not a member of the Panel is invited to take charge, the Panel will remain available to assist or advise as required.

18.28 If, during an investigation, it becomes necessary to interview Ministers, the Permanent Secretary concerned is responsible for informing the Chairman of the Official Committee on Security, who will seek approval from the Private Secretary to the Prime Minister.

18.29 If at any stage in the investigation anything should emerge which might give rise to a reconsideration of the possibility of criminal proceedings or to the institution of civil proceedings, the Permanent Secretary should consult the Legal Secretary to the Law Officers, keeping the Chairman of the Official Committee on Security informed.

18.30 The investigator will report the outcome to the Permanent Secretary. The Permanent Secretary, after taking any necessary action, should submit the report, with details of any action taken, to the Chairman of the Official Committee on Security, with copies to the Director General of the Security Service and copies of the letter (but not the report) to the Private Secretary to the Prime Minister and to any other Permanent Secretaries involved. In addition he should arrange for any background information to be sent to the Management and Personnel Office for inclusion in its Central Records.

Central Records

18.31 Information about leaks and leak investigations is kept centrally in the Management and Personnel Office under the control of the Secretary to the Official Committee on Security. It is indexed and cross-referenced so as to facilitate the task of investigators. Access to this information, apart from those who maintain it, is restricted to the Chairman of the Official Committee on Security and to investigators. Information which has been submitted to the Management and Personnel Office in confidence is kept securely and will be made available to an investigator only if it proves necessary to do so for the purposes of an investigation on which he is engaged.

Central Panel of Investigators

18.32 The Central Panel of Investigators consists of those who have been selected to provide a wide range of background experience in both the Civil Service and criminal investigation and who have agreed to make themselves available, subject to their other commitments, to investigate leaks as and when they may be asked to do so. It consists mostly, though not exclusively, of retired public servants who have been recommended by their former employers for this work. Individual members will be selected ad hoc to deal with a particular investigation after discussion between the Management and Personnel Office and the Department in which the investigation is to take place. The views of that Department will be the prime consideration in selecting the individuals concerned. After discussion with the Department, the Management and Personnel Office will establish the availability of the investigator or investigators who have been selected as suitable, and will leave the Department concerned to get in touch and make the necessary arrangements. Terms and conditions of service are fixed by the Management and Personnel Office in consultation with the Treasury, but the Department conducting the investigation will be responsible for employing each investigator on a day-to-day contract-for-service basis. For investigations of the most serious leaks, which might involve interviews with very senior Officials or with Ministers, it might be agreed that a pair of investigators should work as a team. Membership of the Panel is subject to continuous scrutiny by the Management and Personnel Office in discussion with Departments and in the light of experience.

Possible Legal Action to Recover Documents or Discover Sources

18.33 If it should come to a Department's attention that one of the news media, which can be specifically identified, has possession of information arising from a leak, it may be possible to obtain an injunction to prevent publication in breach of Crown copyright (if the contents of a document are to be published) and/or breach of confidence. Action in such cases will need to be taken very swiftly, since no injunction is likely to be granted after publication; but, wherever possible, the Permanent Secretary of the Department concerned should consult the Chairman of the Official Committee on Security and, if it is decided to go ahead, the Management and Personnel Office will so instruct the Treasury Solicitor.

18.34 In theory it should be possible to recover documents (whether originals or copies) which have been sent by civil servants to a newspaper. For this to be a practical proposition, it would be necessary for the investigator to establish with reasonable certainty which document or documents have come into the possession of the newspaper, though not whether the documents are originals or merely copies; but any order for delivery up would be so worded as to extend to original documents and any copies in the newspaper's possession, whether or not these had been made by the newspaper. Among the factors which will need to be considered before this relief is sought are whether the documents contain sensitive information (lest it be said that resort has been had to legal proceedings to recover inconsequential documents) and whether recovery of the documents is likely to assist in ascertaining who was responsible for their disclosure; for example, there have been cases where forensic analysis of the documents which have been leaked has led to the identification of the culprit. In general, it should be recognised that it may become difficult to justify the frequent use of this procedure, with the attendant publicity which will almost inevitably be involved, unless the time, trouble and expense entailed can be shown to be matched by countervailing benefits. In cases where an investigator feels that recovery of the documents may prove essential to the success of the investigation, the Permanent Secretary of the Department concerned should consult the Chairman of the Official Committee. In some cases they may agree that Ministers should also be consulted. If it is decided to institute proceedings, the MPO will instruct the Treasury Solicitor.

18.35 In certain circumstances it might also be possible for the Crown to obtain an order against a newspaper that it should disclose the source of confidential information which has come into its hands. Such proceedings would not be taken except on the advice of Treasury Counsel and, where appropriate, the Law Officers; the agreement of the Permanent Secretary responsible for the investigation, after consultation with the Chairman of the Official Committee and any other Permanent Secretaries involved in the investigation, should be sought.

Breaches resulting from espionage or subversion

18.36 If the breach of security results from espionage or subversion, it is the responsibility of the Department in which the culprit was employed to ascertain what documents have been or are likely to have been compromised and to notify the originator - if another Department - who should in turn notify all other Departments which may be concerned. If the compromised information was received from an allied foreign government, the Department should consult the Foreign and Commonwealth Office about how to inform the country concerned.

Limiting damage caused by a compromise

18.37 It is the responsibility of the originator to decide what steps, if any, should be taken to limit the damage caused by the compromise. In assessing the degree of damage the originator should always consider whether the document was correctly classified.

Cryptographic Material

18.38 The procedures for reporting compromises or violations affecting the security of cryptographic material or information are contained in Chapter 14 paragraphs 14.10-14.12.

LESSONS

18.39 Each incident should be regarded not only as calling for investigation in itself but also as a means of drawing lessons for the future - as showing, for instance, where the security arrangements of the Department are defective, or as pointing to failure by an individual to observe them. The measures to be taken may consist of further restriction of access to classified papers, improved document control or physical security eg room, key or combination setting security. No incident should be allowed to pass without its lessons being brought home to the individual responsible. Minor cases can sometimes be dealt with by means of a word from the Security Officer. In more serious cases the Security Officer should report the facts to the Establishments Branch, who will recommend what disciplinary measures, if any, are called for.

PUBLICITY

18.40 Departments may find that they achieve an improvement in security standards if they compile and distribute to Heads of Divisions/Branches a periodic return (say, quarterly) analysing by types of offence the number of breaches which have occurred branch by branch within the period. The individuals responsible for the breaches should not be identified in these returns.

Ref.A084/1468

NOTE FOR RECORD

Leak Procedures

Sir Robert Armstrong held a meeting on 14 May to discuss leak procedures attended by Sir Thomas Hetherington, Mr Steel, Mr Davie and Mr Parker.

2. Sir Robert Armstrong said that under the procedures adopted in 1980 as a result of the Morrison report, the Legal Secretary was informed on behalf of the Attorney General when a leak inquiry was in prospect, in order to consider whether the case was likely to warrant a prosecution under the Official Secrets Acts. Recent events had, however, shown both the importance and the difficulty of deciding as early as possible whether a leak should be treated as a disciplinary or a criminal matter. There was always a danger that an initial internal investigation would make a subsequent police investigation more difficult, both through delay and by making it more difficult to obtain admissible evidence. The key questions had been identified by the Director of Public Prosecutions' letter of 17 April.
3. Mr Steel said that in practice it was seldom possible to form a clear view on the basis of the initial report from the Department concerned. In particular, it would be helpful if this report included an estimate of the sensitivity of the information concerned, the likely damage and of whether there was any indication of the possible source of the leak.
4. Sir Thomas Hetherington said that the Attorney General was now much more inclined to prosecute than he had been when the procedures had been introduced and was consulted whenever there appeared to be a prima facie case.
5. In discussion it was pointed out that it was usually not possible to answer these questions at the time of the initial report. This suggested that an internal investigator should conduct a rapid internal inquiry in order to establish whether the police should be called in. It was however important to resist the tendency

to pursue an internal investigation too far; in particular, a decision should be taken before interviewing possible suspects.

6. In further discussion the following points were made:

(a) If a police investigation did not result in a prosecution, it would usually not be possible to take disciplinary action as the information obtained by the police was confidential. This emphasised the importance of the initial decision on the type of investigation.

(b) It would be helpful if the Attorney General provided further advice on what might constitute a case on which a prosecution under the Official Secrets Acts could be mounted.

(c) Despite the risks of damaging the prospects of a subsequent prosecution, some internal inquiries had come very close to identifying the culprit.

(d) The damage caused by an individual leak was often less serious than the implications of possible further leaks.

7. Summing up, Sir Robert Armstrong said that unless it was clear that a case should be handled from the outset by the police, the progress of the internal investigation should be kept under continuous review and the advice of the Director of Public Prosecutions sought as soon as there was any indication that a prosecution might be feasible. The Cabinet Office would strengthen the guidance to Permanent Secretaries on this point and emphasise the need to provide as much information as possible in the initial leak report, particularly on the gravity of the leak and the likelihood of discovering evidence for a prosecution. The Legal Secretary should continue to be party to this correspondence and assume responsibility for consulting the Attorney General if this seemed necessary. The Legal Secretary would also consult the Attorney General to see whether it was possible to provide further guidance on the circumstances in which a prosecution would be envisaged.

R. HATFIELD

16 May 1984

R P HATFIELD

Copies: Those present CONFIDENTIAL

~~CONFIDENTIAL~~

NOTE OF A MEETING

LEAKS: CALLING IN THE POLICE

1. On the afternoon of 17 December 1980 Mr Fraser chaired a meeting in the Civil Service Department to discuss the implications of the Attorney General's recent decision to instruct the Police to investigate an unauthorised leak of information from the Ministry of Defence.

2. The following were present:

- Mr A M Fraser (in the Chair)
- Mr J F Boyd, Inland Revenue
- Mr R S Matthews, DHSS
- Mr J Nursaw, Legal Secretary to the Law Officers
- Mr R F D Shuffrey, Home Office
- Mr E Pendlebury, Ministry of Defence
- Mr L Judd, Department of the Environment/Transport
- Mr S R Davie, CSD
- Mr P A James, CSD (Secretary).

3. The following points were raised in discussion:

- a. there were a number of disadvantages in calling in the Police to investigate leaks. These included the slow speed with which the Police had to work; the work load of the Policemen involved and the relative importance with which the Police authorities regarded leak investigations in relation to other crime; and the fact that when the only serious offence was related to Section 2 of the Official Secrets Act 1911 it was unlikely, save in exceptional circumstances, that a prosecution would be in the public interest;
- b. investigation by individual Departments, or by members of the Central Panel of Investigators was more likely to produce speedy results, and disciplinary action provided a perfectly adequate deterrent to offenders;
- c. for these reasons the view of Departments represented at the meeting was that it was undesirable to call in the Police in cases where the only charges likely to arise would involve the Official Secrets Act;
- d. these matters had been covered in the review of leaks which had taken place earlier in the year, and the Report, which had the approval of the Prime Minister, also concluded against the use of Police for leak investigations. In the light of this Report the rules were currently being revised;
- e. while the Official Secrets Acts remain on the statute the Attorney General would continue to need to consider in each case whether prosecution was likely to be in the public interest. He would not wish to commit himself in advance by issuing, for example, a general policy statement.

After discussion it was agreed that:

a. the Legal Secretary would discuss the outcome of the meeting with the Attorney General and, if the Attorney General agreed, would write to Mr Fraser, copying to those present from other Departments, indicating that:

i. he should continue to be kept informed about all leak investigations, and

ii. irrespective of the classification of documents leaked he would in general advise the Attorney General that a Police investigation with a view to eventual prosecution for an offence under the Official Secrets Acts was unlikely to be in the public interest where the offender was a civil servant against whom adequate disciplinary measures could be taken and unless he was advised by the Department concerned that the information disclosed was particularly damaging to state security;

b. if the Attorney General felt unable to agree to this understanding it would be necessary to consider the matter further;

c. Sir Ian Bancroft would be invited by the Chairman to take an early opportunity to mention these matters at a future Wednesday meeting of Permanent Secretaries.



MO 5/21

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~938 7022~~ 218 2111/3

18th September 1984

FERR
CDD

Dear Robin,

PRIME MINISTER'S LETTER TO MR KINNOCK

Many thanks for your letter of 18th September which we discussed on the telephone.

The Defence Secretary had two comments on your draft:

- a. he would prefer line 8 of paragraph 2 to read
....."Michael Heseltine agreed as long ago as 26th July ..."
- b. he would like to expand the description of the sequence of events leading up to the decision by the Law Officers to prosecute Mr Ponting, in order clearly to refute the assertions in last Sunday's Observer. I attach a form of words which I have cleared with the Law Officer's Department which includes the point subsequently raised by the Solicitor General.

I am copying this letter and the attachment to Len Appleyard (FCO), John Ringguth (Law Officer's Department) and Richard Hatfield (Cabinet Office).

Yours ever,

R. C. Mottram

(R C MOTTRAM)

F E R Butler Esq



MO 22/5

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Prime Minister
Two minor glosses by the Law
Officer Department noted in the margin. But this provides a
sound basis for rebutting the suggestions in Mr. Kinnoch's
letter and in The Observer. A more worrying question

MINISTRY OF DEFENCE is: Who leaked to ~~the~~
MAIN BUILDING WHITEHALL LONDON SW1 ~~XXXXXX~~

Flag A

Telephone 01-~~938~~ ~~X02X~~ 2111/3

~~referred~~ The
Observer the minute
attached to the letter

17th September 1984

below?

FERB

17.9.

Dear Robin

PROSECUTION OF MR PONTING: SEQUENCES OF EVENTS

When we spoke on the telephone this morning, you asked for a note setting out the precise sequence of events surrounding the decision to prosecute Mr Ponting under the Official Secrets Act, following the assertions in yesterday's "Observer":

1. After an investigation lasting several days by the Ministry of Defence Police, which included examination of forensic evidence in connection with the use of a photocopying machine, an admission was obtained from Mr Ponting at about 1800 on Friday 10th August. At the same time he offered his resignation in a short hand-written note to Mr Richard Hastie-Smith, our PEO. Mr Ponting's resignation was noted but not in any way accepted and he was escorted out of the building after surrendering his pass and keys.

x | 2. On Monday 13th August, Sir Ewen Broadbent, our Second Permanent Secretary, called on the Director of Public Prosecutions, at about 1100, to advise him that the source of the leak had been found. He put to the DPP the departmental view that there was a choice between proceeding by departmental administrative methods, which could lead to invidious comparison with the Sarah Tisdall case; or by prosecution which could lead to renewed controversy over the Belgrano. Sir Ewen Broadbent also passed on the Chief Constable MDP's view that prosecution was not appropriate. At that stage the DPP noted this view pending discussion with the Law Officers. Later that morning Sir Ewen discussed the case with Peter le Cheminant in the Management and Personnel Office to establish the position with regard to civil service disciplinary proceedings. It was agreed that, as is normal practice, no action should be taken until it was known whether or not there would be a prosecution.

3. At about lunchtime on the same day, Sir Ewen was telephoned by the Solicitor General to establish what security damage, if any, had been done by the leak of the documents concerned. Sir Ewen Broadbent, replied that a detailed assessment was being undertaken

R Butler Esq

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The Solicitor
General does
not recall saying this

but the initial view was that very little damage had been done. In the course of this telephone conversation, the Solicitor General observed that, at that early stage, he favoured prosecution.

4. In the afternoon of 13th August Sir Ewen Broadbent called on my Secretary of State at home to advise him of where matters stood. I attach a copy of the record of that meeting which appears to be the document referred to by the Observer. You will note from this that my Secretary of State expressed the personal view that if the decision were his, he would prosecute Mr Ponting, but that the decision whether or not to do so must rest with the Law Officers. Sir Ewen Broadbent agreed with this view.

5. On 14th August Mr Ponting was seen by Mr Hastie-Smith and advised in writing that as consideration was still being given to possible prosecution and/or departmental disciplinary proceedings, his resignation could not be accepted.

6. The period from Tuesday 14th August to Thursday 16th August was spent by the Ministry of Defence Police in preparing a case file for the DPP. This is done automatically in all cases involving offences under the Official Secrets Act, but the DPP was aware that such a file was being compiled, and indeed asked for it to be completed as a matter of urgency in a conversation he had with the Chief Constable MDP on Monday afternoon the 13th. This file was passed to him on Thursday 16th August.

The decision
was in fact
taken by the
Solicitor General

7. In the course of Friday 17th August the DPP consulted the Solicitor General, who in turn contacted the Attorney General by telephone. He had also received that day a copy of the damage assessment compiled by this Ministry, under cover of a letter from Sir Ewen Broadbent which stated that in narrow security terms no damage had been done, but that there were obviously wider implications connected with breach of trust. In the light of all the information available, the decision to prosecute was taken by the DPP with the agreement of the Law Officers at about 1600 on the same day. Mr Ponting was arrested and charged shortly thereafter.

8. In accordance with my Secretary of State's instructions, Sir Ewen Broadbent arranged for Mr Stanley, the duty Defence Minister, to be briefed on the case on the evening of 14th August. At his request Mr Stanley was provided with some further background material on Wednesday 15th August, and he was kept up to date in a series of secure telephone conversations the first of which took place on the afternoon of 16th August. I understand that at no time did Mr Stanley speak directly to the Law Officers or to the Prime Minister; after the decision had been taken to prosecute Mr Ponting, Mr Stanley was contacted by your office about the background to the case and also spoke to the Lord President.



Comment

Sir Ewen Broadbent did not communicate the Defence Secretary's views on prosecution to the DPP or the Law Officers as there was no need to do so. The position the Department was taking up from 13th August onwards was that the case now lay with the DPP, and the MOD should provide material but not intervene on the expression of views on whether or not to prosecute. As for the DPP's office's statement over the weekend that they did not receive any papers on the Ponting case until 16th August, this, of course, refers to the MDP case papers mentioned in paragraph 6 above. The DPP was aware much earlier (on Monday 13th August) that the source of the leak had been found, and that therefore prosecution was a possibility, and had consequently called for the early submission of the police report.

The Defence Secretary has also asked me to record his own views on the damage assessment referred to in paragraph 7 above. This assessment addresses only the narrow question of the implications for national security of the release of the particular information contained in the documents which were disclosed rather than the wider question of the risk that a process of disclosures on the Belgrano issue could ultimately lead to the compromise of information of the most sensitive kind. It was this security interest that he had very much in mind when originally considering himself whether Mr Dalyell's further questions should be answered and which led him to view with such concern the action taken by Mr Ponting. But none of this of course affects the sequence of events above.

The text of this letter (other than the previous paragraph) has been cleared with the Director of Public Prosecutions to whom I am sending a copy; I am also copying it to Henry Steel (Attorney General's chambers) and Richard Hatfield (Cabinet Office) (without the enclosure)

Yours etc.

Richard Mottram

(R C MOTTRAM)



MO 22/5

14th August 1984

PS/2nd PUSUNAUTHORISED DISCLOSURE OF DOCUMENTS TO TAM DALYELL MP

2nd PUS discussed the results of the investigation into this case with the Secretary of State at his home in Thenford yesterday evening.

2. Sir Ewen Broadbent explained that as a result of some good work by the MOD Police the Head of DS5, Mr Ponting, had signed a confession that he had sent the documents in question to Mr Dalyell. Mr Ponting had subsequently tendered his resignation from the Department and from the Civil Service. He had been suspended from duty and sent home. His motivation in leaking the documents was unclear, but it was perhaps relevant that Ponting had recently gone through a difficult patch in his private life, in the course of which he had become a Buddhist. In the light of his new religious beliefs, steps had been taken prior to the outcome of the investigation to arrange a transfer for him to a Department of State in which he could serve without difficulties of conscience. These personal considerations, did not, of course, in any way excuse his conduct but might be used with advantage by a good defence lawyer if Ponting were to be prosecuted. In the light of his confession, it would clearly be invidious for his wife, currently serving as a Principal in the Department, to continue to work in the MOD. A posting to another Department would be arranged.

3. Continuing, 2nd PUS said that the documents passed to Mr Dalyell included an unclassified draft letter to the MP, prepared by the Head of DS5, which had been the subject of substantial revision before finally being sent, together with a minute from the Head of DS11 to the Secretary of State's office, classified CONFIDENTIAL, discussing the tactics for handling a request for information from the House of Commons Select Committee on Foreign Affairs. Both documents concerned the sinking during the Falklands conflict of the Argentine cruiser BELGRANO. The leaking of the documents could not be held to be seriously damaging in terms of national security, but the revelation of the leak would be embarrassing to the Government. In view of the very limited nature of the potential damage to national security, the Chief Constable of the MOD Police had recommended that Ponting should not be prosecuted under the Officials Secrets Acts.



4. 2nd PUS went on to say that he had discussed the matter that morning with the Director of Public Prosecutions, who had referred the case to the Solicitor-General, who had said that he would need more time and a closer look at the papers before he was in a position to reach a decision. While the case for prosecution under the Official Secrets Acts on grounds of damage to national security was somewhat shaky, it was relevant that the Lord Chief Justice, in upholding Miss Sarah Tisdall's conviction for passing classified documents to the Guardian, had referred in his judgement not only to the damage to national security involved in her action, but also the breach of trust involved. Ponting's actions clearly constituted a grave breach of trust, particularly given his senior rank within the Civil Service. If in the event it were to be decided that Ponting was not to be prosecuted, the question arose as to whether the Department should accept his resignation, or refuse it and dismiss him by administrative action; this latter course could involve a penalty to Ponting's eventual pension rights. In the absence on leave of the Head of the Civil Service, 2nd PUS had discussed this question with Peter Le Cheminant of the Management and Personnel Office. Their conclusion had been that the first step must be to await the Law Officers' decision on whether to prosecute. It was probable that a decision not to prosecute in this case, but rather to accept Ponting's resignation or to dismiss him administratively would be contrasted unfavourably in public with the handling of the Tisdall case, particularly given the disparity in rank of the two individuals.

5. The Secretary of State said that he was shocked by this flagrant breach of confidence by a senior officer who must have been fully aware of the potential consequences of his actions. He had been in no doubt that the decision to prosecute Miss Tisdall under the Official Secrets Acts was right; if the decision were his, he would prosecute Ponting. He would, however, be content to abide by the Law Officers' decision in the case; if they decided not to prosecute, his preliminary view was that Ponting's resignation should be rejected, and that he should be dismissed from the Civil Service by administrative means.

6. In conclusion, the Secretary of State asked 2nd PUS to ensure that the Minister of State in charge of the Department in the Secretary of State's absence on leave was briefed on Ponting's case against the possibility that the news of his suspension might break. In the short term, the line to take in public would be that the case was under consideration by the Law Officers.

D. Brennan

(D BRENNAN)
APS/S of S

PERSONAL AND RESTRICTED
STAFF IN CONFIDENCE

Belgrano: Kinnock accuses Heseltine

by DAVID LEIGH

THE BELGRANO affair took a dramatic new turn last night when opposition leader Mr Neil Kinnock flatly contradicted Mrs Thatcher's version of events.

Mr Kinnock accused the Defence Secretary, Mr Michael Heseltine, of personally over-ruling his own officials' advice that civil servant Mr Mike Ponting should not be prosecuted on secrets charges.

This directly challenges the Prime Minister, who denied in a letter yesterday to SDP leader Dr David Owen that Mr Heseltine had behaved improperly.

The Prime Minister's letter also disclosed that she has ruled out a new Government White Paper on the matter.

What is more likely to provide controversy, however, is the detailed account she gives of how the Ponting prosecution was brought. This account is now being called into question. Mr Kinnock said he regarded the matter as one 'of very grave concern.'

The argument centres on the events of 13 August. It was on this day, says Mrs Thatcher, that the results of the Defence Ministry investigation into the leaked Belgrano documents were sent to the Director of Public Prosecutions. 'The Defence Secretary and I were told of the outcome of the inquiry and that the matter had been referred to the DPP,' she wrote.

A spokesman for the DPP's office has told *The Observer*, however, that the documents were not received until 16 August—three days later.

Mr Kinnock's advisers have been told by senior officials within the Ministry of Defence that on the afternoon of 13 August Mr Heseltine was visited at his Oxfordshire home by the acting senior official at the MoD, Mr Ewen Broadbent.

He had been informed that the Chief Constable of the MoD police had completed his inquiry and recommended that no prosecution should be brought. This was in line with a long-standing convention in the MoD that only cases involving leaks liable to endanger national security should attract a criminal charge.

Mr Kinnock's letter is believed to be based on a minute signed by Mr Dennis Brennan, an assistant private secretary, recording the discussion at Mr Heseltine's home.

Mr Broadbent was the most senior civil servant at the Ministry in the absence on holiday of the Permanent Secretary, Sir Clive Whitmore. Mr Heseltine himself was due to leave for Cyprus the following day.

At the meeting, Mr Broadbent informed Mr Heseltine that the Chief Constable of the MoD police, backed by his departmental superior, did not recommend prosecution as the result of Mr Heseltine's 'leak inquiry.'

Mr Heseltine surprised officials by countermanding their advice and insisting that the Attorney-General, Sir Michael Havers, be called on to agree to Mr Ponting's criminal prosecution. The detailed arrangements were left in the hands of the junior minister, Mr John Stanley. Whitehall sources confirm that Mr Stanley phoned Mrs Thatcher on holiday in Switzerland on the same day.

Mrs Thatcher's letter to Dr Owen, published yesterday and presumably based on a brief from Mr Heseltine, paints a very different picture.

This gives the impression that impartial officials had already themselves referred the case to the DPP as a criminal matter. She says: 'It was made clear to Mr Ponting when he was interviewed on 10 August . . . that the possibility of prosecution was under consideration.'

The Brennan minute, however, discloses that prosecution had been considered but rejected by 13 August. What happened during Mr Ponting's interviews the previous Friday is a matter of evidence not yet tested in court, though Mrs Thatcher makes assertions about what happened.

Mrs Thatcher further claimed last night that Mr Ponting had again been warned, this time in writing on 14 August, that prosecution was 'under consideration.' In fact, this notification must have been as a result of Mr

Heseltine's intervention the day before.

Mrs Thatcher went on to claim that the Attorney-General had acted 'in a totally independent and non-political capacity' in agreeing to prosecute, and claimed to be 'astonished' to be asked to comment on the decision.

She did not, though, deny that Ministers might have made representations to the Attorney-General on the subject, merely stating that the Attorney himself had not sought to consult ministers, and that Ministers did not 'interfere in any way with his discretion.'

Within three days of Heseltine's intervention, the Government law officers—Sir Michael Havers, on holiday in France, and the Solicitor-General, the former Home Office Minister, Sir Patrick Mayhew—complied with Mr Heseltine's request, and authorised a criminal charge.

The DPP's office confirmed last week that normal procedure in the case of proposed extensions in the scope of the law was not followed. The papers in the Ponting case were not sent out to independent counsel for a legal evaluation.

The particular sensitivity of Ministers over-ruling the impartial advice of their officials in the Ponting case is that each Minister involved, if Mr Kinnock's charge is correct, had a

vested political interest in the decision whether or not to prosecute.

Mrs Thatcher herself, Mr Heseltine, Mr Stanley and Sir Michael Havers all figure in the documents disclosing the facts about the Belgrano which form the background to the case.

Mr Kinnock's allegations follow a week in which Mrs Thatcher's press secretary, Bernard Ingham, was disclosed to have talked to government information officers about getting 'a severe judge' for the case.

Mr Kinnock says in his letter: 'Civil servants who must prepare documents for parliamentary answers and other Ministerial statements on this matter are clearly right to believe they have no duty to obscure information or present it in a way which could mislead or misinform parliament and the public.'

Mr Heseltine himself issued a statement last week denying that he had agreed to testify to the Commons select committee on foreign affairs about the Belgrano sinking because of recent *Observer* disclosures.

What his statement omitted to mention was that he had only consented to do so last July because Sir Anthony Kershaw confronted him, at the foreign affairs committee's request, with the contents of the documents Mr Ponting is now alleged to have criminally disclosed. Sir Anthony agreed last night that this was the true sequence of events. Text of letters, page 2.



Kinnock: Grave concern.

'The Observer'
16 September 1984

Belgrano: Kinnock accuses Heseltine

by DAVID LEIGH

THE BELGRANO affair took a dramatic new turn last night when opposition leader Mr Neil Kinnock bluntly contradicted Mrs Thatcher's version of events.

Mr Kinnock accused the Defence Secretary, Mr Michael Heseltine, of personally over-ruling his own officials' advice that civil servant Mr Clive Ponting should not be prosecuted on secrets charges.

This directly challenges the Prime Minister, who denied in a letter yesterday to SDP leader Dr David Owen that Mr Heseltine had behaved improperly.

The Prime Minister's letter also disclosed that she has ruled out a new Government White Paper on the affair.

What is more likely to provide controversy, however, is the detailed account she gives of how the Ponting prosecution was brought. This account is now being called into question. Mr Kinnock said he regarded the matter as one 'of very grave concern.'

The argument centres on the events of 13 August. It was on this day, says Mrs Thatcher, that the results of the Defence Ministry investigation into the leaked Belgrano documents were referred to the Director of Public Prosecutions. 'The Defence Secretary and I were told of the outcome of the inquiry and that the matter had been referred to the DPP,' she wrote.

A spokesman for the DPP's office has told *The Observer*, however, that the documents were not received until 16 August—three days later.

Mr Kinnock's advisers have been told by senior officials within the Ministry of Defence that on the afternoon of 13 August Mr Heseltine was visited at his Oxfordshire home by the acting senior official at the MoD, Mr Ewen Broadbent.

He had been informed that the Chief Constable of the MoD police had completed his inquiry and recommended that no prosecution should be brought. This was in line with a long-standing convention in the MoD that only cases involving leaks liable to endanger national security should attract a criminal charge.

Mr Kinnock's letter is believed to be based on a minute signed by Mr Dennis Brennan, an assistant private secretary, recording the discussion at Mr Heseltine's home.

Mr Broadbent was the most senior civil servant at the Ministry in the absence on holiday of the Permanent Secretary, Sir Clive Whitmore. Mr Heseltine himself was due to leave for Cyprus the following day.

At the meeting, Mr Broadbent informed Mr Heseltine that the Chief Constable of the MoD police, backed by his departmental superior, did not recommend prosecution as the result of Mr Heseltine's 'leak inquiry.'

Mr Heseltine surprised officials by countermanding their advice and insisting that the Attorney-General, Sir Michael Havers, be called on to agree to Mr Ponting's criminal prosecution. The detailed arrangements were left in the hands of the junior minister, Mr John Stanley. Whitehall sources confirm that Mr Stanley phoned Mrs Thatcher on holiday in Switzerland on the same day.

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The Brennan minute, however, discloses that prosecution had been considered but rejected by 13 August. What happened during Mr Ponting's interviews the previous Friday is a matter of evidence not yet tested in court, though Mrs Thatcher makes assertions about what happened.

Mrs Thatcher further claimed last night that Mr Ponting had again been warned, this time in writing on 14 August, that prosecution was 'under consideration.' In fact, this notification must have been as a result of Mr

Heseltine's intervention the day before.

Mrs Thatcher went on to claim that the Attorney-General had acted 'in a totally independent and non-political capacity' in agreeing to prosecute, and claimed to be 'astonished' to be asked to comment on the decision.

She did not, though, deny that Ministers might have made representations to the Attorney-General on the subject, merely stating that the Attorney himself had not sought to consult ministers, and that Ministers did not 'interfere in any way with his discretion.'

Within three days of Heseltine's intervention, the Government law officers—Sir Michael Havers, on holiday in France, and the Solicitor-General, the former Home Office Minister, Sir Patrick Mayhew—complied with Mr Heseltine's request, and authorised a criminal charge.

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Mr Kinnock's allegations follow a week in which Mrs Thatcher's press secretary, Bernard Ingham, was disclosed to have talked to government information officers about getting 'a severe judge' for the case.

Mr Kinnock says in his letter: 'Civil servants who must prepare documents for parliamentary answers and other Ministerial statements on this matter are clearly right to believe they have no duty to obscure information or present it in a way which could mislead or misinform parliament and the public.'

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Kinnock: Grave concern.

'The Observer'
16 September 1984

PREM 19/1626



FISE 84
CC: FERB
LDP
DB
Bingham

10 DOWNING STREET

From the Private Secretary

14 September, 1984

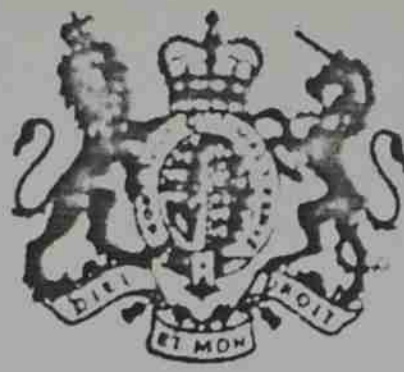
I enclose a copy of a letter to the Prime Minister from the Leader of the Opposition, which we have just received.

I should be grateful for early advice, and a draft reply.

I am sending copies of this letter and the enclosure to Len Appleyard (Foreign and Commonwealth Office) and to Henry Steel (Law Officers' Department).

DAVID BARCLAY

Richard Mottram, Esq.,
Ministry of Defence



File 75

10 DOWNING STREET

THE PRIME MINISTER

14 September 1984

Dear Mr. Owen.

Your letter of 13 September covers a number of separate matters.

As regards the charges against Mr. Ponting, you must know that the Attorney General acts in a totally independent and non-political capacity in making decisions on prosecutions. It would be improper for me or my colleagues to interfere in any way with his discretion in the exercise of that function and I confirm that we did not do so in Mr. Ponting's case. Similarly, I have no intention of commenting now on the Attorney General's decision and I am astonished by your suggestion that I should do so.

You asked about the sequence of events leading up to the decision to charge Mr. Ponting. When the two documents were returned to the Ministry of Defence by the Select Committee Michael Heseltine decided that an investigation should be undertaken by the Ministry of Defence Police into the circumstances in which the documents had come into the hands of Mr. Tam Dalyell. The results of that investigation were referred to the Director of Public Prosecutions on 13 August. Later that day the Defence Secretary and I were told of the outcome of the inquiry and that the matter had been referred to the Director of Public Prosecutions. The Director of Public Prosecutions consulted the Solicitor General in the absence

14

of the Attorney General, who decided on 17 August that charges should be brought against Mr. Ponting. The Attorney General endorsed this decision. The Law Officers did not consult any of their Ministerial colleagues. Nor was there an initial decision by them not to prosecute: indeed, it was made clear to Mr. Ponting when he was interviewed on 10 August and again in writing on 14 August that the possibility of prosecution was under consideration.

You also enclosed your speech to the SDP Party Conference, in which you requested an immediate White Paper about the Belgrano. I see no need for such a White Paper. The Select Committee on Foreign Affairs is, as you know, carrying out an inquiry of these matters, and Michael Heseltine wrote to the Chairman on 26 July to say that he would be happy to give evidence to that inquiry.

Finally, you refer to Mr. Bernard Ingham, presumably basing yourself on an item in the diary column of The Guardian on 13 September. I understand that this referred to an internal meeting of Government Information Officers and that the account entirely misrepresents the nature of Mr. Ingham's remarks.

Yours sincerely
Margaret Thatcher

The Right Honourable Dr. David Owen, M.P.

cc. ARGENTINA
Relations A. 38.



Prime Minister⁽²⁾

HOUSE OF COMMONS
LONDON SW1A 0AA

The Office of the Leader of
the Opposition

September 14th 1984

Dear Prime Minister

It came to my notice over a week ago that senior Foreign Office civil servants had sought to persuade your Government to release full details of the timing and nature of communications with HM Submarine Conqueror and of the deliberations of the War Cabinet in relation to the decision to sink the Argentine warship General Belgrano on 2nd May 1982.

I understand that Ministers have been advised that publication of such details would not compromise national security and that there is no good reason to suppress further or withhold such information. Civil servants who must prepare documents for Parliamentary Answers and other Ministerial statements on this matter are clearly right to believe that they have no duty to obscure information or to present it in a way which could mislead or misinform Parliament and the public. The Observer report of last Sunday gave further indication that civil servants were resentful about the role which they are being required to play in the Belgrano affair. Before writing to you about this matter, however, I wished to satisfy myself about the accuracy of the reports I had received.

I believe you were wrong initially to refuse to establish the independent enquiry into the sinking of the Belgrano which we have continually pressed upon you. I hope that you will reconsider your original decision and accept the advice which you are currently receiving.

Operational confusion in the long-distance transmission of orders and reports in battle conditions is understandable. But the refusal of the Government to acknowledge even the possibility of error is not so easily explained. Since there are now no considerations of national security or 'pressing operational reasons' to inhibit such explanations I trust that they will be quickly and comprehensively published.

.... /2

2

September 14th 1984

The Rt Hon Margaret Thatcher MP

There is a further matter of very grave concern, the conduct of your Government towards Mr Clive Ponting. There is reason to believe that when the enquiries into the disclosure of documents to my colleague Tam Dalyell and, through him, to Sir Anthony Kershaw, had been completed, it was decided that the action involved was a breach of trust and not of a criminal nature. As you will be aware, that decision followed the long-established convention in such cases.

I understand that the Secretary of State for Defence was notified of the outcome of the investigation and that, despite this convention and despite the fact that senior civil servants intended to follow that convention in the case of Mr Ponting, he overruled their advice and insisted that Mr Ponting be prosecuted under Section 2 of the Official Secrets Act. I can only presume that you endorsed this action either before or after arrangements to prosecute Mr Ponting were begun.

I am informed that further and even more serious allegations concerning the treatment of Mr Ponting will be made by the defence, on which it would not, of course, be proper for me to comment at this stage.

Whilst I welcome the decision, in the wake of the leaking of the documents and other related events, that the Secretary of State will appear before the Select Committee on Foreign Affairs, that may well be after proceedings against Mr Ponting have begun and the Select Committee's questions will not necessarily relate directly to the treatment which this individual has received.

I hope therefore that you will provide me with a separate and accurate account of the decisions relating to Mr Ponting which were made in the department and by the Secretary of State for Defence.

.../3


3

September 14th 1984

The Rt Hon Margaret Thatcher MP

I will not be making this information concerning Mr
Ponting generally available for the next 24 hours.

Yours sincerely

pp 

Neil Kinnock MP

(dictated by Mr Kinnock and signed in his absence)

The Rt Hon Margaret Thatcher MP

Letter despatched 15/9

PRIME MINISTER

Last paragraph agreed with Bernard subject to a very small drafting amendment to make it run better.

The Law Officers have asked us to remove the sentence saying that the Defence Secretary agreed with the decision to refer the matter to the Director of Public Prosecutions. The reason is that it was not for the Defence Secretary to agree or disagree with this. I have also made an amendment to say that you as well as the Defence Secretary were told of the outcome of the inquiry after the matter had been referred to the Director of Public Prosecutions. These amendments make it absolutely clear that neither you nor the Defence Secretary played any part in the decision to prosecute Mr. Ponting.

ROBIN BUTLER

14 September 1984

1/A



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-936 7022 218 2111/3

MO 5/21

14th September 1984

~~Prime Minister~~

This is the draft reply to Mr. Foulkes, revised following last night's meeting. It may need some further ~~revision~~ re-ordering to take account of his second letter received today (and attached).

Dear Charles, Taken with the letter to Dr. Owen, the reply contains all that is necessary for replying to Mr. Kinnoch. Agree text?

LETTERS ABOUT THE FALKLANDS WAR

Following the Prime Minister's meeting last night, I attach revised drafts of the letters to Mr George Foulkes MP and Dr David Owen MP to take account of the points made then.

with CP?

The annex to the letter to Mr Foulkes includes a new paragraph 12 to deal with the statement made by Mr Nott on 4th May 1982. Other changes to the draft are sidelined. You will note that we have not been able to meet the Prime Minister's wish that we should quote directly Admiral Lombardo's statement because his views were expressed in the form of answers to questions put to him by Mr Fred Emery rather than made in the form of a statement. The views attributed to him accurately reflect the line he took.

The draft reply to Dr Owen includes substantial revisions to the account of the sequence of events leading to the decision to prosecute Mr Ponting because the Defence Secretary believes that it is to our advantage to be comprehensive in our account of this.

I am copying this letter to Len Appleyard (FCO), Henry Steel (Attorney General's Chambers) and Richard Hatfield (Cabinet Office).

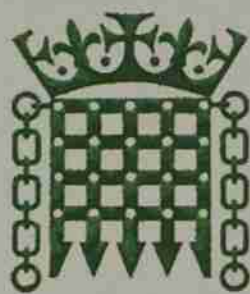
Yours etc,
Richard Mottram

(R C MOTTRAM)

C Powell Esq

THE RT HON DR DAVID OWEN MP

CG Press



HOUSE OF COMMONS
LONDON SW1A 0AA

13 September 1984

The Rt Hon Mrs Margaret Thatcher MP
Prime Minister
10 Downing Street
London SW1

Dear Prime Minister.

I am writing about the reported meeting that took place on Tuesday evening of Whitehall Information Officers in the Cabinet Office when apparently the possible prosecution of Mr Clive Ponting was discussed. If this subject was indeed discussed at such a meeting it surely confirms what I believe many sense is the case, that the Government as a whole and indeed your own principal spokesman for you as Head of the Government, Mr Ingham, are deeply involved. In not just discussing the case but of making it clear that the impending prosecution is to go ahead, it appears that Mr Ingham has demonstrated that the Government is involved. I would be grateful if you could let me know the sequence of events which took place within the Government from the moment that the Select Committee on Foreign Affairs returned the two Government documents relating to the Belgrano to the Ministry of Defence. In particular whether an initial decision was taken not to prosecute and who was responsible for that decision. Whether such decisions were passed on to Mr Ponting. At what stage the exact decision to prosecute was taken. Who was consulted within the Government. Whether you personally were consulted and what other Ministers were consulted. This is particularly necessary since I gather that the Attorney General himself was out of the country, although consulted by telephone.

While no doubt the Government has sought to preserve the formal position whereby the official decision to prosecute is taken by the Attorney General acting in his rather unique semi-independent capacity, it nevertheless must be clear that if you yourself or other Government Ministers felt that it would be better to drop the prosecution any Attorney General would consider that as an important and relevant factor in making their decision.

/..



I enclose a copy of a speech which I made in Buxton and I repeat my request that you should issue a White Paper immediately correcting the Parliamentary record and any other mis-statements made by yourself and other Ministers outside the House of Commons. I also urge you yourself to make it clear, that in the light of the present circumstances, it would be better if the Attorney General was to drop the prosecution. That still leaves it open to him to continue if he so wishes.

I would also like to raise a different though related matter concerning the conduct of your civil servant Press Officer, Mr Bernard Ingham. You will remember that on 5 August 1983 in a letter to me, you defended Mr Ingham's on the record remarks about Mr Peter Shore talking "bunkum and balderdash" and went on to describe these comments as characteristically vivid and colourful phrases.

I wonder if you would let me know whether you would use similar terms to describe his reported hope that an appropriate severe member of the judiciary would be on hand to hear the case of Mr Ponting, even going on to mention a couple of judges that he thought suitable to hear the case under Section 2 of the Official Secrets Act! I am sure the whole country would like to know the quality of the advice you are receiving from Mr Ingham!

Yours sincerely
David Owen

David Owen

CC PRESS

SDP PRESS OFFICE

Buxton

5 00 pm, Tuesday 11 September 1984

SPEECH BY THE RT HON DR DAVID OWEN MP DURING AN EMERGENCY MOTION
AT THE SDP PARTY CONFERENCE, BUXTON ON THE SINKING OF THE BELGRANO

The Government, in relation to the sinking of the Belgrano, has locked itself into a depressing cycle of error, half-truths and deliberate falsehood. The truth is not discreditable. It simply needs to be told.

Instead a campaign of misinformation is beginning to reach into the heart of democratic government - the integrity of the civil service is being brought into question.

We are in the early stages of a Watergate.

And unless the Government and in particular the Prime Minister, Mrs Thatcher, step forward promptly and tell the plain unvarnished truth, the situation will get worse and worse.

This has a quite different dimension to the Oman affair. There foolish family loyalties were mixed with the nation's business but it was noticeable that the Prime Minister throughout took great pains never to use words in the House of Commons that could be later shown to be false.

The core of the problem that we face over the Belgrano is that the House of Commons has not been told the truth.

Words have been used that have not only been misleading but have been false.

Whatever else happens, this is a threshold in our democracy which we cannot tolerate being crossed.

Nor can the civil service tolerate their members being made a party to false information being given to individual MPs or even more seriously deliberate misleading information being given to the Select Committee on Foreign Affairs, when they were actually investigating the Belgrano incident.

This is not a debate about whether or not on 2 May 1982 the British Government should have authorised the sinking of the Belgrano. I doubt any of us can say accurately what we might have done in such circumstances even if we now had in front of us every piece of information that was then available. I have never criticised or endorsed the decision to sink the Belgrano and I have no intention of doing so now.

Virtually at war, there had to be a great deal of trust between the citizens and its leaders and too much retrospective judgement about what exactly did or should have happened in the fog of war is a pretty unedifying sight.

I remain myself convinced that a competent Government would have ensured that the Falkland Islands were never invaded but they were invaded and this Party took a consistent line throughout the crisis that that act of aggression could not go unchallenged - and though initially we hoped, by negotiation, the Argentinians could be removed we did not flinch when the necessity came to endorse the brilliant and brave military action taken to remove the Argentinians.

On 2 May 1982, at a period of great danger, when Argentinian Seahawks had the day before attacked HMS Glamorgan, Admiral Woodward requested permission to sink the Belgrano. In justifying that decision in the House of Commons on 4 May 1982, Sir John Nott and the Prime Minister used words which have since been shown to be untrue. That is not of itself an issue for censure.

It may be that they did so deliberately and we have to face it that it is sometimes necessary in times of crisis, not only of war but for example at times of devaluation, for the House of Commons not to be told the total truth. It may be that in part the information was misleading because they did not have at that moment all the facts. But nevertheless the facts are now clear.

The Belgrano was not "detected on 2 May" (1982) but detected on 30 April 1982 and sighted on 1 May.

The Belgrano was not "closing on elements of our task force" and "only hours away" at the time of its sinking. In fact it had been sailing in the opposite direction for 11 hours. The Belgrano had not been making frequent changes of course. Indeed during that 11 hours it had only made two changes of course - the first to reverse its direction and then six hours later - before its sinking - it made a marginal change of course from 270° to 280°. Also it is now known that three torpedos were fired - two at the Belgrano and one at an escorting destroyer which was hit but the warhead did not explode.

It is also known that on 30 April 1982, permission had been given to sink the Argentinian aircraft carrier outside the Exclusion Zone without warning. That aircraft carrier which was initially traced, was lost and no engagement took place.

It is also known now that on 2 May 1982, discretion was given by the War Cabinet not just to sink the Belgrano but to consider as hostile any Argentinian ship outside the territorial waters. But that warning was not published to shipping until 7 May.

Yet it is not only the House of Commons that has been misled. In the Prime Minister's now famous interview with Mrs Gould during the General Election programme, Mrs Thatcher said the Belgrano was not steaming away from the Falklands when it was sunk. But indeed it had been. Also Tam Dalyell MP has been misled. His persistence has shown what a backbench MP can achieve.

There is still some doubt as to what information the Government had about the orders given to the Belgrano and other ships prior to their own decisions and the exact times when that information was received. Also about the Peruvian peace initiative, though I doubt its relevance to the Belgrano.

The Government should issue a White Paper immediately correcting the record. This they unwisely did not do after the war was over - when they issued on 14 December Cmnd 8758 which contained wrong information about the Belgrano. To put the full facts before the country and the world will not bring discredit, it will restore honour.

In particular, they should correct any mis-statements made to the House of Commons and they should answer any follow-up questions put to them by the Select Committee, with the accepted proviso that some intelligence information may not be able to be published.

If this was done promptly and quickly this whole episode could be set aside. There is no party political advantage here.

The crux is that the record must be set straight, and Parliament must be told the truth.

The alleged actions of a civil servant, Mr Clive Ponting, who is a member of this party, have made disclosure inevitable.

We believe civil servants should not be placed by any government in a position where they are made a party to false information being given to Parliament. It would be a grave political error to go ahead with a prosecution under Section 2 of the Official Secret Act. The one thing that can be said about such a prosecution is that if it goes ahead, hopefully it will result in the infamous Section 2 being abolished, as we have long believed it should be.

The message to Mrs Thatcher is a clear one. Tell the truth, drop the prosecution and the vast majority of this country will breathe a sigh of relief and turn to more important business.

Then we will avoid a long drawn out accrimonious bitter dispute which will only deepen the mistrust that people have of politicians and further weaken the good name of the British Parliament.

DIARY

IS THE Government going to heed the words of Dr Owen and adopt a franker approach towards the Belgrano sinking? Is it likely to have second thoughts on Mr Clive Ponting and drop all charges against him?

I think we can assume from Tuesday night's meeting of Whitehall information officers in the Cabinet Office that the answer is a resounding No. As ever, it was addressed by the Prime Minister's press secretary, Mr Bernard Ingham, who surprised even those who know him as a bullish sort of fellow by his aggressive stance towards those (particularly the FO representative) seeking to pursue a more doveish line.

Some information officers were even more astonished to hear Mr Ingham's view of the impending Ponting case. The Government was quite set upon prosecution, he said. Indeed, it was hoped that an appropriately severe member of the judiciary would be on hand to hear the case. Mr Ingham named a couple of judges he thought suitable.

Fortunately, we have Lord Hailsham's word for it in a speech only last night, that judges decide who is to hear a case, not politicians or civil servants. Perhaps we should put it down to Mr Ingham's natural braggadocio. Or has he acquired the Ronnie Reagan joke book?

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OWEN LIKENS BELGRAND AFFAIR TO WATERGATE

SDP LEADER DR DAVID OWEN TONIGHT LAUNCHED HIMSELF INTO THE BELGRAND AFFAIR, SAYING: "WE ARE AIN THE EARLY STAGES OF A WATERGATE."

HE TOLD THE SDP CONFERENCE THAT MRS THATCHER MUST TELL THE TRUTH AND DROP THE PROSECUTION OF DEFENCE CIVIL SERVANT CLIVE PONTING FOR ALLEGEDLY LEAKING DOCUMENTS ON THE CONTROVERSY. AND HE DISCLOSED THAT MR PONTING IS A MEMBER OF THE SDP.

SPEAKING IN AN EMERGENCY DEBATE AT THE SOCIAL DEMOCRATS' CONFERENCE IN BUXTON, DR OWEN SAID: "THE MESSAGE TO MRS THATCHER IS A CLEAR ONE. TELL THE TRUTH, DROP THE PROSECUTION AND THE VAST MAJORITY OF THIS COUNTRY WILL BREATHE A SIGH OF RELIEF AND TURN TO MORE IMPORTANT BUSINESS."

HE WANTED A WHITE PAPER CORRECTING THE RECORD OVER EVENTS SURROUNDING THE SINKING OF THE ARGENTINIAN CRUISER WITH THE LOSS OF 368 LIVES DURING THE FALKLANDS CONFLICT.

DR OWEN SAID: "THE CRUX IS THAT THE RECORD MUST BE SET STRAIGHT, AND PARLIAMENT MUST BE TOLD THE TRUTH."

HE ADDED: "THEN WE WILL AVOID A LONG DRAWN-OUT ACRIMONIOUS BITTER DISPUTE WHICH WILL ONLY DEEPEN THE MISTRUST THAT PEOPLE HAVE OF POLITICIANS AND FURTHER WEAKEN THE GOOD NAME OF THE BRITISH PARLIAMENT."

DR OWEN, A FORMER LABOUR FOREIGN SECRETARY, MADE CLEAR THAT HE DID NOT BELIEVE THE TRUTH WAS "DISCREDITABLE, IT SIMPLY NEEDS TO BE TOLD".

HE SAID: "INSTEAD A CAMPAIGN OF MISINFORMATION IS BEGINNING TO REACH INTO THE HEART OF DEMOCRATIC GOVERNMENT - THE INTEGRITY OF THE CIVIL SERVICE IS BEING BROUGHT INTO QUESTION. WE ARE IN THE EARLY STAGES OF A WATERGATE."

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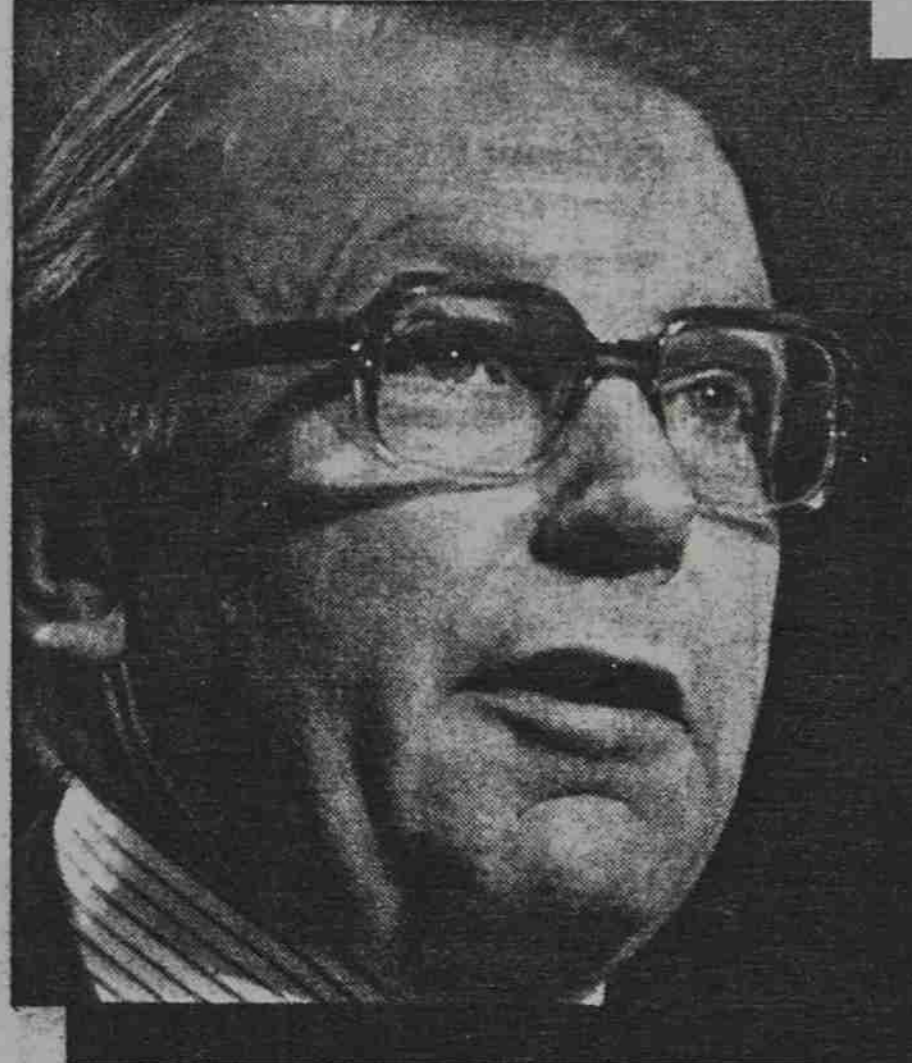
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FALKLANDS

THE COVER UP



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Mrs Thatcher's act of piracy

ON 4 MAY 1982 (two days after the event) the Ministry of Defence put out a formal statement about the sinking of the *General Belgrano*. The cruiser, it said 'may have been going in and out of the total exclusion zone'.

The statement was deliberately misleading. The operational side of the Ministry of Defence had known for three days that the *Belgrano* had never come near to penetrating the British banned 200-mile zone and that for at least 12 hours before it was sunk it was steaming steadily west (not zigzagging as subsequently claimed), giving every impression of heading home with her escorts. Whitehall and ministers have simply gone on lying about the episode ever since.

Whitehall and ministers have also been extraordinarily touchy about the episode ever since. Mrs Thatcher got seriously rattled over the *Belgrano* in that celebrated BBC *Nationwide* interview during last year's general election campaign. Mr John Nott stormed out of a studio interview, when Robin Day asked him some obvious and predictable question on the subject. A precipitate Official Secrets Act prosecution (which could end up causing the government a whole heap of problems) has been authorised this month because of Mr Clive Pontin's alleged leaking of documents to Mr Tam Dalyell. And the official Whitehall spokesmachine has clearly been instructed simply to bring down the shutters on the story.

Why the lies from the start? Why the extraordinary sensitivity ever since? As a result of the stories and documents that we have published last week and this the answer is now clear. The sinking of the *Belgrano* was a clear breach of international law. Mrs Thatcher and those around her knew it at the time, which is why we were treated to the original contradictory string of justifications for the act of piracy. They have known it ever since,

which is why we (and Tam Dalyell) have been treated to a two year cover-up of the facts. And that is why the Ministry of Defence misled the House of Commons Select Committee on Foreign Affairs, because (in the words of the Confidential minute published in the *New Statesman* last week) to have answered its questions honestly 'would provide more information than Ministers have been prepared to reveal so far about the *Belgrano* affair'.

Sinking the *Belgrano* was a breach of international law in several respects. Britain had deliberately chosen not to declare war on Argentina, so a state of war did not exist. The Thatcher government, throughout, relied on Article 51 of the United Nations Charter — the article which establishes a fundamental right of self-defence. The Maritime and then the Total Exclusion Zone declared around the Falklands in April 1982 could clearly be justified on that basis. The subsequent secret orders to sink *all* Argentine warships, not publicly announced until 7 May, five days after the *Belgrano* sinking, clearly could not.

It is not surprising that the Foreign Secretary felt the need to address a secret minute to the Prime Minister, drawing her attention to the nature of so flagrant a breach of international law.

International law certainly allows the concept of reprisal after acts of unprovoked aggression. But, as Peter Archer QC makes quite clear on p.10, such reprisal can only legitimately be commensurate with the original aggression. By 2 May 1982 no British serviceman had been killed by the Argentinians and peace initiatives were still very much in progress. Only a determination to have nothing to do with a negotiated compromise solution on the basis of Britain's own UN Resolution 502 can explain the sinking of an old cruiser as she wallowed her way home, drowning 368 Argentinian sailors. □

Len Murray bows out

BY THE END of next week, a new face will have been launched on the general public with the election of Norman Willis as the next General Secretary of the TUC. But will his round and jovial features become as familiar as Len Murray's lugubrious ones once were?

Len Murray was General Secretary at what looks now to have been the apogee of the TUC's influence. That was a decade ago with membership moving towards its peak of 12 million and seemingly inexorable growth in the crucial new service and technical sectors. The TUC appeared to be an indispensable part of Britain's system of tripartite government.

That era is ended. The series of snubs and defeats which this government has administered to the TUC have both deeply wounded Mr Murray and effectively undermined the role he had prescribed for the TUC. He leaves his post a defeated man, the leader with no effective strategy when faced with a government that simply didn't want to talk or listen to him. His most stunning disappointment was the GCHQ affair, which left him and the trade union movement aghast that a government could both take away people's right to join a trade union and could also turn then a deaf ear to his strongest protests about it.

At least Norman Willis will not now inherit the kind of TUC conflict that would have been caused if the NUM had demanded

absolute physical and financial support. But a conflict avoided is not a conflict solved.

Last year's 'new realism' strategy got a measure of support from Right and Left; although it eschewed confrontation it also acknowledged the need to reform anachronistic union structures and close the gaps between the leadership and the rank and file. But as conceived by the TUC such a strategy was bound to fail because, as John McIlroy points out on page 12, it depended in essence on a relationship with government — which the government was simply not prepared to allow.

But it would undoubtedly help restore the TUC's flagging authority would be if it could now influence the movement as a whole to make the reforms in organisation and outlook that will encourage unions to recruit and negotiate for the hundreds and thousands of workers, who at present think trade unions are irrelevant or positively alien to their needs. There is no point in continuing to wish to be taken seriously as a political institution by a government that won't listen. Influence will only be restored over the years by finding more flexible patterns of organisation, a commitment to union amalgamation where it's appropriate and a readiness to campaign on the vital, if controversial industrial issues — such as the environment, health and safety, and part-time work. □

MISCELLANY

Not the Belgrano Papers

Rupert Murdoch's newspapers have been waging war on the Belgrano Papers story on three fronts. The *Sunday Times* last weekend backed up the cruder approach of *The Sun*, The Paper That Wants Blood, with 'No truth in war cabinet rift', which purported to be a denial of the NS's revelations last week. Meanwhile, *The Times* nearly slipped up by publishing a further 'Belgrano leak' last Thursday. The first item in *The Times* diary was to have been the disclosure that Mrs Thatcher, having authorised the sinking of the *Belgrano* at Chequers, rushed to Naval HQ at Northwood to be present in the operations room for the attack itself. One might conjecture that the story was pulled out at the last minute, not because senior persons thought it was inaccurate, but because it portrayed Mrs T as a monger of war.

Not fade away

Another stirring story of a lone 'ordinary worker' standing against the bullying might of the union in the *Daily Telegraph*. This time it is Mr Medlock Bibby, whom even the *Guardian* described as a 'rank and file docker' at Tilbury docks. Mr Bibby is leading the 'Work-on campaign' at Tilbury, distributing 2,000 leaflets to persuade dockers to defy the national strike call. He told the *Telegraph*: 'I am just an ordinary docker doing a job and trying to keep a job. I am just trying to bring some common sense into this ridiculous dispute, and then I shall fade away.' Just like, no doubt, the way he 'faded away' from being an Independent councillor on Thurrock Council after 14 years, two years of which (1980-82) were spent sustaining the one-vote majority of a Conservative-led coalition. Last year this non-political rank and file docker stood as an Independent in the general election and polled 1,220 votes.

Inclusive revelation

When *Private Eye* starts using stories three months after they appeared in the NS, we know the once famous organ is in decline. The fact that the Victoria and Albert museum had temporarily mislaid a valuable mediaeval triptych (you'll have to look it up) was reported in this column on 25 May this year. Last week, Lord Gnome solemnly reported exactly the same story, seven weeks after the triptych, having been retrieved, was sold at Sotheby's for £200,000.

Stately chips

Not part of the NS's forthcoming television advertising campaign is a programme on BBC2 called 'The

New Statesman', coming up in the autumn. You might be expecting a fascinating documentary about the role of a leading political weekly, but no, it is a simple comedy about a museum curator who inherits an island, a mobile fish and ship shop and a seat in the House of Lords from an uncle. Perhaps 'the New Statesman' is what his customers wrap their fish and chips in. Outline plots, on postcards please, for BBC2 comedies entitled 'The Economist', 'New Society' or similar.



Mr Toad croaks

'Highly misleading' is how Nicholas Ridley describes the NS's story linking railway accidents with spending cuts (3 August). Our Mick Hamer said that spending on track and signalling had fallen by 2 per cent per annum as the result of a squeeze on total rail expenditure, quoting as his authority British Rail's annual report. In a letter to Labour's transport spokesperson, Ridley points out that the original paragraph in BR's report says this fall was also 'to some extent' caused by increasing efficiency. Well, that changes everything, doesn't it?

Euro-Libs bad...

The London Liberal Party is sick of the European Liberal group in Strasbourg, with whom Liberal leader David Steel remains on friendly terms. It is putting a motion to Liberal Assembly next month calling for the British Liberals to leave the Euro-Liberal group — on account of its economic and defence policies, which are akin to those of the British Conservatives. Not that there are any Liberal Euro-MPs, mind you.

But much worse is in store the week before Assembly, when David Steel flies to Israel with Lord Tordoff and Russell Johnston to hobnob with the Israeli Liberal Party, loyal coalition partners of the Begin and Shamir governments, who fought the recent elections on a common electoral list with the Herut (Shamir's party). The Israeli Liberals are hosting the 1984 Liberal International Congress. Among other things, Steel's hosts supported the invasion of Lebanon, the sending of the Phalangist militia into Sabra and Chatila and military and nuclear co-operation with South Africa. Perhaps this is what Steel means by 'reasserting his leadership'.

The Belgrano cover-up

Duncan Campbell and John Rentoul reveal the cover-up that failed — and provide more information from the Belgrano Papers, showing how the government has deceived Parliament

THE GOVERNMENT has conducted a six-month long cover-up in order to hide the secrets behind the *Belgrano* affair. After last week's leaks, Mrs Thatcher has ordered officials and colleagues to keep absolute silence. Downing Street itself has refused to comment at all about the *New Statesman* allegations.

But Defence Secretary Michael Heseltine has long been worried about a 'Watergate in this', it was revealed by the *Guardian* earlier this week.

Although the full truth about the conduct of the Falklands war and the sinking of the *Belgrano* may never be known, since proper official records were often not kept and many of the major participants and items of evidence are in flagrant contradiction with each other, it is apparent that the government has been engaged for two years in a major process of obfuscation. It has wanted, amongst other things, to avoid any examination of its willingness or unwillingness to reach a peaceful compromise with Argentina, and any exposure of how it deceived the public then and subsequently.

Mrs Thatcher has been particularly angered by the leaking of the minute sent to her on 1

May 1982, concerning the decision by the war cabinet to allow the sinking of the Argentine aircraft carrier, the *Veinticinco de Mayo*. Both Foreign Secretary Francis Pym and Attorney General Sir Michael Havers were concerned that the attack then authorised might not fall within the terms of the public warning which Britain had previously given to Argentina about self-defence against attacks on the task force. If the sinking of the aircraft carrier came outside the meaning of the existing warning, and a new warning was not announced, then the attack could be regarded as illegal under international law, they feared.

Last week, officials in several departments combed files to see how far the minute — which is addressed to the Prime Minister and her colleagues in the OD(SA) (Overseas and Defence (South Atlantic)) Committee — had been circulated. The one page document is classified 'Secret', but had a wide circulation.

The misinformation, and clamp-down on any queries, about attacks on Argentine ships have largely been undertaken by the present Minister of State for the Armed Forces, Mr

John Stanley — who was Mrs Thatcher's Parliamentary Private Secretary in the late 1970s. What now amounts to a major cover-up has culminated in the recent use of Official Secrets Act charges against senior Defence Ministry official Mr Clive Ponting, OBE. In the course of the cover-up Mr Stanley has:

- Prevented Defence Secretary Michael Heseltine and Defence officials from answering MPs' questions about the affair;
- Sent deliberately misleading information to a House of Commons Select Committee — his evidence is published here for the first time (see box);
- Urged a security clampdown in an attempt to protect the cover-up.

Below, we document some of the steps that Mr Stanley has taken to conceal critical information about the behaviour of the Falklands war cabinet.

IT WAS in March this year that a sudden chill ran through Whitehall when it appeared that the many discrepancies in official statements about the sinking of the *Belgrano* might

The cover-up

Last week we published a minute from a Defence Ministry civil servant advising junior minister John Stanley how to withhold the disclosure of politically embarrassing information about the sinking of the Belgrano, which the Foreign Affairs select committee had asked for. Stanley took that advice and we now publish the answer he sent to the committee. If this Memorandum had been allowed to stand as a record of the crucial information on the Rules of Engagement, it would have been grossly misleading.

CHANGES IN THE SOUTH ATLANTIC RULES OF ENGAGEMENT DURING OPERATION CORPORATE APRIL-JUNE 1982

Memorandum by the Ministry of Defence

Rules of Engagement (ROE) — the detailed guidance given to Commanding Officers prescribing the circumstances in which they may engage the enemy — were changed very frequently during Operation CORPORATE between 2 April and 15 June 1982. The ROE were updated continually, reflecting changes in the Task Forces's position and its composition; the allocation of new missions to the Task Force by the War Cabinet; and the nature of the Argentine response. The ROE and their evolution in response to these factors was kept under close political control by the War Cabinet.

2. Examples of this process of evolution include the changes to the ROE for submarines which allowed them discretion to attack certain targets within the zone, following the declaration of the Maritime Exclusion Zone (MEZ) on 12 April. There were special ROE devised on 15/16 April 1982 for the operation to recapture South Georgia, because the ROE under which the task

force was making its transit from Ascension were not appropriate for a direct operation against Argentine held territory. Similarly the rules were of necessity changed again when the MEZ was translated into the Total Exclusion Zone on 30 April. Separate ROE existed for the Terminal Control Area established round Ascension. Examples reflecting Argentine response to our operations are the provision of ROE to deal with Argentine Boeing 707 aircraft which began to shadow the fleet south of Ascension Island, and the change in the ROE by which we allowed our warships to attack the General *Belgrano* outside the total exclusion zone. In connection with the latter change it is, however, important to remember that the legal basis for it was our right to take measures in exercise of our inherent right of self-defence, as recognised in Article 51 of the UN Charter; and, in particular, the warning conveyed to the Argentine Government on 23 April that in exercise of that right "any approach on the part of Argentine warships, including submarines, naval auxiliaries, or military aircraft which could amount to a threat to interfere with the mission of the British forces in the South Atlantic, will encounter the appropriate response".

Cover-up 1: The Memorandum says the ROEs were updated 'frequently' and 'continually', in a 'process of evolution', and gives a few familiar examples.

Truth: Mr Legge's advice, which we published last week, reveals that a 'full list of changes' would cause 'difficulties' by showing that: 'the engagement of the Argentine aircraft carrier *Veinticinco de Mayo* was permitted from 30 April, and that the change on 2 May was not restricted to the *Belgrano* but included all Argentine warships over a large area'.

Cover-up 2: The Memorandum does not refer to the way in which changes in ROEs are made.

Truth: Legge's advice reveals that any reference

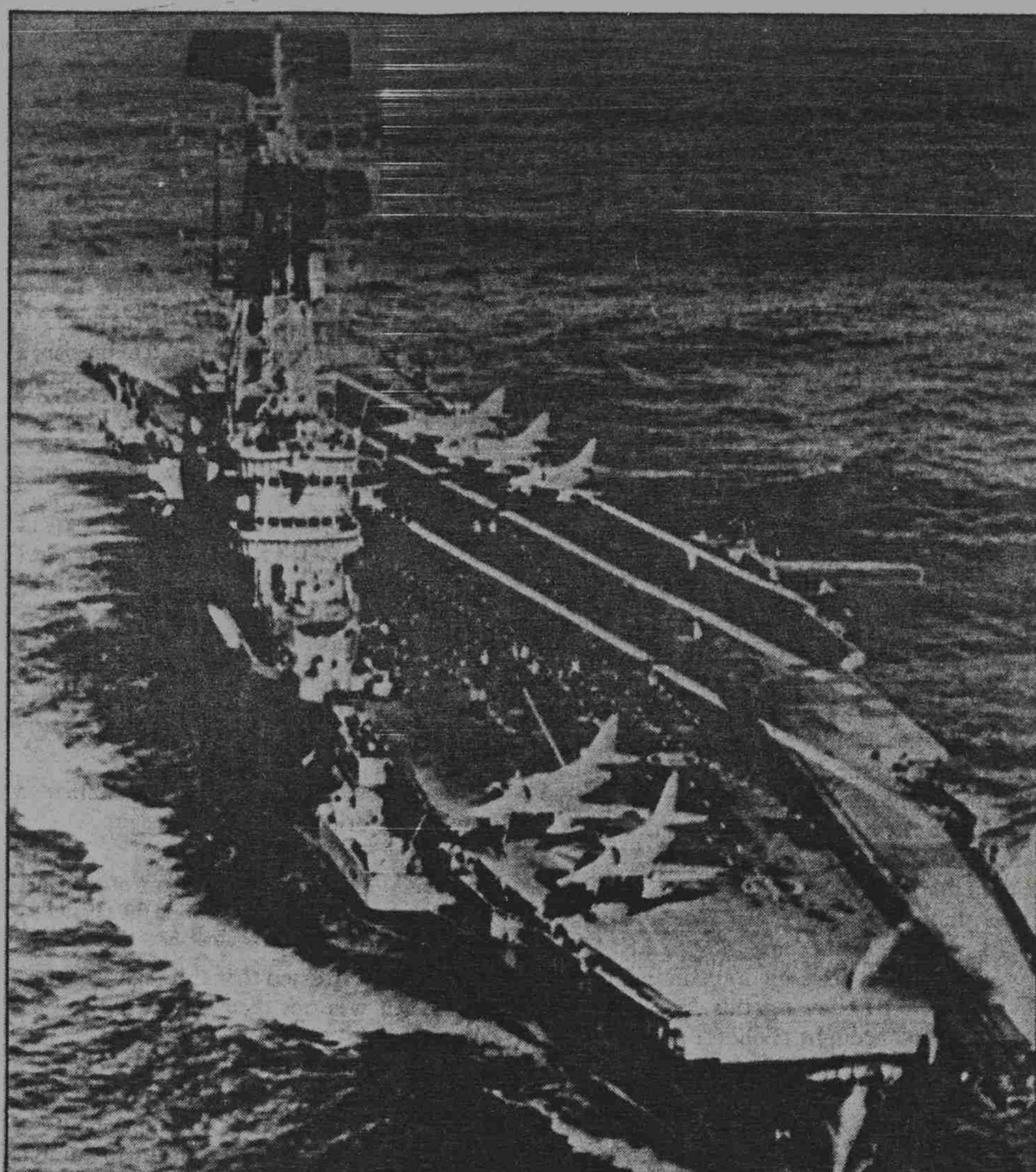
to the 'underlying system of ROEs or the mechanism for their approval' had been 'deliberately avoided'. We now know that this is to avoid further questioning by the select committee about the decision by the 'war cabinet' to change the ROE on 2 May, which led to the *Belgrano* sinking. When we suggested to Downing Street this week that there is no record of how the decision on 2 May was taken, an official replied 'If there is a record, it is a classified document. You are on your own with that.' When we suggested that an investigation had failed to find any such record, we were told: 'There is nothing to add.'

Cover-up 3: The Memorandum contains the strong implication that the change in the Rules of Engagement on 2 May, which enabled the sinking of the *Belgrano*, was putting into effect the 23 April announcement — warning the Argentines that they could be attacked outside the exclusion zone if they threatened British forces.

Truth: The 23 April warning was put into effect immediately by a package of ROE changes. The 30 April and the 2 May changes were dramatic, unpublicised, extensions of the scope of the conflict.

Cover-up 4: The Memorandum states that the 'legal basis' for the change in the rules which 'enabled' the sinking of the *Belgrano* was the 23 April warning, embodying Britain's right to self-defence and make an 'appropriate' response to a threat under international law (see Peter Archer, p.10).

Truth: This conceals the fact that, not only were the ROEs changed substantially on 30 April and 2 May precisely to go further than the warning, but that the changes could well have gone beyond what was acceptable in international law, as Pym and Havers had warned. It is presumably this which John Stanley has been most concerned to avoid having the Select Committee know or probe.



Admiral of the Fleet Sir Henry Leach (top left): does not deny that ministers discussed the nuclear option — 'It is not for me to say what the war cabinet did or did not consider.' John Stanley, Minister for the Armed Forces and a former Thatcher private secretary: signed the cover-up letter to the Select Committee. Argentine aircraft carrier *Veinticinco de Mayo*: War Cabinet ordered its sinking, with 1,500 aboard, on 30 April 1982, but the British submarine failed to locate it

suddenly become a major political issue. For two years, back-bench Labour MP Tam Dalyell had determinedly pursued the *Belgrano* affair, asking over 1,000 parliamentary questions. But his questions had not until then come near the sensitive heart of the affair; and no other politician was following his lead.

On 6 March, however, shadow Defence Minister Denzil Davies MP wrote to the Prime Minister on behalf of the Shadow Cabinet, asking for an explanation of 'serious discrepancies' between the government's and other versions of events. Defence Secretary Michael Heseltine, rattled, is reputed to have told friends that he wanted a full investigation, and 'to be clear that there isn't a Watergate in this somewhere'.

Davies had only asked about a discrepancy in statements about the time the *Belgrano* was first sighted. An anodyne reply from the Prime Minister was sent. But on 19 March, Dalyell now wrote to Heseltine with nine detailed questions about the sinking of the *Belgrano*, asking for course and position details.

These questions were bad enough; if honestly answered, then Mrs Thatcher's and others' misinformation about the course of the *Belgrano* would immediately be exposed. But Dalyell, guided by Bradford University specialist Dr Paul Rogers, had gone further and touched a very sore 'raw nerve'. He also asked

about the Argentine aircraft carrier.

Soon after he sent the letter, however, former Foreign Office clerk Sarah Tisdall, in a quite unconnected affair, was given a six-month jail sentence for leaking Foreign Office papers. Ministers believed that all civil servants would be intimidated and the lid would now come firmly down on unauthorised Whitehall disclosures. A month later, Dalyell was sent a cursory reply: Heseltine had 'nothing to add'. When Dalyell wrote again in May he was told that, since he was still trying to pursue a campaign to show that the *Belgrano* was sunk 'in order to destroy the prospects for peace negotiations', there was no 'point in prolonging this argument' with him.

Two further letters from Dalyell to Heseltine were then completely ignored. The cover-up was in full swing. Until the unsent draft reply to Dalyell's letter leaked last week, it had never been revealed that the government had had information that the *Belgrano* had been sailing directly back towards Argentina, without taking evasive action, for 11 hours before it was sunk.

IF THE FIRST phase of the cover-up consisted of a clamp-down on providing information, the second, involving misinformation, began in June. Then former Foreign Secretary Francis Pym had rightly

indicated to the House of Commons Select Committee on Foreign Affairs that there had been not just one but many changes in the South Atlantic Rules of Engagement. Alarm began anew when the Committee asked the Foreign Office to provide full information about the changes in the 'ROEs' — which would reveal Britain's secret political authorisation to broaden the conflict beyond the limits likely to be acceptable to the UN Security Council. Early in July, Michael Legge, Head of Defence Secretariat 11, briefed John Stanley on how to evade the Select Committee's questions. His advice to Stanley was published here last week.

This week, we are publishing the evidence that Stanley then despatched to the Select Committee. The two-page document went to the committee in mid July. It is formally unclassified. The Minister personally signed the letter to the committee which accompanied the Ministry's Memorandum on 'Changes in the South Atlantic ROE'. Normally, it would be signed by a clerk at the Defence Ministry. Thus, Stanley wholeheartedly accepted advice on the best ways to mislead the Select Committee. But as he sent off the Memorandum to the House of Commons, Tam Dalyell MP received the leaked information about how it had been prepared.

'On or about' 16 July, according to the charge in the Official Secrets Act case, Legge's minute

was allegedly leaked to Tam Dalyell. In a statement published in the *Observer* on Sunday, Mr Clive Ponting's solicitor Mr Brian Raymond said firmly that 'Mr Ponting denies criminal culpability in this matter'. Mr Ponting added that 'my conscience is entirely clear'.

Dalyell sent the leaked documents on to the Select Committee chair, Sir Anthony Kershaw, and the committee, leaving Dalyell 'aghast', sent them back to the Ministry of Defence. MoD police began an immediate investigation of the leak.

At the time, Secretary of State Michael Heseltine was on holiday. John Stanley was duty Defence Minister in his stead. There is, according to many defence sources, 'little doubt' about what happened next. Stanley consulted Mrs Thatcher, on holiday in Switzerland; he insisted that the case be sent to the Director of Public Prosecutions. But under the Official Secrets Act, the consent of the Attorney General is necessary before charges can be proceeded with.

The charges against Mr Ponting were then brought with some haste, as the *Observer* has disclosed. The speed necessitated telephone calls to the Attorney General, then difficult to contact while on holiday in France. We have learned that one reason for the haste was official hopes that discussion of the *Belgrano* papers might then have become *sub judice*. (This appears to have been an impetuous and ill-advised view.) Following this line, after the charges were brought, police refused to tell reporters what the charges were.

MINISTERS and government officials continue not to deny, on the record, the existence of the documents and other evidence revealed in the *New Statesman* last week.

Concerning the minute of 1 May sent to the Prime Minister, about the potential illegality of the sinking order, Downing Street said, in what has become its stock response that: 'We cannot confirm that there is such a minute, you can only find out in 30 years time.'

Last week, we provided evidence that a nuclear missile-armed Polaris submarine was sent to the South Atlantic during the conflict, for use 'if need be'. Downing Street says that 'we never disclose the movement of Polaris submarines'. But the Admirals have added to the government's discomfort with new contradictions about major points of the disclosure.

Both Admiral Leach and Lord Lewin, former chief of the Defence Staff have denied that Britain planned or contemplated actually using Polaris missiles against Argentina. Admiral Leach, did not however deny that there might have been consideration of the matter: 'It is not for me to say what the war cabinet did or did not consider.' Asked on *The World this Weekend* to say that there was 'at no time' a Polaris submarine in the South Atlantic Leach said: 'That is a different question and I am not prepared to comment on it'.

He added, however, that the 'normal programming' of Polaris submarines — which means always having one of Britain's four Polaris submarines on underwater patrol — was never 'altered for reasons to do with the war'. Admiral Leach said he was confident that no Polaris submarine had gone to the South

Atlantic during the war; nor had its use ever been considered.

However, the *New Statesman* has details from a further Top Secret government document, which outlined the military planners' consideration of a nuclear threat against Argentina. During the crisis Cabinet meetings immediately following the Argentine invasion of the Falklands, Admiral Leach was temporarily absent in New Zealand. In his place, the then acting chief, Marshal of the RAF Sir Michael Beetham, was directed to prepare a paper setting out the military options available in response. The paper was written by civil and military staff during 2 April 1982, and eventually submitted as a ministerial briefing document.

During its preparation, Beetham was asked 'How far up should we go?' — that is, what level of force did the Cabinet want to consider? The answer allegedly given was: 'Right to the top'. It was then concluded that Polaris afforded the only reliable means of a nuclear attack on Argentina. Such an 'option' would require the removal of a Polaris submarine from the NATO area.

Sources close to ministers have confirmed details in the briefing paper. One said:

Certainly, the nuclear option was one of the options studied on 2 April. . . part of the work done that day involved examining the possibility of retargetting Polaris against Argentina.

But the source stressed that although the study was done, it was not then considered to be a serious option.

We have confirmed with a senior defence source, closely involved with the Chiefs of Staff, that all information about the movements of nuclear submarines — even ordinary hunter-killer submarines — was kept off the Falklands 'war displays' inside the MoD. These displays were relayed by closed circuit television to key offices to show the current positions of UK and Argentine forces. Much other information was never even passed to the Defence Ministry from the Northwood headquarters, because military officials regarded Secretary of State John Nott as a security risk. He was, said one, 'continually briefing (Tory) backbenchers' about new military developments in the war, a course many would regard as quite proper.

AS A RESULT of Mr Stanley's failed attempts to keep the lid on embarrassing information, the government now faces three major political problems. First, there will be more damaging revelations when the House of Commons Foreign Affairs Committee starts to examine the *Belgrano* affair later in the autumn. (Among them is the evidence we have that the submarine HMS *Conqueror*, a few hours after the *Belgrano* was sunk, returned to the scene in an attempt to sink one or more of its escorting destroyers, which later picked up survivors.)

Secondly, Heseltine's fear that the Shadow Cabinet would identify the government's chest of Falklands secrets as a major political issue, and exploit it, has come true. Neil Kinnock has now authorised two shadow ministers officially to question the Prime Minister.

Thirdly, the issue is guaranteed to remain in the news for months yet, and create further embarrassment, when official Clive Ponting is finally tried under the Official Secrets Act — unless his trial is discreetly abandoned. □

Right of reprisal

During the era of total world wars fought out by the armed forces of competing nation states, the idea that they could be limited or governed by international law had little meaning. That era has been superseded by, among other things, the UN, the advent of nuclear bombs and new economic trading relations. Peter Archer, Solicitor-General 1974-79, examines what international law has established on limiting wars

THE REVELATION that, in the course of the Falklands episode, the Attorney General was concerned as to the legality of general action against Argentinian warships, reminds us that even while engaged in hostilities, national States remain subject to international law.

For generations, scholars considering international relations advanced the theory of the 'just war'. A State, they declared, is entitled to resort to war if it is necessary to achieve certain legitimate purposes, such as the protection of its territory. And since Grotius, the Father of International Law, codified the subject in the seventeenth century, international law has adopted a similar approach. In essence, it has recognised a right of resistance to aggression.

The Charter of the United Nations deals in detail with the obligations of States in relation to peace keeping, with their duty to seek peaceful methods of resolving disputes before resorting to armed force, and with the means by which the Security Council is to look for solutions. But Article 51 provides: 'Nothing in the present Charter shall impair the inherent right of individual or collective self defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security'.

(Britain in fact referred the Falklands conflict to the UN Security Council on 1 April 1982. The following day Britain proposed Resolution 502 calling on both Argentina and Britain 'to refrain from the use or threat of force in the Falkland Islands'. It demanded the withdrawal of Argentina from the islands and called on both governments 'to seek a diplomatic solution to their differences'. The resolution was passed on 3 April.)

The existence of the rule was recognised in 1837, when British troops operating from Canada entered United States territory and seized a steamer, the *Caroline*, which had been supplying Canadian rebels. The resulting correspondence between the two Governments has subsequently been recognised as defining international law on the subject. It was accepted by both parties that the action taken by way of self defence must not be 'unreasonable or excessive', and that it must be 'limited by that necessity and kept clearly within it'.

There is a further analogy which sheds some light on the matter. A State may take certain actions which would otherwise be unlawful, as a reprisal for an unlawful act by another State. It is widely accepted that reprisals involving armed force can now be justified only in situations which would give rise to a right of self defence under Article 51, that is, when a nation-state's territory had been attacked. However, the United States argued that its military actions in North Vietnam in 1965, though not claimed to be taken by way of self defence, were legitimate reprisals for Vietcong attacks upon military installations in the South.

BUT IT is worth seeing how the right was dealt with before the United Nations Charter existed. It was recognised that a reprisal was legitimate only if it was proportionate to the illegality which evoked it. In 1914, a Portuguese frontier force in Africa killed three German officials. By way of reprisals, German troops totally destroyed a number of Portuguese forts and frontier posts. The resulting complaint by Portugal was adjudicated upon by an international tribunal in 1928, and the award became a classic statement of the right of reprisal.

The tribunal declared, 'One should certainly consider as excessive and therefore illegal, reprisals out of all proportion to the act which motivated them'. Even the United States, when appealing to the right of reprisal in Vietnam, clearly had that same principle in mind. The White House statement dealing with the matter argued: 'The response is appropriate and fitting'. Whatever the merits of the thesis, the US government obviously found it necessary to assert it. Although it was not a reprisal action, the sinking of the *General Belgrano*, with the loss of 368 lives, took place when not a single British life had been lost through Argentinian action.

Until recently, there is little to be found in the text books about limitation or proportionality when once a State has resorted to hostilities. The reason is that, at least until the Kellogg Pact of 1928, it was accepted that there were a number of reasons other than self defence for which a State might resort to war. And once war had begun, it was usually pursued until further resistance on one side or the other became impossible. The only function of international

law was to achieve compliance with Conventions about such matters as the protection of wounded and of prisoners.

But attitudes to war have, for various reasons, changed since the last 'total war' of 1939-45. It is now generally agreed that, since 1948, the right to resort to armed force, at least between Members of the UN, is limited to the right of self defence. It is for this reason that the custom of beginning hostilities with a formal declaration of war is used less frequently. The legality of any action taken depends not upon a declaration, but on whether the situation falls within Article 51. And that must introduce the limitation principle.

An ever-increasing range of matters governing human welfare, from the delivery of mail, and the regulation of air transport, to the control of pollution and the prevention of nuclear war, are coming to depend upon an effective international law. But international law cannot yet call upon bailiffs or police to

enforce its demands. It relies for enforcement upon international recognition and opinion.

If international law is to develop to the stage where we can speak meaningfully of law and order among nations, two conditions are needed. First, States with a tradition of respect for law must demonstrate that international affairs can be successfully conducted within a framework of rules. Secondly, public opinion must insist that governments behave in a global context as individuals are expected to behave in a national one. The most effective sanction against law breakers is the judgment of the people. But while legal decisions cannot be substituted for political questions, at present neither the law nor the *vox populi* has any means of being implemented effectively in international affairs.

If Tam Dalyell's persistence leads to a public debate on this aspect of the Falklands episode, he will have placed posterity yet further in his debt. □

THIS ENGLAND

£3 book tokens for entries printed. (On postcards, please.)

□ The possibility of giving a contraceptive pill to seagulls as a way of reducing numbers in Mevagissey is to be investigated by the local parish council. Members agreed that contraception would be preferable to climbing on roofs to prick eggs, as had been suggested at the previous meeting. — *Royal Cornwall Gazette* (A. L. Dennis)

□ Staff at Reading Magistrates' Court, Berkshire are considering putting a television set in the foyer to combat costly vandalism. Mr Bill Benton, deputy magistrates' clerk, said yesterday that it was thought a television set might occupy people waiting for their cases to be heard. 'We do not want to make it too cosy,' he said, 'but we must try to stop the vandalism.' — *The Times* (W. Pugh)

New Statesman 31 August 1984

TUC FRINGE MEETING
Thursday, 6th September
5.30-7 pm:— METROPOLE HOTEL,
 KINGS ROAD, BRIGHTON

NEW STRATEGIES FOR EQUAL OPPORTUNITIES IN EMPLOYMENT

CONTRACT COMPLIANCE: Bringing equal opportunities to the workplace through local government purchasing power.

CONTRACT COMPLIANCE & EQUAL OPPORTUNITIES: A trade union view.

EQUAL OPPORTUNITIES THROUGH PERSONNEL PRACTICES: What is the GLC doing?

SPEAKERS:

JOHN CARR, GLC Member, Chair of the Staff Committee
 JUDITH HUNT, GLC Director of Staffing and Equal Opportunities
 JULIE MELLOR, GLC Contract Compliance Equal Opportunities Adviser
 Chaired by: Muriel Turner, Assistant General Secretary ASTMS

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LETTERS

The Belgrano...

Monty Rockovitch, London E11

While credit is due to the *New Statesman* for throwing some light (24 August) on the continuing mystery of the Falklands War, there is at least one major error in your leader 'Why the Belgrano Papers matter'. You say that 'In order to achieve its objective (a secret 'strategy of all-out war') the government handed over the direction of the conflict to competing armed service interests, while maintaining the opposite was the case', and '...in April-May 1982 all the armed forces in the Falklands, anxious to prove the worth of their section, were spoiling to move without political restraints...'

This accusation is not true as regards the army. Max Hastings and Simon Jenkins in *The Battle for the Falklands* say (p.230) that Brigadier Thompson was exposed to relentless pressure by the government to move forward as soon as he landed at San Carlos, and that no senior officer in the early days of the landing believed that he could have moved before he did.

The Battle for the Falklands is not the only book to emphasise this point. Though the situation cannot be summarised in a letter, it may, for example, be added that the Battle of Goose Green, militarily pointless, won by the 2nd Para (part of Thompson's large brigade group), was part of a political decision to present this country with an obvious and quick success.

I suggest that to ensure and maintain credibility you should not only be concerned with attacking the Thatcher government, you ought to have regard to, not merely to assume the existence of, facts you consider relevant. May I add that I have no party allegiance and consider the British government's insistence on a war against Argentina unjustified, and that Mrs Thatcher's exultation in military victory was contemptible; if indeed there is not some explanation in terms of her personality at the time.

Home improvement grants

Roger Matthews, Shelter, London SE1

Christian Wolmar, in his article on the expected White Paper on housing improvement (NS 24 August), repeats the claim, to be often heard these days, that the present improvement grant system is badly targeted, with money going to 'affluent people in good housing'. For a government apparently intent on the introduction of means-tests for improvement grants, it is very convenient that this idea is so widely circulated. The more people believe it, the easier the introduction of means-tests will be.

There is, however, little evidence that the claim is true. Certainly, as recently as February, Department of the Environment officials were arguing that the present system is well targeted. They told the House of Commons Committee of Public Accounts that, in 1981, 80 per cent of grants had helped to install basic amenities, while around three quarters of grants went to properties built before 1919 with low rateable values — the category of housing which has been identified as the most unsatisfactory. As far as the houses are concerned, then, the present system seems to work quite well.

On the question of the incomes of grant recipients, it is known that those receiving grants tend to have higher incomes than those who would

be eligible for grants but do not apply. But this does not necessarily mean the well-off are grabbing the money. The 1981 English House Condition Survey reported that three quarters of those taking up grants had incomes over £3,381 a year — but as this was roughly half average male annual earnings of the time, it hardly provides proof that grants are being taken up exclusively by the 'affluent'.

This survey in fact pointed to quite a different problem. Many low income households living in poor conditions could not afford to take up a grant, as they would be unable to find the money needed for the householder's contribution. Means-testing would not encourage the take-up of grants by such households: it would merely save the government money.

The article also describes the grant system as 'a recipe for shoddy work'. There would seem to be no truth in this at all. If the grant system can make any claim, it is that it requires householders to carry out necessary remedial works and it checks standards.

Totems and taboos

Miss P. A. Gibson, London SW15

I welcomed Piers Brendon's excellent article 'Totem and Taboo' (NS 17 August). The voice of Republicanism may have been almost extinguished in Britain, but those who hold Republican views have contributed to this happening.

No one expects Republicans to try to abolish the monarchy at a time when most people want to keep it (or have been brainwashed into accepting it without question). What can reasonably be expected of them is that they should publicly make the Republican case and challenge the idea that criticism of the monarchy amounts to blasphemy.

There are many people available to put the case for the monarchy. There are far fewer to put the case for Republicanism and this places a special duty on public figures who hold such views to make sure that this minority viewpoint is freely expressed. Not only have they, with a few honourable exceptions, made little effort to do so, but they have gone completely in the opposite direction and given positive support to the monarchy thereby helping to reinforce it and silence criticism of it.

Faced with opposition, Republicanism is the first thing they are prepared to sacrifice, on the grounds that it is unimportant. The third page of Piers Brendon's article shows on the contrary just how important it is.

James Page, London W13

The disturbing factor about your article on the Monarchy is that it reveals how little the author understands the institution.

As the late Professor Tibor Szamuely observed: 'It is not just an accident that the best governed countries of the world are monarchies — it is a better form of government.' One only has to consider the freedom and high standard of living enjoyed by the Scandinavian monarchies, the Low Countries, Great Britain, and the principalities of Liechtenstein, Monaco and Luxembourg as compared with the old republics of South America and the new republics of Africa, to see that this is so. The fact is that most republics become dictatorships of varying degrees of unpleasantness very quickly.

Mr Brendon assumes that a republican form of government would be cheaper, implying that the

money spent on the Monarchy would be saved. This is a red herring. All countries have to have a head of state and all heads of state have to be paid. Moreover, the organisation of presidential courts is notoriously more inefficient and expensive than that of monarchical courts. There is also another point — and this is one on which republicans keep very quiet: in a republic the public, in addition, have to bear the enormous and ever increasing cost of presidential elections.

It has been said that nations sometimes fail through failing to appreciate the greatness of the institutions they have evolved. Since the turn of the century discoveries in psychology and anthropology have given completely new insights into the significance of Monarchy. What is most urgently needed now is study in depth to enable us to make better use of the tremendous potential of this institution, particularly in regard to resolving the crisis of authority that bedevils so many countries in the third world.

YTS: the facts

Quentin McDermott, London SE11

I'm sorry that G.T. Kingsley (Letters 24 August) was 'irritated' by my article detailing the deaths of four young men and women on the Youth Training Scheme, and by the fact that a follow-up report on a fifth death 'threatens to become a series'.

The deaths are already an unhappy series, but it was *not* my intention to use them 'as a stick to beat the scheme', or to imply, as a generality, that 'YTS is dangerous', and, as Kingsley correctly acknowledges, it was never stated as such. They do, however, raise serious questions about the MSC's attitude to health and safety. The important issue (in my view) is not whether youngsters are statistically less likely to die in YTS than in employment (or unemployment), or whether those involved in running YTS activities 'have had to pay some attention to safety — among other things' in getting approval for schemes, but whether *enough* close attention is paid to trainees' safety.

Strenuous efforts were made, in compiling the articles, to acquire comparative figures on deaths and injuries of young people in employment. But, as the MSC itself acknowledges, and as 'Dying for a job' (NS 27 July) indicated, the only reliable research so far carried out in this area (by Aston University) is inconclusive, because of differences in the ways accidents are recorded by the MSC and the Health and Safety Executive; and, more importantly, because the HSE's own figures are not compiled on an age-related basis.

It is of course statistically quite possible that deaths 'are less likely on MSC schemes than in other contexts'. But tell that to the parents of the 24 youngsters who have died since April 1980.

Suing the police

John Harrison, Paddington Advice & Law Centre, 439/441 Harrow Road, London W10

I am carrying out a research project into civil litigation against the police. I should be most interested to hear from anyone who has sued the police, successfully or otherwise, for false imprisonment, malicious prosecution, assault or trespass. Any information given to me will be treated in the strictest confidence.

Why the Belgrano Papers matter

FOR OVER two years, the unlikely dissident, Tam Dalyell MP, Eton, Cambridge and the Royal Scots Greys, has pursued one target with a dedication that his one-time enemies on the radical wing of politics would envy and which most found mystifying. That was — why did the Royal Navy sink the *General Belgrano*, causing the death of 368 men?

Mrs Thatcher has on occasions protested that the truth will emerge in 30 years time. Perhaps she means that Argentina was far nearer to winning a military victory than anyone in Britain could possibly have afforded to admit at the time. Such a defeat would almost certainly have led to her ignominious defeat at a General Election. Instead of a resounding symbolic triumph for British bulldog values, she would have had a humiliating bungle on her hands, saved from being tawdry only by the tragedy of the number of lives that would have been wasted.

In fact, far too soon for the Prime Minister, the truth is beginning to emerge now. It is that the government secretly conducted a strategy of all-out war, including the preparation of nuclear threats, in order to save its political skin. The strategy caused hundreds of unnecessary deaths — but risked causing many thousands more. In order to achieve its objective, the government handed the direction of the conflict over to competing armed service interests, while maintaining that the opposite was the case.

Much of this we can deduce from the Belgrano Papers, here reprinted in full on pages 8-10. Although the House of Commons Select Committee has returned them to the Ministry of Defence, it clear that they are of vital public interest and, given that absolutely no risk to national security is involved, the British public has a right to know exactly what is at issue. The briefing note is classified Confidential, the second lowest grade of secrecy. The letter was initially written without any secrecy conditions.

From the documents and other sources, we can see that within a few weeks of the Task Force leaving Britain the political direction of the conflict had been subsumed by military interests. This is dangerous enough when a war is on. No war was declared. While the diplomatic voices both within the Cabinet — most notably Francis Pym's — and the Labour Party were still asserting, after the Belgrano was sunk, the supremacy of political control, the War Cabinet had long agreed that the armed forces should fight an all-out war, without informing Argentina, the US or the UN.

On 4 May 1982, Parliament debated the sinking of the *Belgrano*. Denis Healey stated what had always been the official position on the conflict, and the condition which secured Labour's unhappy acquiescence to it and its aftermath.

The right hon gentleman [John Nott, then Defence Secretary] rightly said in his press conference last night that his policy was and would always be to use minimum force under strict political control to achieve a diplomatic solution. I confess that it is not always easy to achieve that in the stress of battle. Nevertheless, on the evidence that he has just given, it seems that he has successfully achieved that objective. . .

Mr Healey did not in fact know that the situation was far graver than just sinking the *Belgrano*. Nonetheless Mr Nott replied:

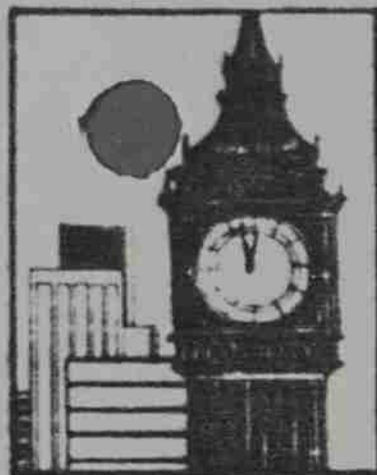
The right hon gentleman is correct. I said at a press conference yesterday that it was our policy to use minimum force. The task force remains under the political control of the Government. It operates within a political framework.

MR NOTT was not telling the truth. He more than most would know of the competitive ambitions of the service chiefs to engage in unrestrained fighting. In particular, the navy wanted to push its claims that its surface fleet was an indispensable part of Britain's defence system. A year before, on 25 June, Mr Nott had published his review of defence spending which had proposed severe curtailment of the service fleet in particular, and a reduction in Royal Navy personnel of 8-10,000, a heavier cut than either the Army or the RAF faced. He had also warned that the decisions should be made 'in terms of real defence capability rather than as the outcome of a debilitating argument over each service's budgetary share.' In the year that followed, the navy had been doing what it could to prove Mr Nott's assessment of its role wrong — and his fears of interservice rivalry right.

Thus, while in April-May 1982 all the armed forces in the Falklands, anxious to prove the worth of their section, were spoiling to move without political constraints, no section was more anxious to come out on top than the navy. It was as much the long-term threats from the British government and British public opinion as the immediate military threat from Argentina, that caused them to press on the War Cabinet the need for changes in the Rules of Engagement. The Prime Minister, faced with a warning that she might lose what had become undeclared war, would not need much persuasion that if she had to choose between a compromise diplomatic settlement with Argentina or deceiving the House of Commons and British public she should lie.

From the first misleading statements that the Argentinian attack on the Falklands had come 'out of the blue' through the frequent assertions by Ministers that they were seeking a diplomatic solution, to the repeated claims that the *Belgrano* was only sunk because it was a specific threat to British troops, she and her Cabinet have maintained those lies. In the long run, perhaps the most serious information to come out is that a Polaris submarine was sent to the South Atlantic. To send a submarine which fires nuclear missiles presupposes a readiness to use it — with catastrophic consequences. It presupposes that the government was prepared to accept the most terrible escalation of the conflict before it would allow diplomatic and political values to take precedence over its own need to survive. No fact can be more damning of a political clique's fitness to govern.

Mr Dalyell's campaign to get to the truth of an affair which cost the lives of over 1,000 people and cost British people £3.8 billion is neither eccentric nor irrelevant. It touches the heart of how British political power operates. For the Falklands war and its subsequent cover-up is a peculiarly chilling example of how the pursuit of sectional self-serving interests can be metamorphosed into a compelling 'national interest'. It is a tragedy that the Labour Party was from the first hi-jacked by a misguided patriotism. The repeated assertions by Labour's defence spokesman Denzil Davies that the conduct of the war is not, even now, a 'party political issue' constitute a pitiful refusal to get to grips with political power and public opinion. In this failure, the Labour Party continues to squander the opportunity to assert the 'paramourcy' of democratic political control over the most vital conflicts of all. If the 'national interest' means anything, it must mean the sovereignty of political democracy. Mr Dalyell has quite rightly recognised the special role of the MP in cherishing that sovereignty. □



PETER KELLNER, Political Editor

Lies, damned lies and answers to Tam Dalyell

NOTHING MUCH happens in August, as every politician and journalist knows. Parliament rises, constituency general committees stop meeting, the talking classes go on holiday, and most current affairs programmes disappear from our TV screens. At other times of year events demand that ministers be called to account in the House of Commons or on *Weekend World*. Not so in August. Everyone who matters is on the grouse moors or in the Dordogne or, if they are sensible, in the west of Ireland. It is assumed that each contortion in the face of politics is frozen at the end of July and only comes to life again in September.

Would that it were so. In fact, August seems to have an unhappy habit of springing some of the nastiest surprises: the start of the First World War, the Hitler-Stalin pact, Hiroshima, the Russian invasion of Czechoslovakia. The greatest of all affronts to civil liberties, the Official Secrets Act, passed through all its Commons stages on 18 August 1911; could it be that the decision to haul Mr Clive Ponting before the magistrates last Saturday on a charge of breaching Section Two was Whitehall's way of celebrating the Act's 73rd birthday?

This month, in fact, has fairly bubbled with political activity. The face of politics has been far from frozen during the three weeks I have been away. And while some of the changes look as if they will add to the government's unpopularity, others — perhaps the more durable ones — may well help Mrs Thatcher to recover support in time for the next general election.

Let's take the good news — that is, bad for Mrs Thatcher — first. Mr Tam Dalyell's campaign on the sinking of the *Belgrano* looks as if it may succeed. If it does, it will not be in the way Mr Dalyell first intended — discrediting the government's motives for sinking the ship — but in showing that ministers have lied subsequently. Indeed, the new documents, by revising what we know about the timing and scope of the changes in the rules of engagement, make it harder to sustain the belief that the dominating reason for sinking the *Belgrano* was, simultaneously, to sink the prospects of a negotiated settlement with Argentina.

In any case, there was never any chance that electoral popularity would be gained by saying that the ship should not have been sunk. The *Sun*'s initial headline — 'Gotcha' — was in bad taste, but undoubtedly in tune with most public sentiment. The significance of Mr Dalyell's campaign was not, until this week, that it threatened Mrs Thatcher's popularity, but that it nagged away at the truth and morality of what happened two years ago. Most other Labour MPs were ambivalent about Mr Dalyell's campaign.

They correctly recognised its intrinsic merits, but equally correctly calculated that there was little in it for them.

Now the politics of the campaign have changed. The central issue is not whether it was right to sink the *Belgrano*: that is now subordinate to a new question — have ministers been lying about what happened? Zapping dagos is one thing: fibbing to Brits about it quite another. All governments require some degree of trust from the voters: this government needs it more than most, for it won its second period in office essentially asking the electorate to believe that the team that beat Argentina would, in the end, also beat Britain's economic problems. If it turns out that Mrs Thatcher cannot be trusted to tell the truth about the first, why should she be trusted to tell the truth about the second?

ANOTHER POTENTIAL problem for the government surfaced at the weekend: the report in the *Sunday Times* that a working party convened by Dr Rhodes Boyson, Minister for Social Security, is considering abolishing child benefit, on the grounds that most of the benefit goes to people other than the poor, and it would better to spend the money on income tax cuts. Should it happen, the change would be a political gift to Labour. Child benefit is popular with recipients, and is arguably the most effective weapon that any government has under the present tax and social security system for fighting poverty.

There are two reasons why child benefit is so effective, and should be increased rather than reduced or abolished. The first is that much of the worst poverty occurs among families with children; so in terms of family structure, child benefit reaches the right targets. The second is that the benefit is not means tested; so it is exempt from the problems associated with the poverty trap, in which pay rises can be wholly eaten up by higher taxes and the withdrawal of means-tested benefits.

The fact that child benefit is not means-tested has its inevitable consequence that better-off families also receive it. But this is not as pernicious as it might seem. For one thing, insofar as child benefit is paid for out of income tax, the better-off pay more for it anyway. (To put it the other way round: should the abolition of child benefit lead to tax cuts, many better-off families will gain more from the tax cuts than they will lose from the ending of the benefit.)

For another thing, child benefit involves two kinds of worthwhile redistribution that are concerned more with family structure than with the relief of poverty. It provides an income specifically for mothers; and it redistributes from people without children to

people with them. To the extent that most people spend part of their adult lives as the parents of dependent children, and part of their adult lives free from such cares and/or joys, child benefit also acts to concentrate help to people when they need it most.

For anyone who has followed even cursorily the evolution of child benefit, these are familiar arguments. It seems surprising that they need to be resurrected now, following the reports that the government is thinking of doing something so daft and electorally damaging as to abolish the benefit.

I can think of only one explanation for what is now happening. It is that this hair-brained idea stands little chance of being translated into action, that the proposal was leaked to the *Sunday Times* with the express purpose of mobilising opposition to it, and that before long Mrs Thatcher will announce to a relieved Tory party that 'child benefit is safe with us'. It will, in fact, be a mini rerun of the Think Tank-public spending affair two years ago, when Andrew Neil (then on the *Economist*) last disclosed a piece of mindless official rubbish which the Prime Minister subsequently disowned.

STILL, the knowledge that, even in their darkest corners (especially in their darkest corners?) ministers are prepared to contemplate ever more fiendish ways of destroying what is good and fair in Britain, combined with their developing image as shifty liars, should all contribute to the government's increasing unpopularity.

But set that against one other development of the last few days: the plan to offer concessions to telephone subscribers who buy British Telecom shares. It is a reasonable bet that most NS readers need no instruction in the evils of privatising British Telecom. It is at least as reasonable a bet that most electors think differently, and that many will be attracted by the idea of owning their own direct share of Britain's telephone system.

The British Telecom wheeze is just the latest in a line of initiatives to develop the Tories' brand of peoples' capitalism. Others include cheaper air fares in Europe, moves towards portable pensions, and the possibility of bringing down car prices to nearer continental levels. The government's initiatives, however flawed we find them in both principle and detail, have the great political advantage of being both conspicuously right-wing and of immediate material benefit to significant numbers of people: maybe not the poor or the jobless or the old, but enough to win them a third spell in power. Where is the peoples' socialism to provide an attractive alternative to people drawn to cheaper cars and air fares and perks for Telecom shareholders? □

All out war

The *New Statesman* is publishing for the first time the full text of the Belgrano Papers leaked to Tam Dalyell MP. Duncan Campbell and John Rentoul reveal the truth about the sinking of the *Belgrano*

THE REAL SECRETS behind the sinking of the Argentine cruiser *General Belgrano* have emerged from government documents and information obtained by the *New Statesman*. They show that the truth is far more damaging to Mrs Thatcher than anyone has yet realised — and explain why the government has mounted a two year long cover-up and lied at length about the attack on the *Belgrano*.

Crusading MP Tam Dalyell has repeatedly alleged that Mrs Thatcher deliberately ordered the *Belgrano* sunk, with the loss of 368 lives, in a successful attempt to scupper the Falklands peace plan proposed at the time by Peru. But the truth is that the 'war cabinet', largely dominated by military advice, had days before opted for an all-out attack against Argentine forces. They were then warned that their plan was probably illegal. Even as US Secretary of State Haig was still negotiating a peace settlement in Washington — in good faith — Mrs Thatcher ordered the sinking of the Argentine aircraft carrier, *Veinticinco de Mayo*, with 1500 men aboard.

Official Cabinet, Defence Ministry and Foreign Office documents state that:

- Two days before the *Belgrano* was sunk, Mrs Thatcher and the 'war cabinet' ordered an attack on the Argentine aircraft carrier and flagship. But nuclear submarine HMS *Splendid* failed to find the aircraft carrier in time. This attack was ordered while US Secretary of State Alexander Haig was still working on his peace plan;

- Foreign Secretary Pym and Attorney General Havers both warned the Prime Minister that to attack the aircraft carrier without warning was likely to be contrary to the United Nations treaty, and illegal under international law. The same arguments later applied to sinking the *Belgrano*. Their advice was disregarded.

- Britain contemplated using Polaris nuclear missiles against Argentina. A Polaris submarine was sent to the South Atlantic to be ready for action 'if need be'.

Each of these hitherto secret aspects of the South Atlantic war underscore the relentless determination of the Prime Minister, urged on by Royal Navy staff in particular, to seek a rapid and violent military resolution of the Falklands conflict.

The 'war cabinet', officially known as the Overseas and Defence Committee (South Atlantic), or OD(SA), consisted of Mrs Thatcher, Conservative chairman Cecil Parkinson, Defence Secretary John Nott, Foreign Secretary Francis Pym, Chief of the Defence Staff Admiral Sir Terence Lewin, and

Leader of the House William Whitelaw. All of them attended the critical meeting in London on the morning of 30 April. Because of the legal issues involved the meeting was also attended by Attorney General Sir Michael Havers, who is officially the Cabinet's legal adviser.

When the OD(SA) group decided to sink the *Veinticinco de Mayo*, both Francis Pym and Michael Havers fervently dissented. Their dissent is recorded in a minute signed by both men, and dated 1 May 1982. It warns the Prime Minister that to attack the Argentine warship outside the exclusion zone was likely to be illegal. Pym signed the minute just before boarding a plane for Washington.

Sinking without warning any Argentine ship outside the exclusion zone was likely to be illegal because Britain was never at war with Argentina. British military action was justified under the terms of Article 51 of the United Nations Treaty. This grants every state the inherent right of self defence. But the right to use military action is thereby very strictly limited to actions in clear self defence — attacking Argentine vessels outside the exclusion zone when they had not attacked the task force would not be permitted.

The government prepared to justify the planned attack, by reference to an announcement the week before that they would

1. Cheating the Select Committee

(This minute advised Defence Secretary Michael Heseltine and other ministers how to respond to a request from the House of Commons Select Committee on Foreign Affairs for information about changes in the Rules of Engagement. It was written in early July 1984, and leaked to Mr Dalyell in mid-July. He sent his copies to Select Committee, who decided to return them to the Ministry of Defence.)

'CONFIDENTIAL'

HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE: SOUTH ATLANTIC ROE

1. Following evidence from Mr Francis Pym on the sinking of the *General Belgrano*, the Foreign Affairs Committee asked Lady Young to provide a note listing the changes made to the Rule of Engagement during Operation Corporate. I attach copies of the relevant extracts from the transcripts of the evidence and the note from the Clerk to the Committee.

2. We have discussed the form of our response with the Defence Commitments Staff, DS5 and DNW who had particular responsibility for ROEs during Operation Corporate. We have also borne in mind the statements made to date by Ministers on the subject of the *Belgrano*. Our advice is that we should *not* provide the Committee with a note listing all the changes. There are a number of reasons for this. Firstly the ROE themselves are classified, and are drawn from the Fleet Operating and Tactical Instructions which is a classified document. The Committee have indicated that they would prefer the note to be unclassified. Secondly some of the ROE are... *illegible*... their effectiveness if they were... *illegible*... openly by the FAC. Thirdly, the production of a full list of all changes would be an extremely time consuming exercise, not only because of the difficulty of assembling this information from departmental records, but also because the ROE would have to be paraphrased at some length since their format would be almost incomprehensible to the layman. In addition a full list of changes would provide more information than Ministers have been prepared to reveal so far about the *Belgrano* affair. For

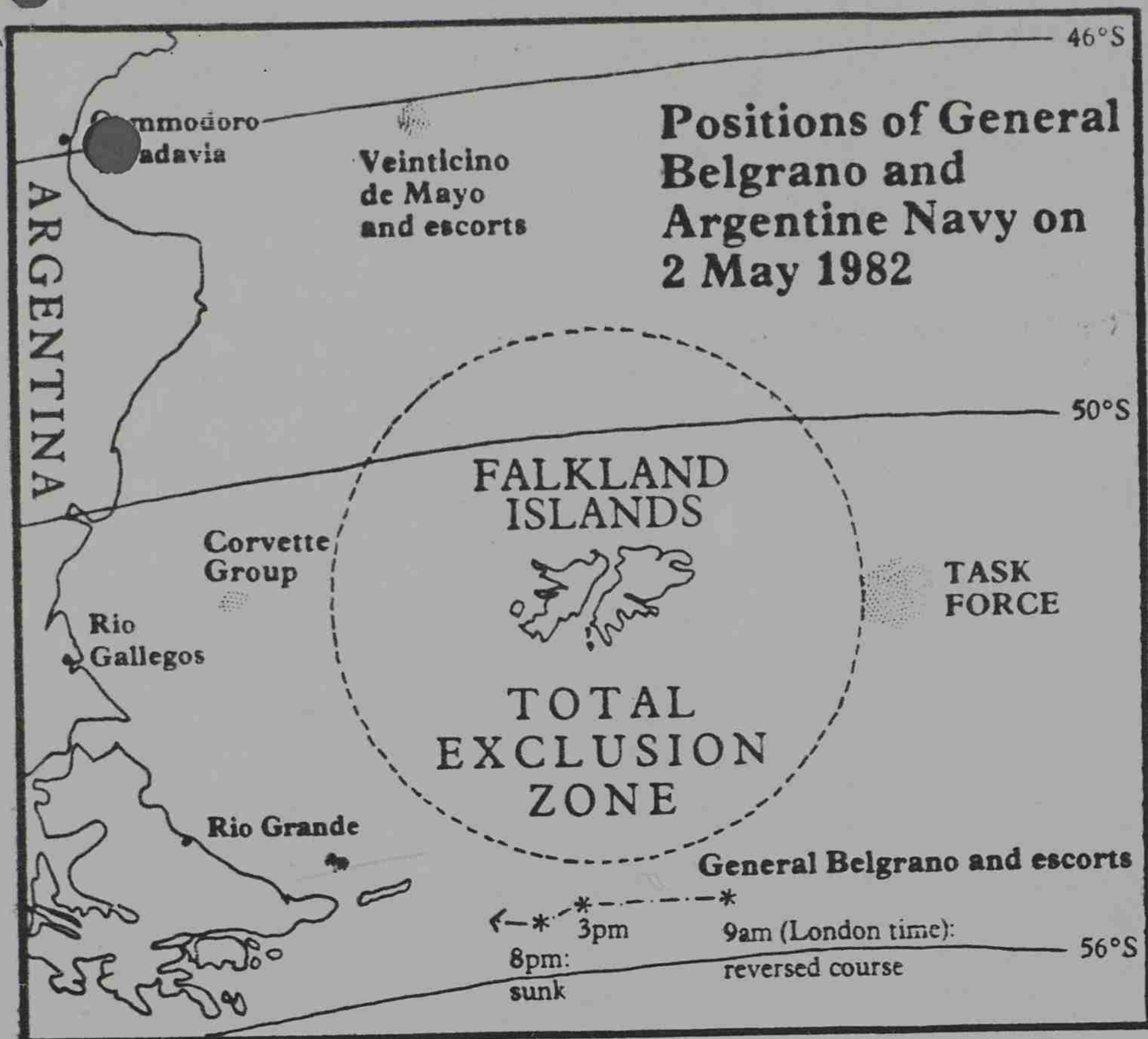
instance, the list of changes in the period 2 April-7 May would show that the engagement of the Argentine aircraft carrier 25 DEMAYO outside the Total Exclusion Zone was permitted from 30 April, and that the change on 2 May was not restricted to BELGRANO but included all Argentine warships over a large area. It would also reveal that whilst the public warnings and ROE changes for the MEZ and TEZ¹ were simultaneous there was a delay until 7 May before the appropriate warning was issued for the 2 May change.

3. I therefore recommend that we should avoid these difficulties by providing the Committee with a more general narrative, explaining broadly when changes were made to ROE, but emphasising that changes were a continual and routine process, thus confirming the thrust of Mr Pym's evidence. I attach a draft on these lines. Since it does not actually specify any ROEs it would pose no problems from a security point of view. It is consistent with previous public statements by Ministers and others, including Admiral Woodward, about the change of ROE which led to the sinking of the *Belgrano*. The draft deliberately avoids any reference to the underlying system of ROEs or the mechanism for their approval, since neither aspect was touched on by Mr Spearing... *illegible*... prior to her² departure for Brazil on Wednesday 11 July. If the Minister(AF)³ is content to clear the attached draft by that stage then Lady Young will submit it together with the other notes. If clearance by Tuesday evening 10 July is not possible it will be necessary for MOD to submit the note direct to the FAC; you will see that the Clerk to the Committee has in any case asked for receipt of material by 13 July. The FCO are quite content for MOD to submit direct if necessary.

'CONFIDENTIAL'

(signed)
J M LEGGE
Head of DS11
MB9326 3276MB

1. Maritime Exclusion Zone (declared 7 April 1982, referring to ships only) and Total Exclusion Zone (declared on 30 April, referring to ships and aircraft).
2. Lady Young, the Foreign Office minister.
3. Minister for the Armed Forces, John Stanley.



attack any Argentine ship or aircraft if it 'posed a threat' to the task force. As is well known, the *Belgrano* was sunk while sailing back to Argentina, away from the Falkland Islands. There was in fact no substantive and direct threat to the task force from the Argentine surface ships.

The secrets behind the *Belgrano* sinking have emerged, ironically, after Pym himself gave evidence to the House of Commons Select Committee on Foreign Affairs in June this year. He revealed that there had been 'many changes' in the Rules of Engagement; the Select Committee then asked the Defence Ministry for more information. This led to the creation of some of the documents which have now leaked.

ONE WELL-PLACED political source has already revealed to Tam Dalyell that a Polaris submarine was sent to the South Atlantic. Dalyell was informed that the submarine went as far south as Ascension; the likely target for a threatened or demonstration nuclear attack was said to be Cordoba, northern Argentina. The nuclear threat might have been used if any of the task force's capital ships — one of the carriers, or the troop ship *Canberra* — had been destroyed in a missile attack. The Polaris deployment was said to have been ordered in the wake of the sinking of HMS *Sheffield*, after ministers had to confront the possibility that Argentine air superiority and Exocet missiles could mean the military defeat of the British task force, and the rapid political extinction of the Thatcher government.

The *New Statesman* has been able to confirm that a Polaris submarine was indeed deployed to this position. Details of the deployment are given in a series of highly classified telegrams sent to the British Embassy in Washington. While these and other telegrams were exchanged, the Cabinet Office circulated another document assessing the likely cost in

human lives for each military option in the Falklands war.

In this ministerial briefing, the war planners laid out the likely costs in British lives and money of different military options. The course of action selected — which did not of course involve the use of the nuclear weapons — was expected to produce a British casualty toll of 500-1000 dead — as against the 255 actually killed.

We have attempted to contact Mr Pym and Sir Michael Havers for their comments on these revelations. Both men are on holiday, and could not be reached. The Prime Minister's office and Defence Ministry have refused to make any comment.

The immense significance of the action now revealed is that the orders to attack the *Veinticinco de Mayo* were given the day before Foreign Secretary Francis Pym flew to Washington to continue peace discussions with the Americans. Having decided on 30 April to back military desires for a quick and bloody solution, the War Cabinet were apparently nonetheless content to leave the Americans in ignorance of what was about to happen in the South Atlantic. ▶



Michael Havers (left) and Francis Pym: didn't want sinkings

2. The letter Heseltine never sent

(The letter was drafted by Ministry of Defence officials as a response to a letter that Tam Dalyell had written to Michael Heseltine in March 1984 (followed by a reminder on 1 May). We have inserted Dalyell's questions in italics. Dalyell only received the first page of the letter, leaving questions after number 6 unanswered.)

Tam Dalyell MP
House of Commons (undated)

(Dear Tam,)

Thank you for your letter of 1 May about the sinking of the *General Belgrano*. As you know, the Prime Minister has already written to Denis Davies setting out the background to the sinking of the *Belgrano* and the reasons why that decision was taken. Perhaps I could reply to your more detailed questions about the events as you have set them out.

1. (At what time on 30 April did HMS *Conqueror* first detect the *Belgrano* on its sonar?)

As the Prime Minister has pointed out, HMS *Conqueror* did not detect the *General Belgrano* on its sonar on 30 April 1982; it made contact with an accompanying oiler auxiliary.

2&3. (At what time did HMS *Conqueror* come into visual contact on 2 May 1982, and what was the course and speed of the *Belgrano* at the time? At what time on 2 May did HMS *Conqueror* first observe the RAS (Refueling At Sea) of the *Belgrano*, and what was its course, speed and position at the time?)

Again as the Prime Minister has already said, the first visual contact with the *Belgrano* was at 2pm London time on 1 May. At the time *Belgrano* was conducting a RAS with the oiler. The position at 3pm London time was 54.07S 064.24W — Course 125, Speed 8 knots.

4. (What was the course followed by the *Belgrano* throughout the period it was being followed by HMS *Conqueror*?)

There is no continuous log of the *Belgrano*'s movements but its position is known at certain times:

London time	Position	Course	Speed (knots)
2 May			
5am	55.20S 060.14W	090	13
9am	55.20S 057.22W	reversed course	—
3pm	55.16S 060.18W	270	14
8pm	55.27S 061.25W	280	11

5. (What was its speed when it was attacked?)
11 knots.

6. (Why were Mark 8 torpedoes used in preference to Mark 24s? Can both of these weapons be set for proximity detonation?)

This was an operational decision taken by the CO of HMS *Conqueror*. He chose the Mk 8 torpedo because he considered it to have a better chance of penetrating the cruiser's armour and... (end of first page of leaked draft).

7. (At what time was the order to sink the *Belgrano* sent from Northwood on 2 May? Were any signals sent or received by HMS *Conqueror* between the issuing of that order and its execution?)

8. (When did HMS *Splendid* first detect the Argentine aircraft carrier on 1 May? For how long did it maintain contact and what was the course and speed of the aircraft carrier during this time?)

9. (Was the aircraft carrier under surveillance by aircraft or satellite at any time between 30 April and 2 May? If so, what information concerning course, speed and signal exchanges was obtained during this period?)

The attempt to attack the *Veinticinco de Mayo* took place *before* any Argentine units attempted to attack the British task force, confirming that subsequent government references to a so-called 'pincer attack' — closing on the task force from opposite directions — are irrelevant. The first and only Argentine Navy attacks on the task force were provoked by British raids on Port Stanley on 1 May. The leaked documents also show that the Royal Navy was authorised, on the day of the *Belgrano* sinking, to attack *any* Argentine ship; the order was not limited to warships allegedly preparing to attack the task force.

This is the timetable for the critical events of April and May 1982.

30 April: Task force is approaching the Falklands from the east, and the nuclear submarines HMS *Conqueror* and HMS *Splendid* search for the *Belgrano* and the *Veinticinco de Mayo*. The Total Exclusion Zone is defined and announced — but the government decides to go on to a full scale attack, without telling Washington or announcing to Argentina that they intend offensive military action outside the Falklands exclusion zone. Cabinet authorises HMS *Splendid* to sink the *Veinticinco de Mayo*, and orders Vulcan bomber raid on Port Stanley, mounted from Ascension Island.

1 May: (Morning) Vulcan and Harrier bombing raids start on Port Stanley. Cluster bombs used by the aircraft cause heavy loss of life but are not intended to destroy the runway, as publicly claimed. HMS *Conqueror* confirms by visual sighting that it has found the *Belgrano*. British military commanders ask for permission to sink any or all Argentine Navy units — not just the *Veinticinco de Mayo*.

(Afternoon) Francis Pym flies to Washington to meet Haig. Before he goes, he signs the minute warning Mrs Thatcher that their planned action may be illegal. Argentine Navy order the *Veinticinco de Mayo* and another task group to attack the British Task Force. Royal Navy frigates bombard Port Stanley, using weapons intended to cause maximum casualties.

(Evening) All Argentine Navy units ordered to break off and withdraw to port. The contents of the signal are, it is clear, known to the government and the task force.

2 May: (Morning) *Belgrano* reverses course at 9am London time. British attacks on Port Stanley continue.

(Lunchtime) War cabinet meeting at Chequers orders attacks on *all* Argentine ships, wherever located.

(Evening) *Belgrano* sunk at 8pm; 368 killed.

THE FIRST document published here, classified 'Confidential', describes most of the key events involved in changing the 'Rules Of Engagement'. It also explains why the government has so determinedly covered-up the *Belgrano* affair. Rules of Engagement (ROE) are orders to naval commanders and others about when, how, and in what conditions they are permitted to attack enemy units. Because of the particular difficulties of staying in moment-to-moment contact with a fast changing battle, and submarines in particular, the ROE are intended to define the limits within which military action is politically permitted or desired. During the Falklands War, the major changes in the ROE were entirely the responsibility of Mrs Thatcher and her advisers.

Continued from page 10

The second document published this week — a draft letter prepared for Defence Secretary Heseltine — gives precise details of the movements of the *Belgrano* (see p.9). A third document sent to Mr Dalyell was not official but an anonymous typed letter suggesting that Dalyell ask specific questions about the Rules of Engagement. It is not known whether that letter is linked to the documents leaked to the MP.

Confirmation of the change in the Rules of Engagement and the attack on the aircraft carrier is contained in the personal diary of one of HMS *Conqueror*'s officers, a copy of which was passed to and used by the BBC programme *Panorama* in May this year. The diaries have since been confirmed as authentic. The passages quoted here were not then noted or broadcast, as no-one then realised the significance of the references to the aircraft carrier.

On 30 April, after noting that faint sonar traces, probably from the *Belgrano* and its escorts, had been detected, the HMS *Conqueror* officer wrote:

The calm before the storm! In the evening we received a signal stating that HM government has decided to 'use more military force' and has authorised the destruction of the Argentinian CVA (ie, aircraft carrier) VEINTICINCO DE MAYO — it would be great if she went down on the 25th of May!!

In fact she is in SPLENDID's area and so it looks as though the S-Boat (ie, *Swiftsure* class submarine) will have her.

On 1 May the *Conqueror* officer gave extensive details of the following of the *Belgrano*, and added a reference to the aircraft carrier which clearly indicated that he knew the other submarine was trying to sink it.

No news of the CVA yet so we presume it is still floating.

If during the next few weeks the government now admits the attempted attack on the *Veinticinco de Mayo*, they will argue — as they have done with the *Belgrano* — that the carrier had become a threat to the task force. This will be untrue; it was only on 1 May, a day later, and after aircraft and ships bombarded Port Stanley airfield, that Argentina ordered the aircraft carrier and another group of ships (not the *Belgrano* group) to attack the task force. But these orders were rescinded less than five hours later, and all ships which had been ordered to attack then returned safely to port, where they remained for the duration of the war.

The documents provide final proof that Mrs Thatcher and her ministers have lied repeatedly to parliament and the public about the course of the Falklands war:

LIE 1: In the House of Commons on 4 May 1982, Defence Secretary John Nott stated that 'The heavily armed surface group (i.e., the *Belgrano* and her escorts) was closing on elements of our task force'. On the famous May 1983 BBC *Nationwide* confrontation with Mrs Diana Gould, Mrs Thatcher told viewers that 'It (the *Belgrano*) was not sailing away from the Falklands... it was a danger to our ships'.

FACT: The leaked minute confirms in detail how the *Belgrano* was known to have reversed course, hours before the sinking, and was sailing directly westwards, away from the Falklands.

LIE 2: On the same occasion, Nott said that '(on) 2 May, at 8pm London time, one of our submarines detected... the *General Belgrano*...'

FACT: The ships known to be accompanying the *Belgrano* had first been detected two days earlier, and the *Belgrano* was tracked visually and on sonar for over 30 hours.

LIE 3: At a press conference on 3 May, and again in the House of Commons the next day, John Nott said that 'it was our policy to use minimum force'.

FACT: This was the opposite of the truth. A major and unprovoked offensive had been ordered on 30 April, and maximum force authorised on 2 April.

LIE 4: Admiral Woodward, ministers, and Mrs Thatcher — most recently in a letter to Denzil Davies MP — have repeatedly referred to the change in the Rules of Engagement as being intended to 'enable *Conqueror* to attack *Belgrano*'.

FACT: The changes in the Rules of Engagement went far wider than this statement is intended to imply.

LIE 5: Cecil Parkinson, on *Panorama* in April 1984 referring to Francis Pym's absence from the second rule-changing meeting on 2 May 1982, said 'I have no reason to believe... that he didn't agree with that decision (to attack the *Belgrano* or any Argentine Navy ship outside the exclusion zone)'.

FACT: Parkinson, who had been present at the earlier OD(SA) meeting on 30 April had every reason to suppose that Pym would not have agreed. Parkinson knew exactly what Pym's and Havers's objections to the planned sinking of the *Veinticinco de Mayo* had been; the same arguments applied with equal force to other ships.

Another significant point to emerge from the leaked documents is the key role of Defence Minister Mr John Stanley in orchestrating the *Belgrano* cover-up on behalf of Mrs Thatcher. The third document sent to Tam Dalyell MP in April correctly identifies Stanley, rather than Defence Secretary Michael Heseltine, as the Defence Ministry figure who has been determined to suppress information about the orders to attack the *Belgrano* and *Veinticinco de Mayo*.

The attack on *Veinticinco de Mayo* was launched before the US peace plan had come to an end, and the US announced immediate economic sanctions against Argentina. This, according to Dr Paul Rogers of Bradford University who has extensively analysed the course of the Falklands war, was the 'crucial piece of the economic blockade'; with the US backing Japan, the EEC and the Commonwealth, the sanctions would now bite.

On 30 April 1982, Mrs Thatcher had a unique opportunity to capitalise on international support for a peaceful settlement. But she wasn't interested; as the *Belgrano* Papers make abundantly clear, Mrs Thatcher was quick indeed to unleash the dogs of war, or as *Conqueror*'s officer genteelly put it, 'use more military force'. The use of nuclear weapons against Argentina was not excluded; indeed, it then became a viable option with the arrival of the first *Polaris* submarine. Dr Rogers comments that:

When the government just days later told parliament and the world that they were using minimum force, they meant the opposite. They had just opted for total war. □

From: Sir Ewen Broadbent, KCB, CMG,
Second Permanent Under Secretary of State



2ndPUS/678/84

CONFIDENTIAL
MINISTRY OF DEFENCE

Main Building, Whitehall, London SW1A 2HB

Telephone (Direct Dialling) 01-218-7115

(Switchboard) 01-218 9000

23rd August, 1984.

Sir Thomas Hetherington, KCB, CBE, QC,
Director of Public Prosecutions,
4-12 Queen Anne's Gate,
London, SW1H 9AZ.

Dear Tom

You will have seen the article by Duncan Campbell
in today's New Statesman.

2. This article has been quickly examined by MOD staff,
in consultation with the FCO. Much of it is made up of
clever editing, in the Campbell style, of existing public
material drawn from a variety of sources some of which he
acknowledges, supplemented by the two documents which were
sent by Mr. Ponting to Mr. Dalyell (it is interesting that
the second page of one of them did not appear to find its
way to Duncan Campbell). But there are two areas where it
appears that Campbell has had access to new material or oral
reports based on new material:-

- a. the minute of 1st May 1982 from the
Foreign Secretary (not the Attorney General and
the Foreign Secretary as Campbell alleges);
- b. part or all of two notes on military options,
which were available in MOD, one on a very restricted
distribution.

3. Campbell also makes great play about Polaris movements.
We have not found any basis for his assertions and therefore
no relevant documents. There is no evidence of Polaris
deployments to Ascension and this has been confirmed today
by Lord Lewin.

4. In the course of considering the replies to the series
of BELGRANO questions this Spring, my Secretary of State called
for a comprehensive report, which necessarily drew on very
highly classified material and papers which had had a very
restricted circulation, such as the minute in paragraph 2 a.
above. Mr. Ponting prepared this report.

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5. The preliminary conclusion which we draw is that some material (or the contents thereof) has been leaked to Campbell in addition to that contained in the two documents already leaked and that Ponting would, from his knowledge, have been in a position to do this for at least some if not all of the information in the article.

6. You may agree that this should call for further Police investigation. If you do, I see merit in the same MDP police officers carrying this out because they are now well immersed in the material and could I suggest be quickly effective. I would therefore inform the Chief Constable MDP that we considered the article contained prima facie leaks which we wish him to investigate.

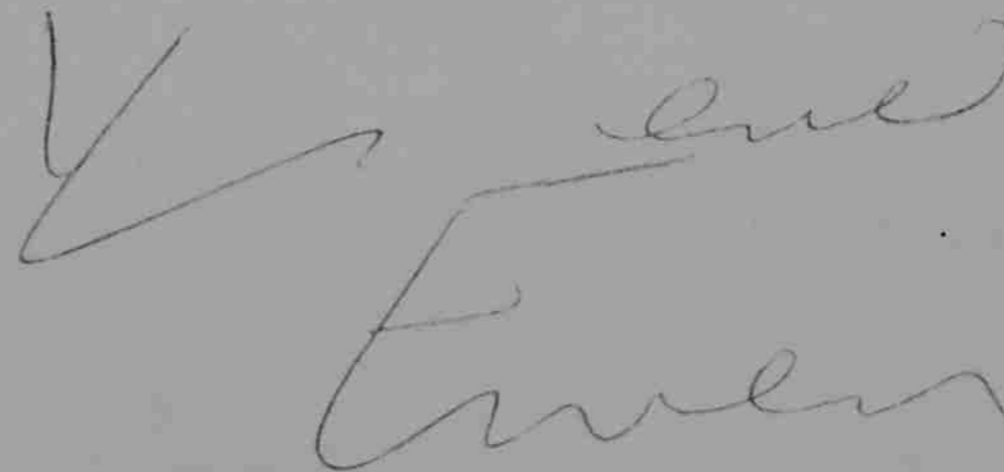
7. There are two other aspects arising from the article:-

a. The verbatim reproduction of the Confidential minute by Head of DS11. You will presumably be considering this aspect.

b. What is now said publicly. Campbell carefully avoids any reference to Ponting. On the allegations about the BELGRANO, the No.10 position last night was "No comment".

One possible line would be to say that the question is to be the subject of further consideration by the Foreign Affairs Select Committee, but my Minister of State does not consider this could be held indefinitely. A more tenable line is to say that the article is the subject of police inquiries, but this could alert Ponting and Campbell. Our view is that we should try to hold the "No comment" line for 48 hours possibly amplified by the reference to the Prime Minister's letter of 4th April to Mr. Denzil Davies and then see where we stand in the light of the further investigations, when it could be that we can fall back on a sub judice position.

8. Copies to Antony Acland, John Jones, Peter Le Cheminant, Robin Butler and (for his return) Robert Armstrong.

A handwritten signature in cursive script, appearing to read 'Ewen', is written in the lower right quadrant of the page.

SECRET

PRIME MINISTER

THERE HAS BEEN A NEW AND MORE SERIOUS 'BELGRANO' LEAK. THE NEW STATESMAN TODAY (DUNCAN CAMPBELL) ARE RUNNING A LONG STORY WHICH HAS TWO MAJOR THEMES:

1. THAT ODSA APPROVED THE SINKING OF THE ARGENTINE AIRCRAFT CARRIER 'THE 25TH MAY' BEFORE THE SINKING OF THE BELGRANO BUT BRITISH SUBMARINES WERE UNABLE TO FIND IT. THIS IT IS CLAIMED IS AN INDICATION OF A LACK OF BRITISH INTEREST IN PEACE NEGOTIATIONS. THIS ASSERTION IS BUTTRESSED BY THE ALLEGATION THAT THE FOREIGN SECRETARY AT THE TIME AND THE ATTORNEY GENERAL SPOKE AGAINST THE SINKING OF THE AIRCRAFT CARRIER AND SENT A JOINT MINUTE SETTING OUT THEIR OPPOSITION.
2. THAT A POLARIS SUBMARINE WAS SENT TO THE ASCENSION ISLANDS, WITHIN RANGE OF ARGENTINA.

IT IS CLEAR THAT THE NEW STATESMAN HAVE NO MORE PAPERS THAN WERE LEAKED LAST WEEK. EQUALLY HOWEVER IT IS CLEAR THAT THEY HAVE ACCESS TO A VERY WELL INFORMED SOURCE. THIS SEEMS HIGHLY LIKELY TO HAVE BEEN THE MOD ASSISTANT SECRETARY WHO HAS BEEN CHARGED WITH THE ORIGINAL LEAK. THE MOST LIKELY EXPLANATION IS THAT HE HAS DECIDED TO TELL 'ALL HE KNOWS' IN A HIGHLY TENDENTIOUS FORM TO THE NEW STATESMAN.

THE AMOUNT OF PRESS INTEREST IN ALL THIS VARIES BETWEEN KEEN (THE GUARDIAN) AND NONE (THE POPULARS). IT IS LIKELY HOWEVER THAT THIS WILL HOT UP.

IN THE MEANTIME THE MOD OFFICER CONCERNED IS BEING REINTERVIEWED IN RELATION TO THE INFORMATION PASSED TO THE NEW STATESMAN. MOD ARE ADVISING BOTH ON THE SUBSTANCE OF THE LEAKS AND THEIR SOURCE, A RESOLUTE NO COMMENT. IN THE MEANTIME THEY ARE ANALYSING JUST WHAT INFORMATION HAS BEEN PUBLISHED.

FROM TIM FLESHER
23 AUGUST 1984

CONFIDENTIAL



CABINET OFFICE

Second Permanent Secretary
P Le Cheminant CB

MANAGEMENT AND PERSONNEL OFFICE
Great George Street
London SW1P 3AL
Telephone 01-233 5009

David Barclay Esq
10 Downing Street
London SW1

20 August 1984

Dear David,

*pa.
DMS
25/8*

MR PONTING

You told me this morning that the Prime Minister had queried whether MOD were following the correct procedure in suspending Mr Ponting without pay and asked me to check. This letter confirms our subsequent telephone conversations.

In short MOD (Richard Hastie-Smith) tell me that the decision to suspend Mr Ponting without pay was taken before it had been decided to charge him under the Official Secrets Act and against the possibility that his offered resignation might have been accepted. In the light of the decision to prosecute they have however now returned Mr Ponting to full pay, with effect from the moment of suspension.

You also told me that the MOD's earlier briefing for Press Offices had included a reference to the suspension without pay and asked that the briefing be updated to reflect the new situation. I have asked MOD to ensure that this happens.

I am copying this letter to Richard Hastie-Smith (MOD), to the private secretary to the Secretary of State for Defence, to Antony Acland and Tony Hetherington and to Rex Davie and Richard Hatfield here.

Tam
RLS

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From: the Resident Clerk

MINISTRY OF DEFENCE

Main Building Whitehall London SW1A 2HB

Telephone 01-218 6002 (Direct Dialling)
01-218 9000 (Switchboard)

D. BARCLAY ESQ,

No 10.

Your reference

Our reference

Date

Copy of Observer article
attached as requested.

cover-up exposed

← BELGRANO

by ANDREW WILSON

A CONFIDENTIAL document, signed by a senior Ministry of Defence official, recommends withholding from the House of Commons sensitive information about the sinking of the Argentine cruiser General Belgrano.

It was sent anonymously last month to Mr Tam Dalyell, Labour MP for Linlithgow. *The Observer* has obtained the text.

The document was signed by J. M. Legge, Head of DS11, and carried the code number MB9326 3276ME. Mr Legge is listed as a member of the Defence Secretariat staff.

The document advises the Defence Secretary, Mr Michael Heseltine, and his staff not to give the House of Commons Foreign Affairs Committee details of changes made in the rules of engagement during the approach of the British task force to the Falklands in May 1982.

It says they would reveal that all Argentine warships had been declared legitimate targets for attack from 2 May—and not just the Belgrano, whose sinking with the loss of 368 lives was subsequently justified on the ground that it threatened the safety of the fleet.

They would also disclose that there had been a five-day delay in the issue of the appropriate warning to the Argentines of the extension of the exclusion zone.

The Foreign Affairs Committee will resume hearing evidence on aspects of the Falklands campaign after the summer recess.

Mr Dalyell told *The Observer* last night: 'The document purported to reveal that the writer wished to keep the Select Committee in ignorance of crucial information.'

'I therefore, having consulted the Clerk of the House of Commons, put the documents at the disposal of the Foreign Affairs Committee. You will have to ask Sir Anthony Kershaw, the chairman, about his subsequent action.'

Sir Anthony, who is abroad, was not available last night.

After Mr Dalyell's action, the Ministry of Defence began an inquiry into a leakage.

He said he received three documents in all. The first was postmarked 24 April and sent to him at the House of Commons in a plain envelope

Exclusive

similar to that containing the other papers, said: 'Dear Mr Dalyell, I cannot give you my name but I can tell you that I have full access to exactly what happened to the Belgrano.'

It suggested that Mr Dalyell should put a number of parliamentary questions to the Defence Secretary, who had failed to answer questions put to him by the MP in a letter in March.

Among the questions recommended by the anonymous writer was: 'Did the change in the rules of engagement [for the Falklands task force] on 2 May [1982] refer only to the Belgrano? Or did they go wider? When were the rules of engagement changed...?'

The anonymous letter ended: 'You are on the right track—keep going.'



TAM DALYELL MP:
'Crucial Information.'

The second, and more important, document reached Mr Dalyell in mid-July. It was on three sheets of paper, from which the top of the first and the bottom of the last had been cut. The subject matter carried the heading: 'House of Commons Foreign Affairs Committee: South Atlantic ROE.' (ROE stands for Rules of Engagement).

In it the head of DS11, Mr Legge, advised his Minister how to respond to questions put by the Foreign Affairs Committee about changes to the rules during the Falklands operation.

The memorandum says: 'We have discussed the form of our response with the defence commitments staff, DS5 and

DNW, who had particular responsibility for ROEs. . . . Our advice is that we should not provide the committee with a note listing all the changes.'

For one thing, says the document, ROEs are drawn from the Fleet Operating the Tactical Instructions, which is a classified document; and the committee had indicated that it would prefer such a note to be unclassified.

'In addition, the full list of changes would provide more information than Ministers have been prepared to reveal so far about the Belgrano affair.'

For instance, it would show that the engagement of the Argentine aircraft carrier 25 de Mayo was permitted from 30 April, and that the change of 2 May was not restricted to the Belgrano but included all Argentine warships over a large area.

'It would also reveal that while the public warnings and ROE changes for the Maritime Exclusion Zone and Total Exclusion Zone were simultaneous, there was a delay until 7 May before the appropriate warning was issued for the 2 May change.'

'I therefore recommend (the writer goes on) that we should avoid these difficulties by providing the committee with a more general narrative.'

The third document received by Mr Dalyell is the draft of a reply by Mr Heseltine to his questions in March about the movements of the Belgrano and the submarine Conqueror.

Mr Heseltine's letter was never sent.

The draft gives precise information about the Belgrano's position at various times and states clearly that the cruiser reversed course towards her home base at 9 a.m. London time on 2 May, 11 hours before the Conqueror torpedoed her.

Mr Dalyell said last night: 'In my opinion the document does not put at risk the nation's security, or any information involving the Fleet and the Navy. What it does put at risk is the exposure of the truth about the action of politicians, particularly Mrs Thatcher.'

He has repeatedly accused the Prime Minister of ordering the sinking of the Belgrano in order to scupper a Peruvian peace plan.

FACE LIFT : Decorate International Balloon

Briefly . . .

Recall for assembly

The Northern Ireland Assembly will be recalled from its summer recess for an emergency debate on Tuesday of the past week's violence.

(Lethal game, page 4).

Tanker hit

A Panamanian-registered oil tanker was hit and damaged by a missile from an unidentified plane off Qatar yesterday.

Liz's vigil

Elizabeth Taylor flies to South Wales today to meet members of Richard Burton's family at Pontryhydyfen, the village where he was born.

Fans injured

Six Liverpool football fans were injured, one seriously, when a railing on the first floor balcony of their London hotel gave way yesterday.

Killer hunted

Police yesterday launched a hunt for the sex killer of a boy aged 10, whose naked body was found outside Bodmin, Cornwall.





Note: I enquired of MFO
who told me that the
decision to withhold pay
has now been reversed.
Am informed accordingly.

10 DOWNING STREET

Message from PM to DB 18/8/84^{20/8}

Mr. Ponting.

* ie now that a
decision on production
has been reached.
DBB
20/8

~~David,~~

would you query this. I
think it is a bit rough. He
and his family have to live
on something. We should, I
believe, wait until the verdict
or until his future career is
decided.

Prime Minister.

PONTING PROSECUTION CHRONOLOGY

- 16 July Ponting sent documents to Tam Dalyell
- 26 July MOD documents returned to Mr Heseltine, decision to undertake investigation into the leak.
- Friday 10 August, 6 pm Admission by Ponting that he had sent documents to Dalyell.
- Monday 13 August, 11 am Sir Ewen Broadbent reports to DPP. DPP consults Solicitor General and asks for early police report. At lunchtime Sir Ewen Broadbent phoned by Solicitor General about the case. Afternoon, Michael Heseltine informed of reference to DPP by Sir Ewen Broadbent. PM informed by telex.
- Tuesday 14 August Ponting sees Mr Hastie-Smith and handed letter about the possibility of prosecution.
- 15 August John Stanley informed of reference to DPP.
- 16 August Police report received by DPP.
- 17 August - Solicitor General and DPP considered police report and consulted the AG by phone. The AG agreed that there should be a prosecution.
- 18 August - Ponting appeared before Bow Street Court
Subsequently - Defence Ministers informed, PM informed by telex.

Sent to Inlan
17/8.

CONFIDENTIAL

PRIME MINISTER

MR PONTING

THE DPP, AFTER CONSULTING THE LAW OFFICERS, HAS DECIDED THAT MR PONTING, THE MOD ASSISTANT SECRETARY WHO PASSED DOCUMENTS TO TAM DALYELL, SHOULD BE CHARGED. THIS DECISION WILL BE ANNOUNCED EITHER TONIGHT OR TOMORROW MORNING.

THE PROSECUTION WILL BE FOR OFFENCES UNDER SECTION 2 OF THE OFFICIAL SECRETS ACT. MR PONTING WILL REMAIN SUSPENDED FROM DUTY WITHOUT PAY UNTIL THE VERDICT IS GIVEN.

FROM DAVID BARCLAY
17 AUGUST 1984

Suspended without pay
before a decision

PONTING PROSECUTION CHRONOLOGY

16 July

Ponting sent documents to Tam Dalyell

26 July

MOD documents returned to Mr Heseltine, decision to undertake investigation into the leak.

Friday 10 August, 6 pm

Admission by Ponting that he had sent documents to Dalyell.

Monday 13 August, 11 am

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Ponting sees Mr Hastie-Smith and handed letter about the possibility of prosecution.

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16 August

Police report received by DPP.

17 August

- Solicitor General and DPP considered police report and consulted the AG by phone. The AG agreed that there should be a prosecution.

18 August

- Ponting appeared before Bow Street Court

Subsequently -

- Defence Ministers informed, PM informed by telex.

CONFIDENTIAL
MANAGEMENT IN CONFIDENCE



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~3307822~~ 218 2111/3

MO 22/5

17th August 1984

Dear Janet,

*sent
17/8*

UNAUTHORISED DISCLOSURE OF DOCUMENTS TO TAM DALYELL MP

Further to my letter of this morning, I now attach a copy of the damage assessment involved in this disclosure.

You will also wish to know that the Director of Public Prosecutions has submitted advice on the case to the Solicitor General and the Attorney General who have decided that the individual concerned should be prosecuted. Further defensive briefing is being prepared against the possibility that the fact that the individual was charged this afternoon becomes public.

I am sending a copy of this letter (without enclosure) to David Barclay (No 10) and to Philip Francis in Mr Stanley's office here.

*Yours ever,
Denis*

(D BRENNAN)

Miss J A Lewis-Jones

MANAGEMENT IN CONFIDENCE
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MANAGEMENT IN CONFIDENCE



MO 22/5

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~230 7822~~ 218 2111/3

17th August 1984

*sub
17/8*

Dear Janet,

UNAUTHORISED DISCLOSURE OF DOCUMENTS TO TAM DALYELL MP

In the absence abroad of the Prime Minister and my Secretary of State, the Minister of State for the Armed Forces believes that the Lord President should be aware of this case against the possibility that knowledge of it reaches the press. The background to the case is set out in the attached papers. The Prime Minister has been informed.

I am sending copies of this letter (without enclosures) to David Barclay (No 10) and to Philip Francis in Mr Stanley's office here.

Yours ever,

Denis

(D BRENNAN)

Miss J A Lewis-Jones

MANAGEMENT IN CONFIDENCE

From: Sir Ewen Broadbent KCB CMG
Second Permanent Under Secretary of State



CONFIDENTIAL - MANAGEMENT-IN-CONFIDENCE

MINISTRY OF DEFENCE

Main Building, Whitehall, London SW1A 2HB

Telephone (Direct Dialling) 01-218 7115

(Switchboard) 01-218 9000

2nd PUS/DP/292/84

17 August 1984

P Le Cheminant Esq CB
MPO

amb
17/8

Dear Peter

LEAK INVESTIGATION

In my letter of 10 August to Robert Armstrong I promised to forward a fuller damage assessment once it was available.

I now attach a comprehensive assessment which is in the form of an internal MOD note. It has been discussed within the department, including the Naval Staff, and it is generally agreed that neither of the documents sent Mr Dalyell contain any material, the disclosure of which would be damaging to national security.

You will appreciate that this assessment refers only to the national security aspect. It does not address the question of potential or actual embarrassment to HMG; nor does it cover the separate highly important issue of breach of trust by a senior civil servant.

I have copied this to Robin Butler, Antony Acland, Tony Hetherington, John Jones and (for his return) Robert Armstrong.

Yours ever
Ewen

CONFIDENTIAL - MANAGEMENT-IN-CONFIDENCE

16 August 1984

DUS(N)

Copy to:
DUS(P)

C: 2nd PUS
17/8

GENERAL BELGRANO

You asked me to examine two recent papers relating to the sinking of the General Belgrano and to let you know whether they contained any classified information. The documents in question, attached for ease of reference, are:

a. draft letter to Mr Tam Dalyell MP, enclosed with Head of DS5's loose minute D/DS5/9/9/46-85 dated 9 May 1984 (Document A); and,

b. Head of DS11's loose minute (minus attachments) D/DS11/10/6/7 to PS/Minister(AF) dated 6 July 1984 (Document B).

2. I have interpreted "classified" in the strict, security, sense: that is, information the public disclosure of which would be prejudicial to national security. In other words, I have not considered whether disclosure might prove politically embarrassing in domestic terms (although I have touched in para 5c below on one point that could conceivably attract attention abroad); nor have I taken into account the possibility that publication of the material in question might make it less easy to resist demands for further, possibly classified, information. Finally, I have of course conducted this exercise within the present day context: information which can safely be regarded as unclassified today might well have had to be protected, for obvious reasons, during the Falklands campaign.

Document A

3. The draft letter to Mr Dalyell sought to answer nine questions posed by the MP in his letter to Secretary of State of 19 March this year. By definition, the draft is unclassified, as was the covering minute. It does not, of course, necessarily follow that it does not contain classified material, although I have established that Head of DS5 cleared the draft with the Naval and Intelligence Staffs before submitting it. I have, however, analysed the nine proposed answers at Annex A and discussed them with the Naval Staff. In my view, although much of the information has not previously been published officially, there is nothing in the draft which can today be said to be classified. It will be seen that in reply to the one question (9) which touched on intelligence matters, which constitute as sensitive an area today as they did in 1982, it was proposed to refuse an answer precisely for that reason.

Document B

4. This minute is stamped 'CONFIDENTIAL' and therefore prima facie might be thought to contain classified material. It was in fact given a 'CONFIDENTIAL' marking in accordance with the normal convention applying to advice to Ministers on material destined for a House of Commons Committee: the minute enclosed a draft MOD note to the Foreign Affairs Committee. The minute explains why it would be inappropriate to provide the Committee with an itemised list of changes to Rules of Engagement (ROE) during the Falklands campaign, not least because the ROE are themselves classified and some are still in force in and around the Falkland Islands. It does not however quote any of the ROE verbatim and the 'CONFIDENTIAL' marking should be seen as tantamount to 'IN CONFIDENCE' rather than as implying that the information contained in the minute is sensitive in security terms.

5. Three points in para 2 of Document B deserve special mention:

a. the fourth sentence (page 1) refers to the "Fleet Operational and Tactical Instructions", which is the source document for the ROE. Although, as said above, the actual Rules are classified the existence of the publication and its title are not;

b. the penultimate sentence (page 2) discusses specific changes in the ROE: that relating to the aircraft carrier 25 DE MAYO on 30 April 1982 and that on 2 May as a result of which HMS CONQUEROR was permitted to attack the BELGRANO. The latter change has long been in the public domain. This would be the first official mention of the former; but the actual wording of the Rule is not quoted and there is no security objection at this juncture to the publication of the sentence;

c. the final sentence states that there was a delay until 7 May 1982 before the "appropriate warning was issued for the 2 May change". This is not entirely consistent with what has been said before and the sentence, if published, could conceivably attract attention not only at home but also abroad. The word "appropriate" is ambiguous. The sequence of events is as follows. On 23 April 1982, HMG issued a warning to the effect that:

"Any approach on the part of Argentine warships, submarines, naval auxiliaries or military aircraft which could amount to a threat to interfere with the mission of British forces in the South Atlantic would encounter the appropriate response".

The scope of the warning was not confined to the Total Exclusion Zone (TEZ) (or, more properly, the Maritime Exclusion Zone which was in force on 23 April but expanded into the TEZ on 30 April). Reference has been made to that announcement in answer to allegations that the ship was attacked outside the TEZ without warning.

The warning issued on 7 May was more categoric,
viz:-

"Any Argentine warship or military aircraft which are (sic) found more than 12 nautical miles from the Argentine coast will be regarded as hostile and are (sic) liable to be dealt with accordingly".

It would be necessary to bear this point in mind should the reference to the 7 May warning be picked up in the international - let alone national - press and the inference drawn that the attack on the Belgrano was carried out without warning. Security is not, however, at issue.

Conclusion

6. In sum, my considered view is that neither Document A nor Document B contains any material, the disclosure of which would be damaging to security.

N. H. Nicholls
N H NICHOLLS
AUS(D Staff)

DOCUMENT A - QUESTIONS POSED BY MR TAM DALYELL MP IN HIS LETTER TO SECRETARY OF STATE DATED 19 MARCH 1984

1. At what time on 30 April 1982 did HMS Conqueror first detect the Belgrano on its sonar? What was the estimated position, course and speed of the Belgrano at the time?

Proposed answer:-

"As the Prime Minister has pointed out, HMS Conqueror did not detect the General Belgrano on its sonar on 30 April 1982; it made contact with an accompanying oiler auxiliary."

Comment

This answer draws on wording from the Prime Minister's letter to Mr Denzil Davies MP of 4 April 1984. ["HMS Conqueror, on patrol south of the Falkland Islands, detected an Argentine oiler auxiliary which was accompanying the Belgrano on 30 April. She sighted the Belgrano for the first time on 1 May when it was accompanied by two destroyers armed with Exocet missiles."] The Prime Minister went on to explain that these comments about the first contacts with the Belgrano group went further than the Government had been prepared to do hitherto. She had only felt able to do this now "as, with the passage of time, those events have lost some of their original operational significance".

2. At what time did HMS Conqueror come into visual contact with the Belgrano on 1 May 1982 and what was the course, speed and position of the Belgrano at the time?

3. At what time on 1 May 1982 did HMS Conqueror observe the RAS involving the Belgrano and an oiler and what was the course, speed and position of the Belgrano at the time?

Proposed answer:-

"Again as the Prime Minister has already said, the first visual contact with Belgrano was at 2pm London time on 1 May. At the time Belgrano was conducting a RAS with the oiler. The position at 3pm London time was 54.07S 064.24W - Course 125, Speed 8 knots."

Comment

The first sentence draws on the first of the two sentences from the Prime Minister's letter of 4 April quoted in square brackets under Question 1 above. The fact that the Belgrano was refuelling when first sighted by HMS Conqueror together with its position have not previously been published but there is no security objection to the disclosure of this information. (I have not been able to establish how Mr Dalyell obtained the information that the Belgrano was in company with an oiler when she was first detected).

4. What was the course followed by the Belgrano throughout the period in which it was being tracked by HMS Conqueror?

Proposed answer:-

"There is no continuous log of the Belgrano's movements but its position is known at certain times:-

<u>London time</u> (2 May)	<u>Position</u>	<u>Course</u>	<u>Speed (knots)</u>
5am	55.20S 060.14W	090	13
9am	55.20S 057.22W	reversed course	
3pm	55.16S 060.18W	270	14
8pm	55.27S 061.25W	280	11"

Comment

This information is derived from periscope sighting by HMS Conqueror throughout 2 May 1982. It has not been published previously; nor has the fact, evident from the table, that the cruiser made a major change of course during 2 May, hitherto been officially confirmed. There is, however, no security objection to publishing this information at this remove.

5. What was its speed when it was attacked?

Proposed answer:-

"11 knots".

Comment

This information has not been published previously, but there is no security objection to doing so.

6. Why were Mk 8 torpedoes used in preference to Mk 24s and can both of these weapons be set for proximity detonation?

Proposed answer:-

"This was an operational decision taken by the CO of HMS Conqueror. He chose the Mk 8 torpedo because he considered it to have a better chance of penetrating the cruiser's armour and anti-torpedo bulges. The Mk 8 is an impact weapon. TIGERFISH has both impact and proximity fuses."

Comment

There is no security objection to this answer: the characteristics of the Mk 8 torpedo are already public knowledge, as is the fact that a Mk 8 torpedo was used to sink the Belgrano. The latter point has, in fact, been confirmed officially.

7. At what time was the order to sink the Belgrano sent from Northwood on 2 May? Were any signals sent or received by HMS Conqueror between the issuing of that order and its execution?

Proposed answer:-

"No order was sent from Northwood to sink the Belgrano. The change in the Rules of Engagement agreed by Ministers was signalled by Northwood at 1.30pm London time on 2 May. The message was first received by HMS Conqueror at 3pm London time but because the transmission was garbled it was not decoded by the submarine until 5pm. The only messages sent by HMS Conqueror were at 3pm London time reporting the position of the Belgrano at 9am and 3pm and at 5pm saying that it was about to attack the Belgrano. As you will appreciate from this outline communications with a nuclear submarine, submerged and in contact with the enemy on the other side of the world are extremely difficult. Conqueror was only in contact with the UK for very short periods and at extended intervals".

Comment

Although there have been previous Ministerial statements (including the Prime Minister's letter to Mr Denzil Davies of 4 April referred to above) on the timing both of the decision on 2 May to change the ROE (as a consequence of which HMS Conqueror was enabled to engage the Belgrano) and of the actual attack, this is the most detailed account yet of the communication between the UK and HMS Conqueror on the day of the attack. There is, however, no security objection at this stage to its publication, nor to the explanation of the difficulties in making contact with a submarine in these circumstances.

8. When did HMS Splendid first detect the Argentinian CVA on 1 May, for how long did it maintain contact and what was the course and speed of the CVA during this time?

Proposed answer:-

"HMS Splendid did not detect the Argentine CVA".

Comment

This is the first time that this information would have been given. But there is no security objection to doing so.

9. Was the CVA under surveillance by aircraft or satellite at any time on 30 April to 2 May? If so, what information concerning course, speed and signals exchanges was obtained during this period?

Proposed answer:-

"I am afraid that it is not possible for me to answer this Question since it deals with intelligence matters".

Comment

The answer follows the normal practice of refusing to comment on intelligence matters.

Tam Dalyell MP
House of Commons

Thank you for your letter of 1 May about the sinking of the General Belgrano. As you know the Prime Minister has already written to Denzil Davies setting out the background to the sinking of the Belgrano and the reasons why that decision was taken. Perhaps I could reply to your more detailed questions about the events as you have set them out.

1. As the Prime Minister has pointed out, HMS Conqueror did not detect the General Belgrano on its sonar on 30 April 1982; it made contact with an accompanying oiler auxiliary.

2&3. Again as the Prime Minister has already said, the first visual contact with Belgrano was at 2pm London time on 1 May. At the time Belgrano was conducting a RAS with the oiler. The position at 3pm London time was 54.07S 064.24W - Course 125, Speed 8 knots.

4. There is no continuous log of the Belgrano's movements but its position is known at certain times:-

<u>London time</u> (2 May)	<u>Position</u>	<u>Course</u>	<u>Speed (knots)</u>
5am	55.20S 060.14W	090	13
9am	55.20S 057.22W	reversed course	
3pm	55.16S 060.18W	270	14
8pm	55.27S 061.25W	280	11

5. 11 knots.

6. This was an operational decision taken by the CO of HMS Conqueror. He chose the Mk 8 torpedo because he considered it to have a better chance of penetrating the cruiser's armour and

anti-torpedo bulges. The Mk 8 is an impact weapon. TIGERFISH has both impact and proximity fuses.

7. No order was sent from Northwood to sink the Belgrano. The change in the Rules of Engagement agreed by Ministers was signalled by Northwood at 1.30pm London time on 2 May. The message was first received by HMS Conqueror at 3pm London time but because the transmission was garbled it was not decoded by the submarine until 5pm. The only messages sent by HMS Conqueror were at 3pm London time reporting the position of the Belgrano at 9am and 3pm and at 5pm saying that it was about to attack the Belgrano. As you will appreciate from this outline communications with a nuclear submarine, submerged and in contact with the enemy on the other side of the world are extremely difficult. Conqueror was only in contact with the UK for very short periods and at extended intervals.

8. HMS Splendid did not detect the Argentine CVA.

9. I am afraid that it is not possible for me to answer this question since it deals with intelligence matters.

I would also emphasise a crucial point made by the Prime Minister. The primary responsibility of the Government was to protect the Task Force. The exact position and course of the Belgrano at any moment were irrelevant to the decision to alter the rules of engagement. Ships by their very nature can quickly change their course and speed and throughout the 2 May Belgrano, in conjunction with other units of the Argentine fleet, posed a major threat to the Task Force which it would have been irresponsible for Ministers to ignore.

OFC
E.39
+1
2

CONFIDENTIAL

LOSS OF MINUTE

D/DSI/10/6/7

6 Jul 84

PS/Minister(AF)

Copy to:

AFS/Secretary of State

AUS(D Staff)

Head of DS5

Head of DS8

DROW

DNT

FCC - Falkland Islands Department

HOUSE OF COMMONS FOREIGN AFFAIRS COMMITTEE: SOUTH ATLANTIC ROE

1. Following evidence from Mr Francis Pym on the sinking of the General Belgrano, the Foreign Affairs Committee asked Lady Young to provide a note listing the changes made to the Rule of Engagement during operation Corporate. I attach copies of the relevant extracts from the transcripts of the evidence and the note from the Clerk to the Committee.

2. We have discussed the form of our response with the Defence Commitments Staff, DS5 and DNT who had particular responsibility for ROEs during Operation Corporate. We have also borne in mind the statements made to date by Ministers on the subject of the Belgrano. Our advice is that we should not provide the Committee with a note listing all the changes. There are a number of reasons for this. Firstly the ROE themselves are classified, and are drawn from the Fleet Operating and Tactical Instructions which is a classified document. The Committee have indicated that they would prefer the note to be unclassified. Secondly some of the ROE are

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still in force for our Falklands garrison. The risk of
determining their effectiveness if they were published and debated
openly by the FAC. Thirdly the production of a full list of all
changes would be an extremely time consuming exercise, not only
because of the difficulty of assembling the information from
departmental records, but also because the ROE would have to be
paraphrased at some length since their format would be almost
incomprehensible to the layman. In addition a full list of changes
would provide more information than Ministers have been prepared
to reveal so far about the Belgrano affair. For instance, the list
of changes in the period 20 April-7 May would show that the engage-
ment of the Argentine aircraft carrier 25 DE MAYO outside the Total
Exclusion Zone was permitted from 30 April, and that the change
on 2 May was not restricted to BELGRANO but included all Argentine
warships over a large area. It would also reveal that whilst the
public warnings and ROE changes for the MEZ and TEZ were simultaneous,
there was a delay until 7 May before the appropriate warning was
issued for the 2 May change.

3. I therefore recommend that we should avoid these difficulties
by providing the Committee with a more general narrative, explaining
broadly when changes were made to ROE, but emphasising that changes
were a continual and routine process, thus confirming the thrust
of Mr Pym's evidence. I attach a draft on these lines. Since it
does not actually specify any ROEs it would pose no problems from
a security point of view. It is consistent with previous public
statements by Ministers and others, including Admiral Woodward,
about the change of ROE which led to the sinking of the Belgrano.
The draft deliberately avoids any reference to the underlying system
of ROEs or the mechanism for their approval, since neither aspect
was touched on by Mr Spearing.

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Lady Young will be submitting a number of notes to the Committee
or to her departure for Brazil on Wednesday 11 July. If
Minister(AF) is content to clear the attached draft by that stage
then Lady Young will submit it together with the other notes. If
clearance by Tuesday evening 10 July is not possible it will be
necessary for MOD to submit the note direct to the FAC; you will
see that the Clerk to the Committee has in any case asked for receipt
of material by 13 July. The FCO are quite content for MOD to submit
direct if necessary.

J M Legge
J M LEGGE
Head of DS11
MB9326 3276MB

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CONFIDENTIAL MANAGEMENT-in-CONFIDENCE



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Second Permanent Secretary
P Le Cheminant CB

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Martin Howard Esq
PS/Sir Ewen Boradent
Ministry of Defence
Main Building
Whitehall
London SW1

15 August 1984

sub
16/8

Sean Martin,

Mr Le Cheminant has asked me to let you have the attached record of a conversation about Mr Ponting which he had with Mr Ward of the FDA earlier today. Subject to advice Mr Le Cheminant's view is that we should not engage in further discussion with Mr Ward on this matter until a decision has been taken on whether to prosecute.

I am copying this letter and attachment to the private secretaries to Sir Robert Armstrong, Sir Antony Acland, Sir Thomas Hetherington, Sir John Jones and to Robin Butler.

Yours ever,
Peter Martin

P MARTIN
Private Secretary

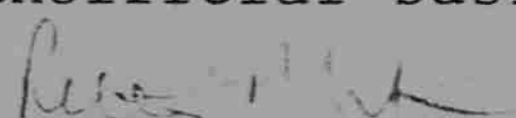
NOTE FOR RECORD

MR PONTING

John Ward, General Secretary of the First Division Association (FDA) telephoned Mr Le Cheminant this afternoon. Mr Ward said that Mr Ponting of the Ministry of Defence had been to the FDA and had told them of the events which had led to his being suspended without pay. Mr Ward said that the FDA did not condone action such as that alleged to have been committed by Mr Ponting - they were on record as regarding leaks as 'unprofessional' - but the FDA did not wish to leave Mr Ponting 'out in the cold' and therefore wished to bring various points to the attention of those handling the case. Mr Le Cheminant said that he was prepared to take delivery of any message on a purely private basis and to pass it on to those concerned. The conversation could not however be regarded as an occasion for making 'representation' in any formal sense. Mr Ward agreed and then said:

- i. according to Mr Ponting MOD management were aware of his pacifist views before the alleged events. MOD management must therefore bear a share of responsibility for Mr Ponting's action in that they had left him in a post where a conflict of conscience might arise.
- ii. Mr Ward understood that the documents which had been leaked were unclassified. Although he recognised that leaking such documents was technically a breach of the Official Secrets Act (OSA) he felt that a prosecution under the OSA in this case rather than dealing with it through departmental disciplinary procedures would be to use 'a sledgehammer to crack a nut'.
- iii. finally Mr Ward drew attention to the political sensitivity of the events surrounding the sinking of the General Belgrano. Ministers would no doubt wish to consider whether it would be sensible to institute court proceedings which would have the effect of drawing attention to those events.

Mr Le Cheminant did not respond to any of these points; but simply repeated that he would ensure that Mr Ward's comments were brought to the attention of those concerned. In response to a further enquiry from Mr Ward about timing Mr Le Cheminant said that it was important for Mr Ponting's case to be dealt with in accordance with the correct procedures. He was not however in a position to predict when the consideration of Mr Ponting's case would be completed. Mr Ward accepted this and, in conclusion, said that he would be happy to discuss the case further, on an official or unofficial basis, with whoever was handling the case.


P MARTIN (PS/2nd Permanent Secretary)

15 August 1984

JEAN STROKE DEBBIE

pm

THE PRIME MINISTER MIGHT LIKE TO BE AWARE THAT THERE HAS BEEN A LEAK INVESTIGATION IN THE MOD INTO THE PASSING OF TWO PAPERS TO TAM DALYELL. THESE WERE BOTH FAIRLY RECENT: ONE WAS A FIRST (MANUSCRIPT) DRAFT OF A LETTER FOR MR HESELTINE TO SEND TO MR DALYELL: AND THE SECOND WAS AN INTERNAL MINUTE FROM MOD TO MRHESELTINE ABOUT TACTICS FOR HIS FORTHCOMING APPEARANCE BEFORE THE FOREIGN AFFAIRS SELECT COMMITTEE. MR DALYELL HAD SENT BOTH DOCUMENTS TO TONY KERSHAW WHO HAD SENT THEM TO MR HESELTINE. THE LEAK INVESTIGATION RESULTED IN AN ADMISSION A CONFESSION BY AN ASSISTANT SECRETARY IN MOD THAT HE HAD PASSED THE PAPERS TO MR DALYELL. HE HAS TENDERED HIS RESIGNATION BUT THE DPP IS NOW CONSIDERING WHETHER A PROSECUTION SHOULD BE BROUGHT. THE PAPERS THAT WERE LEAKED CONTAIN NO MATERIAL PREJUDICIAL TO SECURITY AND WERE IN ESSENCE ABOUT THE HANDLING OF MR DALYELL RATHER THAN THE CIRCUMSTANCES OF THE SINKING OF THE BELGRANO

TF

MESSAGE ENDS

From: Sir Ewen Broadbent KCB CMG
Second Permanent Under Secretary of State



MINISTRY OF DEFENCE

Main Building, Whitehall, London SW1A 2HB

Telephone (Direct Dialling) 01-218 7115

(Switchboard) 01-218 9000

CONFIDENTIAL - MANAGEMENT IN CONFIDENCE

2nd PUS/DP/273/84

14 August 1984

P Le Cheminant Esq CB
MPO

Don Peter

LEAK INVESTIGATION

Thank you for your letter dated 13 August 1984.

I have now discussed this matter with my Secretary of State who is in agreement that the necessary first step is for the Director of Public Prosecutions in consultation with the Law Officers to consider whether a prosecution should be brought under the Official Secrets Act. He also agrees that not until this has been done can we sensibly consider the action to be taken about the resignation which was offered on 10 August, and the institution of internal disciplinary proceedings.

The Chief Constable of the Ministry of Defence Police is in touch with the Director of Public Prosecutions and he is providing him with the necessary documents and information in the case. Meanwhile Mr Ponting has been seen by Richard Hastie-Smith, the Principal Establishment Officer today and handed the enclosed memorandum.

I also attach a copy of the line we are proposing to take in public until it has been decided whether or not there should be a prosecution.

I am copying this letter to Robert Armstrong, Tony Hetherington, Robin Butler, Antony Acland, John Bailey and John Jones.

*Yours
Ewen*

CONFIDENTIAL - MANAGEMENT IN CONFIDENCE



MINISTRY OF DEFENCE

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From: Deputy Under Secretary of State (Civilian Management)
R M HASTIE-SMITH CB

MR PONTING

14 August 1984

Following the statement you made to the Ministry of Defence Police on Friday 10 August admitting a breach of trust in that you photocopied and sent two documents to Tam Dalyell MP, the possibility of prosecution and departmental disciplinary charges are still under consideration. Until these matters are resolved the Department is unable to accept the resignation which you offered me with immediate effect on 10 August. It follows that unless and until a decision is taken to accept that resignation, you are suspended (without pay) with effect from that date.

R M HASTIE-SMITH

LEAK INVESTIGATION - BELGRANO PAPERS

PROPOSED PUBLIC LINE TO TAKE

Line to take. There has been an unauthorised disclosure of information about the circumstances surrounding certain naval operations during the Falklands hostilities. An investigation by the police has been carried out. The conclusions reached by the investigation are now under consideration.

Response to further questions. As the outcome of the investigations may lead to a prosecution, the matter must be considered to be sub judice.

CONFIDENTIAL



MANAGEMENT AND PERSONNEL CONFIDENCE

CABINET OFFICE

Second Permanent Secretary
P Le Cheminant CB

MANAGEMENT AND PERSONNEL OFFICE
Great George Street
London SW1P 3AL
Telephone 01-233 5009

Sir Ewen Broadbent KCB
Ministry of Defence
Main Building
Whitehall
London SW1

13 August 1984

Dear Ewen,

*DMS
15/8*

LEAK INVESTIGATION

You wrote to Robert Armstrong on Friday last (10 August) informing him that the Ministry of Defence police had been asked to carry out an investigation into the circumstances in which two Ministry of Defence documents - relating to the sinking of the General Belgrano - had come into the hands of Mr Tam Dalyell MP. Mr Dalyell had sent the documents to Mr Anthony Kershaw MP in his capacity as Chairman of the Foreign Affairs Committee who had taken one copy for the Committee's use and then passed them to your Secretary of State.

You called in to see me at noon today to tell me that the MDP enquiry had resulted in an admission by an Assistant Secretary in your Department that he had passed the papers to Mr Dalyell. The officer concerned had tendered his resignation.

You also told me that you had had a brief word with the Director of Public Prosecutions this morning about whether it would be appropriate to launch a prosecution under the Official Secrets Act. Tony Hetherington had said that he would need to consult the Law Officers.

Finally you told me that your Secretary of State leaves on holiday for two weeks this evening and that you would be visiting him at his home in Banbury in the course of the afternoon to discuss the matter. You asked for any advice the Cabinet Office could give by 3.00 pm this afternoon. The remainder of this letter is to confirm what I told you on the telephone earlier this afternoon.

I have consulted in the office and we are quite clear that it will be essential for the Government to operate by the book: and that for this purpose the necessary first step is for the Director of Public Prosecutions, in consultation with the Law Officers, to consider whether a prosecution should be brought under the Official Secrets Act. Only when this has been done can we sensibly consider the action to be taken about the proffered resignation and the institution of internal disciplinary proceedings.

I imagine that all of this will take several days. But the first question which will be asked when the matter becomes public - which could presumably be at any time - will inevitably relate to the possibility of presecution under the Official Secrets Act and the Government will need an answer. You will no doubt wish to advise your Secretary of State in this sense.

On final point. Given the numbers of people who are already aware of this situation we must be ready with a public line to take in the event of media interest before any decisions have been taken. I imagine this would be confined to confirmation that there had been a leak; that it had been investigated; and that the results of the investigation were under consideration. To say anything more would risk impairing any subsequent proceedings which might be decided upon.

I am copying this letter to Robert Armstrong, Tony Hetherington, Robin Butler, Antony Acland and John Jones.

Tamara
Bill

From: Sir Ewen Broadbent KCB CMG
Second Permanent Under-Secretary of State



MINISTRY OF DEFENCE

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Sir Robert Armstrong GCB CVO
Management and Personnel Office
70 Whitehall
London
SW1A 2AS

2nd PUS/72/3/650

10 August 1984

Dear Robert

LEAK INVESTIGATION

1. You will wish to know that, with my Secretary of State's concurrence, I have requested the Chief Constable of the Ministry of Defence Police to arrange for the MDP to carry out an investigation into the circumstances in which two Ministry of Defence documents - relating to the sinking of the GENERAL BELGRANO - came into the hands of Mr Tam Dalyell, MP. It appears that Mr Dalyell sent the actual documents he received to the Chairman of the Foreign Affairs Committee; and that Mr Kershaw returned them to my Secretary of State, having taken one copy for the Committee's use. Mr Kershaw has requested that the original documents be returned to the Committee in due course. My Secretary of State will be giving evidence to the Committee on this subject in the Autumn.
2. One of the two documents was classified CONFIDENTIAL and the other was UNCLASSIFIED (but contained some politically sensitive material). At the present time it appears unlikely that the leak has resulted in any damage to the security of the nation. But it is clearly highly embarrassing that information on so sensitive a subject should have been released in this way; and it is most worrying that someone into whose hands these documents came should (as it would seem) have deliberately leaked them to Mr Dalyell.
3. At the present time the MDP's enquiries are confined to MOD. Should it be necessary for the investigation to be extended to include the FCO, I will of course consult Antony Acland further.
4. I will provide a fuller damage assessment in due course.
5. I am copying this letter to Robin Butler, Antony Acland and John Jones. I should be grateful if you and they would keep knowledge about this investigation to a very restricted circle for the time being, in order to facilitate the MDP's enquiries.

Ewen Broadbent

