

OFFICIAL SECRETS ACT - CLIVE PONTING *

DURING SUPPLEMENTARY QUESTIONS TO THE PRIME MINISTER MRS MARGARET THATCHER IN THE COMMONS ON 12 FEBRUARY 1985 MR ONSLOW ASKED:

WHILE MY RIGHT HONOURABLE FRIEND MUST BE RIGHT TO RESIST PRESSURE FOR HASTY REFORM OF THE OFFICIAL SECRETS ACT ON THE BASIS OF A SINGLE VERDICT, DOES SHE NOT AGREE THAT IT IS ESSENTIAL THAT MINISTERS AND CIVIL SERVANTS SHOULD BE ABLE TO WORK TOGETHER WITHIN AN ACCEPTED FRAMEWORK OF MUTUAL CONFIDENCE AND TRUST? WILL SHE GIVE SOME CONSIDERATION TO SETTING UP A SPECIAL COMMITTEE OF EXPERIENCED AND RESPONSIBLE PRIVY COUNCILLORS TO REVIEW THE MATTER AND REPORT BACK TO THE HOUSE AS SOON AS POSSIBLE?

THE PRIME MINISTER: I AGREE WITH MY HONOURABLE FRIEND THAT IT IS ABSOLUTELY VITAL THAT THERE SHOULD BE TRUST AND CONFIDENCE BETWEEN MINISTERS AND CIVIL SERVANTS. I NOTE THAT A FORMER PRIME MINISTER SAID IN 1976:

"THERE MUST BE ABSOLUTE CONFIDENCE THAT PAPERS AND DISCUSSIONS THAT TAKE PLACE ARE KEPT WITHIN THE CIRCLE TO WHOM THEY ARE GIVEN."

-(OFFICIAL REPORT, 17 JUNE 1976., VOL. 913, C. 739.)

I, THEN IN OPPOSITION, SUPPORTED HIM.

I SHALL CONSIDER WHAT MY HONOURABLE FRIEND SAID ABOUT THE OFFICIAL SECRETS ACT, BUT I SHALL REMIND HIM THAT THE FRANKS COMMITTEE CONSIDERED THE OFFICIAL SECRETS ACT, AND THAT ON THE COMMITTEE THERE WERE THREE PRIVY COUNCILLORS, THE PERSON WHO WAS LATER TO BE A LABOUR HOME SECRETARY, AND A NUMBER OF OTHER PEOPLE. LATER THERE WAS A WHITE PAPER UPON THAT ACT AND LATER, IN OUR TIME, THERE WAS A PROPOSED BILL BROUGHT BEFORE THE OTHER PLACE, WHICH DID NOT FIND FAVOUR IN PARLIAMENT.

MR. KINNOCK: CONFIDENCE AND TRUST BETWEEN CIVIL SERVANTS AND MINISTERS IS ESSENTIAL, BUT SO IS CONFIDENCE AND TRUST BETWEEN THE GOVERNMENT AND THE HOUSE OF COMMONS, AND THAT IS WHAT IS AT STAKE HERE. YESTERDAY, A VETTED JURY UNANIMOUSLY CONCLUDED THAT MR. CLIVE PONTING HAD NOT BROKEN THE LAW BY EXPOSING THE ATTEMPTS OF MINISTERS TO MISLEAD PARLIAMENT AND THE PUBLIC DELIBERATELY. DID THE PRIME MINISTER KNOW ABOUT THE PROPOSED DECEPTION OF PARLIAMENT, AND IF SHE DID, DID SHE ENDORSE IT? IF SHE DID NOT KNOW ABOUT IT, WILL SHE NOW CONDEMN IT IN THE STRONGEST POSSIBLE TERMS? WHAT WAS HER INVOLVEMENT IN THE DECISION TO PROSECUTE MR. PONTING?

THE PRIME MINISTER: TO TAKE THE LAST POINT FIRST, AS THE RIGHT HONOURABLE GENTLEMAN KNOWS FULL WELL, MINISTERS HAVE ABSOLUTELY NO ROLE IN DECIDING WHETHER TO PROSECUTE. THAT IS THE DUTY OF THE ATTORNEY-GENERAL AND THE DIRECTOR OF PUBLIC PROSECUTIONS. MINISTERS HAD NO ROLE WHATSOEVER IN THE PROSECUTION.

* (This document was provided by Mr M.V. Hone, "UK High Commissioner, Canberra).

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WITH REGARD TO THE RIGHT HONOURABLE GENTLEMAN'S FIRST POINT, MAY I MAKE IT QUITE CLEAR THAT WE HAVE PUT A FULL ACCOUNT ON RECORD. I MUST MAKE IT CLEAR THAT MINISTERS IN POWER HAVE ALWAYS TAKEN, AND I HOPE WILL ALWAYS TAKE, THE VIEW THAT INFORMATION THAT WOULD HAVE SOME SECURITY VALUE TO THOSE WHO THREATEN OUR PEOPLE OR OUR TERRITORY IS NOT RELEASED. OUR FIRST REGARD IN CONSIDERING WHETHER TO RELEASE INTELLIGENCE INFORMATION IS THE SAFETY OF HER MAJESTY'S ARMED FORCES.

SIR PETER BLAKER: HAS MY RIGHT HONOURABLE FRIEND'S ATTENTION BEEN DRAWN TO THE FACT THAT MR. PONTING SAID IN COURT THAT THERE WAS A GOOD MILITARY CASE FOR ATTACKING THE BELGRANO AND THAT HE HAD SEEN NOTHING TO SUPPORT THE CONTENTION THAT THE SHIP WAS SUNK TO END A PERUVIAN PEACE PLAN? DOES THAT NOT MEAN THAT THE CONTENTION THAT THE HONOURABLE MEMBER FOR LINLITHGOW (MR. DALYELL) WISHED TO PROVE WHEN HE STARTED HIS LINE OF QUESTIONING WAS WRONG?

THE PRIME MINISTER: THE BELGRANO WAS SUNK FOR THE PROTECTION OF OUR ARMED FORCES, OUR NAVAL FORCES, THE HERMES AND THE INVINCIBLE. MAY I MAKE IT CLEAR TO EVERYONE THAT, SO LONG AS THIS GOVERNMENT ARE IN POWER, THE PROTECTION OF OUR ARMED FORCES WILL BE OUR PRIME CONSIDERATION.

MR. DAVID STEEL: HAS THE PRIME MINISTER NOTED THE DETERMINATION OF THE JURY TO DISTINGUISH CLEARLY BETWEEN LOYALTY TO A GOVERNMENT AND THE SECURITY OF THE STATE? WILL SHE THEREFORE WELCOME, INDEED REJOICE AT, THIS REAFFIRMATION OF BASIC DEMOCRATIC VALUES BY A CROSS-SECTION OF THE BRITISH PEOPLE AND WILL SHE DEMAND HIGHER STANDARDS FROM HER MINISTERS?

THE PRIME MINISTER: I ACCEPT THE DECISION OF THE COURT - OF COURSE I DO. I ALWAYS HAVE - BUT I STRESS THAT TWO THINGS ARE VITAL. THE FIRST IS THAT MINISTERS ARE ABLE FULLY TO TRUST CIVIL SERVANTS. I HOPE THAT THE RIGHT HONOURABLE GENTLEMAN AGREES WITH THAT AND DOES NOT IN ANY WAY ENDORSE OR CONDONE THE BREACH OF TRUST THAT OCCURRED.

SECONDLY, I WHOLLY AND UTTERLY INSIST THAT THERE ARE SOME THINGS IN SECURITY AND INTELLIGENCE WHICH, FOR THE SAFETY OF OUR FORCES OR THE SAFETY OF THE STATE, THE GOVERNMENT MUST KEEP SECRET. TO PUT IT IN SPECIFIC TERMS:

"THE GOVERNMENT HAS CONCLUDED THAT INFORMATION RELATING TO SECURITY AND INTELLIGENCE MATTERS IS DESERVING OF THE HIGHEST PROTECTION WHETHER OR NOT IT IS CLASSIFIED. THIS IS PRE-EMINENTLY AN AREA WHERE THE GRADUAL ACCUMULATION OF SMALL ITEMS OF INFORMATION APPARENTLY TRIVIAL IN THEMSELVES COULD EVENTUALLY CREATE A RISK FOR THE SAFETY OF AN INDIVIDUAL OR CONSTITUTE A SERIOUS THREAT TO THE INTERESTS OF THE NATION AS A WHOLE."

THAT WAS THE VIEW OF THE LAST LABOUR GOVERNMENT WHEN THEY WERE IN POWER, SET OUT IN A WHITE PAPER BROUGHT BEFORE THIS HOUSE BY THE THEN HOME SECRETARY IN 1978. IT IS SOMETHING THAT WE ENDORSE.

MR. DALYELL: WHO WAS IT WHO ALTERED SIR JOHN FIELDHOUSE'S OFFICIAL COMMANDER-IN-CHIEF'S REPORT WITHOUT SIR JOHN FIELDHOUSE'S KNOWLEDGE?

THE PRIME MINISTER: I UNDERSTAND FROM ADMIRAL FIELDHOUSE THAT DURING THE DRAFTING OF HIS DISPATCH AT NORTHWOOD HE QUERIED THE DATE IN THE SENTENCE ON THE DETECTION OF THE BELGRANO BUT AGREED THAT IT SHOULD BE LEFT AS 2 MAY IN ORDER TO PROTECT SENSITIVE OPERATIONAL AND INTELLIGENCE INFORMATION. THE SECOND OF MAY WAS THEREFORE THE DATE IN THE DESPATCH THAT ADMIRAL FIELDHOUSE SUBMITTED TO THE MINISTRY OF DEFENCE. IT WAS NOT ALTERED BY OFFICIALS THERE.

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WEDNESDAY 13 FEBRUARY 1985

MR CLIVE PONTING

ON THE SAME DAY THE ATTORNEY GENERAL, SIR MICHAEL HAVERS MADE THE FOLLOWING STATEMENT:

WITH PERMISSION, MR. SPEAKER, I WOULD LIKE TO MAKE A STATEMENT ON MY DECISION TO PROSECUTE MR. PONTING. ON 13 AUGUST 1984, CERTAIN FACTS WERE DRAWN TO THE ATTENTION OF THE DIRECTOR OF PUBLIC PROSECUTIONS BY THE MINISTRY OF DEFENCE. IN MY ABSENCE, THE DIRECTOR CONSULTED MY HONOURABLE AND LEARNED FRIEND THE SOLICITOR-GENERAL THE SAME DAY. ON 16 AUGUST 1984, A REPORT BY THE MINISTRY OF DEFENCE POLICE WAS SENT TO THE DIRECTOR. MY HONOURABLE AND LEARNED FRIEND AND THE DIRECTOR CONSIDERED THAT REPORT ON 17 AUGUST, AND BOTH FORMED THE VIEW THAT THIS WAS A SERIOUS BREACH OF DUTY AND TRUST BY A SENIOR CIVIL SERVANT. THEY DECIDED TO CONSULT ME AND I WAS TELEPHONED ON THE SAME DAY. THE FACTS AS REPORTED BY THE DIRECTOR WERE EXPLAINED TO ME. THE NATURE OF THE DOCUMENTS WHICH HAD BEEN COMMUNICATED WAS DESCRIBED AND I WAS TOLD THAT THE DIRECTOR AND THE SOLICITOR-GENERAL ADVISED A PROSECUTION. HAVING CONSIDERED THE FACTS MYSELF, I, TOO, DECIDED THAT THE CASE FELL WITHIN MY PUBLISHED GUIDELINES AND THAT THERE SHOULD BE A PROSECUTION. NEITHER I NOR THE SOLICITOR-GENERAL NOR ANY OF MY OFFICIALS SOUGHT THE VIEW OF OR CONSULTED ANY OTHER MINISTER, NOR WAS THE VIEW OF ANY OTHER MINISTER CONVEYED TO US BEFORE THE DECISION WAS TAKEN.