



MINISTRY OF DEFENCE
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* The Lord
President has
news in timing:
7 May is the
day before the
local elections
+ Ryedale +
15th April 1986 W.

MO 23/1E

CF
Pre await
Lord Pres
comment

1. Mr Loyth - seen
2. Mr Wickes
3. Mr Martin

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L.

Dear Tim

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This report, while criticising
the conduct of the Cyprus investigation
essentially dismisses the defence
claim of duress. Agree to
publication? * W

You may recall that, following the acquittal last year of 8 servicemen charged under the Official Secrets Act, Mr Stanley announced on 29th October that an Inquiry had been set up, led by Mr David Calcutt QC, to investigate allegations of improper treatment of the accused by Service police during the investigation. The Terms of Reference for his Inquiry were:

18/4

Yes -
may be
dismiss
time
not

"To enquire into the question of whether the investigations carried out by Royal Air Force's Provost Marshal branch and the Army's Special Investigation Branch into matters which formed the substance of charges subsequently made under the Official Secrets Act against [8 named individuals] were carried out in accordance with lawful and proper procedures: to report with all practicable speed and make recommendations as to relevant procedure."

Mr Stanley also said that it was the intention, subject to usual security considerations, to publish Mr Calcutt's report.

Mr Calcutt's report was received last week. I attach a copy. The report's conclusions are set out in Chapter 5. Briefly, Mr Calcutt exonerates the Service police (paras 5.2-5.6) and the Scots Guards in whose custody the accused were placed (paras 5.21-5.25) of maltreatment of those being investigated either during detention or questioning, and concludes that a good deal of care was taken to make the servicemen as comfortable as possible in the circumstances. He also points out (paras 5.7-5.11) the difficulties associated with enquiries into suspected breaches of security, where there is a conflict between the desire to establish quickly the extent of any breach, and the legal requirements associated with police enquiries that might lead to criminal proceedings. Mr Calcutt

Timothy Flesher Esq
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does, however, make a number of adverse comments. He notes the lack of guidance from higher levels available to those conducting the enquiry on which function was to take priority, and he is critical of this. He further concludes (paras 5.26-5.38) that the basis for the arrest and/or continued holding in close custody of those under investigation, including the use of holding charges, was either unlawful or, at best, improper. Finally, he concludes that, as the number of days in custody increased, the pressure on those under investigation built up, to the extent that they were likely to render unreliable answers or statements. These last two points, in particular, are likely to provide a focus for criticism despite Mr Calcutt's findings that the allegations of serious maltreatment made in the media could not be substantiated.

In all, Mr Calcutt makes 7 recommendations (Chapter 6), all of which propose further study of particular problems highlighted by the case, in particular of ways of resolving the conflict of function between security and police investigations; and of the legal and administrative arrangements for conducting enquiries of this kind.

In accordance with the previous undertaking, the Defence Secretary wishes to publish this report as a Command paper and hopes to do so on 7th May. This timescale is influenced not only by the time needed for printing, but also by consideration of the Armed Forces Bill in the House of Lords. The second reading of that Bill is currently planned for 28th April and it would not be practicable to publish before that. The Committee stage is likely to take place during the week beginning 12th May. Publication on the 7th would enable the Lords to have the report available during the later stages of their consideration of the Bill and also allows sufficient time (but only just) for us to produce it. I should be grateful for approval to proceed on this basis, although we have yet to finalise our plans for handling the announcement and the comment which the report will undoubtedly arouse.

The report has been checked by both MOD and GCHQ security authorities who are content from their point of view that it be published as written. We are, however, treating it as Management In Confidence prior to publication in Parliament.

I am copying this letter to the Private Secretaries to the Lord President, the Lord Chancellor, the Foreign and Commonwealth Secretary, the Home Secretary, the Lord Privy Seal, the Scottish Secretary, the Chief Whips in the Lords and the Commons, to the Legal Secretary to the Law Officers and to the Private Secretary to the Cabinet Secretary.

John Woodhead
(D J WOODHEAD)



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Foreign and Commonwealth Office

London SW1A 2AH

30 April 1986

Dear David

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The Calcutt Report

Thank you for sending me a copy of your letter to Tim Flesher about the above. I am writing to confirm that we have no objection to the publication of the report.

The Foreign Secretary has commented that it is a very balanced report. He hopes that publicity will be given to Sections 5.52-5.54 of the report when it is presented for publication since they contain essential thoughts.

I am copying this letter to the recipients of your.

Yours ever

(R N Culshaw)
Private Secretary

D Woodhead Esq
PS/MOD

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LEGAL PROCEDURE: peremptory challenges, Dec 1985-



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10 DOWNING STREET

From the Private Secretary

29 April 1986

Thank you for your letter of 15 April about the Calcutt Report. This is just to confirm what I have already told Jeremy Wright that the Prime Minister is content that the report should be published on 7 May and accompanied by an oral statement by Mr. Stanley.

TIM FLESHER

David Woodhead, Esq.,
Ministry of Defence

[signature]