

RESTRICTED

Prime Minister

Agree the course at X/ and that the Treasury Solicitor should reply in the terms attached?

FEB 18.11.



MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1

Telephone 01X968X022X 218 2111/3

MO 22/5

Before we go down this road - what happens if the Guardian refuses the courts order? Is it a fine or imprisonment? We do not want the letter ref.

18th November 1983

Dear Robin

LEAK TO THE GUARDIAN ON CRUISE MISSILES

As agreed by Ministers in response to my Secretary of State's minute of 10th November to the Prime Minister, the Treasury Solicitor wrote to the Guardian asking for the return of the leaked document about cruise missiles.

He has now received the attached reply from the Guardian Solicitors, and we now need to decide urgently how to respond. There are two courses open to us. First, we could seek the return of the document intact, complete with the markings which the Guardian believe might lead to the identification of the source of the leak. This would require us to take legal proceedings against the newspaper. The other course is to accept the proposal made in the Solicitors' letter that we should accept the return of the document with the three areas of marking removed from it. As the Defence Secretary made clear in his minute of 10th November, what persuaded him that we should ask the Guardian to return the document was the possibility that it might help us trace the source of the leak. For this reason he believes that we should adopt the first of the two courses now open to us and set in hand legal proceedings to retrieve the document in its present state.

That too is the advice of the Treasury Solicitor who, in anticipation of a decision by Ministers, is preparing instructions for Treasury Counsel. The case would go to the Chancery Division of the High Court.

Mr Heseltine would be grateful to know that the Prime Minister and his other colleagues agree that this is what we should do. If they are content the Treasury Solicitor will reply to the Guardian Solicitors on the lines of the attached draft.

R Butler Esq

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I am sending copies of this letter to the Private Secretaries to the Lord President, the Home Secretary, the Lord Privy Seal and to the Legal Secretary to the Attorney General. Copies also go to the Private Secretaries to Sir Robert Armstrong and the Treasury Solicitor.

Yours etc,
Richard Mottram

(R C MOTTRAM)
Private Secretary

Draft Reply to Messrs Lovell White & King



Queen Anne's Chambers
28 Broadway London SW1H 9JS

Telephones DIRECT LINE 01-273 4188
SWITCHBOARD 01-273 3000
Telex 817564 GTN 273

Our reference

18th November 1983

Your reference

Dear Mr Grimes

Guardian Newspapers Limited

Thank you for your letter dated the 17th November 1983 from which I note that your clients retain possession of the document to which you refer and that it will be preserved intact.

I am surprised by the contents of the third paragraph of your letter. It now seems that the document was delivered anonymously to your clients' offices and I suggest, with respect, that in those circumstances the Editor is under no duty to protect the source of information, even if it is possible to identify it. Furthermore, whatever may be the relevance of Section 10 of the Contempt of Court Act, 1981, it is surely plain that a document marked "Secret" addressed by the Secretary of State for Defence to the Prime Minister and relating to the delivery of Cruise missiles is intimately concerned with "national security" and that this is something which is capable of being established to the satisfaction of the Court.

My instructions do not permit me to accept the proposal contained in the penultimate paragraph of your letter. Accordingly, proceedings will be instituted in the near future in respect of the document and I note that your firm has instructions to accept service.

Yours sincerely

J B BAILEY
Deputy Treasury Solicitor

Security
Info leaked in
Guardian/wise
Oct 83

18 NOV 1983

10 11 12 13 14
15 16 17 18 19
20 21 22 23 24

Lovell, White & King

P N Gerrard	J B Gordon	Lesley Belton
DW Shenton	MPL Wright	CP Dodson
P J Andras	WIR Ward	MB Hutchings
J D Burridge	PG Horrocks	AS Lamplough
GJB Hutchings	RA Strachen	GF Pimlott
G F Grimes	AD Walker	ID Smith
AC Swan	TAR Curran	P J Peacock
DF Gray	JRH Kitching	APF Williamson
HN Henshaw	DC Mace	AW Foyle
JJT Stephens	RJ Anderson	NSF Glennie
GK Toland	PGH Collins	D Macfarlane
S Bullimore	CIMajor	SW Polito
RNH Gould	DBD Moody	M J Seymour
MB Maunsell	CP Rentoul	MOF Hill
PR Philipps	Harriet Dawes	CL Pike
MD Shankland	D Farrington	JG Trotter
AJ White	RHP Sleigh	

Your Reference

21 Holborn Viaduct, London EC1A 2DY
Telephone 01-236 6011
Telex 887122

Fax Groups 2 & 3 01-248 4212
LDE Box 57
Cables/Telegrams Loviting ECI

17th November, 1983.

Our Reference

11/GFG/CH

J.B. Bailey, Esq.,
Deputy Treasury Solicitor,
Queen Anne's Chambers,
28 Broadway,
LONDON SW1H 9JS

BY HAND

Dear Mr. Bailey,

GUARDIAN NEWSPAPERS LIMITED

I am now in a position to reply more fully to your letter to the Editor of The Guardian dated 11th November.

Our clients have a document as described in your letter. In the top and bottom right-hand corners of the first page there are certain markings, an attempt to obliterate some of which had been made before the document was delivered anonymously to our clients' offices. On the top left-hand corner of the blank side of the front page there appear some faint markings which may reflect those on the front page.

The Editor takes the view that these various markings might disclose, or assist in the identification of, the source of the information to The Guardian, although he is unable to decipher them himself and does not know the source. In accordance with the well established convention of journalism, which now has statutory force by virtue of section 10 of the Contempt of Court Act 1981, he is not prepared to take any step which might lead to the disclosure of the source of information published in his newspaper.

..... 2

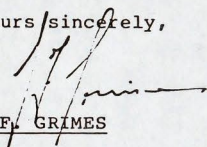
J.B. Bailey, Esq.

17th November 1983

As the Editor is concerned only to protect his source, I am, without prejudice to any argument as to the property in the document, authorised to hand it to you, with the three areas of marking excised from it. This would provide you with the whole of the text. If that course is not acceptable and you are minded to seek an injunction from the court on the lines mentioned in our telephone conversation on 14th November, will you please note that my firm has instructions to accept service of proceedings. No doubt, if you decide to take that course, you will co-operate with us in arranging a time for the hearing of the application which would be convenient to Counsel on both sides.

In the meantime, you may take it that the document will be preserved intact.

Yours sincerely,



G.F. GRIMES

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10 DOWNING STREET

From the Principal Private Secretary

21 November, 1983.

Leak to the Guardian on Cruise Missiles

I had a word with you on the telephone this morning about the Prime Minister's reaction to your letter of 18 November.

Following further discussions with your Secretary of State later this morning, the Prime Minister agreed that we should seek the return of the leaked document intact, complete with the markings which the Guardian believe might lead to the identification of the source of the leak.

I am sending copies of this letter to the Private Secretaries to the Lord President, the Home Secretary, the Lord Privy Seal and to the Legal Secretary to the Attorney General. Copies also go to the Private Secretaries to Sir Robert Armstrong and the Treasury Solicitor.

F. E. R. BUTLER

R.C. Mottram, Esq.,
Ministry of Defence.

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

H. Steel CMG OBE

21 November 1983

R C Mottram Esq
Private Secretary
Secretary of State for Defence
Main Building
Whitehall
LONDON S W 1

JS
2/11

Dear Richard,

LEAK TO THE GUARDIAN ON CRUISE MISSILES

I am writing to confirm that the Attorney General is content that we should follow the course described in your letter to Robin Butler of 18 November, that is to say, to reply to the Guardian's Solicitors in the terms of the Treasury Solicitor's draft which was enclosed with your letter and then to follow up with proceedings in the High Court to retrieve the document in its present state.

Because of the need for quick action, I have already reported the above to the Treasury Solicitor (and indeed have authorised the proceedings to be instituted in the Attorney General's name if Counsel thinks that desirable) but I am sending a copy of this letter to him as well as to the other recipients of yours.

*Yours as
always
Richard Butler*

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Security,
Oct 83,
Leak to Guardian
about Cruise

21 NOV 1983

