

WLL (2)



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8th October 1987

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Dear Nigel

LIEUTENANT SETHIA'S DIARY

REPORT 41

In my letter of 10th July, I explained where matters then stood in relation to Lieutenant Sethia's diary. The hearing relating to the production of the diary, which was to have been held in mid-July, was subsequently adjourned until the beginning of October. But a settlement has now been reached which has removed the need for the matter to be aired before a judge and, with it, the risk of our being forced to make further extensive disclosures of diary entries.

As you know, our agreement in June to permit the production of the 'personal' passages from the diary did not satisfy the newspapers who are the defendants in Sethia's actions. They claimed that they also needed to have access to some operational material, including copies of documents and a chart interleaved with the diary.

In a 'without prejudice' meeting held last month, the Treasury Solicitor was able to persuade the Defendants' solicitors to be specific about what their clients' requirements were. These turned out to be as follows:

- (a) a series of extracts from the diary entries for 29 April to 6 May 1982, comprising mainly operational passages already published by the Observer in November 1984 together with the 'personal' passages for these dates which we have already agreed to disclose. The former, however, had been subjected by the Defendants themselves to such heavy deletions that, despite the fact that they covered the period of the sinking of the Belgrano, they could no longer be considered objectionable;

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(b) documents produced by Sethia (some derived from signals) and interleaved in the diary - again with deletions voluntarily undertaken by the Defendants;

(c) a crude chart plotting the course of Conqueror's operational patrol, also produced by Sethia and interleaved in the diary (there were no insuperable objections to providing either this or (b) above);

(d) an assurance from our Counsel - which Counsel was content to give - that the remainder of the diary contained nothing relevant to the issues at stake in the actions.

By comparison with the disclosures we were advised we might be pressed to make if the case came to a hearing, these demands seemed unexpectedly moderate and appeared to provide an acceptable basis for a settlement consistent with national security. In accordance with legal advice, my Secretary of State therefore signed a final set of Public Interest Immunity certificates on 1 October, to set the seal on an agreement.

The certificates set out the full extent of the disclosures we are prepared to approve, and re-invoke the protection of Public Interest Immunity for the rest of the diary. They thus finally delimit the diary material which can be quoted in court, subject only to a contrary direction by a trial judge (a very unlikely eventuality); and the actions between Sethia and the various Defendants should now be able to proceed without further involvement of the Government. Present indications are that the actions involving the Mail and the Sun should be heard before Christmas, with the Observer case left over until some time next year at the earliest.

I am sending copies of this letter to Tony Galsworthy (FCO), Philip Mawer (Home Office) and Michael Saunders (Attorney General's Office), and to Sir Robert Armstrong and Sir John Bailey.

*Yours sincerely,
John Howe.*

(J F HOWE)
Private Secretary

ARGENTINA

RELATIONS

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