



10 DOWNING STREET

THE PRIME MINISTER

8 October 1984

Dear Mr. Kinrade,

Thank you for your letter of 28 September in reply to mine of 19 September, in which you raise further questions about the sinking of the General Belgrano, and the prosecution of Mr. Ponting.

On the basis of all the information available, the General Belgrano threatened the safety of our forces and the decision to attack the ship was necessary. I am glad that you accept that information relevant to military dispositions and intelligence should not be made public. In my letter of 19 September to Mr. George Foulkes I gave a detailed account of the events leading up to the decision to sink the General Belgrano, within these security constraints. I do not accept that, apart from this consideration, there has been a refusal to deal with doubts raised about the Government's conduct.

As regards Mr. Ponting, you say that the contents of my letter conflict with information you have received from other sources. Since you do not reveal what those sources are I cannot comment on them but I can assure you that nothing in your letter causes me to withdraw or amend the account I have given you. Your specific questions could be answered only by publishing the contents of confidential exchanges between officials and Ministers, and between the Law Officers and the Director of Public Prosecutions. It would be improper for me to do so and your questions are anyway irrelevant to the question of the propriety of the actions of Defence Ministers or the Law Officers.

/As regards

LR.

Rle

cc MOD
FCO

Henry Red.

As regards your other points about the role of the Law Officers, I made clear to you in my previous letter that the Director of Public Prosecutions first consulted the Solicitor General on 13 August 1984 and briefed him on the facts of the case. There was more than adequate time between 13 August and 17 August for the Solicitor General to weigh up the question whether, if the evidence proved sufficient for proceedings, a prosecution under the Official Secrets Act would be in the public interest. On 17 August the Law Officers received a police report together with the available evidence. The Solicitor General discussed this with the Director of Public Prosecutions and also consulted the Attorney General. The Law Officers satisfied themselves that the evidence before them was sufficient and they then decided that a prosecution would indeed be in the public interest. The papers to be considered were very few by the standards of most criminal cases that come before the Law Officers and the suggestion that the Law Officers did not have time to study them thoroughly before reaching their decision is unfounded. It was unnecessary for them to consult Treasury Counsel or any other outside Counsel. There is no practice or convention that they should do either in this type of case or in any other. It is only where there is particular difficulty or complexity about evidence or where the law is uncertain that the Law Officers or the Director of Public Prosecutions sometimes seek advice from outside Counsel. In the Law Officers' view there were no such evidential difficulties or uncertainties here.

You will appreciate that once the Law Officers were satisfied that the evidence was sufficient, the decision whether proceedings would be in the public interest was a matter for their judgement and no one else's. In this context, and given the quite unjustifiable attacks in the media and elsewhere on the role of Ministry of Defence Ministers in this case, I would make the general point that

/cases

cases involving prosecutions under the Official Secrets Acts are entirely for the Law Officers. That is the constitutional position and it is one which Defence Ministers scrupulously respected in the Ponting case as they do in all others concerning their Department.

Mr. Ponting's case is sub judice and the committal proceedings are now imminent. You will therefore not expect me to go beyond what I have already said about it: it would be wrong for me to do so.

As for the matters raised in the last paragraph of your letter, the information which you asked for is always treated as confidential under every Administration.

Yours sincerely
Raymond Sheldrake

The Rt. Hon. Neil Kinnock, M.P.



Charles
Some amendments
suggested below.

FERB

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-830 7822 218 2111/3

~~FERB~~

MO 22/5

4th October 1984

Do you have any
views on this? It ~~looks~~
strikes a note of hiding
behind the rules but that's
probably inevitable. Any amendment
before I get it typed?

CDP 4/x

Dear Charles,

MR PONTING

/ Thank you for your letter of 27th September. I attach a draft reply from the Prime Minister to Mr Kinnock which has been cleared with the Director of Public Prosecutions and the Law Officers Department.

I hope to let you have shortly draft replies to the further letters from Dr Owen and Mr Foulkes about the attack on the Belgrano.

I am copying this letter and the attachment to Janet Lewis Jones (Lord President's office), Colin Budd (FCO), Hugh Taylor (Home Office), Henry Steel (Law Officers' Department), Richard Hatfield (Cabinet Office) and to the Director of Public Prosecutions.

Yours etc,

Richard Mottram

(R C MOTTRAM)
Private Secretary

C Powell Esq

Belgrano Leah LPOAAB

Please type for
PM's signature
OK.

DRAFT REPLY FROM THE PRIME MINISTER TO MR KINNOCK

Thank you for your letter of 28th September in reply to mine of 19th September, in which you raise further questions about the sinking of the General Belgrano, and the prosecution of Mr Ponting.

2. ~~I can assure you that,~~ On the basis of all the information available, the General Belgrano threatened the safety of our forces and the decision to attack the ship was necessary. I am glad that you accept that information relevant to ~~current~~ military dispositions and intelligence should not be made public. In my letter of 19th September to Mr George Foulkes I gave a detailed account of the events leading up to the decision to sink the General Belgrano, within these security constraints. I do not accept that, apart from this consideration, there has been a refusal to deal with doubts raised about the Government's conduct.

3. ~~Turning to your points about Mr Ponting,~~ ^{As regards} ~~I am sorry~~ ^{you say that} the contents of my letter conflict ~~so directly~~ with information you have received from other sources. ~~Unfortunately as you do not reveal what those sources are I am unable to comment on their reliability or otherwise.~~ ^{But since you cannot} ~~But I can assure you that~~

~~As for your specific questions, you must surely realise that the information you request could be revealed only by publishing the contents of confidential exchanges between officials and Ministers, and between the Law Officers and the Director of Public Prosecutions.~~ ^{nothing in your letter causes me to withdraw or amend the account I have given you.} ~~could be answered~~

~~It would be quite improper for me to do so and none of your questions are anyway which irrelevant to the question of the propriety of the actions of the Minister or the Law Officers.~~ ^{about the views and advice}

*As regards ~~other~~ your other points
you raised some questions about the role of the Law Officers,*

7. *L*As I made clear to you in my previous letter ^{that} the Director of Public Prosecutions first consulted the Solicitor General on 13th August 1984 and briefed him on the facts of the case. There was more than adequate time between 13th August and 17th August for the Solicitor General to weigh up the question whether, if the evidence proved sufficient for proceedings, a prosecution under the Official Secrets Act would be in the public interest. On 17th August the Law Officers received a police report together with the available evidence. The Solicitor General discussed this with the Director of Public Prosecutions and also consulted the Attorney General. The Law Officers satisfied themselves that the evidence before them was sufficient and they then decided that a prosecution would indeed be in the public interest. The papers to be considered were very few by the standards of most criminal cases that come before the Law Officers and the suggestion that the Law Officers did not have time to study them thoroughly before reaching their decision is ~~unfounded.~~ *quite absurd.* It was unnecessary for them to consult Treasury Counsel or any other outside Counsel. There is no practice or convention that they should do either in this type of case or in any other. It is only where there is particular ~~evidential~~ difficulty or complexity ^{about evidence} *L* or where the law is uncertain that the Law Officers or the Director of Public Prosecutions sometimes seek advice from outside Counsel. In the Law Officers' view there were no such evidential difficulties or uncertainties here.

8. You will appreciate that once the Law Officers were satisfied that the evidence was sufficient, the decision whether proceedings would be in the public interest was a matter for their judgement and

no one else's. In this context, and given the quite unjustifiable attacks in the media and elsewhere on the role of Ministry of Defence Ministers in this case, I would make the general point that cases involving prosecutions under the Official Secrets Acts are entirely for the Law Officers. That is the constitutional position and it is one which Defence Ministers scrupulously respected in the Ponting case as they do in all others concerning their Department.

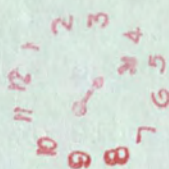
6. ~~I must remind you that~~ Mr Ponting's case is sub judice and ~~that~~ the committal proceedings are now imminent. You will therefore not expect me to go beyond what I have already said about it: ~~indeed,~~ it would ^{be wrong} ~~not be proper~~ for me to do so.

7. As ^{for} ~~to~~ the matters raised in the last paragraph of your letter, the information which you asked for is ^{always treated as} confidential ~~and I am not under~~ every Administration. ~~able to make it available to you.~~

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Belgram

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every Administration



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cfo.

10 DOWNING STREET

From the Private Secretary

27 September 1984

Mr. Clive Ponting

I enclose a copy of a letter to the Prime Minister from the Leader of the Opposition putting a number of specific questions about the prosecution of Mr. Ponting. I should be grateful if work could be put in hand urgently on a draft reply.

I am sending a copy of this letter and enclosure to Colin Budd (Foreign and Commonwealth Office), Hugh Taylor (Home Office), Henry Steel (Law Officers' Department) and Janet Lewis-Jones (Lord President's Office).

(C.D. POWELL)

Richard Mottram, Esq.,
Ministry of Defence.

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10 DOWNING STREET

THE PRIME MINISTER

September 1984

Thank you for your letter of 14 September.

The first part of your letter dealt with the sinking of the General Belgrano. I am publishing today, in reply to a letter which I have received from Mr. George Foulkes, a further statement of the circumstances surrounding that decision, designed to correct a number of misconceptions which were reflected in Mr. Foulkes' letter to me and in recent press accounts. I enclose a copy of my reply. As you acknowledge, Michael Heseltine also agreed, as long ago as 26 July, to assist with the inquiry being undertaken by the Select Committee on Foreign Affairs and will be giving evidence before them when Parliament returns.

There has been no desire or intention on the part of the Government to mislead or misinform Parliament on this matter; and I entirely refute your suggestion that there was either operational confusion or error in communications with the Task Force. As I have said in my reply to Mr. Foulkes, nothing that has been put forward since we took our decision about the Belgrano has led me or any of my colleagues to doubt that the decision was right and necessary in the interests of safeguarding British lives. But Ministers have to take the responsibility, with the help of our security experts' advice, of deciding at what point it is necessary to withhold information in the interests of national security. To go beyond that point in order to

justify the Government's decisions and thus to jeopardise lives in the future would be the height of irresponsibility. I can say specifically that Geoffrey Howe and I know of no basis for your suggestion that senior Foreign Office officials have given advice in the terms described in your letter.

The latter part of your letter deals with the treatment of Mr. Ponting. I have given an account of the decisions relating to the charging of Mr. Ponting in my reply to Dr. David Owen, a copy of which I also enclose. There are only two points which I would add. The first is that there is no long-established convention of the sort described in your letter: the Law Officers consider each case on its merits in deciding whether proceedings should be brought. The second point is to stress again that decisions on these matters are taken by the Law Officers, not by Ministers. Your letter and last Sunday's Observer allege that Michael Heseltine overruled advice given to him and insisted that Mr. Ponting be prosecuted. This is not so.

The Director of Public Prosecutions had been advised of the case on the morning of 13 August, and after consultation with the Solicitor General had already asked for a very early police report. When the senior Ministry of Defence official, Sir Ewen Broadbent, who had earlier briefed the Director of Public Prosecutions, reported to Michael Heseltine later that afternoon, he informed him of the stage reached. Michael Heseltine noted the report and that the decision whether or not to prosecute rested with the Law Officers. Neither I nor any other Ministers in the Ministry of Defence or elsewhere intervened in the succeeding days. The Director of Public Prosecutions received the detailed police report on 16 August and consulted the Law Officers who decided on 17 August to proceed with the prosecution. The Law Officers did not seek the view of, or consult with, any other Minister, nor was the view of any other Minister

conveyed to them, before they took their decision to prosecute Mr. Ponting.

The Rt. Hon. Neil Kinnock, MP.



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10 DOWNING STREET

From the Principal Private Secretary

18 September 1984

Belgrano and Ponting: Letter from
Mr. Kinnock

BF | As soon as the Prime Minister replies to Mr. Foulkes, we would like simultaneously to release a reply to the letter of 14 September from the Leader of the Opposition which David Barclay sent to you on the same day. I attach a draft on which I should be grateful for comments from you, John Ringguth (Law Officers' Department) and Len Appleyard (FCO) by close of play this evening if possible.

I am also sending a copy of this letter and the enclosure, with a copy of Mr. Kinnock's letter, to Sir Robert Armstrong.

E. E. R. BUTLER

Richard Mottram, Esq.,
Ministry of Defence.

NC