

FILE NOTE

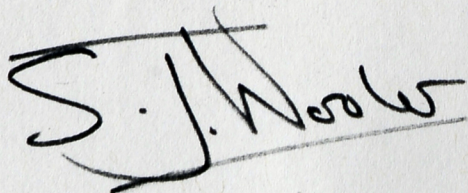
The Director of Public Prosecutions saw the Solicitor General on 13 August 1984 to discuss the matter raised with him by the Second Permanent Secretary to the Ministry of Defence. An unauthorised disclosure of documents had been made to Mr Tam Dalyell MP. These comprised a draft letter never in fact sent together with a note relating to the content of the Department's evidence to the Select Committee on foreign affairs concerning rules of engagement. This was in the context of the sinking of the Belgrano.

The leak had been investigated by the Ministry of Defence police and an Assistant Secretary (Ponting) had made a full confession.

The Ministry of Defence wished to deal with the matter by accepting the resignation of the officer. The DPP had reservations as to this course.

The Solicitor General spoke with the Second Permanent Secretary and established that the disclosure of the information did not give rise to any security implications. The case did not fall within Franks. Nonetheless, for the reasons detailed on the attached sheet the Solicitor General was inclined to the view that, assuming that at the conclusion of the police enquiry the evidence was satisfactory, there should be a prosecution.

The DPP will raise the matter again as and when a police report has been received.



S J WOOLER

13 August 1984

JSW

Parkin.

### Reasons for authorising prosecution

1. The loose minute was classified 'confidential'.
2. The offence is prevalent.
3. The officer is of senior rank (Assistant Secretary) and as such is the recipient of a high degree of trust.
4. Although the disclosure was of no or only of very slight, adverse effect to national security, this is not to be regarded as decisive: it can be outweighed by the factor of seniority of the officer concerned, and in this case should be.
5. It would be unjust not to prosecute in this case when one of the reasons for prosecuting Tisdall, a more senior officer in her early thirties, was the prevalence of the offence. Most of what was said by the LJ (and Cautley, J) in Tisdall's case is equally applicable to this case. The 'security' point is insufficient justification.
6. Not to prosecute in this case would be a

5. It would be unjust not to prosecute in this case when one of the reasons for prosecuting Tisdall, a senior clerical officer in her early thirties, was the prevalence of the offence. Most of what was said by the LJ (and Cautley, J) in Tisdall's case is equally applicable to this case. The 'security' point is insufficient justification.

6. Not to prosecute in this case would be a precedent for not prosecuting even when a senior officer discloses classified information, albeit information that does not fall within Frank's definition. I do not believe the 'merits' of this case warrant establishing that precedent.

Have not been influenced either

(a) by the fact that disclosure was made to an Opposition MP or

(b) by the fact that embarrassment of a political kind may be occasioned either by a decision to prosecute or a decision not to prosecute,

in assessing where the public interest lies.

P.M. 13/8/8