

SECRET

8A



MINISTRY OF DEFENCE

MAIN BUILDING WHITEHALL LONDON SW1A 2HB

Telephone ~~01 990 7023~~ 218 2111/3

MO 5/21V

11th December 1985

Dear Nigel,

Agreed mt.

LT SETHIA: PRODUCTION OF DIARY

The Prime Minister should be aware that circumstances have arisen which require us to act very quickly to forestall further circulation of the diary of Lieutenant Sethia who served on HMS Conqueror during the Falklands conflict.

You may recall that Sethia claimed that the Observer newspaper had reproduced sections of his diary last autumn without his permission. He is now sueing the Observer (and other newspapers) for breach of copyright. As part of this litigation, Sethia's solicitors received a summons on Monday from the Observer's solicitors requiring them to produce a copy of the diary, at tomorrow's hearing.

Sethia's solicitors contacted this Department asking whether the MOD would have any views on whether the diary should be produced. They said they did not have the diary in their possession but had access to a copy. It is now understood that the copy for which they could call is a copy held by Sethia, even though he told our investigators that he had destroyed the original. The DPP has been informed of this indication that Sethia appears to be in possession of a copy. The diary is classified up to Top Secret Umbra in parts, and this clearly requires us to respond to these new circumstances in order to prevent its further circulation.

We have already asked Sethia's solicitors to return the document, but a preliminary conversation between the Treasury Solicitor's Department and the solicitor has revealed that Sethia was unlikely to agree to hand it over to us. And there is doubt as to whether we have a legal right to demand it. We are pressing the solicitors again to leave it out, but we must reckon that the attempt will not succeed.

In that event Mr Heseltine believes that we should take steps to prevent disclosure of passages in the diary in these proceedings on grounds of public interest immunity. This requires the Defence Secretary to sign a certificate justifying such a claim, which he intends to do as soon as our officials have identified those sections of the diary which are classified and have not yet been published.

Nigel Wicks Esq
10 Downing Street

SECRET

SECRET



THIS IS A COPY. THE ORIGINAL IS
RETAINED UNDER SECTION 3 (4)
OF THE PUBLIC RECORDS ACT

The Treasury Solicitor is standing by to inform the solicitors for Sethia and the court of our intentions and advise them in the strongest terms that the diary should not be produced. Subject to the Prime Minister's agreement, we shall instruct him to do this as soon as possible.

I am copying this letter to Len Appleyard (Sir Geoffrey Howe's Office), Henry Steel (Law Officers' Department), Michael Stark (Cabinet Office) and John Bailey (Treasury Solicitor).

Yours ever

Denis Foreman

for (R C MOTTRAM)
Private Secretary

SECRET