



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

18 April 1986

Thank you for your letter of 15 April about the libel action brought by Mr Richard Holt MP. I have discussed this with Nigel Wicks here.

We are broadly content that, if absolutely necessary, Mr Holt's solicitors can use a paragraph along the lines set out in paragraph five of Duncan Watson's letter of 4 April to DES Legal Officers. Before finally agreeing, however, can I just check that the inclusion of such a paragraph in Mr Holt's submissions to the Court will not carry with it the risk that a member of staff of this office will be called to give evidence. I am not in the slightest concerned that it will become apparent that some Members of Parliament give the Prime Minister notice of their supplementary questions; I am however most concerned about the prospect of a member of staff of this office being asked questions in Court about the internal workings of No. 10. We have to remember, I think, that Mr Holt's opponents in this case are likely to be less concerned with the pursuit of truth than of embarrassment.

On the text of the paragraph itself I only have one point: should the Chief Educational Officer of Cleveland be so clearly indicated as the source of the information. This is of course not a matter for us but I should have thought the paragraph in question would need to be cleared with him first. You may of course already be doing this so forgive my making the point.

I am afraid that I see very considerable difficulty with your second request that we should supply Mr Holt's solicitors with a copy of the draft answer and the background notes dictated by the Department of Education and Science and taken down and typed by a member of No. 10 staff. We would be very reluctant indeed to release internal working papers of No. 10 to a litigant involved in a case which essentially has nothing whatsoever to do with this office simply because one side thinks that it might help their case. Quite apart from its intrinsic undesirability, such a course seems to us a very dangerous precedent indeed.

I recognise that this is not an especially helpful reply but I am sure you will understand our disinclination to be in any real sense involved with this legal action. No doubt you will be in touch further. I am returning the papers as requested.

T Flesher

R A D Jackson Esq
Treasury Solicitor

MR WICKS

Richard Holt MP

You will recall (although I would imagine you wish you did not) the attached papers relating to Richard Holt's libel action against the Teacher magazine. Mr Holt wished to pray-in-aid the Prime Minister's office for the accuracy of his question which had been the subject of criticism by the magazine. We sought the advice of Treasury Solicitors. The attached papers are the result. Briefly the Treasury Solicitors propose that we should reply to the request for assistance from Mr Holt's solicitors along the lines set out in paragraph 4 of Duncan Watson's letter of 4 April: these words clearly indicate that we had no ^{separate} ~~individual~~ source of information but relied upon what was told to us by the DES.

Leaving aside my doubts about the wisdom (or even the sanity) of the whole action I suppose we had better be content with what Duncan Watson proposes. I see no particular problem about "revealing" that Members of Parliament occasionally give the Prime Minister notice of supplementary questions, a fact which will come as rather less than a surprise to everybody in the House of Commons. I would however need to be assured by Duncan Watson that this form of words would give us protection against any members of No. 10 staff being called to give evidence in the legal proceedings.

NW Florida

I agree with your

advice. On the proposed reply in § 5 of Watson's letter, is it alright to finge the CEP of the Cleveland? Only could in be of any suggested? Very embarrassing for him. bet us

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N.L.W. 17.4

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D. B.

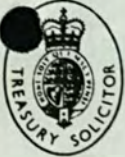
So do I.

Where I do draw the line is at Duncan Watson's suggestion that we should provide Mr Holt's solicitors with a copy of the No. 10 pieces of paper setting out the draft answer to Mr Holt's question and the background notes dictated over the phone by DES. It seems to be a very bad principle indeed that we should, at the request of a firm of solicitors, be required to hand over internal No. 10 working papers simply because the solicitors think it might help their case.

Perhaps we might discuss. If you agree I would write to Treasury Solicitors on the lines I have indicated.

[Handwritten signature]

17 April 1986



THE TREASURY SOLICITOR

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T Flesher Esq
Private Secretary
Prime Minister's Office
10 Downing Street
LONDON SW1

Please quote L86/1444/RADJ
Your reference
Date 15th April 1986

Dear Mr Flesher

MR RICHARD HOLT'S LIBEL ACTION

You may recall that we spoke, briefly, about this matter on 25th March. Following our conversation, I discussed the matter with John Coleman, Legal Adviser to the DES.

I am returning the papers enclosed with Mr Wicks' letter of 17th March to John Bailey together with copies of letters to this office from John Coleman dated 27th March and 2nd April, a copy of Duncan Watson's letter of 4th April and John Coleman's reply of 11th April.

Mr Coleman's letter of 11th April speaks for itself and I agree with him that I need to take instructions from the Prime Minister's Office on the status of Supplementary Questions.

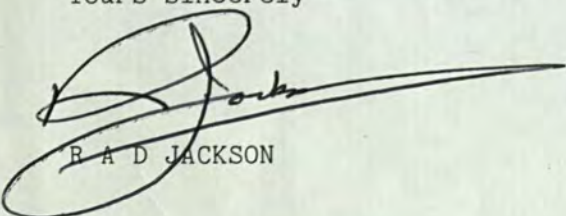
If you and your colleagues wish to maintain the position that the Prime Minister has no prior knowledge of Supplementary Questions, then this means that we cannot agree to the inclusion of "paragraph (g)" in Mr Holt's Reply. However, this will not prevent him from including it if he is still advised that it is necessary and appropriate. Furthermore, if the matter ever came to a trial, the truth will be revealed; namely, that the Prime Minister does, indeed, have prior knowledge of Supplementary Questions.

These considerations would also apply to the compromise positions proposed by Mr Coleman.

If you are content to acknowledge that the Prime Minister is forewarned of Supplementary Questions then I should be grateful if you would confirm whether or not you are content (a) with the proposed wording for "paragraph (g)" given towards the end of page 1 of Duncan Watson's letter of 4th April; and (b) whether or not you are content to provide Mr Holt's solicitors with a copy of the draft Answer and the Background Notes.

I look forward to hearing from you.*

Yours sincerely


R A D JACKSON

* Please return the papers when replying.