

FILE NOTE

Case of Ponting further discussed by DPP and John Wood with Solicitor General. Michael Saunders and Stephen Wooler present. The DPP reported that Ponting had been charged on the evening of Friday 17 August 1984 and appeared the following day at Bow Street Magistrates Court. Subsequently Tam Dalyell has disclosed to the Observer the two documents copied to him by Ponting and passed by him (Dalyell) to Sir Anthony Kershaw. The press were running the two stories side by side in such a manner that the connection was quite obvious. But the stories had concentrated on the content of the documents (irrelevant to prosecution) rather than the circumstances of the leak. Nothing had been published which was likely to prejudice the accused. It was for consideration whether any form of warning or advice to editors was appropriate. The Solicitor General took the view that no action should be taken.

The position of Tam Dalyell was considered. His disclosure to Sir Anthony Kershaw in his capacity as Chairman of the Foreign Affairs Select Committee was almost certainly covered by Parliamentary privilege. But as regards his communication to the Observer of material received by him in breach of the Official Secrets Act 1911 he was liable to prosecution. The Solicitor General took the view that the gravamen of the offence by Ponting was the breach of trust. In the absence of any security implications it would be inappropriate to prosecute Dalyell.

2, The position of Dalyell as a witness was discussed. A question of Parliamentary privilege might arise if his evidence went beyond the fact of receipt. The likelihood was that the prosecution could manage with his evidence. The Solicitor General expressed the view he should not be called.

In view of the decision re: Tam Dalyell proceedings would not be appropriate re: The Observer.

The DPP supplied a copy of the damage assessment - attached...

*S J Wooler*  
S J WOOLER, 21 August 1984