

PO - CH / NL / 0101

PART E

Part E

CONFIDENTIAL

(Circulate under cover and
notify REGISTRY of movement)

Begins: 15/12/86.

Ends: 21/12/87.



PO -CH /NL/0101



PART E

Chancellor's (Lawson) Papers:

JOHNSON MATTHEY BANKERS
LIBEL ACTION AGAINST THE
CHANCELLOR OF THE
EXCHEQUER

NL/0101

-CH

PO

PART E

Disposal Directions: 25 Years

Phalmer

9/8/95.

ps1



FROM: A C S ALLAN
DATE: 15 December 1986

MRS LOMAX

cc PS/Economic Secretary
Sir P Middleton
Mr Cassell
Mr M Hall
Mr Board

JOHNSON MATTHEY BANKERS

The Chancellor has seen the Attorney General's Answer to Dr McDonald about the current police investigations into JMB. He would be grateful to have a note (in confidence) on the latest state of play on all this.

ACSA

A C S ALLAN

PPS

*You should get in touch with
Stephen Woole, directly. He might
be able to have something for
his own personal use. They are very
eager about documentation. His part
of that is a new special. (He does in
fact give us a certain amount of
that under the cover of the paper)*

Ring Stephen Woole.

Re. 6912.

*430
12*



THE TREASURY SOLICITOR

Queen Anne's Chambers

28 Broadway London SW1H 9JS

Telephones Direct Line ~~01-273~~ 210 3371/3022

Switchboard ~~01-273 3000~~ 10 3000

Telex 917564 GTN 273

ppp

A Allan Esq
Chancellor's Private Office
HM Treasury
Parliament Street
London SW1.

Please quote

Your reference

Date

L.85/3584/RADJ

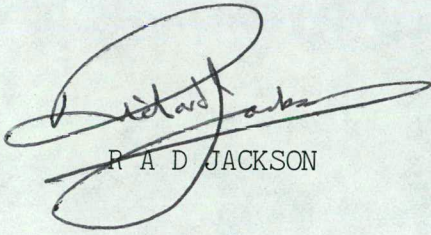
16 December 1986.

Dear Mr Allan,

THE CHANCELLOR'S LIBEL ACTION

I enclose a note of David Eady's advice given to the Chancellor on 3 December. I apologise for the delay in sending this to you.

Yours sincerely,


R A D JACKSON

CH/EXCHEQU	
REC.	17 DEC 1986 <i>12/12</i>
ACTION	<i>Mr Board</i>
COPIES TO	<i>Sir P Middleton</i>
	<i>Mr Cassell</i>
	<i>Mrs Komax</i>
	<i>MA Hall</i>

NOTE OF A CONSULTATION WITH DAVID EADEY QC AT
11 DOWNING STREET ON WEDNESDAY 3 DECEMBER 1986

Present: The Chancellor, Sir Peter Middleton, Alex Allan and Richard Jackson.

1. David Eadey began his advice by saying that, as Counsel to the Chancellor - the defendant in the libel action - his advice was that the Price Waterhouse Report should be produced in the litigation on two grounds. First, it goes to a vital element in the action, namely dishonesty (known technically as malice). It also went to the factual basis for the Chancellor's remarks and answers the allegation that the Chancellor relied solely on the Command Paper and the Bank of England Annual Report. The Price Waterhouse Report is not only disclosable but goes to the heart of the litigation.
2. Wearing his "other hat" as Head of HM Treasury, the Chancellor would need to be satisfied personally that there was a genuine risk to the public interest in production before a claim for public interest immunity could be put forward. If the Chancellor concluded that it was a "rescue" document rather than a "supervisory" document then it would be very risky to put the claim for immunity in the Chancellor's List.
3. David Eadey thought it odd, and it might be misconstrued as a presentation point, if the Chancellor asserted a risk to public interest in his List and then argued for production if the matter came to a Court hearing. This would appear objectively to be inconsistent. If, however, the Attorney General were to intervene then the Chancellor could argue for production.
4. One important point ought not to be overlooked. There may be no challenge to the claim for public interest immunity by Arthur Young. The Chancellor would then be in the difficulty that he could not produce the document and rely on it.
5. Counsel concluded his advice by repeating that if the public interest immunity was to be taken, it should be taken by the Attorney General.
6. The Chancellor underlined the fact that the Price Waterhouse Report was the prime basis for his making the statements complained of. The Report was the only definite independent source. He was absolutely clear that it was a "rescue" document and not a "supervisory" document. JMB had been a wholly-owned subsidiary of the Bank of England for some

two months when it was produced. Banking supervision is concerned with the protection of depositors. As a wholly-owned subsidiary of the Bank of England, it was difficult to see how JMB's depositors were at risk. The Chancellor had never got the impression that the Bank of England thought it unthinkable that the Price Waterhouse Report would be published.

7. David Eadey noted that the present case was unique and that there was no particular precedent. He pointed out that the process of discovery/production did not mean that the document would come into the public domain. The other side would have to treat it with confidence and use it only for the purposes of the action. For example, Arthur Young could not sue Price Waterhouse. Thus, production would be unlikely to inhibit accountants in the future. He wanted to use the Price Waterhouse Report and rely on it for the Chancellor's defence. He noted the Bank of England's concern about customers and their account details. He wondered whether this information would come out from the Price Waterhouse Report. It was inadmissible in evidence on justification. It was only admissible as to what was in the Chancellor's mind (qualified privilege and fair comment) and this was a narrow compass of pages which appeared not to breach customer confidentiality.

8. Sir Peter Middleton noted difficulties with the Chancellor's two roles and the problem of being seen to be arguing against himself. David Eadey said that, as a point of principle, there was no reason why the Chancellor should not himself certify public interest immunity. Sir Peter noted that there would be even more trouble if he had to advise a Junior Minister to do so.

9. The Chancellor saw the two roles as not between Defendant and Chancellor but as between Chancellor as defendant and Chancellor as Cabinet Minister.

10. On the practical steps, Counsel advised that the Chancellor should not say anything about public interest immunity on the Price Waterhouse Report in his List. He should keep the Attorney General informed and let Arthur Young's Solicitors know, in a covering letter, that there might be a possible claim for this document and this was being discussed. The Attorney General's office should see all the relevant papers and documents but perhaps it would be better to avoid the Chancellor talking

direct to the Attorney General

N.B. The Chancellor's List was served by hand on 5 December without making a claim for public interest immunity in respect of the Price Waterhouse Report but indicating, in a covering letter, that such a claim might be made in due course.

A handwritten signature consisting of a stylized circle with a vertical line through it and a horizontal line at the top, resembling a 'J' or 'K'.

R A D JACKSON



THE TREASURY SOLICITOR

Queen Anne's Chambers

28 Broadway London SW1H 9JS

Telephones Direct Line ~~01-273~~ 210 3371/3022

Switchboard ~~01-273-3000~~ 10 3000

Telex 917564 GTN 273

pus

A Allan Esq
Chancellor's Private Office
HM Treasury
Parliament Street
London SW1.

Please quote

Your reference

Date

L.85/3584/RADJ

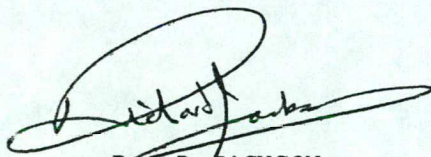
16 December 1986.

Dear Mr Allan,

THE CHANCELLOR'S LIBEL ACTION

I enclose a note of David Eady's advice given to the Chancellor on 3 December. I apologise for the delay in sending this to you.

Yours sincerely,


R A D JACKSON

Mr Allan

I don't think you're in need of advice on this - it's a record of legal advice already acted upon.

D Howard

67/12

SEARCHED	
17 DEC 1986	
TO	Mr Board
	Sir P Middleton
	Mr Cassell
	Mrs Komax
	MA Hall

NOTE OF A CONSULTATION WITH DAVID EADEY QC AT
11 DOWNING STREET ON WEDNESDAY 3 DECEMBER 1986

Present: The Chancellor, Sir Peter Middleton, Alex Allan and
Richard Jackson.

1. David Eadey began his advice by saying that, as Counsel to the Chancellor - the defendant in the libel action - his advice was that the Price Waterhouse Report should be produced in the litigation on two grounds. First, it goes to a vital element in the action, namely dishonesty (known technically as malice). It also went to the factual basis for the Chancellor's remarks and answers the allegation that the Chancellor relied solely on the Command Paper and the Bank of England Annual Report. The Price Waterhouse Report is not only disclosable but goes to the heart of the litigation.
2. Wearing his "other hat" as Head of HM Treasury, the Chancellor would need to be satisfied personally that there was a genuine risk to the public interest in production before a claim for public interest immunity could be put forward. If the Chancellor concluded that it was a "rescue" document rather than a "supervisory" document then it would be very risky to put the claim for immunity in the Chancellor's List.
3. David Eadey thought it odd, and it might be misconstrued as a presentation point, if the Chancellor asserted a risk to public interest in his List and then argued for production if the matter came to a Court hearing. This would appear objectively to be inconsistent. If, however, the Attorney General were to intervene then the Chancellor could argue for production.
4. One important point ought not to be overlooked. There may be no challenge to the claim for public interest immunity by Arthur Young. The Chancellor would then be in the difficulty that he could not produce the document and rely on it.
5. Counsel concluded his advice by repeating that if the public interest immunity was to be taken, it should be taken by the Attorney General.
6. The Chancellor underlined the fact that the Price Waterhouse Report was the prime basis for his making the statements complained of. The Report was the only definite independent source. He was absolutely clear that it was a "rescue" document and not a "supervisory" document. JMB had been a wholly-owned subsidiary of the Bank of England for some

two months when it was produced. Banking supervision is concerned with the protection of depositors. As a wholly-owned subsidiary of the Bank of England, it was difficult to see how JMB's depositors were at risk. The Chancellor had never got the impression that the Bank of England thought it unthinkable that the Price Waterhouse Report would be published.

7. David Eadey noted that the present case was unique and that there was no particular precedent. He pointed out that the process of discovery/production did not mean that the document would come into the public domain. The other side would have to treat it with confidence and use it only for the purposes of the action. For example, Arthur Young could not sue Price Waterhouse. Thus, production would be unlikely to inhibit accountants in the future. He wanted to use the Price Waterhouse Report and rely on it for the Chancellor's defence. He noted the Bank of England's concern about customers and their account details. He wondered whether this information would come out from the Price Waterhouse Report. It was inadmissible in evidence on justification. It was only admissible as to what was in the Chancellor's mind (qualified privilege and fair comment) and this was a narrow compass of pages which appeared not to breach customer confidentiality.

8. Sir Peter Middleton noted difficulties with the Chancellor's two roles and the problem of being seen to be arguing against himself. David Eadey said that, as a point of principle, there was no reason why the Chancellor should not himself certify public interest immunity. Sir Peter noted that there would be even more trouble if he had to advise a Junior Minister to do so.

9. The Chancellor saw the two roles as not between Defendant and Chancellor but as between Chancellor as defendant and Chancellor as Cabinet Minister.

10. On the practical steps, Counsel advised that the Chancellor should not say anything about public interest immunity on the Price Waterhouse Report in his List. He should keep the Attorney General informed and let Arthur Young's Solicitors know, in a covering letter, that there might be a possible claim for this document and this was being discussed. The Attorney General's office should see all the relevant papers and documents but perhaps it would be better to avoid the Chancellor talking

direct to the Attorney General

N.B. The Chancellor's List was served by hand on 5 December without making a claim for public interest immunity in respect of the Price Waterhouse Report but indicating, in a covering letter, that such a claim might be made in due course.

A handwritten signature consisting of a stylized circle with a vertical line through it and a horizontal line at the top, resembling a 'J' or 'K'.

R A D JACKSON

my 18/12

1. MR M HALL
2. ECONOMIC SECRETARY

FROM: D R H BOARD
 DATE: 17 December 1986

- cc PS/Chancellor
 PS/Sir P Middleton
 Mr Cassell
 Mrs Lomax
 Mr Gunton
 Mr D Jones

MINORIES FINANCE LTD (JMB): 1986 ACCOUNTS

The Bank of England have successfully concluded discussions with the JMB counter-indemnitors and faxed over yesterday evening the attached draft of the chairman's proposed statement on the 1986 accounts. The chairman, Mr Walker, would like to issue his statement tomorrow afternoon, embargoed until 5 pm that afternoon, and would like any Treasury comments during the course of today. The timing seems acceptable (Prime Minister's Questions and the last session before Christmas of the Banking Bill committee will be out of the way earlier in the day); nor is there anything untoward in the announcement itself. The rest of this minute provides a short commentary on the Bank's announcement.

2. The overall position is, as the Bank foreshadowed, an improvement on the estimates made in April when the sale of most of JMB's business to Westpac was announced. From the Bank of England's point of view the position can be summarised in the following table (+ shows net gain and - shows net loss to the Bank):

	£m		
	<u>JMB's 1985 accounts</u>	<u>Last public estimate (April 1986)</u>	<u>Current position (MFUs 1986 accounts)</u>
As co-indemnitor liable for 50% of shortfall on JMB's bad loan book	- 26.5	- 25	- 20.75
As sole share- holder of JMB	- 12.4	0 to +5	+ 0.1
Net result	<u>- 38.9</u>	<u>"no worse than - 25"</u>	<u>- 20.65</u>

3. You might like to be aware of the following more detailed points on the announcement:

(a) the abridged balance sheet shows that the Bank of England's £25m investment in the form of loan stock has been repaid, hence the reference in para 1 of the announcement to the Bank's investment as being £75m not £100m;

(b) the "finalisation" of the indemnity arrangements means that the liabilities under these arrangements of the Bank and the other indemnitors have now been capped. I understand that, as before, the indemnitors may still draw some benefit if the position improves. The Bank as owner still bears the ultimate risk of any unexpected deterioration but the position now appears fairly stable;

(c) the announcements confirm that the claim against Arthur Young is being pursued. The accounts are qualified, as they were in 1985, by a reference to the uncertainties inherent in the provisions for doubtful debts and in the possibility of legal claims against or by third parties. The explanatory notes from the accounts on the legal actions is attached.

4. It would be helpful to know as soon as possible whether you are content for Mr Walker to proceed. It will be for the Bank of England to deal with press enquiries.

Douglas Board

D R H BOARD

[17.30pm 16/12. VERSION
as sent for printing]

EMBARGO

NOT FOR RELEASE BEFORE
17.00 HOURS 18 DECEMBER

MINORIES FINANCE LIMITED
ACCOUNTS TO 30 JUNE 1986
CHAIRMAN'S STATEMENT

1 The report and accounts of Minories Finance Limited (formerly Johnson Matthey Bankers Limited), issued today for the year ended 30 June 1986, show a £12.5 million increase to net assets during the year. Shareholders' funds are £75.1 million, slightly in excess of the Bank of England's investment of £75 million, compared with a shortfall of £12.4 million last year.

2 The indemnity of £150 million, provided 50% by the Bank of England and 50% by twenty-three other banks and members of the London Gold Market, has been finalised at a total cost of £41.5 million. Only 27.6% of the committed amount was needed and the final figure is less by £11.8 million than the amount of £53.3 million included in last year's accounts.

3 This year's improvements - £12.5 million to net assets and £11.8 million to the indemnity, making £24.3 million altogether - have two causes: the profitable disposal of MFL's bullion business and the recovery of doubtful debts which have yielded better than expected results.

4 At 30 September 1984, the time of the rescue, MFL had outstanding loans of £433 million with commitments of another £68 million; a total book of £501 million. At 30 June 1986 those figures were £291 million and £10 million, totalling £301 million, or £200 million less than the starting point. Provisions at 30 June 1986, including allowances for irrecoverable interest, were £259 million. Although unpaid interest has continued to accumulate, it has been possible to release £12 million of principal provisions during the year to 30 June 1986.

5 In the course of recovery operations, a number of debtors have had to be placed into liquidation, receivership or bankruptcy but MFL's policy is to obtain repayment without these measures wherever possible. Rigorous action, however, is taken against customers and guarantors who have diverted funds that are properly due to MFL. We are continuing to co-operate with police investigations into possible fraud by former customers, employees and management.

6 In May 1986 MFL's mainstream business of bullion banking and dealing, foreign exchange and treasury operations, together with good parts of the loan book, was acquired by Westpac Banking Corporation at a premium of £17.5 million over net asset value.

7 The Hinton Hill insurance broking group and Johnson Matthey & Wallace Limited, a commodities futures broking subsidiary, were sold during the year. Since the year-end Johnson Matthey & Wallace Inc, New York, has also been sold. These further sales taken together have achieved a surplus over their net asset value.

8 MFL's assets now comprise liquidity, loans and advances net of provisions and two wholly-owned subsidiaries, Johnson Matthey Commodities Limited and Johnson Matthey Commodities Inc, New York. The subsidiaries have been offered for sale and the process of recovery of doubtful loans continues. MFL is pursuing its claim for damages against the former auditors, Arthur Young.

9 Disposals of businesses and collection of debts has led to a reduction of over 90% in balance sheet totals, from £1.2 billion last year to £111 million at June 1986. An abbreviated balance sheet is attached.

10 I wish to thank our staff, most of whom have now transferred with their respective businesses, our secondees from other banks, our professional advisers and my present and former colleagues on

MINORIES FINANCE LIMITED

PRESS NOTICE

3

the board of MFL. They have all contributed to a year of considerable achievement.

D A WALKER
17 December 1986

* * * * *

Enquiries on MFL results to: Pat Brennan 01-601 4414
Other enquiries to: Bank of England Press Office 01-601 4411

* * * * *

Full balance sheet and accounts are available on request to
Minories Finance Limited, 123 Minories, London, EC3N 1NT.

MINORITIES FINANCE LIMITED

New

(formerly Johnson Matthey Bankers Limited)

Abridged Consolidated Balance Sheet

	<u>30 June</u> 1986 £m	<u>30 June</u> 1985 £m
Cash and short term funds	6.6	10.5
Money at call and short notice	-	150.0
Deposits with banks	12.7	54.8
Treasury bills	20.7	-
Current investments	4.8	5.3
Bullion stocks and customers' accounts	-	784.6
Subsidiaries for re-sale	18.6	4.2
Receivable under indemnity	12.3	48.9
Advances etc., net of provisions	35.2	149.8
Fixed assets	0.1	3.8
	<u>111.0</u>	<u>1,211.9</u>
Current, deposit and other accounts	35.9	349.3
Customers' dealing and metal accounts	-	775.0
Subordinated loan stock	-	25.0
	<u>35.9</u>	<u>1,149.3</u>
NET ASSETS	<u>75.1</u>	<u>62.6</u>
SHAREHOLDERS FUNDS		
Share capital	75.0	75.0
Reserves	0.1	(12.4)
	<u>75.1</u>	<u>62.6</u>

are now being

The financial information included in this press release is based on the full accounts for 1986 which ~~have not yet been~~ filed with the Registrar of Companies. The auditors' opinion on the full accounts for 1986 states that the accounts give a true and fair view subject to the continuing uncertainties inherent in the provisions for doubtful debts and also in relation to claims and potential claims, both against or by third parties, which may involve substantial amounts.

MINORIES FINANCE LIMITED
(formerly Johnson Matthey Bankers Limited)

Legal actions

The company has issued a writ against Arthur Young claiming substantial damages for negligence as auditors. The company is also subject to claims against it by Baglab Limited and others for a sum of US\$80 million and by Gomba Holdings UK Limited and others. Baglab and Gomba are debtors of the company. Having consulted the company's legal advisers, the directors consider that these claims are without merit. The effect on the accounts of these and other legal actions is set out in note 18(2) on page [].

- (2) The company is currently, or may become, party to claims against or by third parties, which may involve substantial amounts. Included in such claims or possible claims are claims and counter claims by borrowers, and possible claims against others in respect of the circumstances leading to the acquisition of the company and its subsidiaries by the Bank of England. Provisions have been made in the financial statements in respect of some of the claims against the company; however, after taking account of the indemnity arrangements, these provisions have no significant impact on the net assets of the group. No account has been taken in these financial statements of any contingent asset or contingent liabilities in respect of other claims, or possible claims, as it is not practicable to judge the outcome at this stage.

ps
ps



FROM: P D P BARNES
DATE: 17 December 1986

MR BOARD

cc PS/Chancellor
PS/Sir P Middleton
Mr Cassell
Mrs Lomax
Mr M Hall
Mr Gunton
Mr D Jones

MINORITIES FINANCE LIMITED (JMB) : 1986 ACCOUNTS

The Economic Secretary was grateful for your submission of 17 December.

2. The Economic Secretary is content with the Chairman's proposed statement.

fb

P D P BARNES
Private Secretary

for information



pusp

With the Compliments of

The Treasury Solicitor

[Signature]



THE TREASURY SOLICITOR

Queen Anne's Chambers
28 Broadway London SW1H 9JS

Telephones Direct Line 01-273 210 3371/3022
Switchboard 01-273 3000
Telex 917564 GTN 273

CH/EXCHEQUER	
REC.	22 DEC 1986 ^{v22/12}
ACTION	MR D BOARD
COPIES TO	SIR P. MIDDLETON
	MR CASSELL
	MRS LOWE
	MR M. HALL

D A Redfern Esq
Messrs Freshfields
Grindall House
25 Newgate Street
London EC1A 7LH.

Please quote

Your reference

Date

L.85/3584/RADJ

19 December 1986.

Dear Allen,

*JOHNSON MATTHEY :
CHANCELLOR'S LIBEL
CASE*

PRICE WATERHOUSE SECOND INTERIM REPORT

I have been passed a copy of the Governor's letter to Sir Peter Middleton dated 17 December 1986. I note that the Bank has been advised not to press a claim for public interest immunity in respect of the Report. However, the Governor goes on to say that there may be a problem under Section 19(4) of the Banking Act.

I fully appreciate that the classification of the Report is not an easy task. Nevertheless, I have some difficulty in seeing how Section 19 is relevant when there is no claim for public interest immunity. As I understand the advice given to the Bank (and please tell me if I have misunderstood), a report commissioned under Section 17 of the Act would be one for which a claim for public interest immunity would properly lie. And, as I understand the law, if the Report in question was commissioned for more than one purpose then, so long as one of the purposes was under Section 17, this does not destroy a claim for immunity.

The Bank's decision not to make a claim for immunity leads me to conclude that the Price Waterhouse Report was not, in fact, commissioned under Section 17. It is for this reason that I have difficulties with the application of Section 19. Nevertheless, I do not think that this causes insuperable problems. Subject to instructions from the Chancellor, I do not foresee any difficulty in preserving the common law banker/customer confidentiality by appropriate editing.

...

My understanding (and subject/further instructions if necessary) to
is that the Chancellor was aware of pages 5-13, 24 & 25, 115-121
and 160 - 164. Passages in those pages were the ones relied upon
by the Chancellor when he made the statements complained of.
It must certainly be arguable that pages the Chancellor did
not see and rely on would be inadmissible in the libel action.

As I am obliged to make the whole Report available for inspection,
perhaps you would kindly let me know which pages/passages the
Bank would like to see edited, indicating the manner of editing.
I am sure that we can reach a satisfactory agreement without
difficulty.

Incidentally, I understand from the Solicitors acting for
the BBC (co Defendants of the Chancellor) that McKennas
have served a List of Documents in the libel action (amounting
to some 540 in number). No doubt owing to their being kept
on their toes by you and your colleagues, they have omitted
to serve the List on me!

With all good wishes for Christmas and the New Year.

Yours sincerely,



RICHARD JACKSON



THE TREASURY SOLICITOR

Queen Anne's Chambers
28 Broadway London SW1H 9JS

Telephones Direct Line 01-273 210 3371/3022
Switchboard 01-273 3000
Telex 917564 GTN 273

D A Redfern Esq
Messrs Freshfields
Grindall House
25 Newgate Street
London EC1A 7LH.

Please quote

L.85/3584/RADJ

Your reference

Date

19 December 1986.

Alan

Dear ~~Allen~~,

PRICE WATERHOUSE SECOND INTERIM REPORT

I have been passed a copy of the Governor's letter to Sir Peter Middleton dated 17 December 1986. I note that the Bank has been advised not to press a claim for public interest immunity in respect of the Report. However, the Governor goes on to say that there may be a problem under Section 19(4) of the Banking Act.

I fully appreciate that the classification of the Report is not an easy task. Nevertheless, I have some difficulty in seeing how Section 19 is relevant when there is no claim for public interest immunity. As I understand the advice given to the Bank (and please tell me if I have misunderstood), a report commissioned under Section 17 of the Act would be one for which a claim for public interest immunity would properly lie. And, as I understand the law, if the Report in question was commissioned for more than one purpose then, so long as one of the purposes was under Section 17, this does not destroy a claim for immunity.

The Bank's decision not to make a claim for immunity leads me to conclude that the Price Waterhouse Report was not, in fact, commissioned under Section 17. It is for this reason that I have difficulties with the application of Section 19.

Nevertheless, I do not think that this causes insuperable problems. Subject to instructions from the Chancellor, I do not foresee any difficulty in preserving the common law banker/customer confidentiality by appropriate editing.

...

to
My understanding (and subject/further instructions if necessary)
is that the Chancellor was aware of pages 5-13, 24 & 25, 115-121
and 160 - 164. Passages in those pages were the ones relied upon
by the Chancellor when he made the statements complained of.
It must certainly be arguable that pages the Chancellor did
not see and rely on would be inadmissible in the libel action.

As I am obliged to make the whole Report available for inspection,
perhaps you would kindly let me know which pages/passages the
Bank would like to see edited, indicating the manner of editing.
I am sure that we can reach a satisfactory agreement without
difficulty.

Incidentally, I understand from the Solicitors acting for
the BBC (cc Defendants of the Chancellor) that McKennas
have served a List of Documents in the libel action (amounting
to some 540 in number). No doubt owing to their being kept
on their toes by you and your colleagues, they have omitted
to serve the List on me!

With all good wishes for Christmas and the New Year.

Yours sincerely,



RICHARD JACKSON

SCHEDULE 1 - Part I

All the files in this section are Johnson Matthey Bankers Ltd files unless otherwise stated.

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J1	Original and copy correspondence	17.9.80 to 1.9.82	1 - 33
J2	Original and copy correspondence	8.2.83 to 3.1.85	1 - 55
J20	SAR (2)	31.3.80 to 27.3.84	1 - 85
J21	SAR (3)	31.3.80 to 16.3.84	1 - 139
J22	SAR (4)	5.5.82 to 1.6.84	1 - 180
J23	SAR (5)	31.3.79 to 30.11.84	1 - 175
J24	SAR (7)	31.3.80 to 21.3.84	1 - 211
J25	Systems A to B	31.3.81	1 - 318
J26	Systems C to F	31.3.81	1 - 86
J28	Debtors' Circularisation	31.3.81	1 - 226
J29	Circularisation	31.3.81	1 - 228

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J30	Audit A	31.3.81	1 - 257
J31	Audit B and C	31.3.81	1 - 190
J32	Audit D to G	31.3.81	1 - 276
J33	Audit H to J	31.3.81	1 - 115
J34	Audit K to V	31.3.81	1 - 225
J35	Systems A to C	31.3.82	1 - 217
J36	Systems D to F	31.3.82	1 - 113
J37	Bullion, Debtors/Creditors Circularisation Schedules and Print-outs	31.3.82	1 - 60
J38	BL Confirmation Replies	31.3.82	1 - 177
J39	FX and BM Confirmation Replies	31.3.82	1 - 287
J40	Confirmations received after completion	31.3.82	1 - 80
J41	Audit A	31.3.82	1 - 199
J42	Audit C to E	31.3.82	1 - 255
J43	Audit F to L	31.3.82	1 - 274
J44	Audit M to W	31.3.82	1 - 129

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J45	Stock relief	11.11.81 to 26.4.83	1 - 119
J53	Systems A to C	31.3.83	1 - 110
J54	Systems D to H	31.3.83	1 - 105
J55	Management Schedules	31.3.83	1 - 285
J56	Circularisation control	31.3.83	1 - 198
J57	Compliance Planning and Workpapers	31.3.83	1 - 98
J58	Circularisation - General Banking	31.3.83	1 - 200
J59	Circularisation - Victoria House - Lloyds Avenue	31.3.83	1 - 100
J60	Circularisation - Nil balances	31.3.83	1 - 104
J61	Circularisation - Follow-up	31.3.83	1 - 191
J62	Circularisation - FX Follow-up	31.3.83	1 - 117
J63	Circularisation - FX 1 - 149	31.3.83	1 - 250
J64	Circularisation - FX 150 - 350	31.3.83	1 - 163

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J65	Circularisation - FX 351 - 599	31.3.83	1 - 267
J66	Circularisation - FX 600 - 823	31.3.83	1 - 232
J67	Circularisation - 1 - 300	31.3.83	1 - 273
J68	Circularisation - 300 - 700	31.3.83	1 - 287
J69	Circularisation - 700 - 1100	31.3.83	1 - 300
J70	Audit A to F Excluding B	31.3.83	1 - 346
J71	Audit A	31.3.83	1 - 68
J72	Audit G to L	31.3.83	1 - 202
J73	Audit Roll Forward (covering sections G and I)	31.3.83	1 - 96
J74	Audit M to W	31.3.83	1 - 146
J75	Customer Balance List CB 27 [print-out]	31.12.83	1 - 66
J76	Forward Metal Statements CB 34 [print-out]	31.12.83	1 - 262
J77	FX Loans and Deposits and Forward Contracts CB 37 [print-out]	31.12.83	1 - 995
J78	Systems A to C	31.3.84	1 - 305

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J79	Systems D to K	31.3.84	1 - 211
J80	Debtors and Creditors Circularisation Control File	31.3.84	1 - 89
J81	Circularisation Replies B1 - B173	31.3.84	1 - 92
J82	Circularisation Replies B158 - B313	31.3.84	1 - 175
J83	Circularisation Replies B214 - B482	31.3.84	1 - 204
J84	FD/FK Replies B1-B157	31.3.84	1 - 201
J85	FD/FK Replies F1-F130	31.3.84	1 - 187
J86	Circularisation Replies F131-F260	31.3.84	1 - 183
J87	Circularisation Replies F267-F383	31.3.84	1 - 168
J88	Circularisation Replies FX1-FX124	31.3.84	1 - 123
J89	Circularisation Replies M1-M300	31.3.84	1 - 124
J90	Circularisation Replies M1-M119	31.3.84	1 - 80

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J91	Circularisation Replies Agreed M120-M249	31.3.84	1 - 110
J92	Circularisation Replies Agreed M250 - M380	31.3.84	1 - 101
J93	Circularisation Replies Agreed M381 - M4118	31.3.84	1 - 119
J94	Circularisation Replies M01 - M020	31.3.84	1 - 17
J95	Williams & Glyn Miscellaneous Circularisation Replies	31.3.84	1 - 81
J96	Replies from Circularisation: Disagreed	31.3.84	1 - 188
J97	Minutes 21.3.83 onwards	31.3.84	1 - 120
J99	Audit A	31.3.84	1 - 207
J100	Audit B - compliance work	31.3.84	1 - 262
J101	Audit C - Cash	31.3.84	1 - 159
J102	Audit D, K and KK	31.3.84	1 - 209
J103	Audit DD to I	31.3.84	1 - 125
J104	Audit E	31.3.84	1 - 257
J105	Audit J to End	31.3.84	1 - 193
J106	Audit S1	31.3.84	1 - 118

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J107	Audit S2	31.3.84	1 - 154
J108	Audit S3	31.3.84	1 - 286
J109	Consolidation A to H	31.3.84	1 - 293
J110	Consolidation I to KK	31.3.84	1 - 189
J111	Stock	30.9.84	1 - 86
J112	Johnson Matthey PLC - Original and copy correspondence	30.6.82 to 24.3.83	1 -15
J113	Johnson Matthey PLC - Original and copy correspondence	14.7.83 to 15.3.84	1 - 25
J114	Johnson Matthey PLC - Original and copy correspondence	20.6.84 to 27.2.85	1 - 27
J132	Johnson Matthey PLC - Audit - Group A Section	31.3.83	1 - 47
J165	Johnson Matthey PLC - Audit Budget and Audit Plan	31.3.84	1 - 14
J196	Banking Division Quarterly Return as at 29.2.84	31.3.84	1 - 82
J197	El Saeed Maritime Group Review working papers	September 1984	1 - 371
J198	El Saeed Maritime Group Report drafts	September 1984	1 - 244

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J199	Altramar - Review (file 1)	September 1984	1 - 263
J200	Altramar - Review (file 2)	September 1984	1 - 240
J201	Altramar - Review (file 3)	September 1984	1 - 252
J202	D. O. Cannon - Original and copy notes, papers and correspondence	1.10.84 -3.3.85	1 - 168
J203	Johnson Matthey PLC - Minutes of Audit Liaison and other meetings	31.3.83	1 - 59
J205	Permanent File	25.10.79	1 - 86
J206	Permanent Accounts	1983-1984	1 - 14
J228	Johnson Matthey PLC - Minutes of Audit Liaison meetings	7.10.81 to 7.4.82	1 - 20
J259	Johnson Matthey PLC - Copy Management letters	1981 - 1983	1 - 7
J397	SAR (6)	30.5.84 to 6.6.84	1 - 165
J398	Stock Relief	24.2.83 to 27.3.84	1 - 290
J399	Stock Relief	21.11.83 to 18.4.84	1 - 252

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
J400	Base Stock Method/ Stock Relief	1970 to 11.6.82	1 - 308
J401	Base Stock Method/ Stock Relief	12.5.82 to 5.5.83	1 - 176
J402	A. D. Chessells - Stock Relief Dispute	31.3.81 to 13.4.84	1 - 420
J403	A. D. Chessells - Stock Relief Dispute (2)	31.3.80 to 5.6.84	1 - 454
J404	Stock Relief Dispute - Draft papers re Submission to Commissioners	June 1984	1 - 310
500	El Saeed Review Notes	September 1984	1 - 20
501	Johnson Matthey PLC - Press file	27.9.84 to 28.2.85	1 - 197
502	J.O.R. Darby's diary (extracts)	1984	
503	J.O.R. Darby's "Day Book" (extracts)	1984	
504	J.O.R. Darby - Papers re portfolio review	September 1984	1 - 169
505	J. O. R. Darby - Desk file	14.12.84 to 20.6.85	1 - 188
506	P. D. Hancock - Desk file	31.3.82 to 17.12.84	1 - 220

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
507	P. D. Hancock - Desk file - Completed, detailed accounting package	31.3.84	1 - 123
508	P. D. Hancock - Papers re Altramar investigations	September 1984	1 - 76
509	A. D. Chessells - September 1984 investigations Vol 1	September 1984	1 - 102
510	A. D. Chessells - September 1984 investigations Vol 2	September 1984	103 - 255
511	A. D. Chessells - Desk file	8.3.83 to 28.5.85	1 - 139
512	A. D. Chessells - Desk file - Johnson Matthey PLC Vol 1	19.2.81 to 17.8.83	1 - 157
513	A. D. Chessells - Desk file - Johnson Matthey PLC Vol 2	18.8.83 to 22.12.83	158 - 333
514	A. D. Chessells - Desk file - Johnson Matthey PLC Vol 3	5.1.84 to 16.4.84	334 - 462
515	A. D. Chessells - Desk file - Johnson Matthey PLC Vol 4	4.5.84 to 29.8.84	463 - 593
516	A. D. Chessells - Desk file - Johnson Matthey PLC Vol 5	19.9.84 to 30.10.84	594 - 737

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
517	A. D. Chessells - Desk file - Johnson Matthey PLC Vol 6	31.10.84 to 27.2.85	738 - 853
518	A. D. Chessells' Pocket Diary	1984	
519	A. D. Chessells' Desk Diary	1984	
520	A. D. Chessells' "Blue Book" (extracts)	1984	
521	P. R. Edwards - Desk file	11.3.85 to 23.5.85	1 - 12
522	D. O. Cannon's Diary	1984	
523	Audit Manual	1981	
524	Audit Manual	1982/1983	
525	Audit Manual	1984	
526	Banking Course Material	October 1982	
527	Banking Course Material	October 1983	
528	White Paper Cmnd No. 6584	August 1976	
529	White Paper Cmnd No. 7303	July 1978	
530	Bank of England Notice to Institutions authorised under the Banking Act 1979	April 1983	

<u>File Number</u>	<u>Description</u>	<u>Date (y/e)</u>	<u>Pages numbered</u>
531	Report of the Committee set up to Consider the System of Banking supervision Cmnd No. 9550	June 1985	
532	Press Notices from H.M. Treasury and Bank of England	20.6.85	
533	Extract from Hansard	20.6.85	
534	Bank of England Report and Accounts	1985	
535	Transcript of BBC Radio 4 programme "the World Tonight"	20.6.85	
536	Transcript of BBC Radio 4 programme "the Financial World Tonight"	20.6.85	
537	Transcript of Channel Four programme "Channel Four News"	20.6.85	
538	Consultive Paper by the Bank of England	20.8.85	
539	Transcript of Channel Four programme "the Business Programme"	27.10.85	
540	White Paper Cmnd No. 9695	December 1985	
	Pleadings in the action	Various	
	Party and Party Correspondence	Various	

RESTRICTED

FROM: D R H BOARD

DATE: 6 January 1987

PS/CHANCELLOR

*What is the
(you) JMB
+ prop
low
so for in
to BGS
the JMB
JMB*

cc PS/Economic Secretary
PS/Sir P Middleton
Mr Cassell
Mrs Lomax
Mr M Hall o/r
Mr Gunton

no comment

JMB: DISPOSAL OF MINORIES FINANCE REMAINING SUBSIDIARIES

Prompted by a leak from sources in Hong Kong close to the purchaser, the Bank of England issued the attached press release yesterday evening. It confirmed that the sale of the two remaining subsidiaries of Minories Finance had been agreed in principle. The Bank have told me that the reports in today's press (see below) that the sale price involves a premium over net worth are correct, but there is still a lot of detailed negotiation to be done. Minories Finance itself, a loan realisation company with the outstanding legal claim against Arthur Young, remains in the Bank of England's ownership.

2. The Bank have been at some pains to stress Deak International Inc's reputable ownership. I understand that Deak International itself was constructed out of the "clean" part of the insolvent Deak & Co, parts of which had been tainted by allegations of laundering drug proceeds in the US. The murder of the founder and former chairman of Deak & Co was apparently unconnected.

Douglas Board
D R H BOARD



Press Release

BARINGS

01-283 8833

TO: CITY EDITORS
FOR IMMEDIATE RELEASE

5th January, 1987

Johnson Matthey Commodities Limited
Johnson Matthey Commodities Inc.

Baring Brothers & Co., Limited announces that agreement in principle has been reached between Minorities Finance Limited and Deak International Inc. ("Deak") of New York for the sale to Deak of the whole of the issued share capitals of Johnson Matthey Commodities Limited of London and Johnson Matthey Commodities Inc. of New York.

Deak is a subsidiary of Deak Morgan Limited, an Australian company quoted on The Associated Australian Stock Exchanges. It has two principal shareholders, N&I Corporation Limited and Ariadne Australia Limited, which own respectively approximately 40 per cent. and 20 per cent. of Deak Morgan Limited's equity.

The business of Deak is concentrated in foreign exchange and precious metals.

- ENDS -

Enquiries:

Charles Irby

01-283 8833



Bank sells two JMB subsidiaries

By Stefan Wagstyl

DEAK MORGAN, an Australasian-owned financial services company, plans to buy the two metals trading subsidiaries of the former Johnson Matthey Bankers group, which was rescued by the Bank of England two years ago.

Johnson Matthey Commodities Ltd, which has a seat on the London Metal Exchange, and New York-based Johnson Matthey Commodities Incorporated, were put up for sale in October by the Bank through Baring Brothers, the merchant bank.

The bank has already sold almost all the other assets of JMB. The bulk of the banking and gold bullion business went to Westpac of Australia in April. The sale price for the two metals companies has not been revealed but is understood to be more than their net worth of about £19m.

Deak Morgan has two powerful principal shareholders—NZI Corporation, New Zealand's largest insurer, owns 40 per cent, and Ariadne Australia, a fast-growing Australian holding company, owns 20 per cent. Deak last year changed its name from Martin Properties after it bought Deak and Co, a US-based currency and precious metals broker

Bank sells final JMB remnants

By Richard Lander

The Bank of England has disposed of the remaining two parts of Johnson Matthey Bankers (JMB), the collapsed bullion and banking group which it rescued in late 1984.

In a deal arranged by Baring Brothers, the merchant bank, the Bank has agreed to sell the London-based Johnson Matthey Commodities Ltd and Johnson Matthey Commodities Inc of New York to Deak Morgan, a quoted Australian company.

No financial details of the transaction were revealed but Mr Charles Irby, a director of Barings, said the two companies were being sold for "in excess of net worth", which he estimated at around £18 million.

Deak Morgan is a fast-growing financial services group. Its major shareholders include NZI Corporation, with a 40 per cent holding, and Ariadne Australia, an investment subsidiary controlled by Mr Brude Judge, which holds 20 per cent.

Formerly known as Martin Properties, the company was renamed after last year's pur-

chase of Deak Perrera, an American bullion dealing and money changing business. It also owns a stockbroking firm.

The acquisition of the two JMB companies will give Deak Morgan access to major commodity markets in New York and London, including the London Metal Exchange where JM Commodities Ltd is a full ring-dealing member and the New York Mercantile Exchange, where the American company trades platinum.

Most of JMB's banking and bullion dealing operations were sold last April to Westpac Banking Corp, another Australian firm. The sole asset of JMB, now renamed Minorities Finance, is the rump of the bad loan book which the Bank took over as part of the rescue.

Minorities' annual report showed that the company had outstanding loans and commitments of £301 million at last June 30, reduced from £501 million when JMB was rescued. Provisions have been made to cover £259 million of the money still owed.

Times 6/1/87

Financial Times 6/1/87

RESTRICTED

BIF 12/1



FROM: CATHY RYDING

DATE: 7 January 1987

MR BOARD

cc PS/Economic Secretary
PS/Sir P Middleton
Mr Cassell
Mrs Lomax
Mr M Hall
Mr Gunton

JMB: DISPOSAL OF MINORIES FINANCE REMAINING SUBSIDIARIES

The Chancellor has seen your minute of 6 January.

2. The Chancellor would be grateful to know the "final" JMB "profit and loss account" so far as the Bank of England - and their public funds - are concerned.

CR

CATHY RYDING

RESTRICTED

FROM: D R H BOARD

DATE: 9 January 1987

1. MR M. HALL
2. CHANCELLOR

cc PS/Economic Secretary
PS/Sir P Middleton
Mr Cassell
Mrs Lomax
Mr Gunton

JMB: DISPOSAL OF MINORIES FINANCE REMAINING SUBSIDIARIES

In your Private Secretary's minute of 7 January you asked about the financial outcome for the Bank of England, now that the sale of the last two subsidiaries of Minories Finance has been agreed.

2. The answer is that there is very little change from the last publicly available position (please see the third column of the table in my submission of 17 December, attached). That is because the sale premium over the two subsidiaries' book value is likely to be modest, say of the order of £1m. The actual premium may depend on how the sale negotiations go; my submission of 6 January reported that the negotiations were not complete. For the sake of illustration, a premium of £1m would improve the Bank's position as shareholder of JMB from +£0.1m to +£1.1m reducing the bottom line cost to the Bank from £20.65m to £19.65m.

3. However that is not a "final" figure. Recoveries on Minories' rump loan book may go better (or worse) than expected. (Since the indemnity was capped in December, any future change in the value of the loan book will now be reflected in the second rather than the first line of the table). There may also be proceeds from the action against Arthur Young. All this may take many months.

4. There is another slight complication. The presentation of costs used above, which we use publicly, does not allow for the cost of the capital (the income foregone on the Bank's capital investment). However, under the terms of the indemnity agreement,

RESTRICTED

when the books are finally closed the Bank's cost of capital is a prior claim on any surplus available, before any pro rata pay-out to the counter-indemnitors.

5. Finally, you may recall that the Bank's payments to the Treasury in lieu of dividend have been insulated from the effects of JMB.

Douglas Board
D R H BOARD

May 18/12

1. MR M HALL
2. ECONOMIC SECRETARY

FROM: D R H BOARD
 DATE: 17 December 1986

cc PS/Chancellor
 PS/Sir P Middleton
 Mr Cassell
 Mrs Lomax
 Mr Gunton
 Mr D Jones

MINORITIES FINANCE LTD (JMB): 1986 ACCOUNTS

The Bank of England have successfully concluded discussions with the JMB counter-indemnitors and faxed over yesterday evening the attached draft of the chairman's proposed statement on the 1986 accounts. The chairman, Mr Walker, would like to issue his statement tomorrow afternoon, embargoed until 5 pm that afternoon, and would like any Treasury comments during the course of today. The timing seems acceptable (Prime Minister's Questions and the last session before Christmas of the Banking Bill committee will be out of the way earlier in the day); nor is there anything untoward in the announcement itself. The rest of this minute provides a short commentary on the Bank's announcement.

2. The overall position is, as the Bank foreshadowed, an improvement on the estimates made in April when the sale of most of JMB's business to Westpac was announced. From the Bank of England's point of view the position can be summarised in the following table (+ shows net gain and - shows net loss to the Bank):

	£m		
	JMB's 1985 <u>accounts</u>	Last public estimate <u>(April 1986)</u>	Current position (MFLs 1986 <u>accounts</u>)
As co-indemnitor liable for 50% of shortfall on JMB's bad loan book	- 26.5	- 25	- 20.75
As sole share- holder of JMB	- 12.4	0 to +5	+ 0.1
Net result	<u>- 38.9</u>	<u>"no worse than - 25"</u>	<u>- 20.65</u>

3. You might like to be aware of the following more detailed points on the announcement:

(a) the abridged balance sheet shows that the Bank of England's £25m investment in the form of loan stock has been repaid, hence the reference in para 1 of the announcement to the Bank's investment as being £75m not £100m;

(b) the "finalisation" of the indemnity arrangements means that the liabilities under these arrangements of the Bank and the other indemnitors have now been capped. I understand that, as before, the indemnitors may still draw some benefit if the position improves. The Bank as owner still bears the ultimate risk of any unexpected deterioration but the position now appears fairly stable;

(c) the announcements confirm that the claim against Arthur Young is being pursued. The accounts are qualified, as they were in 1985, by a reference to the uncertainties inherent in the provisions for doubtful debts and in the possibility of legal claims against or by third parties. The explanatory notes from the accounts on the legal actions is attached.

4. It would be helpful to know as soon as possible whether you are content for Mr Walker to proceed. It will be for the Bank of England to deal with press enquiries.

Douglas Board

D R H BOARD

RESTRICTED

Handwritten initials



FROM: CATHY RYDING
DATE: 12 January 1987

MR D R BOARD

cc PS/Economic Secretary
PS/Sir P Middleton
Mr Cassell
Mrs Lomax
Mr Hall
Mr Gunton

JMB: DISPOSAL OF MINORIES FINANCE REMAINING SUBSIDIARIES

The Chancellor was grateful for your minute of 9 January.

Handwritten signature

CATHY RYDING

Hussein & Co.

ACCOUNTANTS & AUDITORS
TAX CONSULTANTS

27 CLERKENWELL ROAD, LONDON EC1M 5RN

TELEPHONE: 01-608 0524 1011

The Chancellor of the Exchequer,
House of Commons,
London SW1A 0AA.

TREASURY - MCU	
REC'D.	30 JAN 1987
ACTION	

27th January, 1987

Dear Sir,

RE: J.M.B. SIPRA

On the evening of 26th Jan 87 we left our offices at 5.45p.m. and returned at 10.15 a.m the 27th Jan 87. Between the above hours my offices were broken into and searched by experts. The only item of any interest in my office is the Sipra - J.M.B. files and the people to whom it would be of interest is MI5. The break in is illegal and an invasion of privacy. It is also contempt of the High Court of Justice. This is a clear attempt to pervert the course of Justice by attempting to prevent me to persue my case. The address given for my witness has also been under surveillance since unsworn affidavit copy was served on defendents, who are the Bank of England.

Yours faithfully,


S.A. Hussein



Treasury Chambers, Parliament Street, SW1P 3AG
01-270 3000

30 January 1987

Juliet Wheldon
Assistant Legal Secretary
Attorney General's Chambers
Royal Courts of Justice
WC2

Dear Juliet

JMB; SIPRA

... I attach a copy of the letter we have received about a break-in at the offices of Hussein and Co.

I am copying this to John Footman (Bank of England).

*Yours
Alex*

A C S ALLAN
Principal Private Secretary

Ch
(!) ✓
AA

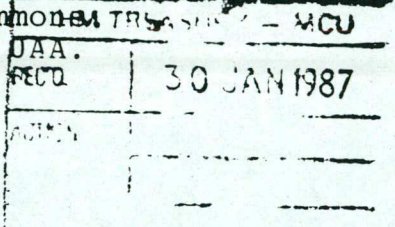
Hussein & Co.

ACCOUNTANTS & AUDITORS
TAX CONSULTANTS

27 CLERKENWELL ROAD, LONDON EC1M 5RN

TELEPHONE: 01-608 8524 1011

The Chancellor of the Exchequer,
House of Commons
London SW1A



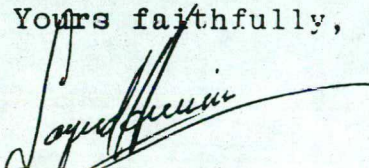
27th January, 1987

Dear Sir,

RE: J.M.B. SIPRA

On the evening of 26th Jan 87 we left our offices at 5.45p.m. and returned at 10.15 a.m the 27th Jan 87. Between the above hours my offices were broken into and searched by experts. The only item of any interest in my office is the Sipra - J.M.B. files and the people to whom it would be of interest is MI5. The break in is illegal and an invasion of privacy. It is also contempt of the High Court of Justice. This is a clear attempt to pervert the course of Justice by attempting to prevent me to persue my case. The address given for my witness has also been under surveillance since unsworn affidavit copy was served on defendents, who are the Bank of England.

Yours faithfully,


S.A. Hussein

Saturday 7/2/87

Daily Mail

A 31-year-old man has been charged by the City Fraud Squad team investigating the 1984 collapse of Johnson Matthey Bank with debts of £248m. Amjad Imam is accused of corruptly paying £5,000 to a former official of Johnson Matthey Bankers Ltd, an offence under the Prevention of Corruption Act, 1906. Imam lives in New York but a condition of his bail is that he lives in South Street, Mayfair. He is the second man to be charged in connection with the JMB scandal. Michael Flawn, who was assistant manager of JMB's banking section, is on remand charged with stealing £2,500 from the bank.

pmp

FROM: D R H BOARD
DATE: 11 February 1987

NOTE FOR THE RECORD

- cc PS/Chancellor 14/2
- PS/Economic Secretary
- PS/Sir P Middleton
- Mr Cassell
- Mrs Lomax
- Mr M Hall
- Mr D Jones



JMB : PROSECUTIONS

I spoke to the DPP's office (Gillanders) on 11 February about the attached report in Saturday's "Daily Mail".

2. In December 1985 the Press linked the single instance of fraud which had been referred to in the Bank's 1985 report ("one case dealt with before, and immaterial to, the collapse") to Mr Michael Flawn, a sacked JMB assistant manager. Flawn was thought to have been bribed by a Mr Imam, a brother-in law to Mr Sipra. Flawn is likely to be committed for trial at the Old Bailey on 12 March (with the trial itself not due for months).

3. Saturday's arrest appears to spring from Mr Imam's decision to set foot in the UK, rather than a new breakthrough in the continuing police investigations. Prosecution under the Prevention of Corruption Act will require the Law Officers' approval in due course.

Douglas Board
D R H BOARD

myp



~~Steve Woolter~~

Chris Newall from
Law Officers Dept
rang.

2921 6584

20/3070C

FROM: D R H BOARD
6 March 1987

Rec'd 9/3

my

NOTE FOR THE RECORD

cc PPS -12/2

PS/Economic Secretary
PS/Sir P Middleton
Mr Cassell
Mrs Lomax
Mr Culpin
Mr M Hall
Mr G J Roberts

Mr R Jackson (T.Sol)

JMB: ARRESTS

Andrea Pack (Bank of England) rang me at 5.45pm this evening to report information which she had received from the police. As part of their JMB investigations, the police have arrested a Mr Golecha and a Mr Choraria (customers rather than employees of JMB), who have been charged with 3 counts of false accounting, 3 counts of using forged documents and 3 counts of conspiring to falsify documents. She did not have further details.

Douglas Board

D R H BOARD

Chris Newall

Spoke to DPP.

Short answer is FT is accurate.

Number of people have been charged & investigations are proceeding.

Planned.

THE WALL STREET JOURNAL
GROUP

U.K. Finds Bribery Evidence In Johnson Matthey Probe

By MATTHEW WINKLER

Staff Reporter of THE WALL STREET JOURNAL

LONDON - A police probe has uncovered evidence of possible bribery as well as fraud in the near-collapse of Johnson Matthey Bankers Ltd. in 1984, according to court documents and sources close to the prosecution.

Michael Flawn, former assistant manager of JMB's banking department, is to be charged later this week with corrupting the bank, these sources said. The charge of corruption, analogous to a bribery allegation in the U.S., represents one of Britain's most serious statutory offenses and only can be brought with the Attorney General's recommendation.

Mr. Flawn, 39 years old, was arrested in September on six counts of theft and charged with defrauding Johnson Matthey Bankers. In the past six weeks, police have arrested three other men - two of them former bank customers - on charges of fraud in their dealings with Johnson Matthey Bankers. The two ex-customers charged were: Amjad Imam, a 31-year-old Pakistani businessman, and Ummed Chand Goleccha, a British subject. Rajendra Kumar Choraria, another British subject and purported associate of Mr. Goleccha, also was arrested.

Mr. Flawn couldn't be reached for comment. The other three men, released on bail after surrendering their passports, also couldn't be reached.

Bribes Alleged

The charges facing the four men are the first to show that fraud may have played a part in the bank's £250 million (\$396.4 million) of bad debts. The bad debts prompted the Bank of England to rescue it in October 1984. Bank customers allegedly offered financial bribes to at least one JMB official in return for favorable loan arrangements, according to sources close to Britain's Attorney General.

At the time of its Bank of England rescue, JMB was a relatively small bank that belonged to Johnson Matthey PLC, a major precious-metals dealing, processing and distribution group. JMB later reported a net loss of £70 million for the 15 months ended June 30, 1985. It also set aside £254 million of bad-debt provisions on a loan portfolio totaling only £392 million.

The takeover, which involved major British commercial banks, raised strong protests from the opposition Labour Party. But the Bank of England said it was

essential to the health of the London gold market and to the reputation of London as a financial center.

In July 1985, a Bank of England investigation concluded that poor judgment and inadequate financial controls primarily were responsible for the Johnson Matthey Bankers debacle. Despite the recent arrests in connection with JMB, "we have no reason to alter our general view that the principal cause of Johnson Matthey Bankers' problem was poor management," a Bank of England spokesman said yesterday.

The British central bank sold most of JMB's operations last year to Westpac Banking Corp., Australia's largest private bank, for about £38 million. The remaining units were renamed Minorities Finance Ltd.

Gaps in Records

The fraud squad for London's financial district has been investigating gaps in JMB's records prior to its Bank of England takeover since July 1985. "Although strictly speaking, inquiries have so far failed to find prima facie evidence of fraud, they have revealed unexplained gaps in records of JMB, including the possibility of missing documents relating to substantial past transactions on certain accounts that are the subject of large losses," Chancellor of the Exchequer Nigel Lawson said in announcing the fraud squad's involvement.

For the past 15 months, police have committed 40 investigators to the JMB case and sources close to the government's Department of Public Prosecutions say there may be more arrests before the probe ends. Mr. Flawn, the former JMB executive, became the first arrest in the investigation when he was charged with theft last September. At that time, the lawyer for the director of public prosecutions said in court that Britain's Attorney General had consented to a prosecution of Mr. Flawn on a corruption charge, for allegedly accepting bribes from a JMB customer.

The four arrests so far have focused on specific instances where JMB's customers purportedly offered bribes to one or more JMB officials in return for lenient credit terms and other bank-related services. The breakdown in financial controls at the bank largely was due to the absence of direct involvement by JMB's senior officers and its parent, Johnson Matthey PLC, in the

Please Turn to Page 12, Column 4

October's Big Bang, according to a report by the exchange.

Big Bang on Oct. 27 freed commissions and lifted other restrictions on trading in London's securities markets.

The report said the trading volume of foreign equities "tends to be volatile." For the three months ending Jan. 31, the trading value of foreign shares averaged £320 million (\$508 million) a day in customer business, compared with £840 million (\$1.33 billion) a day of domestic shares.

Before Oct. 27, when firms weren't obliged to report foreign equity transactions, only £15 million a day were recorded. That fact highlights the difficulty of comparing figures before and after Big Bang.

Commissions on share-dealing for private clients rose after Oct. 27, but they stayed close to the previous fixed minimum scale, according to a December questionnaire sent to the exchange's members. The average commission on a £5,000 share trade was 1.6% in December, compared with the 1.65% fixed commission before Big Bang. But concessions offered by firms before Big Bang brought average commission charges down to 1.26% for a £5,000 transaction, according to a survey last

FINANCIAL TIMES

JMB fraud team lays charges

BY TERRY POVEY

THE FIRST serious charges arising from the police investigation of the affairs of Johnson Matthey Bankers, have been made. Mr. Ummed Golechha, a JMB borrower who ran a confirming house financing trade with Nigeria, was last weekend charged with nine counts covering false accounting and forging trade bills.

In a separate case, Mr Amjad Imam, who with his brother ran the Altramar group of shipping and trading companies which owed JMB \$37m (£23.3m) at the time of its collapse in October 1984, has been charged with conspiracy to corrupt an executive of the bank.

JMB collapsed with suspected bad debts of £250m and was rescued by the Bank of England. In April last year most of JMB was sold to Westpac, Australia's largest bank, for some £45m. However, left with the Bank and operated under the name of Minorities Finance, was the bulk of the bad loans. Since the autumn of

1985 the largest fraud investigation team put together in the UK has been examining the behaviour of JMB's staff and its debtors.

Mr Golechha ran three companies under the umbrella of U. C. Golechha (1974) Limited—the most active of which was Berg Sons & Co, a confirming house based in the City at Leadenhall.

One Golechha company went into liquidation in the early 1980s and Berg Sons collapsed after JMB and other bankers refused to fund its continued operation in the wake of millions of pounds of defaults by traders dealing with Nigeria.

According to the court-appointed liquidator, Berg Sons had debts of £16m and very few realisable assets when it was compulsorily wound up in the spring of 1985. Of this sum £3m was owed to JMB. Almost simultaneously with the winding up of Berg Sons, Mr Golechha began work in Berg Sons (UK) Ltd, a newly formed

company operating from the same City address with most of its shares owned by his former accountant.

Mr Imam's charge relates to a payment of some £5,000 alleged to have been made to Mr Michael Flawn, a former assistant manager in JMB's banking department. Mr Flawn was dismissed from JMB in the summer of 1984 when the £5,000 payment was discovered by his superiors. Last September Mr Flawn was charged on six separate counts of theft from JMB, and at the time fraud squad officers told the court that further, more serious charges were pending.

Last month, Mr Imam was brought before magistrates in London, his passport was removed and he was ordered to report to a police station every day. Mr Golechha's passport, and that of Mr Rajendra Choraria, who is jointly charged with him, has also been removed.

JMB: Corruption charges ³³

A FORMER chief executive of JOHNSON MATTHEY BANKERS faced new corruption charges yesterday. Guildhall Magistrates Court committed Michael John Flawn for trial at the Old Bailey. Flawn, 38, now unemployed, was accused of

corruptly accepting two inducements—£1,000 in December, 1983 and £5,000 in June the following year—while being an agent of Johnson Matthey.

He also faces theft charges. Flawn, of Rainham, Kent, is accused of stealing a total of more

than £2,500 from JMB between August 1983 and February 1984.

Flawn was committed for trial on unconditional bail. Reporting restrictions were not lifted.

JMB was rescued by the Bank of England in October 1984.

pwp
JMB

City man on 5 bribes charge

A former senior executive of Johnson Matthey, the City bankers, faced further charges of corruption when he was committed to the Central Criminal Court for trial by Guildhall magistrates yesterday.

Michael John Flawn, aged 38, of Ploughman's Way, Rainham, Kent, was accused of accepting bribes totalling £6,000 between December 1983 and June 1984. He is also accused of stealing a total of £2,583 from Johnson Matthey. He was granted unconditional bail.

JMB executive on corruption charges ¹⁸

A FORMER senior executive of Johnson Matthey Bankers was yesterday committed for trial at the Old Bailey on charges of corruption.

Michael John Flawn, 38, who is now unemployed, appeared before the Guildhall Magistrates Court to face two charges of corruptly accepting a total of £6,000 to provide falsified bank account details while working at the bank.

An investigation into the affairs of JMB has been continuing since it collapsed in October 1984 with debts of about £250m.

Mr Flawn, who was employed by Johnson Matthey Bankers as assistant manager of its banking division until 1984, is alleged to have received the money from Amjad Imam, another defendant facing charges in connection with the affairs of the bank.

Mr Imam, 31, a Pakistani national, was charged last month with corruptly paying money to a former official of JMB and remanded on bail.

By Patrick Donovan
City Staff

Mr Flawn of Rainham, Kent was yesterday charged with corruptly accepting from Amjad Imam the sum of £1,000 on 20 December, 1983 as inducement or reward for doing actions in relation to his principal's affairs. This relates to the alleged provision of falsified bank account details to a firm of solicitors connected with a company with which Mr Imam was involved. Mr Flawn faces a second charge of corruptly accepting a further £5,000 on 20 June, 1984 from Amjad Imam.

Mr Flawn also faces a further six charges of theft from Johnson Matthey Bankers involving sums totalling £2,583. He was committed for trial on unconditional bail. Reporting restrictions were not lifted.

Also appearing before magistrates yesterday were two other defendants.

A FORMER senior executive of the collapsed City bankers, Johnson Matthey, faced further charges of corruption when he was committed for trial to the Central Criminal Court from Guildhall magistrates' court yesterday.

Michael John Flawn, 38, now unemployed, of 212 Ploughmans Way, Rainham, Kent, was accused of corruptly accepting as an inducement the sum of £1,000 and £5,000 on December 20, 1983, and June 20, 1984, respectively, while being an agent of Johnson Matthey. He is also accused of stealing from Johnson Matthey the sums of £294 on August 30, 1983; £265 on September 27, 1983; £427 on November 1, 1983; £713 on November 21, 1983; £311 on December 6, 1983; and £573 on February 16, 1984.

Flawn was committed for trial on unconditional bail. Reporting restrictions were not lifted.

City warned on conduct by SIB chairman

By Philip Bassett

PROBLEMS IN the City such as those experienced by Johnson Matthey Bankers and Lloyd's of London are bad for the UK's hopes of retaining its share of the world financial services market, Sir Kenneth Berrill, chairman of the Securities and Investments Board, said yesterday.

Speaking to a conference on the City organised by Acas, the conciliation service, Sir Kenneth said it was impossible for the increased self-regulation of City affairs to be relaxed to allow the City to adjust to the accelerating pace of change in its affairs.

As in the US, greater legal deregulation of financial markets had to be accompanied by better self-scrutiny. The number of scandals in the US and Britain meant pressure for such voluntary regulation would be maintained.

Sir Kenneth said problems such as those at JMB or Lloyd's cast a doubt over the whole of the City, and that was not good for the market or for its market share, in keeping its place as the (financial) centre for this time zone.

He singled out the whole area of financial advice as needing greater regulation, arguing that at present no qualifications abilities or corporate structure were necessary for someone to set up in business at local level as a financial adviser, nor any regulation of their activities when they did.

Insider dealing charge against ex-B&C man ²⁴

ANOTHER City insider share dealing charge was revealed by the Department of Trade and Industry last night.

Summonses have been served by the DTI on Ronald Richard Jenkins, formerly employed by Cayzer Irvine—part of the giant British and Commonwealth Shipping Group.

The summonses allege two offences connected with transactions in the shares of the British and Commonwealth and the international trading company, Steel Brothers.

Mr Jenkins was formerly employed as secretary to Lord Cayzer, chairman of British and Commonwealth.

Last year British and Commonwealth launched a near £90 million bid for the 55 per cent of the shares it did not already own in Steel Brothers.

DTI inspectors were appointed in December to investigate allegations of insider

dealings involving British and Commonwealth.

The summonses are returnable at the Guildhall Justices Room in London on April 27.

It was the second case of alleged insider trading to surface late last year.

The first involved the Morgan Grenfell securities chief, Mr Geoffrey Collier, who has been summoned for alleged insider trading in shares of AE Ltd and Cadbury Schweppes.

A third case, which emerged later, involved alleged insider dealing linked to a secretary at the Office of Fair Trading but no summons has yet been issued in that case.

The brother of the secretary concerned, who is also claimed to be linked to the case, is reported to have left Britain for Israel.

Government sources originally indicated that a summons would be served at the end of last year.

THE GUARDIAN

EXPRESS CITY 2

Transatlantic trap nets the insiders ³³

THE campaign to crack down on crooked share dealing on both sides of the Atlantic brought new insider dealing charges yesterday. Britain's Department of Trade served summonses on Ronald Richard Jenkins, a former employee of British & Commonwealth offshoot Cayzer Irvine. He faces two charges. They concern dealings in B & C shares and in Steel Brothers, which the company bid for at the beginning of December.

DTI inspectors were appointed three months ago.

Just as news of the Jenkins charges was breaking in London, Merrill Lynch in New York announced it had sacked Nahum Vaskevitch, head of the group's London mergers and acquisitions department.

Vaskevitch had been suspended from his post the day before, when America's Securities and Exchange Commission accused him of masterminding an insider dealing scheme which netted more than £2.5 million.

Merrill said he was sacked "after Mr Vaskevitch failed to provide Merrill Lynch with a satisfactory explanation of the SEC allegations."

The SEC action against Vaskevitch is a civil complaint. That would normally make extraditing him from London difficult.

But the SEC has served subpoenas on Vaskevitch, 38, and his alleged insider dealing colleague, Israeli David Sofer.



By **BEN LAURANCE**
Deputy City Editor

They have to appear in court. Failure to do so would make them fugitives—which would then allow the SEC to apply for extradition.

SEC papers lodged with a court in Manhattan accuse Vaskevitch of "a massive insider trading scheme spanning approximately two years."

He refused to answer calls at his luxurious Hampstead, North London home yesterday.

Colleagues at Merrill's London office were shocked. But he was not universally liked. One Merrill employee said he was popular and well-respected. Another countered: "We won't shed any tears for him."

THE TIMES CITY DIARY

Friendly neighbours

Could it be that the house is jinxed? It certainly seems to bring its owners more than their fair share of unwelcome publicity. The £1.2 million, six bedroom Hampstead mansion of Nahum Vaskevitch, the former Merrill Lynch corporate finance man accused of taking part in an illegal \$4 million insider trading scheme by the US Securities and Exchange Commission, was previously owned by virile Burton boss Sir Ralph Halpern. Clearly a shrewd negotiator, pint-sized Vaskevitch persuaded Halpern to part with the house for just £250,000 five years ago. Of Russian origin, but with dual British and Israeli nationality, he lives there with his Israeli wife Ariella and their two small children. Neighbours in star-studded Redington Road include *Upstairs, Downstairs* actor Gordon Jackson, John Alderton and Pauline Collins, and the Sultan of Brunei. Actor Tom Conti, who lives across the road, defended the "resting" Vaskevitch by saying that when he first moved in Vaskevitch's wife welcomed them by baking them a cake. "I don't know anything about his business activities," he says, "but it was a nice gesture."

LONDON DAILY NEWS

JMB £1.7 m debtor duo now face 18 charges of fraud

by MIHIR BOSE

A FORMER business associate of the world's biggest bankrupt has been charged with nine counts of false accounting and fraud in relation to Johnson Matthey bankers. JMB had to be rescued by the Bank of England in October 1984 in controversial circumstances.

Umed Chand Golecha, a JMB borrower who ran a confirming house financing trade with Nigeria, faces charges relating to false accounting and forging trade bills.

A former business partner of Rajendra Sethia who was declared bankrupt with debts totalling £170 million, Golecha ran three companies under the umbrella of UC Golecha Ltd, the most active of which was Berg and Sons, a confirming house based in the City at Leadenhall.

This firm was well-known among the City's Indian business community for its bill discounting prowess. Golecha was particularly close to several bankers in the City, Indian and English, and had good trading relations with JMB.

One of his companies went into liquidation in the early 1980s and



Sethia: Debts of £170 million

Fraud Squad also arrested Amjad Imam, a 31-year old Pakistani businessman with a New York address, but now residing in Mayfair.

Imam faces two charges of corruption one of alleging offering £5,000 to Michael Flawn, former assistant manager of JMB's banking department and one of offering £1,000. Imam was arrested on February 2.

Flawn, 39, who was arrested in September on six counts of theft and charged with defrauding JMB, is to appear at the Guildhall Justice Room on Thursday.

Berg and Sons collapsed after JMB and other bankers refused to fund its continued operation in the wake of defaults worth millions of pounds by traders dealing with Nigeria.

Last week, the City Fraud Squad arrested Rajendra Kumar Choraria who was also charged with the same counts. The two men are said to have been involved in a deal whereby they obtained an advance of \$1.7 million from JMB. Choraria is currently on £25,000 bail.

Choraria holds a number of directorships in commodities import-export firms and is a jeweller by trade. He was born in Bombay on October 21, 1958, but is now a British citizen.

JMB collapsed with suspected bad debts of £250 million. Since the autumn of 1985, the City of London police has put together the largest fraud investigation team ever assembled in the UK to look into the behaviour of JMB's staff and its debtors.

In April 1986, most of JMB was sold to Westpac, Australia's largest bank, for some £45 million. The bulk of the bad loans, however, were left with the bank and operated under the name Minorities Finance.

In another JMB action, the City

10/5

H S K Peppiatt	N D Taring	I M Fisher	S A D Hall	Resident in New York
P C Peddie	M L H Clode	Josanne Rickard	G W Merton	J K McCall
D O Bates	M M MacCabe	R S McCormick	B J O'Brien	P J Jeffcote
D A Redfern	P W Goodwin	R A Chamberlin	V R Ciempson	Resident in Paris
G A Whalley	R M Nelson	D C ap Simon	E T H Evans	A C L Smith
J K Grieves	J P L Davis	T W R Head	G N Prentice	P J R Bloxham
J M Romanes	J L Hewitt	W N Richards	I K Terry	S J McGarl
J M H Hunter	T A Ling	I Taylor		Resident in Singapore
R J C Shuttleworth	P R Macklin	R M Ballard		J Part
R W Harris	Penelope Freer	J L McKeand		K J Julian
W N Parker	G B Nicholson	D N Spearing		Resident in Hong Kong
P M Leonard	F G Sandison	J N Byrne		M A Freeman
J C Nowell-Smith	G L B Darlington	M Thompson		H W J Stubbs
J C T Foster	A M V Salz	A S McWhirter		Ruth Markland

Grindall House, 25 Newgate Street
 London EC1A 7LH
 Telephone 01-606 6677
 Telex 889292
 Fax 01-248 3487/8/9 LDE/CDE No 23

Our reference **DAR/PB/MJGP/19886LA**

Your reference **L.85/3548/RADJ**

30 March 1987

BY HAND

Dear Richard,

Second Interim Report of Price Waterhouse

Further to your recent telephone conversation with Michael Phillips, we have now discussed with the Bank of England the question of disclosure of the above report ("the Report") by the Chancellor.

Briefly, we have advised the Bank that Section 19(1) ("the Section") of the Banking Act 1979 ("the Act") applies to the copy of the Report in the possession of the Chancellor. Unless one of the exemptions contained in the Section applies, it would constitute an offence for the Chancellor to disclose information contained in the Report relating to the business or other affairs of any persons referred to therein. The Section does not, however, in our view apply to the copies of the Report in the Bank's or MFL's possession, and the Bank and MFL may in due course be obliged to disclose it in the proceedings in the MFL/AY Action.

Before setting out a fuller explanation of our interpretation of the effect of the Section it may be useful to explain that discovery of the Report in the MFL/AY Action by either MFL or the Bank should obviate many of the problems in connection with the Section which we consider the Chancellor would otherwise experience in relation to disclosure of the Report.

There are two points arising out of your letter of 19 December which I would like to clarify at the outset:-

Hong Kong
 24th Floor
 One Exchange Square
 Hong Kong
 Telephone 5-259345
 Telex 84973
 Fax 5-294499
 5-8106192

New York
 45 Rockefeller Plaza
 New York NY 10111
 Telephone (212) 765-8685
 Telex 12433
 Fax (212) 765-2610
 (212) 977-7199

Paris
 14 Avenue Gourgaud
 75017 Paris
 Telephone (1) 47 66 51 59
 Telex 648363
 Fax (1) 47 66 10 63
 (1) 47 66 11 83

Singapore
 21 Collyer Quay #06-01
 HongkongBank Building
 Singapore 0104
 Telephone 2216522
 Telex 34813
 Fax 2221342
 2254180

To

R Jackson Esq

Date

30 March 1987

Page

2

- (i) You state in the second paragraph of your letter that the Section is not relevant where there is no claim for public interest immunity. In our view the Section contains an unqualified statutory prohibition on disclosure of information obtained under or for the purposes of the Act. Its application in any particular circumstances is not dependent upon a claim for public interest immunity but may exist in any case as a reason for non-disclosure quite separate from public interest immunity;
- (ii) The second point concerns the question of whether or not the Report was commissioned under Section 17. The Section prohibits disclosure of information obtained or for the purposes of the Act. A report commissioned pursuant to Section 17 of the Act clearly contains information obtained under the Act. However, if information was obtained for the purposes of the Act by some means other than under Section 17 (eg in the course of prudential supervision), then the Section still applies, even though the information may not have been obtained pursuant to powers expressly conferred upon the Bank by the Act. It is frequently the case that the Bank solicits the consent of an institution to a report into its affairs by the Bank to assist it in performing its supervisory functions under the Act, rather than exercising its statutory powers in the first instance. Such was the case here.

It is correct, therefore, to conclude that the Report was not commissioned under Section 17, although it does not follow from this that the Section is inapplicable.

Whilst the Section would clearly apply to a document such as this in the Bank's possession in normal circumstances, thereby preventing any disclosure by the Bank, the

To

R Jackson Esq

Date

30 March 1987

Page

3

prohibition on disclosure does not apply in the context of the Third Party Proceedings in the MFL/AY Action by reason of the exemption contained in Section 19(2)(b). For this reason, the Bank is obliged to make the Report available for inspection.

In our opinion the proceedings brought by AY against the Chancellor do not fall within the exemption contained in Section 19(2)(b). The Chancellor is not, therefore, at liberty to disclose any passages in the Report containing information relating to the affairs of any person, without obtaining their prior consent, nor can he be compelled to do so.

To the extent that the Chancellor wishes to resist inspection of the Report, we consider that he has good grounds for refusing to do so under the Section. If, on the other hand, the Chancellor wishes to rely on the Report himself in his proceedings, there seem to us to be difficulties under the Section.

Could you please advise us whether the Chancellor does intend to rely on the contents of the Report. If this is the case, there may be a means of introducing the information in the Chancellor's proceedings without contravening the Section, for, as we stated above, it seems to us likely that the Bank and/or MFL will have to produce their copy of the Report at some stage in any event.

If the Chancellor does wish to use the Report, could you please return to us as soon as possible as we will need to have further discussions with the Bank on this matter.

I look forward to hearing from you.

Yours sincerely

RAD Jackson Esq
The Treasury Solicitor
Queen Anne's Chambers
28 Broadway
London
SW1H 9JS





THE TREASURY SOLICITOR

Queen Anne's Chambers

28 Broadway London SW1H 9JS

Telephones Direct Line 01-~~273~~ 210 3371/3022

Switchboard 01-~~273~~ 3000 210 3000

Telex 917564 GTN 273

D A Redfern Esq
Messrs Freshfields
Grindall House
25 Newgate Street
London EC1A 7LH.

Please quote

Your reference L.85/3584/RADJ

Date DAR/PB/MJGP/19886 LA

3 April 1987.

Dear Alan,

SECOND INTERIM REPORT OF PRICE WATERHOUSE

Thank you for your letter of 30 March about which we spoke on the telephone the same day.

As we agreed, it would not be terribly helpful in the present circumstances to discuss whether or not the provisions of the 1979 Act apply to the above Report. I note the advice you have given to the Bank and can see the force of it. I reserve the right to disagree with it, if that ever becomes appropriate!

You informed me that the Bank is about to disclose the whole Report in the Third Party proceedings brought by Arthur Young and that Minorities Finance may very well disclose it by way of a Supplementary List in the main damages action. As you say in your letter, this should get round many of the problems we are now discussing. You also told me that you are pushing ahead with the action and that it was not in your clients' interests to jeopardise this with arguments over discovery.

You ask in your letter whether the Chancellor wishes (i) to rely on the contents of the Report and (ii) to resist inspection by Arthur Young. The Chancellor does wish to rely on the contents of the Report in so far as he is able and so long as there is still a need following a full trial and judgment in the damages action. He does not wish to resist inspection.

As I said in my letter of 19 December, my understanding is that the Chancellor saw only pages 5-13, 24 and 25, 115-121 and 160-164 before making the statements complained of. The only information on those pages which is arguably customer confidential appears on pages 116 and 117.

...

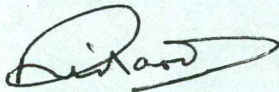
The Chancellor has been advised that pages he did not see would be inadmissible on the defences of qualified privilege and fair comment.

I, therefore, propose the following. I will send to McKennas copies of the pages I have just listed, concealing (subject to agreement between us) whatever factual information relating to customers the Bank requires. I shall explain in a covering letter that I am instructed that these pages were the only ones the Chancellor saw before making the remarks complained of. I shall conclude by saying that I understand from the Solicitors for Minorities Finance and the Bank that consideration is actively being given to disclosing the whole Report in the action involving those parties.

If you agree with this proposal, perhaps you would kindly confirm within the next few days and provide me with a specific list of excisions from the relevant pages.

Regards.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Richard Jackson', with a stylized flourish at the end.

RICHARD JACKSON

LIBEL ACTION



THE TREASURY SOLICITOR

Queen Anne's Chambers
28 Broadway London SW1H 9JS

Telephones Direct Line 01-273 210 3371/3022
Switchboard 01-273 3000 210 3000
Telex 917564 GTN 273

PEM bilateral
b/f PEM bilateral

A Allan Esq
Chancellor's Private Office
HM Treasury
Parliament Street
London SW1.

Please quote L.85/3584/RADJ
Your reference
Date 3 April 1987.

Dear Mr Allan,

THE CHANCELLOR'S LIBEL ACTION

I enclose copies of an exchange of correspondence between myself and Freshfields, acting for the Bank of England. I believe that this ^{is} self-explanatory. If Freshfields do not dissent from my proposal, I shall provide Arthur Young's Solicitors with amended copies of pages 5-13, 24 and 25, 115-121 and 160- 164 of the Price Waterhouse Report. I will explain that I am not providing the balance of the Report because I understand that it is to be disclosed in the JMB damages action.

X I also enclose a copy of Arthur Young's List of Documents served belatedly a few days ago. There is a considerable number of documents in the List and I hesitate to ask for copies at this stage because of the time and expense in evaluating them. You may recall that the Chancellor's expert advisers, Messrs Touche Ross, have been stood down until the interregnum between Judgment in the JMB damages action and the trial of the libel action. It will be during this period that Touche Ross will study and evaluate Arthur Young's documents in the light of the Judgment and documents produced in the JMB damages action. Having said this, I am somewhat curious to see what Arthur Young have in their files and it may be that the Chancellor is as well. If you would like a set of the Arthur Young papers please let me know and I shall request this from their Solicitors. I shall keep a duplicate set in this office but unless you so request, will not study and evaluate them in order to keep costs down.

nd.

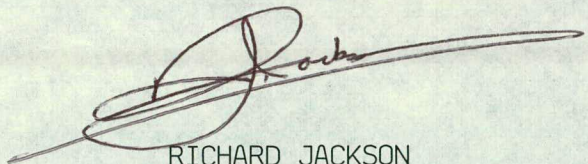
✓

Ch
Do you want a set of documents now?
AA

...

I look forward to hearing you.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Richard Jackson", with a long horizontal flourish extending to the right.

RICHARD JACKSON

c.c. R B Saunders Esq



Prup
JMB

No ^{more} for
now. But
we must be
kept in no
position.

CL

I have spoken to AG's office about attached. Report is with DPP and "proceedings are quite likely quite soon." (But DPP v sensitive about hints of this leaking out for fear of scaring Shamji away - he's in UK now).

DPP has no plans to consult AG about this.

I have said you will want to be kept in close touch with developments - do you want any more done for now?
AA

Borrie: Strong rules needed

SIR GORON BORRIE, whose term as director General of the Office of Fair Trading now exceeds 10 years, wants the Government to undertake a radical restructuring of its competition policy, writes Christine Moir.

The formal review of the Government's approach to competition, commissioned by the Trade and Industry Secretary, Paul Channon, last June, is coming to a head. Borrie has interceded to claim that the DTI should not confine its changes to modest tinkering.

On Wednesday, Channon will lay before Parliament the order designating the Securities and Investments Board as the top City authority. In doing so, he will overrule Borrie's report that the SIB rulebook is seriously anti-competitive. Borrie recommended that conglomerates which sell unit trusts or life assurance organise their branches into strictly separate ('polarised') salesmen.

Borrie himself will be unsurprised by Channon's decision. Indeed, he paved the way for it in his own report last month on the SIB rule book.

Having found a number of rules which would curtail competition in the City, Borrie

commented: 'It would be remarkable if such... rules... had no significant effect on competition in... investment markets.' He added that Channon must weigh the competition implications against the wider issue of investor protection.

His remarks were an open invitation to the Trade Secretary to depart from competition policy and adopt other priorities

Borrie is known to be particularly concerned about the 30-year-old Restrictive Trade Practices Act. Although he gives the Act credit for destroying many damaging price-fixing cartels in manufacturing, he now believes it should be repealed. It has become too

cumbersome and too widely applied, he argues.

Borrie's view has been expressed just in time to free the new City regulatory system from being crippled by too much attention to free market attitudes.

It has come too late, however, for the Stock Exchange, whose own rule book was formally registered as a restrictive practice under the Act, paving the way for the SIB.

The Stock Exchange chairman, Sir Nicholas Goodison, argued all along that a Restrictive Practices Court was the wrong forum for reviewing practices imposed by a regulatory authority in an orderly market.



Borrie: 'Don't just tinker.'

OK
I have asked Attorney General's office to let me know state of play
MA

OBSERVER

Geoffrey Collier for trial on 1 July 29

A DATE has been set for the trial of Geoffrey Collier, the ex-Morgan Grenfell securities chief charged with insider dealing in the shares of AE Group and Cadbury Schweppes, writes George Pitcher.

He will appear at the Old Bailey on Wednesday, 1 July. The Department of Trade & Industry is expected to call as witnesses

Christopher Reeves, the Morgan Grenfell deputy chairman and chief executive who resigned in the wake of the Guinness scandal, and Morgan Grenfell Securities managing director John Holmes, from whose Wimbledon home Collier is alleged to have dealt in AE shares.

Collier faces six charges of insider dealing, three each relating to AE and Cadbury Schweppes.

OBSERVER

Shamji report sent to DPP 29

by MICHAEL GILLARD

THE Director of Public Prosecutions is studying a report from the Fraud Squad team investigating Johnson Matthey Bankers regarding Asian businessman Abdul Shamji's dealings with the bank.

The report follows a year-long investigation into Shamji's Gomba group and its dealings with JMB by Scotland Yard and City of London Fraud Squad detectives. Gomba was the third largest borrower from JMB at the time that the bank had to be rescued by the Bank of England in October 1984.

The Fraud Squad team is continuing make other inquiries into several aspects of the Ugandan born Shamji's business affairs and at least one other report is expected to go to the DPP in the near future. The Shamji investigation is part of a broad Fraud Investigation Group probe into the near collapse of JMB because of bad and doubtful loans of £250 million.

The police investigation into Shamji and the decision

whether to prosecute as a result of its findings will be politically embarrassing for the Government, especially in the run-up to an election. Shamji is a friend of Conservative Party chairman Norman Tebbit and has met the Prime Minister both at Downing Street and at his own home on a number of occasions. He was a vice-chairman of the party's Small Business Bureau.

Earlier this month, in an interview with the magazine *India Today*, Shamji declared: 'I am a Conservative. I contribute funds to the Conservative Party... I did meet them (Mrs Thatcher and Tebbit) on many occasions as most substantial businessmen do.'

The Labour Party has already indicated that it intends to focus on Shamji's Tory links.

Shamji has also been the subject of an investigation by the Inland Revenue's Special Investigation Section concerning his personal tax affairs.

Gomba borrowed almost £20 million from JMB, which in

October 1985 appointed receivers to recover its money. The bank realised more than £17 million by selling Gomba assets including its shares in Wembley Stadium. The receivers, accountants Price Waterhouse, were discharged last December when the bank received a final cash payment of £2 million.

A major focus of the police investigation concerns the ownership of Shamji's home in Kingston, Surrey — a £1 million plus mansion called Edmondsbury — which JMB considered as part of the security provided for its loans to Gomba. But the Bank of England-appointed management at JMB were concerned to discover that the bank did not appear to have a clear claim to the property, Shamji's biggest asset in Britain.

Because of the political sensitivity of the Shamji investigation a decision on whether to prosecute will probably be taken by the Attorney General, Sir Michael Havers, in consultation with the DPP.

936-6584

Chris Nowell

SUNDAY TELEGRAPH & Key City guidelines

A SIGNIFICANT move by the City and industry to promote a closer relationship between companies and their institutional investors will be launched this week.

The initiative will see the publication of a code of best practice for company boards' use of independent directors, to be announced by the non-executive directors, body PRONED and backed by the Bank of England, the Stock Exchange and the Confederation of British Industry.

The move is designed to help ease strains in the relationship between companies and institutions which have fueled accusations by industry of City "short-termism" — pressure exerted by investors on company managements to show short-term results at the cost of long-term investment.

Central to the new code will be a recommendation of the minimum proportion of non-executive directors that should be present on company boards. The code may also question the healthiness of having a chairman who combines the role of chief executive. It may suggest that performance audit committees be introduced by all boards

FRESHFIELDS

H S K Peppiatt
P C Peddie
D O Bates
D A Redfern
G A Whalley
J K Grieves
J M H Hunter
R J C Shuttleworth
J K McCall
R W Harris
W N Parker
P M Leonard
J C Nowell-Smith
J C T Foster
N D Taring
M L H Clode

M M MacCabe
P W Goodwin
R M Nelson
J P L Davis
I L Hewitt
T A Ling
P R Macklin
Penelope Freer
G B Nicholson
F G Sandison
G L B Darlington
A M V Salz
I M Fisher
Josanne Rickard
R S McCormick
R A Chamberlin

D C ap Simon
T W R Head
W N Richards
I Taylor
R M Ballard
J L McKeand
D N Spearing
J N Byrne
M Thompson
A S McWhirter
S A D Hall
G W Morton
B J O'Brien
V R Clempson
E T H Evans
G N Prentice

I K Terry
K N Dierden
J E Francis
P Bowden
L G D Marr
A P Richards
B W Staveley
A Littlejohns
C W Rough
G Le Pard
S M Revell
T A Moore

Resident in New York
J Part
P J Jeffcole
D C Bonsall

Resident in Paris
A C L Smith
P J R Bloxham
S J McGairl

Resident in Singapore
K J Julian

Resident in Hong Kong
M A Freeman
H W J Stubbs
Ruth Markland

Walden House,
17-24 Cathedral Place
London EC4M 7JA
Telephone 01-606 6677
Telex 263396
Fax 01-329 6022 LDE/CDE No.23

COPY

Our reference DAR/PB/MJGP/20178L

BY COURIER

Your reference VSC/MLT/97LE

13 May 1987

Dear Sirs

MFL -v- AY: Third Party Proceedings
Discovery

We enclose, by way of service, the List of Documents of the First Third Party in these proceedings. The documents listed (excluding the report of Messrs Price Waterhouse, bundles of statistical returns, press cuttings etc) comprise five lever arch files.

We recognise that a Supplemental List will be required (see paragraphs 6, 7 and 8 below) and for your guidance we set out below the approach we have followed in compiling the List and the matters which remain under consideration.

1. We have not given comprehensive discovery of documents relating to the supervision of JMB prior to 1 January 1980, since the alleged breach of duty on the part of our client is pleaded as having occurred from only "at least 1981" (please see paragraph (10) of the Amended Third Party Notice). We have, however, made full disclosure of supervision documents in respect of 1980, and have also included the pre-interview and interview notes for the period 1975 to 1979.
2. Having regard to the issues in the Third Party proceedings (as distinguished from those arising only in the main action), the terms of the proposed order for the conduct of the trial and the discovery given in the main action we have not included in the List the following categories of "post-acquisition" documents:

Hong Kong
24th Floor
One Exchange Square
Hong Kong
Telephone 5-259345
Telex 84973
Fax 5-294499
5-8106192

New York
45 Rockefeller Plaza
New York NY 10111
Telephone (212) 765-8685
Telex 12433
Fax (212) 765-2610
(212) 977-7199

Paris
14 Avenue Gourgaud
75017 Paris
Telephone (1) 47 66 51 59
Telex 648363
Fax (1) 47 66 10 63
(1) 47 66 11 83

Singapore
21 Collyer Quay #06-01
HongkongBank Building
Singapore 0104
Telephone 2216522
Telex 34813
Fax 2221342
2254180

FRESHFIELDS

To
McKenna & Co

Date
13 May 1987

Page
2

- (a) documents relating to the indemnity agreement;
 - (b) documents commenting on the level of provisions which would have been appropriate at the time of the rescue of JMB on 1 October 1984;
 - (c) documents relating to recoveries and other proceedings against third parties;
 - (d) reports on the financial condition and other aspects of JMB's continuing business;
 - (e) documents relating to the continuing supervision of JMB.
3. The List does not include documents relating to our client's supervision of other institutions. We do not consider such documents relate to matters in issue in the Third Party proceedings. Further, their disclosure is not necessary either for the fair disposal of the case or to save costs, and would be oppressive.
4. The List does not include documents relating to the development and evolution of the policies adopted by our client for the purpose of prudential supervision of institutions generally. There are a very substantial number indeed of such documents and if they are to be included in our client's discovery, apart from inevitable questions of public interest immunity, much expenditure of time and effort will be incurred without, we believe, making any contribution to the fair disposal of the issues in the Third Party proceedings. As you are aware, the policies and the established systems of supervision, once determined, have been published (for instance, in the "Guide to Intending Applicants for Authority to Take Deposits" and in the "Banking Statistics Definitions" both of which are disclosed). These published policy documents should, we believe, be sufficient for the Third Party proceedings, but if there is some particular matter of concern to your clients no

FRESHFIELDS

To
McKenna & Co

Date
13 May 1987

Page
3

doubt you will let us know and we will consider it further.

5. The events leading up to the rescue of JMB generated a substantial amount of discussion with other government agencies, including HM Treasury. There were a number of meetings between senior representatives of our client and the Chancellor of the Exchequer, other senior officials of HM Treasury, senior members of the international banking community, and with other important representatives of the business community, discussing various questions arising out of the events at JMB. There are certain documents relating to these discussions and meetings. Also, a number of papers were prepared in connection with the JMB Review Committee which reported to the Chancellor of the Exchequer on the system of banking supervision in the light of the problems encountered at JMB. These papers relate to the formulation of government policy on banking supervision. There are further papers relating to proceedings in Parliament. We are referring these categories of papers to the Treasury Solicitor's Office in order that the appropriate Minister can decide whether their production would be injurious to the public interest and they are, accordingly, not included in the present List of Documents.

It may assist you to know that no claim to immunity from production is presently made by our client pursuant to Section 19 of the Banking Act 1979.

6. We have disclosed (as document 298) an internal memorandum of our client which was later used in the preparation of the draft of the Annex to the 1984/5 Annual Report of our client. There is a series of such drafts, and notes commenting on them. We have not disclosed the intermediate drafts and notes, as many relate to or are bound up with sensitive documents, which are not relevant, and which may otherwise be the subject of a claim to public interest immunity. There may also be a claim to legal professional privilege in respect of some of the drafts of the

FRESHFIELDS

To
McKenna & Co

Date
13 May 1987

Page
4

Annex. We are presently considering these documents, and further documents in this series of papers may be disclosed to you in due course.

7. There are references in many of the documents disclosed to other documents, which we have not yet been able to trace. Our client is a large institution, and potentially discoverable documents are held in many different offices within our client. We will continue our efforts to trace these documents, and insofar as they are relevant, we will disclose them in due course by way of a Supplementary List of Documents. Nearly all of these documents are post-acquisition documents and, we expect, are likely to be of marginal (if any) relevance.
8. There are two particular post-acquisition documents which we consider to be relevant, but which we have not yet disclosed. These are:-
 - (i) a compilation of the Minutes of the Court of the Bank of England dealing with all aspects relating to JMB; and
 - (ii) the relevant parts of the manuscript notes of the Secretary to the Court from which the document in (i) was compiled.

The first document is a summary of discussions, although the second is more in the nature of a verbatim record of discussions at Court. Both documents have passages which raise questions of public interest immunity and legal professional privilege. Both will require detailed editing, and we will let you have them at the earliest opportunity.

9. We have not disclosed papers commenting on, and discussing the reasons for the rescue of JMB. We do not consider that these are relevant, and, in any event, they are widely known from other sources.

There is no Order for inspection. Passages in many of the documents contain very sensitive information, which

FRESHFIELDS

To	Date	Page
McKenna & Co	13 May 1987	5

is not relevant to these proceedings, and which will have to be screened. For this reason, we propose that inspection takes place after 15 working days, on 3 working days' notice. Please note that insofar as documents disclosed contain passages referring to questions or issues which we do not consider to be matters arising in the context of the Third Party proceedings, the fact that such passages may not have been screened is not to be treated as an admission that such questions or issues are relevant.

Yours faithfully,

FS.

Messrs McKenna & Co
Inveresk House
1 Aldwich
London
BY COURIER

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

BETWEEN:



JOHNSON MATTHEY PLC

Plaintiff

-and-

ARTHUR YOUNG (a firm)

Defendants

-and-

- (1) THE GOVERNOR AND COMPANY OF
THE BANK OF ENGLAND
- (2) PAUL DESMOND FORSTER VARRALL
- (3) ERNEST JOHN PATEMAN
- (4) ROY GORDON WHEELER
- (5) IAN GORDON THORBURN

Third Parties

THIRD PARTY NOTICE
TO THE FIRST THIRD PARTY

TO THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND of
Threadneedle Street London EC2.

TAKE NOTICE that this action has been brought by the Plaintiff ("JM PLC") against the Defendants ("AY"). In it JM PLC claims against AY damages for breach of contract and/or negligence in respect of the auditing by AY of the accounts of the JM PLC Group and of Johnson Matthey Bankers Limited ("JMB") between June 1980 and October 1984, as appears from the Writ of Summons, a copy of which is served herewith together with a copy of the Statement of Claim and the Schedules thereto ("the JM PLC Statement of Claim").

A copy of JMB's Statement of Claim and the Appendices thereto in Action No, 1985 J No 6782 has already been served upon you.

AY claims against you, the First Third Party ("the Bank") an indemnity against JM PLC's claim (which AY in any event denies) and the costs of this action or contribution pursuant to the provisions of the Civil Liability (Contribution) Act 1978, upon the following grounds:

- (1) The Bank is the Central Bank of the United Kingdom. At all material times by custom and practice the Bank has been the supervisory authority for the United Kingdom banking system, and in particular for the primary banking sector. At all material times the Bank has assumed responsibility for such supervisory functions both in the interests of depositors and in order to safeguard the stability of the individual banks, and (as the Bank well knew) the individual banks accepted that the Bank exercised such supervisory functions and looked to the Bank to carry them out. In this connection AY will rely, prior to discovery, upon the White Paper Cmnd No. 6584 published in August 1976 and in particular paragraphs 1 and 2 thereof; the Introduction to the White Paper Cmnd No. 7303 published in July 1978; and upon the White Paper Cmnd No. 9695 published by HM Treasury in December 1985, and in particular paragraphs 3.1, 5.1, 5.4, 7.2 and 9.2 thereof.
- (2) In the premises at all material times the Bank has been under a duty at common law both generally and specifically in relation to banks in the United Kingdom to exercise supervisory functions.

- (3) At all material times JMB was a bank in the primary banking sector and was a wholly owned subsidiary of JM PLC. Further, and in any event, at dates and in amounts at present unknown to AY, JM PLC was a depositor in JMB.
- (4) Further, as and from at least 1975, JMB was subject to arrangements for supervision imposed by the Bank pursuant to the Bank's said supervisory functions.
- (5) The provisions of the Banking Act 1979 ("the Act"), save for Part 2 thereof and certain other provisions of no materiality to this action, came into force on 1st October 1979.
- (6) In April 1980, and pursuant to the provisions of the Act, the Bank granted JMB recognition as a bank.
- (7) By reason of the provisions of the Act the Bank was under a statutory duty properly and carefully to supervise JMB and owed this duty to JM PLC.
- (8) Further or alternatively, the Bank owed to JM PLC a duty of care at common law to exercise reasonable skill and care when carrying out its supervisory functions (both at common law and under the Act) over JMB.

PARTICULARS

- (i) At all material times the Bank knew that JMB was a wholly owned subsidiary of JM PLC. It was in the reasonable contemplation of

the Bank that carelessness on its part in discharging its supervisory functions over JMB would or might be likely to cause damage to JM PLC of the type alleged by JM PLC in the JM PLC Statement of Claim. In particular, if, as JM PLC allege in Paragraph 41 of the JM PLC Statement of Claim (and AY deny), it was foreseeable by AY that a likely consequence of AY's alleged negligence was that JM PLC would be required by the Bank to make a payment or payments in order to re-establish the financial viability of the Plaintiff and its other subsidiaries, then it was in the reasonable contemplation of the Bank itself that its own intervention was a likely result of its own carelessness.

- (ii) AY will also rely upon the relationship between the Bank and JMB pleaded in Paragraph 8(ii) of AY's Amended Third Party Notice in the JMB Action.
 - (iii) It is just and reasonable in all the circumstances of the case for such a duty to exist.
- (9) By reason of its said common law and statutory duty and/or supervisory functions at common law and under the Act the Bank, at all material times by its Banking Supervision Division ("the Division"), has purported to supervise JMB.
- (10) In breach of its said common law and statutory duty and/or negligently the Bank has failed, between at least 1982 and 1984 inclusive, properly and carefully to supervise JMB and/or has failed to exercise reasonable skill and care when carrying out its said supervisory functions.

PARTICULARS

- (i) Insofar as the internal operations and controls of JMB were grossly defective and inadequate as alleged by JMB in paragraphs 4 to 4.11.3 and 8.1.1 to 8.12 of its Statement of Claim, and/or insofar as the provisions for bad and doubtful debts for the financial years ending March 1982, 1983 and 1984 were grossly inadequate as alleged by JMB in paragraphs 7.1 to 7.6 of its Statement of Claim, then the Bank ought to have become aware of the said defects and inadequacies in the course of its said supervision of JMB.
- (ii) The Bank received quarterly returns from JMB on the Bank's Form Q7. According to a "Notice to Institutions authorised under the Banking Act 1979" issued by the Bank in April 1983 ("the April 1983 Notice") the Bank's system of supervision depended in large measure on the information shown in such returns. In the premises the information contained in these forms should have alerted the Bank to the said defects and/or inadequacies or to sufficient of them to have caused the Bank to become suspicious about the internal operations and controls of JMB and the provisions made as aforesaid and to have initiated investigations accordingly. In particular:
 - (a) the Bank should have become concerned about the rapid growth of JMB's commercial loan portfolio and ought to have investigated this;
 - (b) Item 20 on Q7 requires JMB to list by name and amount its ten largest credit exposures. The information which JMB gave in respect of the request ought to have caused the

Bank to have begun investigations into such lending. In the April 1983 Notice the Bank issued guidance to all authorised institutions that exposures to one customer or group of customers should not normally exceed 10% of the institution's capital base and that the more an individual exposure exceeded 10% of the capital base, the more rigorous the Bank would be in requiring justification. In fact, according to the Annex to the Bank's 1985 Annual Report ("the Bank's Report"), between June 1983 and June 1984 JMB reported to the Bank that its exposures to its two largest borrowers, as percentages of its capital base, were as follows:

<u>Date</u>	<u>Customer A (El Saeed)</u>	<u>Customer B (Altramar)</u>
June 1983	15	12
September 1983	18	-
December 1983	27	18
March 1984	42	30
June 1984	38	34

thus showing figures well in excess of the Bank's own guidelines. Despite these returns, no justification was at any stage required by the Bank and no investigation was initiated by the Bank until August 1984.

- (c) Further, and in any event, as is admitted by the Bank in the Bank's Report, the said returns by JMB misreported and significantly understated the actual exposures, which were,

according to the Bank, as follows (as percentages of JMB's capital base) :

<u>Date</u>	<u>Customer A (El Saeed)</u>	<u>Customer B (Altramar)</u>
June 1983	26	17
September 1983	45	21
December 1983	51	25
March 1984	65	34
June 1984	76	39

Had the Bank required justification earlier, or had the Bank conducted investigations earlier, the substantial inaccuracies of the returns would have been revealed.

- (d) Further, and in any event, at no stage did the Bank take any or any effective steps to check the accuracy of any of the returns submitted by JMB.
- (e) On page 27 of the Bank's Report it is stated that the information in these regular returns of JMB gave some clues to the Bank to possible problems in certain areas (i.e. deficient systems, poor lending judgments and inadequate monitoring or control) - for example the rapid growth of the commercial loan book, the large exposure to second rate names and the declining risk asset ratio.
- (f) Paragraph 6.3 of the Report of the Committee set up to Consider the System of Banking Supervision, Cmnd. No. 9550, under the chairmanship of the Governor of the Bank ("the Leigh-Pemberton Report") recommends that the Bank be more ready to carry out detailed investigations into an

authorised institution at an early stage when there are suspicions that problems are developing.

- (g) The March 1984 quarterly return on Form Q7 was due from JMB to the Bank in mid-April 1984 but was not received by the Bank until June 1984. In the light of the information which AY believes to have been contained in the December 1983 quarterly return, the Bank ought to have taken steps either to ensure that JMB produced its next return (that of March 1984) on time or, if the same was delayed, to have conducted an immediate investigation. To the best of AY's knowledge the Bank did neither. In this connection AY will rely upon the recommendation in Paragraph 7.4 of the Leigh-Pemberton Report that the Bank should tighten its procedures for ensuring that all returns used for supervisory purposes are submitted promptly and should consider carrying out an investigation into any bank which fails to provide information within the time allowed.
- (h) Further, and in any event, when the March 1984 return was received in June 1984, and despite the Bank's admission at pages 25 to 26 of the Bank's Report that the levels of the largest exposures at the end of March, even as reported, would have caused the Bank to request an early meeting, it failed to ensure either that such a meeting took place immediately (no meeting took place until August 1984) or, failing such a meeting, to initiate an immediate investigation.
- (i) In connection with the late delivery of the March 1984 return, AY will rely upon the admission by the Bank in the

Bank's Report that had accurate end of March figures been received on time and had the August meeting been held earlier, it should have been possible to prevent some of the late rapid growth of the loan book as a whole, and in particular of the major problem loans. The total loan book grew very rapidly in 1984, increasing by over a third in sterling terms in the six months between end-March 1984 and the "rescue" of JMB by the Bank.

(iii) Section IX of the Leigh-Pemberton Report recommends::

- (a) an increase in the number of staff employed in the Division (owing to the growing burden of work on the existing staff) - in fact staff levels were increased by 25% in the year from September 1984 to September 1985;
- (b) a widening of the commercial experience of such staff;
- (c) the development of a cadre of long term banking supervisors;
- (d) an increase in the number of qualified accountants in the Division;
- (e) a clarification of the scope of responsibilities of senior officials and management in the Division.

It is to be inferred from the said Section that the said recommendations were made, in part at least, to overcome deficiencies in the operation of the Division that had come to light as a result of the Bank's failure properly to supervise JMB as aforesaid.

- (iv) Further, AY relies upon an admission made by the Governor of the Bank, Mr. Robin Leigh-Pemberton, in the course of a television interview on Channel 4 at 5.20 pm on 27th October 1985. In the

course of this interview, in response to the question of Mr. John Plender of Channel 4 :

"Do you accept the Chancellor's criticism that the Bank fell down on the job?"

the Governor replied :

"The Bank fell down in respect of this one case. Yes. But I would like to emphasise that Johnson Matthey Bank is but one of about 600 Banks that we supervise in the City of London, and that for every Johnson Matthey Bank, we have a considerable number of successes."

In answer to a further question from Mr. Plender :

"Perhaps there was not enough commercial experience in the Bank's Supervision Department?"

The Governor's reply was :

"I think there is something in that, and I would accept it."

The reference in the first of the said questions of Mr. Plender to "the Chancellor's criticism" was a reference to paragraph 21 of the Chancellor of the Exchequer's statement of 20th June 1985 to the House of Commons in which the Chancellor stated that the supervisors (the Bank) were unable to escape criticism for failing to respond more quickly to the danger signals. The Chancellor also referred to "serious shortcomings in the supervisory procedures".

- (v) Further, the Bank were negligent in failing to establish (and in not making at any material time any attempt to establish) a mechanism to enable a regular dialogue to take place between the Bank and AY as the auditors of JMB. AY will rely upon the recommendation in Paragraph 4.7 of the Leigh-Pemberton Report to the effect that such a mechanism should exist, and will contend that at all material times relevant to this action such mechanisms did exist in other cases at present unknown to AY.

At all times material to this action auditors were not normally privy to negotiations and to communications between banks being audited and the Bank of England. AY reserves the right to give further particulars of the Bank's breaches of statutory duty and/or negligence after discovery.

- (11) It is JM PLC's case, as summarised in Paragraph 7 of the JM PLC Statement of Claim, that had AY identified and reported upon to JM PLC the deficient and inadequate internal procedures and systems in JMB, and that had AY required a greatly increased provision for bad and doubtful debts, JM PLC would have taken remedial action with the result that it would not have suffered the loss claimed by it against AY. If (which is denied) AY is liable to JM PLC as alleged in the JM PLC Statement of Claim or at all, AY will contend that had the Bank fulfilled its common law and statutory duty and/or had it exercised reasonable skill and care in carrying out its said supervisory functions then, by the same token, JM PLC would not have sustained its said loss, alternatively, the same would have been greatly reduced.
- (12) In the premises, by reason of its breach of common law and statutory duty and/or negligence, the Bank is liable to JM PLC for the sums claimed by JM PLC against AY. Accordingly the Bank is liable in respect of the same damage as that in respect of which AY is allegedly liable herein.

AND TAKE NOTICE that within 14 days after service of this Notice on you, counting the day of service, you must acknowledge service and state in your acknowledgment whether you intend to contest the proceedings. If you fail to do

so, or if your acknowledgment does not state your intention to contest the proceedings, you will be deemed to admit the Plaintiff's claim against the Defendants and the Defendants' claim against you and your liability to indemnify the Defendants and will be bound by any judgment or decision given in the action, and the judgment may be enforced against you in accordance with Order 16 of the Rules of the Supreme Court 1965.

DATED the 17th day of November 1986

McKenna & Co of Inveresk House, 1 Aldwych, London WC2R OHF

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

1986 J No. 4979

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

BETWEEN:

JOHNSON MATTHEY PLC

Plaintiff

and

ARTHUR YOUNG (a firm)

Defendants

and

THE GOVERNOR AND COMPANY OF
THE BANK OF ENGLAND & ORS.

Third Parties

THIRD PARTY NOTICE
TO THE FIRST THIRD PARTY

McKENNA & CO.
Inveresk House,
1 Aldwych,
London.
WC2R OHF

Tel:01-836 2442

Ref: RJAW/85PW/AJS

Solicitors to the Defendants

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N :-

MINORIES FINANCE LIMITED (formerly known as
JOHNSON MATTHEY BANKERS LIMITED)

Plaintiff

- and -

ARTHUR YOUNG (a firm)

Defendants

- and -

- (1) THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND
- (2) PAUL DESMOND FORSTER VARRALL
- (3) ERNEST JOHN PATEMAN
- (4) ROY GORDON WHEELER
- (5) IAN ROBERT FRASER
- (6) PETER JAMES COLLETON FIRTH
- (7) PATRICK JOHN KEYSE SMITH

Third Parties

DEFENCE OF THE FIRST THIRD PARTY

The Bank adopts the same abbreviations as are used in the Amended Third Party Notice to the Bank, which has been ordered to stand as AY's Statement of Claim in the Third Party Proceedings against the Bank and which is hereinafter referred to as "the Statement of Claim".

1. As to paragraph 1 of the Statement of Claim:

- (a) It is admitted that the Bank is the Central Bank of the United Kingdom;

- (b) It is admitted that at all material times by custom and practice the Bank has been the supervisory authority for the United Kingdom banking system;
- (c) It is admitted and averred that the Bank in exercising its supervisory functions has at all material times been concerned to protect the interests of depositors;
- (d) It is denied that the Bank in the exercise of its supervisory functions has ever assumed responsibility to individual banks to safeguard their stability, and that individual banks have ever been entitled to look to the Bank to ensure their stability through the exercise of the Bank's supervisory functions;
- (e) The Bank will refer to the White Papers mentioned in paragraph 1 for their full terms and effect;
- (f) Save as aforesaid, no admission is made as to paragraph 1.

2. Paragraph 2 of the Statement of Claim is denied.

3. As to paragraph 3 of the Statement of Claim, it is admitted that at all material times JMB has been a bank, but no admission is made as to the usage of the expression "the primary banking sector".

4. Subject to paragraph 1 above, paragraph 4 of the Statement of Claim is admitted.

5. Paragraph 5 of the Statement of Claim is admitted.

6. Paragraph 6 of the Statement of Claim is admitted.

7. Save that it is denied that the Bank owed the alleged or any statutory duty to JMB, no admission is made as to paragraph 7 of the Statement of Claim.

8. As to paragraph 8 of the Statement of Claim:

(a) The Bank repeats paragraphs 1 and 2 above in relation to the reference to its supervisory functions at Commons Law;

(b) It is admitted that the Bank had certain supervisory functions under the Act, to which the Bank will refer for its full terms and effect;

(c) It is denied that the Bank owed to JMB the alleged or any duty of care at Common Law;

(d) The Bank is not required to plead and, subject to the foregoing denial, does not plead to the Particulars to paragraph 8.

9. As to paragraph 9 of the Statement of Claim:

(a) The Bank repeats paragraphs 1 and 2 and sub-paragraph 8(b) above in relation to the reference to its supervisory functions at Common Law and under the Act respectively;

(b) It is admitted that the Bank has at all material times by the Division supervised JMB in pursuance of its customary role as supervisory authority for the United Kingdom banking system and in the exercise of its supervisory functions under the Act;

(c) Save as aforesaid, paragraph 9 is denied.

10. As to paragraph 10 of the Statement of Claim:

- (a) The Bank repeats paragraphs 1 and 2 and sub-paragraph 8(b) above in relation to the reference to its supervisory functions;
- (b) It is denied that the Bank owed to JMB the alleged or any Common Law or statutory duty;
- (c) Further or alternatively, even if, which is denied, the Bank owed the alleged or any duty to JMB, it is denied that the Bank were in breach or were negligent in their supervision of JMB, whether as alleged or at all;
- (d) The Bank is not required to plead and, subject to the foregoing denials, does not plead to the Particulars to paragraph 10.

11. As to paragraph 11 of the Statement of Claim:

- (a) It is admitted that JMB have made allegations against AY to the effect pleaded;
- (b) The Bank repeats sub-paragraphs 10(a)-(c) above;

(c) Further or alternatively, even if, which is denied, the Bank were in breach of the alleged or any duty owed to JMB, whether as alleged or at all, it is denied that the loss claim by JMB against AY was caused by any such breach, either wholly or in part.

12. Paragraph 12 of the Statement of Claim is denied. It is denied that the Bank is liable to JMB whether as alleged or at all.

13. Save as is hereinbefore expressly admitted or stated to be not admitted, each and every allegation in the Statement of Claim is denied as if the same were set out herein and specifically traversed.

RICHARD SIBERRY

SERVED the 12th day of December 1986 by FRESHFIELDS,
Grindall House, 25 Newgate Street, London EC1A 7LH

Solicitors for the Plaintiff and the First Third Party

1985 J. No.6782

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

B E T W E E N :-

MINORIES FINANCE LIMITED
(formerly known as
JOHNSON MATTHEY BANKERS LIMITED)
Plaintiff

- and -

ARTHUR YOUNG (a firm)
Defendants

- and -

- (1) THE GOVERNOR AND COMPANY OF
THE BANK OF ENGLAND
- (2) PAUL DESMOND FORSTER VARRALL
- (3) ERNEST JOHN PATEMAN
- (4) ROY GORDON WHEELER
- (5) IAN ROBERT FRASER
- (6) PETER JAMES COLLETON FIRTH
- (7) PATRICK JOHN KEYSE SMITH
Third Parties

DEFENCE OF THE FIRST THIRD PARTY

FRESHFIELDS (DAR/MJGP/18259L)
Grindall House
25 Newgate Street
London EC1A 7LH

Tel: (01) 606 6677

Amended this ^{3rd} day of ~~November~~ ^{December} 1986 pursuant to the Order of The Hon. Mr. Justice Hutchison made the 7th day of November 1986

1985 J No. 6782

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

RE-ISSUED ON AMENDMENT.

BETWEEN:

JOHNSON MATTHEY BANKERS LIMITED

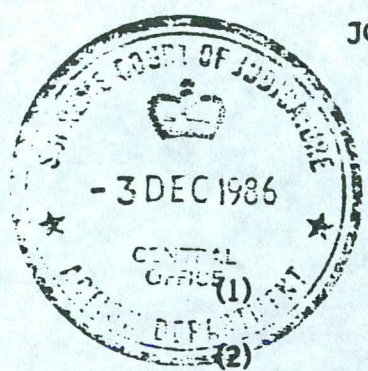
Plaintiff

-and-

ARTHUR YOUNG (a firm)

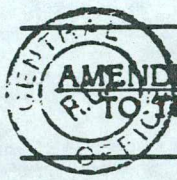
Defendants

-and-



THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND
PAUL DESMOND FORSTER VARRALL
ERNEST JOHN PATEMAN
ROY GORDON WHEELER
IAN ROBERT FRASER
PETER JAMES COLLETON FIRTH
PATRICK JOHN KEYSE SMITH

Third Parties



AMENDED THIRD PARTY NOTICE TO THE FIRST THIRD PARTY

TO THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND of Threadneedle Street London EC2.

TAKE NOTICE that this action has been brought by the Plaintiff ("JMB") against the Defendants ("AY"). In it JMB claims against AY damages for breach of contract and/or negligence in respect of the auditing by AY of JMB's accounts for its 1981, 1982 and 1983 accounting years, as appears from the Writ of Summons, a copy of which is served herewith together with a copy of the Statement of Claim and the Appendices thereto.

AY claims against you, the First Third Party ("the Bank") an indemnity against JMB's claim (which AY in any event denies) and the costs of this action or contribution pursuant to the provisions of the Civil Liability (Contribution) Act 1978, upon the following grounds:

(1) The Bank is the Central Bank of the United Kingdom. At all material times by custom and practice the Bank has been the supervisory authority for the United Kingdom banking system, and in particular for the primary banking sector. At all material times the Bank has assumed responsibility for such supervisory functions both in the interests of depositors and in order to safeguard the stability of the individual banks, and (as the Bank well knew) the individual banks accepted that the Bank exercised such supervisory functions and looked to the Bank to carry them out. In this connection AY will rely prior to discovery upon the White Paper Cmnd No. 6584 published in August 1976 and in particular paragraphs 1 and 2 thereof, the Introduction to the White Paper Cmnd No. 7303 published in July 1978, and upon the White Paper Cmnd 9695 published by HM Treasury in December 1985, and in particular paragraphs 3.1, 5.1, 5.4, 7.2 and 9.2 thereof.

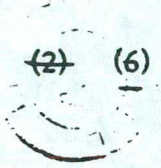
(2) In the premises at all material times the Bank has been under a duty at common law to banks in the United Kingdom to exercise supervisory functions in relation to banks in the United Kingdom.

(3) At all material times JMB was a bank in the primary banking sector.

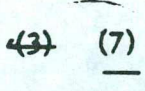
(4) Further, as and from at least 1975 JMB was subject to arrangements for supervision imposed by the Bank pursuant to the Bank's said supervisory functions.



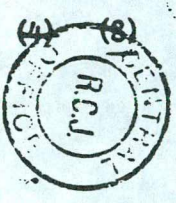
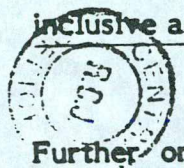
The provisions of the Banking Act 1979 ("the Act"), save for Part 2 thereof and certain other provisions of no materiality to this action, came into force on 1st October 1979.



(2) (6) In April 1980, and pursuant to the provisions of the Act, the Bank granted JMB recognition as a bank.

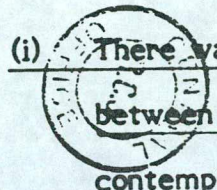


(3) (7) By reason of the provisions of the Act the Bank was under a statutory duty properly and carefully to supervise JMB and owed this duty to JMB. AY will rely upon the whole Act, and in particular Sections 3 to 8 inclusive and Schedule 2 Part I.



(4) (8) Further or alternatively, the Bank owed to JMB a duty of care at common law to exercise reasonable skill and care when carrying out its supervisory functions both at common law and under the Act.

PARTICULARS



(i) There was at all material times a relationship of close proximity between the Bank and JMB such that it was in the reasonable contemplation of the Bank that carelessness on its part in discharging its supervisory functions would or might be likely to cause damage to JMB of the type alleged by JMB in the Statement of Claim, namely financial loss due to the operation of unsound and imprudent banking policies.

(ii) Prior to discovery AY is unable to give full particulars of the relationship between the Bank and JMB. The best particulars that AY can at present give are that since at least 1975 JMB has

submitted regular reports or returns to the Bank containing such information as to JMB's activities as was from time to time specified by the Bank. Further, from time to time officials of the Bank made visits to the premises of JMB to inspect its operations. Any matters of concern discovered by the Bank were raised with JMB both orally and in writing. Thus in 1983 the Bank drew JMB's attention to its concern about the adequacy of JMB's liquidity position, and about the rapid increase in the scale of JMB's lending to its commodity subsidiaries, which suggested weak controls by JMB. Between October 1983 and February 1984 three meetings were held with JMB's management at which these concerns were discussed, and as a result JMB took action to improve the position. In the premises JMB at all material times relied upon the intervention and expertise of the Bank in and about the operation of JMB's business.

(iii) It is just and reasonable in all the circumstances of the case for such a duty to exist.

(9) By reason of its said common law and statutory duty and/or supervisory functions at common law and under the Act the Bank, at all material times by its Banking Supervision Division ("the Division"), has purported to supervise JMB.

(6) (10) In breach of its said common law and statutory duty and/or negligently the Bank has failed, between at least 1981 and 1984 inclusive, properly and carefully to supervise JMB and/or has failed to exercise reasonable skill and care when carrying out its said supervisory functions.

PARTICULARS

- (i) Insofar as the internal operations and controls of JMB were grossly defective and inadequate as alleged by JMB in paragraphs 4 to 4.11.3 and 8.1.1 to 8.12 of its Statement of Claim, and/or insofar as the provisions for bad and doubtful debts for the financial years ending March 1981, 1982, 1983 and 1984 were grossly inadequate as alleged by JMB in paragraphs 7.1 to 7.6 and 12.3 of its Statement of Claim, then the Bank ought to have become aware of the said defects and inadequacies in the course of its said supervision of JMB.
- (ii) The Bank received quarterly returns from JMB on the Bank's Form Q7. According to a "Notice to Institutions authorised under the Banking Act 1979" issued by the Bank in April 1983 ("the April 1983 Notice") the Bank's system of supervision depended in large measure on the information shown in such returns. In the premises the information contained in these forms should have alerted the Bank to the said defects and/or inadequacies or to sufficient of them to have caused the Bank to become suspicious about the internal operations and controls of JMB and the provisions made as aforesaid and to have initiated investigations accordingly. In particular:
- (a) the Bank should have become concerned about the rapid growth of JMB's commercial loan portfolio and ought to have investigated this;
 - (b) Item 20 on Q7 requires JMB to list by name and amount its ten largest credit exposures. The information which JMB gave in respect of the request ought to have caused the

Bank to have begun investigations into such lending. In the April 1983 Notice the Bank issued guidance to all authorised institutions that exposures to one customer or group of customers should not normally exceed 10% of the institution's capital base and that the more an individual exposure exceeded 10% of the capital base, the more rigorous the Bank would be in requiring justification. In fact, according to the Annex to the Bank's 1985 Annual Report ("the Bank's Report"), between June 1983 and June 1984 JMB reported to the Bank that its exposures to its two largest borrowers, as percentages of its capital base, were as follows:

<u>Date</u>	<u>Customer A (El Saeed)</u>	<u>Customer B (Altramar)</u>
June 1983	15	12
September 1983	18	-
December 1983	27	18
March 1984	42	30
June 1984	38	34

thus showing figures well in excess of the Bank's own guidelines. Despite these returns, no justification was at any stage required by the Bank and no investigation was initiated by the Bank until August 1984.

- (c) Further, and in any event, as is admitted by the Bank in the Bank's Report, the said returns by JMB misreported and significantly understated the actual exposures, which were

as follows (as percentages of JMB's capital base) :

<u>Date</u>	<u>Customer A (El Saeed)</u>	<u>Customer B (Altramar)</u>
June 1983	26	17
September 1983	45	21
December 1983	51	25
March 1984	65	34
June 1984	76	39

Had the Bank required justification earlier, or had the Bank conducted investigations earlier, the substantial inaccuracies of the returns would have been revealed.

- (d) Further, and in any event, at no stage did the Bank take any or any effective steps to check the accuracy of any of the returns submitted by JMB.
- (e) On page 27 of the Bank's Report it is stated that the information in these regular returns of JMB gave some clues to the Bank to possible problems in certain areas (i.e. deficient systems, poor lending judgments and inadequate monitoring or control) - for example the rapid growth of the commercial loan book, the large exposure to second rate names and the declining risk asset ratio.
- (f) Paragraph 6.3 of the Report of the Committee set up to Consider the System of Banking Supervision, Cmnd. 9550, under the chairmanship of the Governor of the Bank ("the Leigh-Pemberton Report") recommends that the Bank be more ready to carry out detailed investigations into an authorised institution at an early stage when there are suspicions that problems are developing.

(g) The March 1984 quarterly return on Form Q7 was due from JMB to the Bank in mid-April 1984 but was not received by the Bank until June 1984. In the light of the information which AY believes to have been contained in the December 1983 quarterly return, the Bank ought to have taken steps either to ensure that JMB produced its next return (that of March 1984) on time or, if the same was delayed, to have conducted an immediate investigation. To the best of AY's knowledge the Bank did neither. In this connection AY will rely upon the recommendation in Paragraph 7.4 of the Leigh-Pemberton Report that the Bank should tighten its procedures for ensuring that all returns used for supervisory purposes are submitted promptly and should consider carrying out an investigation into any bank which fails to provide information within the time allowed.

(h) Further, and in any event, when the March 1984 return was received in June 1984, and despite the Bank's admission at pages 25 to 26 of the Bank's Report that the levels of the largest exposures at the end of March, even as reported, would have caused the Bank to request an early meeting, it failed to ensure either that such a meeting took place immediately (no meeting took place until August 1984) or, failing such a meeting, to initiate an immediate investigation.

(i) In connection with the late delivery of the March 1984 return, AY will rely upon the admission by the Bank in the Bank's Report that had accurate end of March figures been received on time and had the August meeting been held

earlier, it should have been possible to prevent some of the late rapid growth of the loan book as a whole, and in particular of the major problem loans. The total loan book grew very rapidly in 1984, increasing by over a third in sterling terms in the six months between end-March 1984 and the "rescue" of JMB by the Bank.

(iii) Section IX of the Leigh-Pemberton Report recommends::

- (a) an increase in the number of staff employed in the Division (owing to the growing burden of work on the existing staff) - in fact staff levels were increased by 25% in the year from September 1984 to September 1985;
- (b) a widening of the commercial experience of such staff;
- (c) the development of a cadre of long term banking supervisors;
- (d) an increase in the number of qualified accountants in the Division;
- (e) a clarification of the scope of responsibilities of senior officials and management in the Division.

It is to be inferred from the said Section that the said recommendations were made, in part at least, to overcome deficiencies in the operation of the Division that had come to light as a result of the Bank's failure properly to supervise JMB as aforesaid.

- (iv) Further, AY relies upon an admission made by the Governor of the Bank, Mr. Robin Leigh-Pemberton, in the course of a television interview on Channel 4 at 5.20 pm on 27th October 1985. In the course of this interview, in response to the question of Mr. John Plender of Channel 4 :

"Do you accept the Chancellor's criticism that the Bank fell down on the job?"

the Governor replied :

"The Bank fell down in respect of this one case. Yes. But I would like to emphasise that Johnson Matthey Bank is but one of about 600 Banks that we supervise in the City of London, and that for every Johnson Matthey Bank, we have a considerable number of successes."

In answer to a further question from Mr. Plender :

"Perhaps there was not enough commercial experience in the Bank's Supervision Department?"

The Governor's reply was :

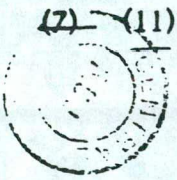
"I think there is something in that, and I would accept it."

The reference in the first of the said questions of Mr. Plender to "the Chancellor's criticism" was a reference to paragraph 21 of the Chancellor of the Exchequer's statement of 20th June 1985 to the House of Commons in which the Chancellor stated that the supervisors (the Bank) were unable to escape criticism for failing to respond more quickly to the danger signals. The Chancellor also referred to "serious shortcomings in the supervisory procedures".

(v) Further, the Bank were negligent in failing to establish (and in not making at any material time any attempt to establish) a mechanism to enable a regular dialogue to take place between the Bank and AY as the auditors of JMB. AY will rely upon the recommendation in Paragraph 4.7 of the Leigh-Pemberton Report to the effect that such a mechanism should exist, and will contend that at all material times relevant to this action such mechanisms did exist in other cases at present unknown to AY.

At all times material to this action auditors were not normally privy to negotiations and to communications between banks being audited and

the Bank of England. AY reserves the right to give further particulars of the Bank's breaches of statutory duty and/or negligence after discovery.



(11) It is JMB's case, as set out in paragraphs 2.5 and 13 of the Statement of Claim, that had it been informed by AY of the said defects and inadequacies in its banking business and of the inadequacies in the provisions, it would have taken steps to correct the same with the result that it would not have suffered the loss claimed by it against AY. In the event that JMB establishes this contention, AY will contend that had the Bank fulfilled its common law and statutory duties and/or had it exercised reasonable skill and care in carrying out its said supervisory functions then, by the same token, JMB would not have sustained its said loss, alternatively, the same would have been greatly reduced.

(12) In the premises, by reason of its breach of common law and statutory duty and/or negligence, the Bank is liable to JMB for the sums claimed by JMB against AY. Accordingly the Bank is liable in respect of the same damage as that in respect of which AY is allegedly liable herein.

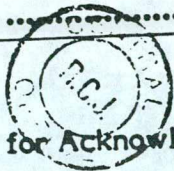
AND TAKE NOTICE that within 14 days after service of this Notice on you, counting the day of service, you must acknowledge service and state in your acknowledgment whether you intend to contest the proceedings. If you fail to do so, or if your acknowledgment does not state your intention to contest the proceedings, you will be deemed to admit the Plaintiff's claim against the Defendants and the Defendants' claim against you and your liability to indemnify the Defendants and will be bound by any judgment or decision given in the action,

and the judgment may be enforced against you in accordance with Order 16 of the Rules of the Supreme Court 1965.

DATED the 14th day of July 1986

McKenna & Co of Inveresk House, 1 Aldwych, London WC2R OHF

REDATED



IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

1985 J No. 6782

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

BETWEEN:

JOHNSON MATTHEY BANKERS LIMITED

Plaintiff

and

ARTHUR YOUNG (a firm)

Defendants

and

THE GOVERNOR AND COMPANY OF
THE BANK OF ENGLAND & ORS.

Third Parties

AMENDED THIRD PARTY NOTICE
IN RESPECT OF THE FIRST THIRD PARTY

McKENNA & CO.
Inveresk House,
1 Aldwych,
London.
WC2R OHF

Tel:01-836 2442

Ref:VSC

Defendants' Solicitors

B E T W E E N :

JOHNSON MATTHEY PLC

Plaintiff

- and -

ARTHUR YOUNG (A Firm)

Defendants

- and -

- (1) THE GOVERNOR AND COMPANY OF
THE BANK OF ENGLAND
- (2) PAUL DESMOND FORSTER VARRALL
- (3) ERNEST JOHN PATEMAN
- (4) ROY GORDON WHEELER
- (5) IAN GORDON THORBURN

Third Parties

DEFENCE OF THE FIRST THIRD PARTY

The Bank adopts the same abbreviations as are used in the Third Party Notice to the Bank, which has been ordered to stand as AY's Statement of Claim in the Third Party Proceedings against the Bank and which is hereinafter referred to as "the Statement of Claim".

1. As to paragraph 1 of the Statement of Claim:

- (a) It is admitted that the Bank is the Central Bank of the United Kingdom;
- (b) It is admitted that at all material times by custom and practice the Bank has been the supervisory authority for the United Kingdom banking system;
- (c) It is admitted and averred that the Bank in exercising its supervisory functions has at all material times been concerned to protect the interests of depositors, being persons who make a "deposit" with "a deposit-taking business" within the meaning of these terms as defined in the Act;
- (d) It is denied that the Bank in the exercise of its supervisory functions has ever assumed responsibility to individual banks to safeguard their stability, and that individual banks have ever been entitled to look to the Bank to ensure their stability through the exercise of the Bank's supervisory functions;
- (e) The Bank will refer to the White Papers mentioned in paragraph 1 for their full terms and effect;

- (f) Save as aforesaid, no admission is made as to paragraph 1.
2. Paragraph 2 of the Statement of Claim is denied.
3. As to paragraph 3 of the Statement of Claim:
- (a) It is admitted that at all material times JMB has been a bank, but no admission is made as to the usage of the expression "the primary banking sector";
- (b) It is admitted that until 1 October 1984 JMB was a wholly-owned subsidiary of JM PLC;
- (c) It is admitted that from time to time JM PLC had money on deposit at JMB, but no admission is made as to the dates or amounts of such deposits;
- (d) Any such deposits were not "deposits" within the meaning of the Act, having regard to the terms of section 1(5)(d) thereof.
4. Subject to paragraph 1 above, paragraph 4 of the Statement of Claim is admitted.
5. Paragraph 5 of the Statement of Claim is admitted.

6. Paragraph 6 of the Statement of Claim is admitted.

7. Save that it is denied that the Bank owed the alleged or any statutory duty to JM PLC, no admission is made as to paragraph 7 of the Statement of Claim.

8. As to paragraph 8 of the Statement of Claim:
 - (a) The Bank repeats paragraphs 1 and 2 above in relation to the reference to its supervisory functions at Common Law;

 - (b) It is admitted that the Bank had certain supervisory functions under the Act, to which the Bank will refer for its full terms and effect;

 - (c) It is denied that the Bank owed to JM PLC the alleged or any duty of care at Common Law;

 - (d) The Bank is not required to plead and, subject to the foregoing denial, does not plead to the Particulars to paragraph 8.

9. As to paragraph 9 of the Statement of Claim:

(a) The Bank repeats paragraphs 1 and 2 and sub-paragraph 8(b) above in relation to the reference to its supervisory functions at Common Law and under the Act respectively;

(b) It is admitted that the Bank has at all material times by the Division supervised JMB in pursuance of its customary role as supervisory authority for the United Kingdom banking system and in the exercise of its supervisory functions under the Act;

(c) Save as aforesaid, paragraph 9 is denied.

10. As to paragraph 10 of the Statement of Claim.

(a) The Bank repeats paragraphs 1 and 2 and sub-paragraph 8(b) above in relation to the reference to its supervisory functions;

(b) It is denied that the Bank owed to JM PLC the alleged or any Common Law or statutory duty;

(c) Further or alternatively, even if, which is denied, the Bank owed the alleged or any duty to JM PLC, it is denied that the Bank were in breach

of duty or were negligent in their supervision of JMB, whether as alleged or at all;

- (d) The Bank is not required to plead and, subject to the foregoing denials, does not plead to the Particulars to paragraph 10.

11. As to paragraph 11 of the Statement of Claim:

- (a) It is admitted that JM PLC have made allegations against AY to the effect pleaded;
- (b) The Bank repeats sub-paragraphs 10(a)-(c) above;
- (c) Further or alternatively, even if, which is denied, the Bank were in breach of the alleged or any duty owed to JM PLC or were negligent, whether as alleged or at all, it is denied that the loss claimed by JM PLC against AY was caused by any such breach or negligence, either wholly or in part.

12. Paragraph 12 of the Statement of Claim is denied. It is denied that the Bank is liable to JM PLC whether as alleged or at all.

13. Save as is hereinbefore expressly admitted or stated to be not admitted, each and every allegation in the Statement of Claim is denied as if the same were set out herein and specifically traversed.

RICHARD SIBERRY

SERVED this 1st day of May 1987 by Messrs FRESHFIELDS,
Grindall House, 25 Newgate Street, London EC1A 7LH.

Solicitors for the Plaintiffs and the First Third Party

1986 J No 4979

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N :

JOHNSON MATTHEY PLC

Plaintiff

- and -

ARTHUR YOUNG (A Firm)

Defendants

- and -

- (1) THE GOVERNOR AND COMPANY OF
THE BANK OF ENGLAND
- (2) PAUL DESMOND FORSTER VARRALL
- (3) ERNEST JOHN PATEMAN
- (4) ROY GORDON WHEELER
- (5) IAN GORDON THORBURN

Third Parties

DEFENCE OF THE FIRST
THIRD PARTY

FRESHFIELDS (DAR/PB/MJGP/20404L)
Grindall House
25 Newgate Street
London EC1A 7LH

IN THE HIGH COURT OF JUSTICE

1985 J No. 6782

QUEEN'S BENCH DIVISION

B E T W E E N :

MINORIES FINANCE LIMITED

(formerly known as Johnson Matthey Bankers Limited)

Plaintiff

- and -

ARTHUR YOUNG (a firm)

Defendants

- and -

- (1) THE GOVERNOR AND COMPANY OF
THE BANK OF ENGLAND
- (2) PAUL DESMOND FORSTER VARRALL
- (3) ERNEST JOHN PATEMAN
- (4) ROY GORDON WHEELER
- (5) IAN ROBERT FRASER
- (6) PETER JAMES COLLETON FIRTH
- (7) PATRICK JOHN KEYSE SMITH

Third Parties

LIST OF DOCUMENTS OF
THE FIRST THIRD PARTY

The following is a list of the documents relating to the matters in question in the Third Party Proceedings, which are or have been in the possession, custody or power of the First Third Party.

1. The First Third Party has in its possession, custody or power the documents and bundles of documents relating to the matters in question in the Third Party Proceedings set out in Schedule 1 hereto.

2. The First Third Party objects to producing the documents set out in Part 2 of the said Schedule 1 on the ground that they are by their nature privileged from production.

3. The First Third Party has had, but has not now, in its possession, custody or power the documents relating to the matters in question in this action set out in Schedule 2 hereto.

4. Of the documents set out in Schedule 2:-

- (i) the originals of copy letters and documents which were despatched by or on behalf of the First Third Party, were last in the possession, custody or power of the First Third Party on or about the dates upon which they purport to have been written, having then been posted or delivered to the persons to whom the said letters and documents were respectively addressed;

- (ii) statistical returns and computer print-outs of data, other than those disclosed in Schedule I, were destroyed in accordance with the routine filing policy of the First Third Party to destroy such documents after an appropriate period of time, on various dates which the First Third Party cannot specify;

- (iii) originals of certain memoranda disclosed in Schedule I were destroyed in accordance with the routine filing policy of the First Third Party to retain copies of such memoranda in preference to originals, where such copies contain manuscript or other annotations; and

- (iv) copies of certain memoranda and correspondence circulated within the First Third Party which were destroyed in accordance with the routine filing policy of the First Third Party to destroy such copies when returned for filing in circumstances where originals or other copies of such documents were retained for filing.

The following abbreviations are used in this List of Documents:-

BOE = The Bank of England

JMB = Johnson Matthey Banks Limited

JM PLC) = Johnson Matthey PLC

JM & Co)

AY = Arthur Young

PW = Price Waterhouse

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
1.	Bundle of Statistical Returns (Q7)	Various
2.	Bundle of Statistical Returns (S5)	Various
3.	Bundle of Statistical Returns (Q6)	Various
4.	Bundle of Statistical Returns (Q3)	Various
5.	Bundle of Statistical Returns (Q1)	Various
6.	Bundle of Statistical Returns (S2)	Various
7.	Bundle of Statistical Returns (S2 (liabilities))	Various
8.	Bundle of Statistical Returns (Form A2)	Various
9.	Bundle of Statistical Returns (BS)	Various
10.	Bundle of Reports and Accounts	Various
11.	Bundle of Reports and Accounts	Various
12.	Bundle of Banking Statistics Print-outs	Various
13.	Guide for Intending Applicants for Authority to Take Deposits (1985 edn.)	
14.	Banking Statistics Definitions	
15.	Bundle of press cuttings	10.01.80 to 27.09.84
16.	BOE Memo by Mr Mallett	30.01.76
17.	BOE interview Note by Mr Tyler	02.02.76
18.	BOE Memo by Mr Erskine	16.02.76
19.	Manuscript note by Miss Ringle	12.05.76

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
20.	BOE Pre-interview Note by Miss Ringle	16.07.76
21.	BOE Memo by Mr Cooke	20.07.76
22.	BOE Memo by Mrs Robinson	12.10.76
23.	BOE Memo by Mrs Robinson	04.11.76
24.	BOE Interview Note by Mr Noakes	11.11.76
25.	BOE Pre-interview Note by Mr Ware	04.02.77
26.	BOE Pre-interview Note by Mr Cook	16.02.77
27.	BOE Interview Note by Mr Noakes	03.03.77
28.	BOE Interview Note by Mr Noakes	26.04.77
29.	BOE Pre-interview Note by Mr Ware	04.08.77
30.	BOE Pre-interview Note by Mr Hinton	06.02.78
31.	BOE Pre-interview Note by Mrs Howson	13.04.78
32.	Letter JMB to BOE	24.04.78
33.	Letter BOE to JMB	25.04.78
34.	BOE Note by Mr Kerr	26.04.78
35.	BOE Interview Note by Mr Kerr	26.04.78
36.	BOE Pre-interview Note by Mr Wildman	04.09.78
37.	BOE Pre-interview Note by Mr Wildman	03.10.78
38.	BOE Interview Note by Mr Atkinson	06.10.78
39.	BOE Interview Note by Mr Atkinson and copy	1.11.78
40.	BOE Pre-interview Note by Mrs Robinson	16.3.79

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
41.	BOE Interview Note by Mr Atkinson	29.3.79
42.	BOE Interview Note by Mr Wildman and copy	7.9.79
43.	BOE Pre-interview Note by Mr Rippon	31.10.79
44.	BOE Interview Note by Mr Atkinson	7.11.79
45.	BOE Interview Note by Mr Rippon	14.11.79
46.	BOE file on JMB's application for recognition under the Banking Act 1979	Various
47.	BOE Memo by Mr Atkinson	03.01.80
48.	BOE Memo by Mr Atkinson to Mr Cooke	24.01.80
49.	Letter from JM and Co to BOE	08.02.80
50.	Letter BOE to JM and Co	11.02.80
51.	BOE Pre-Interview Note by Mr Rippon	25.02.80
52.	BOE Interview Note by Mr Atkinson	07.03.80
53.	BOE Memo by Mr Bradshaw to Mr Cooke (with Manuscript Note by Mr Ecklin attached)	11.03.80
54.	Manuscript Note by Mr Rippon to Mr Atkinson	13.03.80
55.	BOE Memo by Mr Atkinson	21.03.80
56.	Letter BOE to JMB	28.03.80
57.	Letter Zivnostenska Banka to BOE	01.04.80
58.	BOE Memo by Mr Bradshaw to Mr Latter	02.04.80
59.	BOE Memo by Mr Bradshaw	11.04.80
60.	Letter Dun & Bradstreet to BOE	19.06.80
61.	Letter BOE to Dun & Bradstreet	26.06.80
62.	BOE Pre-Interview Note by Miss Wain	21.07.80

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
63.	Letter JMB to BOE with enclosures	29.07.80
64.	Letter JMB to BOE with enclosures	30.07.80
65.	BOE Memo by Mr Lever to Mr Crawford	01.08.80
66.	BOE Comments Sheet Checklist by Miss Wain	Undated
67.	Letter National Bank of Detroit to BOE	04.09.80
68.	BOE Pre-Interview Note by Miss Wain	04.09.80
69.	Letter BOE to National Bank of Detroit	08.09.80
70.	JMB Dealing Policy and Limits	16.09.80
71.	BOE Interview Note by Miss Wain	19.09.80
72.	BOE Memo by Miss Wain to Mr Cooke	19.09.80
73.	Silver Return from JMB to BOE	15.10.80
74.	Letter JMB to BOE	30.10.80
75.	Letter JMB to BOE	30.10.80
76.	Silver Return from JMB to BOE	10.12.80
77.	BOE Pre-Interview Note by Miss Wain	21.01.81
78.	Silver Return from JMB to BOE	21.01.81
79.	BOE Calculation of Risk Assets Ratio of JMB by Miss Wain	Undated
80.	BOE Comments Sheet Checklist by Miss Wain	Undated
81.	Letter JMB to BOE	05.02.81
82.	Circular letter BOE to JMB	06.02.81
83.	Letter BOE to JMB	09.02.81
84.	Circular letter BOE to JMB	09.02.81
85.	Letter JMB to BOE	10.02.81
86.	BOE Interview Note by Miss Wain	12.02.81

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
87.	Silver Return from JMB to BOE	18.02.81
88.	Circular Letter BOE to JMB with enclosure	12.03.81
89.	Silver Return from JMB to BOE	18.03.81
90.	BOE Memo from Mr Byatt to Mr Gent	19.03.81
91.	BOE Memo by Mr Ware	02.04.81
92.	Letter JMB to BOE	02.04.81
93.	BOE Memo by Miss Wain to Mr Gent	08.04.81
94.	Letter BOE to JMB	14.04.81
95.	Silver Return from JMB to BOE	15.04.81
96.	BOE Press Notice	24.04.81
97.	Circular letter BOE to JMB with enclosures	24.04.81
98.	BOE Memo by Mr Gent to Mr Byatt	01.05.81
99.	BOE Memo by Mr Byatt to Mr Nendick and copy	08.05.81
100.	Silver Return from JMB to BOE	20.05.81
101.	Letter JMB to BOE with enclosure	22.05.81
102.	BOE Calculation of Risk Assets Ratio of JMB by Mr Thomson	May 81
103.	Circular Letter BOE to JMB	29.05.81
104.	Letter JMB to BOE	08.06.81
105.	Letter BOE to JMB	10.06.81
106.	BOE Comments Sheet Checklist by Mr Thomson	Undated
107.	BOE Interview Note by Mr Thomson	11.06.81
108.	Letter JMB to BOE	16.06.81
109.	Silver Return from JMB to BOE	17.06.81
110.	Letter BOE to JMB	18.06.81

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
111.	BOE Memo by Mr Sangster to Mr Nendick	06.07.81
112.	Letter BOE to JMB	17.07.81
113.	Letter JMB to BOE	21.07.81
114.	BOE Comments Sheet Checklist by Mr Thomson	Undated
115.	BOE Calculation of Risk Assets Ratio of JMB by Mr Thomson	Aug 81
116.	Circular letter BOE to JMB with enclosure	05.08.81
117.	Letter BOE to JMB	27.08.81
118.	Silver Return from JMB to BOE	16.09.81
119.	Silver Return from JMB to BOE	21.10.81
120.	Letter BOE to JMB	22.10.81
121.	BOE Memo by Mr Osborn and copy	26.10.81
122.	BOE Memo by Mr Thomson to Mr Cooke	30.10.81
123.	Circular letter BOE to JMB	26.10.81
124.	BOE Interview Note by Mr Thomson	02.11.81
125.	Letter JMB to BOE with enclosure	03.11.81
126.	Letter BOE to JMB	09.11.81
127.	Letter BOE to JMB with enclosure	18.11.81
128.	Letter BOE to JMB with (draft) enclosure	24.11.81
129.	BOE Calculation of Risk Assets Ratio of JMB by Mr Thomson	Nov 81
130.	Silver Return from JMB to BOE	09.12.81
131.	Letter BOE to JMB	08.01.82
132.	Letter JMB to BOE with enclosure	06.01.82
133.	Silver Return from JMB to BOE	20.01.82
134.	Letter BOE to JMB	23.02.82

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
135.	BOE calculation of Risk Assets Ratio of JMB by Mrs Penny	Feb 82
136.	BOE Memo "Johnson Matthey Bankers Ltd" and copies	09.03.82
137.	Letter JMB to BOE	19.03.82
138.	BOE Memo by Mr Stones	19.04.82
139.	BOE Memo to Mr Osborn by Mr Aspden	23.04.82
140.	Letter BOE to JMB	April 82
141.	BOE Memo by Mrs Penny	04.05.82
142.	BOE Comments Sheet Checklist by Mrs Penny	Undated
143.	BOE Calculation of Risk Assets Ratio of JMB by Mrs Penny	May 82
144.	BOE Memo by Mr Mutch to Mr Loehnis	14.05.82
145.	BOE Interview Note by Mrs Penny	22.06.82
146.	Silver Return from JMB to BOE	21.07.82
147.	BOE Calculation of Risk Assets Ratio of JMB	Aug 82
148.	Silver Return from JMB to BOE	17.11.82
149.	BOE Calculation of Risk Assets Ratio of JMB	Nov 82
150.	Press Release issued by the Johnson Matthey Group	01.12.82
151.	Silver Return from JMB to BOE	08.12.82
152.	Letter JMB to BOE with enclosures	23.12.82
153.	BOE Memo by Mr Mallett	23.12.82
154.	Letter BOE to JMB	05.01.83
155.	Letter Economic Adviser's Office of States of Jersey to JMB	13.01.83
156.	BOE Pre-Interview Note by Mr Aspden	13.01.83
157.	Letter JMB to BOE with enclosure	17.01.83

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
158.	BOE Daily Summary	20.01.83
159.	BOE Comments Sheet Checklist by Mr Aspden	Undated
160.	BOE Interview Note by Mr Aspden	26.01.83
161.	Letter JMB to BOE	07.03.83
162.	Letter BOE to JMB	08.03.83
163.	Manuscript Note by Mr Thomson to Mr Mallett	Undated
164.	Letter JMB to BOE	23.03.83
165.	Letter BOE to JMB	31.03.83
166.	BOE Calculation of Capital Adequacy of JMB by Mr Thomson	Aug 83
167.	Calculation of Liquidity by Mr Thomson	Aug 83
168.	BOE Daily Summary	10.10.83
169.	BOE Memo by Miss Lodge	10.10.83
170.	BOE Memo by Miss Harris to Miss Lodge	10.10.83
171.	JM PLC Press Release	10.10.83
172.	Calculation of Liquidity by Mr Thomson	Aug 83
173.	Letter JMB to BOE	25.10.83
174.	Bundle of Deposit Figures relating to JMB	Undated
175.	BOE Interview Note by Mr Thomson	28.10.83
176.	BOE Daily Summary	01.11.83
177.	Letter JM PLC to BOE with enclosure	03.11.83
178.	BOE Memo by Mr Nicolle to the Governor with attachment	16.11.83
179.	BOE Memo by Mr Thomson	21.11.83
180.	Press Release by the Johnson Matthey Group with attachment	23.11.83

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
181.	Calculation of Liquidity by Mr Thomson	Nov 83
182.	Silver Return from JMB to BOE	14.12.83
183.	Note from Home Office to Department of Trade and Industry with enclosures	15.12.83
184.	BOE Memo by Miss Harris	20.12.83
185.	Extract from The Financial Times	21.12.83
186.	BOE Calculation of Capital Adequacy of JMB by Mr Thomson	Dec 83
187.	BOE Memo by Mr Loehnis and copy (extract)	04.01.84
188.	BOE Draft Letter to Mr Zienowicz	06.01.84
189.	BOE Memo by Mr Byatt to Mr Loehnis	05.01.84
190.	BOE Memo by Mr Dawkins to Mr Loehnis	10.01.84
191.	Letter BOE to Mr Zienowicz	12.01.84
192.	BOE Memo by Mr Byatt	16.01.84
193.	Manuscript Note by Mr Thomson to Mr Mallett	08.02.84
194.	Letter JMB to BOE	14.02.84
195.	BOE Memo by Mr Walton to Mr Cooke	15.02.84
196.	Calculation of Liquidity of JMB by Mr Thomson	Undated
197.	Manuscript Note by Mr Thomson to Mr Coppel	23.02.84
198.	Manuscript Note by Mr Thomson to Mr Mallett	23.02.84
199.	Manuscript Note by Mr Thomson to Mr Atkinson	23.02.84
200.	BOE Memo by Mr Coppel	24.02.84
201.	BOE Interview Note by Mr Thomson	28.02.84
202.	Press Release issued by JM Group with attachments	01.03.84

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
203.	BOE Daily Summary	02.03.84
204.	BOE Memo by Miss Brown	05.03.84
205.	BOE Memo by Mr Byatt to Mr Gill	05.03.84
206.	Letter JMB to BOE with enclosures	07.03.84
207.	BOE Memo by Miss Lodge with annexure	12.03.84
208.	Draft Letter from BOE to JMB	16.03.84
209.	BOE Memo by Mr Simpson with attachment (and copy extract)	22.03.84
210.	BOE Memo	April 84
211.	BOE Daily Summary	11.04.84
212.	Letter from BOE to JMB	11.04.84
213.	BOE Daily Summary	17.04.84
214.	Letter from Mr Zienowicz to BOE with attachment (with Manuscript Note by Mr Gent attached)	09.05.84
215.	Calculation of Liquidity of JMB by Mr Thomson	Undated
216.	Letter from BOE to Mr Zienowicz	30.05.84
217.	BOE Memo by Miss Jones with attachment	04.06.84
218.	Letter from Mr Zienowicz to JMB	07.06.84
219.	Letter from Mr Zienowicz to BOE	09.06.84
220.	BOE Daily Summary	18.06.84
221.	Letter from JM PLC to JMB with attachment	22.06.84
222.	Letter to JM PLC	26.06.84
223.	JM Summarised Accounts, including Calculation of Liquidity of JM PLC	Undated
224.	JM PLC Extel Card	Undated
225.	Manuscript Note by Mr Thomson to Miss Lodge	09.08.84

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
226.	Manuscript Analysis of JMB Sterling mismatching	24.08.84
227.	BOE Daily Summary	10.08.84
228.	BOE Memo by Mr Rippon to Mr Cobbold	10.08.84
229.	Letter BOE to JMB	16.08.84
230.	BOE Memo by Mr Rippon	24.08.84
231.	Manuscript Analysis of JMB Sterling mismatching	24.08.84
232.	BOE Interview Note by Mr Thomson	24.08.84
233.	Calculation of Liquidity of JMB by Mr Thomson	Undated
234.	Manuscript Note	Undated
235.	Manuscript Note	Undated
236.	Manuscript Note by Mr Fraser to Mr Thomson with attachment	Undated
237.	Manuscript Note by Mr Thomson with attachment	Undated
238.	Letter from BOE to JMB	12.09.84
239.	BOE Memo by Miss Lodge to Mr Nicolle	24.09.84
240.	BOE Daily Summary	24.09.84
241.	BOE Memo by Miss Lodge	25.09.84
242.	Schedule of Large Exposures	Undated
243.	Calculation of Net Worth of JMB (with Manuscript Note by Mr Thomson attached)	Undated
244.	Schedule of JMB Reporting and Interviews	Undated
245.	BOE Daily Summary	25.09.84
246.	BOE Daily Summary	25.09.84
247.	BOE Daily Summary	26.09.84
248.	BOE Memo by Mr Thomson	26.09.84

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
249.	Manuscript Note of AY - "Approximate Statement of Net Worth" and copy	27.09.84
250.	Draft Report on JMB "Initial Review of Loans and Advances Portfolio" by AY and copy	27.09.84
251.	Revised Approximate Statement of Net Worth of JMB as at September 25, 1984 by AY	Undated
252.	JMB Summary Sheets	Undated
253.	Manuscript Note "Background - Note for Court"	Undated
254.	Note - "Bankers team initial view based on visit to company premises night of 27/28 September 1984 - Hawk"	28.09.84
255.	BOE Memo by N K Cook	28.09.84
256.	BOE Memo - Johnson Mathey Bankers ("JMB")	Undated
257.	BOE Memo - "General Background" and draft	30.09.84
258.	Manuscript Note - "Press Statement"	Undated
259.	BOE "Questions and Answers" Sheet	30.09.84
260.	BOE Memo by Mr Bartlett to Mr Cooke	30.09.84
261.	Letter from United Biscuits to BOE	01.10.84
262.	BOE Memo from Mr Flemming to The Deputy Governor with attachment	01.10.84
263.	Draft text of extract from Governor's Mansion House speech, and copy	Undated
264.	Manuscript Note by Mr Fraser	02.10.84
265.	BOE Memo from Miss Lodge to Mr Cobbold	02.10.84
266.	BOE Memo by Mr Cooke	02.10.84
267.	BOE Memo from Mr Pennington to Mr Ecklin, and copy	03.10.84
268.	BOE Memo from Miss Lodge to Mr Cooke	03.10.84

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
269.	BOE Memo by Mr Cooke, and copy	03.10.84
270.	BOE Memo by Miss lodge, with annexure	03.10.84
271.	BOE Memo from Mr Thomson to Mr Cooke, with annexures	03.10.84
272.	BOE Memo to Court, with attachment	04.10.84
273.	BOE Memo "Johnson Matthey Bankers (JMB)"	04.10.84
274.	BOE Memo by Mr Watson	05.10.84
275.	BOE Memo from Mr Nicolle to BSD Staff	05.10.84
276.	BOE Memo from Mr Wainright to Mr Galpin	08.10.84
277.	BOE Memo by Mr Galpin, with attachments	08.10.84
278.	BOE Memo by Mr Thomson to Mr Nicolle	08.10.84
279.	BOE Memo by Mr Falls to Mr Croughton, with attachment	09.10.84
280.	BOE Memo "Johnson Matthey Bankers"	11.10.84
281.	BOE Memo from Mr Croughton to Mr Quinn	11.10.84
282.	BOE Memo from Mr Cooke to The Deputy Governor's Private Secretary, with attachment	12.10.84
283.	BOE Memo from Mr Byatt to The Deputy Governor	17.10.84
284.	BOE Memo from Mr Towndrow to Mr Quinn	18.10.84
285.	BOE Memo from Mr Downing to Mr Cobbold, with attachment	18.10.84
286.	BOE Press Notice	18.10.84
287.	BOE Memo from Mr Cobbold to The Deputy Governor's Private Secretary	24.10.84
288.	BOE Memo by Mr Aspden	24.10.84
289.	Letter from JMB to BOE with attachments	24.10.84

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
290.	Letter from JMB to BOE with attachments	24.10.84
291.	Letter from PW to BOE, enclosing the "First" Interim Report	26.10.84
292.	Letter from PW to JMB	26.10.84
293.	BOE Memo by Mr Cooke, with copy	26.10.84
294.	BOE Memo from Mr Cobbold to Mr Cooke	29.10.84
295.	BOE Note by Secretary to Court, with enclosure	30.10.84
296.	BOE Memo by Mr Wainright-Lee	31.10.84
297.	BOE Memo from Mr Cooke to The Governor, with attachment	31.10.84
298.	BOE Note to Court attaching Note entitled "Johnson Matthey Bankers: History, Analysis and Implications"	01.11.84
299.	BOE Memo from Mr Nicolle to Mr Willetts, with attachment	05.11.84
300.	JMB Memo from Mr Brenan to Mr Galpin	07.11.84
301.	BOE Memo from Mr Towndrow to Mr Quinn	08.11.84
302.	BOE Memo from Mr Towndrow to Mr Cooke	09.11.84
303.	BOE Memo from Mr Gill to Mr Byatt	16.11.84
304.	BOE Memo by Mr Thomson	16.11.84
305.	BOE Memo from Mr Byatt to Mr Gill	22.11.84
306.	BOE Memo from Mr Thomson to The Deputy Governor's Private Secretary	26.11.84
307.	Manuscript Note by Mr Quinn, with attachment	26.11.84
308.	Letter from BOE to JMB	27.11.84
309.	BOE Memo from Mr Gill to Mr Loehnis	27.11.84
310.	BOE Memo by Mr Thomson	11.12.84
311.	Letter from PW to JMB enclosing draft "Second" Interim Report	17.12.84

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
312.	BOE Memo by Mr Cobbold, with attachment	17.12.84
313.	BOE Memo from Mr Thomson to Mr Cooke	19.12.84
314.	Memo by Mr Galpin	19.12.84
315.	BOE Memo by Mr Kent	20.12.84
316.	Letter from PW to AY	03.01.85
317.	BOE Memo from Mr Falls to The Deputy Governor, with attachments	04.01.85
318.	Note of Meeting between PW and AY	11.01.85
319.	Letter from PW to BOE, enclosing "Second" Interim Report, and copy	31.01.85
320.	BOE Memo by Miss Robinson, with annexure	31.01.85
321.	BOE Memo by Mr Cooke, with attachment	05.02.85
322.	BOE Memo from Mr Mallett to Mr Cooke, with attachments	08.02.85
323.	BOE Memo from Mr Towndrow to Mr Somerset	21.02.85
324.	"Euromoney" article - "How the Bank of England failed the JMB test"	Feb 85
325.	BOE Memo by Mr Kent, with annexure	22.02.85
326.	BOE Memo from Mr Mallett to Mr Cobbold	27.02.85
327.	BOE Memo from Mr Cobbold to The Deputy Governor	01.03.85
328.	BOE Memo from Mr Gill to Mr Loehnis	08.05.85
329.	BOE Memo from Mr Tower to Mr Sweeney, with annexures	13.05.85
330.	BOE Press Release "JMB Recapitalisation"	13.05.85
331.	BOE Memo from Mr Loehnis to The Deputy Governor	14.05.85
332.	BOE Memo from Mr Kent to The Deputy Governor with attachment	20.05.85

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
333.	BOE Memo - "The Deputy Governor's Committee"	29.05.85
334.	BOE Memo from Mr Cobbold to Mr Kent	06.06.85
335.	BOE Memo from Mr Kent to Mr Quinn, with attachment, and copies	12.06.85
336.	BOE Memo from Mr Cobbold to Mr Cooke, and copy	18.06.85
337.	BOE Memo from Mr Mallett to Mr Kent	18.06.85
338.	Report of JMB Review Committee	June 85
339.	BOE Memo from Mr Kent to The Governor's Private Secretary	20.06.85
340.	BOE Memo from Mr Cobbold to Mr Cooke	20.06.85
341.	Manuscript Notes - "Gov's Notes for Press Interview on JMB" with attachment	Undated
342.	H.M. Treasury Press Release "Banking Supervision and Johnson Matthey Bankers" and Notes to Editors, and attachment	20.06.85
343.	Transcript of BBC Radio Interview "Today" - 21 June 1985, with Manuscript Note attached	21.06.85
344.	BOE Memo by Mr Kent	24.06.85
345.	BOE Memo by Mr Kent, with Manuscript Note attached	24.06.85
346.	BOE Memo by Mr Wilson to Mr Rippon	25.06.85
347.	BOE Memo from Mr Green to the Governor's Private Secretary	25.06.85
348.	Manuscript Note from Mr Cobbold to Mr Quinn with bundle of extracts from papers provided for Governor's Monthly Supervision Meeting	26.06.85
349.	BOE Memo from Miss Brown to the Deputy Governor's Committee, with attachment	27.06.85
350.	BOE Memo from Mr Kent to The Governor's Private Secretary, with attachment	27.06.85

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
351.	BOE Memo from Mr Croughton to Mr Quinn	27.06.85
352.	BOE Memo from Mr Kent to The Governor's Private Secretary with annexure	27.06.85
353.	BOE Memo from Mr Cooke to The Governor, with attachment	27.06.85
354.	BOE Memo "Press Reaction - Annual Report and Accounts and The Governor's Review Committee Report on Banking Supervision"	26.06.85
355.	BOE Memo from Miss Hyde to Mr Kent, with annexure	01.07.85
356.	BOE Memo from Mr Towndrow to Mr Quinn	04.07.85
357.	BOE Memo "Press Reaction", with annexure	04.07.85
358.	BOE Memo from Mr Osborn to Mr Quinn, with annexure	08.07.85
359.	BOE Memo from Mr Funnell to Mr Kent	18.07.85
360.	Transcript of Debate in The House of Commons at 11.30 am on Friday, 27 July 1985	27.07.85
361.	BOE Memo from Mr Loehnis to The Governor with attachment, with copy	02.08.85
362.	BOE Memo by Mr Nugee	05.08.85
363.	Letter from BOE to JMB with annexure	20.08.85
364.	BOE Memo by Mr Bond	21.08.85
365.	BOE Memo by Mr Falls	21.08.85
366.	BOE Memo by Mr Falls, with Manuscript Note attached	13.09.85
367.	BOE Memo by Mr Falls, with attachment	02.10.85
368.	BOE Memo by Mr Falls (with manuscript not by Mr Tower attached)	08.11.85
369.	BOE Manuscript Note from Mr Nicolle to Mr Cobbold	12.11.85
370.	Manuscript Note from Mr Tower to Mr Sweeney	29.11.85

<u>No.</u>	<u>Description of Document</u>	<u>Date</u>
371.	BOE Memo from Mr Tower to Mr Sweeney, with annexures	05.12.85
372.	BOE Memo from Mr Lloyd to Mr Galpin, with attachment, and copy	18.12.85
373.	BOE Memo from Mr Charkham to Mr Walker, with attachments	20.03.86
374.	Bundle of manuscript calculations headed "Share Capital and Reserves"	Undated
375.	Bundle of Press Cuttings	Oct 84 onwards
376.	Bundle of Hansard extracts	Oct 84 onwards
377.	Bundle of speeches on policy matters	Various
378.	Bundle of BOE Annual Reports	Various

SCHEDULE 1 - PART 2

<u>No</u>	<u>Description of Document</u>	<u>Date</u>
1.	Correspondence and documents passing between the Plaintiff and/or the First Third Party and their legal advisers, including notes of telephone conversations and meetings between them and notes and drafts of their legal advisers, Instructions to Counsel, notes of consultations and conferences with Counsel, Counsel's notes and drafts and Counsel's written Advice.	
2.	Communications passing between the Plaintiff and/or the First Third Party or their legal advisers on the one hand and third parties including proposed experts and witnesses on the other hand, and internal memoranda and other documents including notes of telephone conversations and meetings between them, made after the commencement and/or in contemplation of litigation and with a view thereto for the purpose either of enabling the Solicitors of the First Third party and/or the Plaintiff to conduct the proceedings, or of giving or obtaining legal advice in relation thereto, or of furnishing information or material to be used as evidence on their behalf or of enabling such evidence to be obtained, including reports and statements of experts and witnesses and drafts thereof and the like.	Various

SCHEDULE 2

<u>No</u>	<u>Description of Document</u>	<u>Date</u>
1.	The originals of all copy correspondence and documents disclosed in the first part of Schedule 1 hereto.	
2.	Original and copy correspondence and documents not disclosed in the first part of Schedule 1 hereto which have now been destroyed.	Various

DATED the 13th day of May 1987

NOTICE TO INSPECT

Take notice that the documents in the above list, other than those listed in Part 2 of Schedule 1, and Schedule 2, may be inspected at the office of the Solicitors of the above-named First Third Party during office hours after fifteen working days on three working days' notice.

To the Defendants and their Solicitors

SERVED the 13th day of May 1987 by FRESHFIELDS, Walden House,
17-24 Cathedral Place, London EC4M 7JA

Solicitors to the Plaintiff and First Third Party

1985 J No. 6782

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N :

MINORIES FINANCE LIMITED
(formerly known as
Johnson Matthey Bankers Limited)

Plaintiff

- and -

ARTHUR YOUNG (a firm)

Defendants

- and -

- (1) THE GOVERNOR AND COMPANY OF
THE BANK OF ENGLAND
- (2) PAUL DESMOND FORSTER VARRALL
- (3) ERNEST JOHN PATEMAN
- (4) ROY GORDON WHEELER
- (5) IAN ROBERT FRASER
- (6) PETER JAMES COLLETON FIRTH
- (7) PATRICK JOHN KEYSE SMITH

Third Parties

LIST OF DOCUMENTS OF
THE FIRST THIRD PARTY

FRESHFIELDS (DAR/PB/MJGP/20484L)
Walden House
17/24 Cathedral Place
London EC4M 7JA

01.606.6677

FRESHFIELDS

prop
Charvello's Ltd
Acton

H S K Peppiatt	M M MacCabe	D C ap Simon	I K Terry	Resident in New York
P C Peddie	P W Goodwin	T W R Head	K N Dierden	J Part
D O Bales	R M Nelson	W N Richards	J E Francis	P J Jeffcole
D A Redfern	J P L Davis	I Taylor	P Bowden	D C Bonsall
G A Whalley	I L Hewitt	R M Ballard	L G D Marr	Resident in Paris
J K Grieves	T A Ling	J L McKeand	A P Richards	A C L Smith
J M H Hunter	P R Macklin	D N Spearing	B W Staveley	P J R Bloxham
R J C Shuttleworth	Penelope Freer	J N Byrne	A Littlejohns	S J McGairi
J K McCall	G B Nicholson	M Thompson	C W Rough	Resident in Singapore
R W Harris	F G Sandison	A S McWhirter	G Le Pard	K J Julian
W N Parker	G L B Darlington	S A D Hall	S M Revell	Resident in Hong Kong
P M Leonard	A M V Salz	G W Morton	T A Moore	M A Freeman
J C Nowell-Smith	I M Fisher	B J O'Brien		H W J Stubbs
J C T Foster	Josanne Rickard	V R Clempson		Ruth Markland
N D Taring	R S McCormick	E T H Evans		
M L H Clode	R A Chamberlin	G N Prentice		

Walden House,
17-24 Cathedral Place
London EC4M 7JA
Telephone 01-606 6677
Telex 263396
Fax 01-606 0289 LDE/CDE No.23

Our reference DAR/PB/MJGP/20553L

BY HAND

Your reference

Attn: Ms J Douglas

18 May 1987

Private and Confidential

Dear Sir

Minorities Finance Limited -v- Arthur Young: 1985 J No.6782
Johnson Matthey PLC -v- Arthur Young: 1986 J No.4979

We act for the Bank of England ("the Bank"), which has been joined as First Third party by Messrs Arthur Young ("AY") in both the above actions.

The subject matter of the actions has attracted widespread public discussion. Briefly, the case against the Bank is that it failed in its duties properly to supervise Johnson Matthey Bankers Limited (now known as "Minorities Finance Limited") ("JMB") over several years resulting in loss to JMB and/or its former parent company, Johnson Matthey plc. The Bank acquired JMB on 1 October 1984.

Orders for discovery of relevant documents in the possession, custody and control of the Bank have been made in both actions by the allocated Trial Judge, Mr Justice Hutchison. The Bank is, of course, complying with those Orders and will shortly be serving a List of Documents, to be followed by production and inspection.

The Bank is concerned that production of a number of documents now identified as relevant may be injurious to the public interest, and has instructed us to draw your attention to these. We set out below a brief description of the categories of documents concerned:-

Hong Kong
24th Floor
One Exchange Square
Hong Kong
Telephone 5-259345
Telex 84973
Fax 5-294499
5-8106192

New York
45 Rockefeller Plaza
New York NY 10111
Telephone (212) 765-8685
Telex 12433
Fax (212) 765-2610
(212) 977-7199

Paris
14 Avenue Gourgaud
75017 Paris
Telephone (1) 47 66 51 59
Telex 648363
Fax (1) 47 66 10 63
(1) 47 66 11 83

Singapore
21 Collyer Quay #06-01
HongkongBank Building
Singapore 0104
Telephone 2216522
Telex 34813
Fax 2221342
2254180

FRESHFIELDS

To Ms J Douglas

Date 18 May 1987

Page 2

- (i) Letters passing between senior personnel (and their private secretaries) of the Bank and H M Treasury discussing or commenting on aspects of policies relating to banking supervision, and reporting on specific matters of concern in relation to the events at JMB. There are also notes of meetings between such personnel along with briefing papers prepared within the Bank for the purposes of such meetings.
- (ii) Papers connected with the Review Committee ("the JMB Review Committee"), set up by the Chancellor of the Exchequer in December 1984 under the auspices of Parliament, which reported in June 1985 on the system of banking supervision in the light of events at JMB. These papers include correspondence from representatives of the national and international business communities, commenting on the system of banking supervision in this country, and also papers prepared by the Bank and others specifically to assist the JMB Review Committee in its deliberations. Included in this category are the minutes of its deliberations, and drafts of its final report. (Please note that we propose to disclose that the published Report itself).
- (iii) Papers connected with Parliamentary proceedings occasioned by the events at JMB. The Bank has in its possession draft statements of the Chancellor to Parliament, along with draft replies to Parliamentary Questions on aspects of the events at JMB. The Bank assisted in preparing briefing papers for the Chancellor to enable him to respond to various questions concerning these events which might be put to him during the course of Parliamentary debates.

FRESHFIELDS

To Ms J Douglas

Date 18 May 1987

Page 3

- (iv) Notes of discussions and briefing papers prepared for the purposes of meetings between representatives of the Bank and senior representatives of foreign authorities responsible within their own jurisdiction for banking supervision. These papers relate both to general banking issues and to the JMB matter in particular.
- (v) Notes of general discussions on banking supervision policy between senior representatives of the Bank and leading representatives of the national and international business communities. The Bank is in regular discussion with such persons on all aspects of policy and specific perceived issues.
- (vi) Papers prepared in connection with police enquiries into whether returns to the Bank by JMB were fraudulently misstated.

Mindful of the possibility that production of one or more of the above categories may be injurious to the public interest, the Bank is not proposing to disclose any documents within these categories at this stage, and will not do so until such time as you have had an opportunity to consider this letter and, if you consider it appropriate, the documents in question.

In addition to the above categories, we anticipate that the Bank may be called upon to disclose papers relating to the policies discussed or adopted by the Bank in the course of supervision of the banking community. As the authority responsible for formulating and modifying such policy, the Bank has substantial documentation, consisting both of correspondence with other persons and internal Bank memoranda, relating to discussions on aspects of policy, and the formulation and review of standards and procedures by which such policy is implemented. The ambit and quantity of potentially discoverable documents in this category is very wide indeed, possibly embracing papers evidencing all discussions in connection with existing and proposed legislation on banking supervision in this country, including possible amendments to the present Banking Act.

FRESHFIELDS

To Ms J Douglas

Date 18 May 1987

Page 4

We have not reviewed these in any detail, but, subject to your comments, we anticipate disclosing a considerable number of documents in this category in a further list.

Please note that the Bank is proposing to make available for inspection in the immediate future notes of prudential interviews between staff within the Banking Supervision Division of the Bank and JMB prior to the Bank's acquisition of JMB. Also, the Bank is proposing to disclose an internal memorandum enquiring into the Bank's involvement with JMB as supervisor prior to its acquisition of JMB. You should be aware that public interest immunity was claimed in the proceedings brought by AY against the Rt Hon Nigel Lawson MP and Others (1985 Y No.1076) in respect of a letter from the Governor of the Bank to the Chancellor of the Exchequer dated 9 November 1984, enclosing a revised version of this memorandum, with minor amendments from the original text prepared by the Bank for its internal purposes.

We should be grateful for your guidance on the matter.

Yours faithfully,

The Treasury Solicitor
Queen Anne's Chambers
Broadway
London SW1H 9JS

From: R B SAUNDERS

Date: 27 May 1987

PPS

MR BOARD

cc PPS —
Mrs Lomax

Mr Jackson - Tsy Sol

THE CHANCELLOR'S LIBEL ACTION

We spoke about Mr Jackson's letter of 3 April to Mr Allan. The Chancellor has indicated to Sir Peter Middleton that he would like us to get hold of a set of Arthur Young's papers. I should be grateful if Mr Jackson could arrange this.

2. He would also like you to skim these papers to see if they contain anything of interest. When we spoke, you expressed some reservations about this, given that they run to many thousands of pages. I take the point, but suggest that we wait and see what the set of documents actually looks like before taking a final view on how best to meet this request.



R B SAUNDERS

Private Secretary

purp



Ch

Wceded

This is tortuous but OK.
The Bank/Freshfields say
you can't supply copy of
PLW report to AY because of
S.19 of Bank's Act; but they
can and will.

I have spoken to Jackson &
he concedes

- (a) AY will get a copy of
PLW report from the Bank
- (b) You can use it freely
in your libel defense.

AA.



THE TREASURY SOLICITOR

Queen Anne's Chambers
28 Broadway London SW1H 9JS

Telephones Direct Line ~~01-273~~xxx 210 3371/3022
Switchboard **01-273 3000** 210 3000
Telex **917564** GTN **273**

A Allan Esq
Chancellor's Private Office
HM Treasury
Parliament Street
London SW1.

Please quote
Your reference L.85/3584/RADJ
Date 2 June 1987.

Dear Mr Allan,

THE CHANCELLOR'S LIBEL ACTION

The purpose of this letter (copied to Dick Saunders) is to bring you up to date on the Chancellor's libel action. I also enclose a copy of a separate letter I have written to Dick Saunders concerning possible claims for public interest immunity in the proceedings to which the Bank of England is a party. As these potential claims should not involve the Chancellor as defendant in the libel proceedings, I do not perceive that there is any conflict or embarrassment in my dealing with both matters. However, I think that it would be sensible to correspond with you on the libel action and with Dick Saunders on the PII claims.

In my letter of 3 April 1987 to you, I dealt with problems which had arisen over the Second Interim Report from Price Waterhouse. I put forward a proposal that I should provide only a limited number of pages from the Report to Arthur Young's Solicitors. Freshfields, Solicitors for the Bank of England, were still unhappy with this proposal - they were still concerned about Section 19 of the Banking Act 1979. I, therefore, refrained from responding to the request from Arthur Young's Solicitors for copy documents until I had been notified by Freshfields that the whole of the Price Waterhouse Report had been disclosed in the Bank of England's List of Documents, in the Third Party proceedings brought by Arthur Young. This has now been done and I have provided Arthur Young's Solicitors with copies of all the documents they requested other than the Price Waterhouse Report which they can obtain from Freshfields.

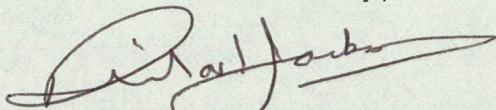
I have proceeded on this basis in order to avoid a conflict between the Chancellor and the Bank of England over the status of the Price Waterhouse Report, particularly whether the 1979 Act applies. However, strictly, I am still obliged to provide Arthur Young's Solicitors with a copy of the copy in

the Chancellor's possession even though they are also entitled to a copy of the copy disclosed by the Bank of England. Indeed, again strictly, Arthur Young are prevented from using the copy obtained in one set of proceedings in the other. I have pointed out this problem to Freshfields and have said that, if Arthur Young's Solicitors insist on a copy of the Chancellor's copy of the Report, I can see no reason why I should decline their request. However, I have promised to give them notice of such an event in order to see whether they are still troubled by Section 19. I shall keep you posted on the progress of this rather tortuous aspect of the proceedings.

I have received a copy of a minute from Dick Saunders to Douglas Board which requested a set of Arthur Young's papers as disclosed in their List of Documents. I have asked Arthur Young's Solicitors for a set and will send it over to you.

If there are any points you wish to raise, either on this letter or on the libel action generally, please let me know.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Richard Jackson', written in a cursive style with a long horizontal flourish extending to the right.

RICHARD JACKSON

cc. R B Saunders Esq



THE TREASURY SOLICITOR

Queen Anne's Chambers

28 Broadway London SW1H 9JS

Telephones Direct Line 01-273xxxx 210 3371/3022

Switchboard 01-273-3000x 210 3000

Telex 917564 GTN 273

R B Saunders Esq
Permanent Secretary's Office
HM Treasury
Parliament Street
London SW1.

Please quote

L. 87/2110/RADJ

Your reference

Date

2 June 1987.

Dear Dick

J M B - PUBLIC INTEREST IMMUNITY

I am writing to you on a new matter which has arisen in the various legal proceedings involving J M B. First, however, just to say that I have also written to Alex Allan (and enclose a copy of my letter) on the present position in the Chancellor's libel action. I have copied this letter, with enclosures, to Alex Allan.

As I say at the beginning of my letter to Alex, I am now not only acting for the Chancellor in the libel action but will also be advising HM Treasury on a letter, dated 18 May 1987, received from Freshfields as Solicitors to the Bank of England. I do not perceive any conflict or embarrassment in acting in these two matters but will, for the sake of clarity, write to you on the Bank of England PII question and to Alex Allan on the libel action.

You will see from my letter to Alex where we stand on the Price Waterhouse Report. I hope that a conflict with the Bank of England over its status can be avoided.

Turning now to Freshfields' letter of 18 May, you will recall that J M B (now known as Minorities Finance Limited) and the former parent company (Johnson Matthey PLC) both commenced actions for damages against Arthur Young. In those actions, Arthur Young have joined the Bank of England as one of a number of third parties. I enclose copies of the two Third Party Notices (which are, in effect, Statements of Claim in the Third Party proceedings) and the Bank's defences thereto. I also enclose a copy of the Bank's List of Documents and of a covering letter (13 May 1987) from Freshfields to Arthur Young's Solicitors.

In their letter of 18 May 1987, Freshfields state that the Bank is concerned that production of a number of documents, identified as relevant, may be injurious to the public interest. Under instructions, they draw this

Department's attention to these and have set them out in six categories. Freshfields state that the Bank is not proposing to disclose any documents in those categories until we have had an opportunity to consider their letter and the documents in question. Further comments are made by Freshfields on wider aspects of discovery in the final three paragraphs of their letter.

It is obvious that at an early stage the documents in question should be looked at both by myself and by someone from HM Treasury. Only when we have an idea of what they contain can we sensibly consider whether the Crown, through HM Treasury, has anything to say on the question of a claim for PII. Nevertheless, I anticipate that you may wish to have a preliminary meeting to discuss all this and no doubt you will let me know if this is the case.

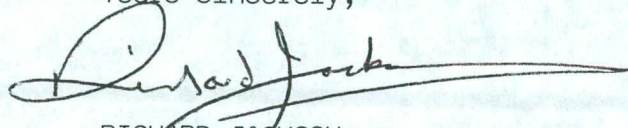
I conclude this letter with a preliminary thought on the possible reactions to Freshfields' letter. Having considered the documents and the issues they raise, it might be concluded that, at least so far as the Crown is concerned, no issue of PII is raised. It would then be for the Bank of England to decide whether or not to maintain a claim itself. Another possible conclusion might be that this case is very similar to Burmah where the Attorney General intervened to argue the PII case. There are other variations, perhaps with a ministerial certificate but the Bank of England making the claim; or even a ministerial certificate covering some documents leaving the Bank of England to deal with others. (Mention of the Attorney General reminds me that the Law Officers' Department should be brought in on this issue at a relatively early stage, perhaps after the documents have been inspected.)

Rather than lengthen this letter, I shall say nothing further until I have heard from you on how you wish to proceed.

Finally, you will see from my letter to Alex Allan that I have requested copies of documents from Arthur Young's List in the libel proceedings. As I say, when this set is to hand, they will be sent over.

I look forward to hearing from you.

Yours sincerely,



RICHARD JACKSON

c.c. A Allan Esq

CONFIDENTIAL

FROM: D R H BOARD

DATE: 13 OCTOBER 1987

1. MRS LOMAX *RL 14/10*
 2. PRINCIPAL PRIVATE SECRETARY

cc PS/Economic Secretary
 PS/Sir P Middleton
 Mr Cassell
 Miss Noble o/r
 Mr Roberts

What is the status of the JMB?

MINORIES FINANCE (JMB): 1987 REPORT AND ACCOUNTS

The Bank of England have sent us a confidential copy of Minories Finance's Report and Accounts for the year ending 30 June 1987. The picture is one of continued improvement. Copies will be sent to the banks which joined in the original indemnity in the next few weeks, but the Bank have taken no decision as yet on wider publicity. A few brief details may be of interest.

2. During the year, after the necessary application to the Courts, MF repaid half (£37.5m) of its authorised share capital to its shareholder, the Bank of England. After adjusting for this MF improved its net worth by £8.6m during the year, largely due to time consuming but successful debt recoveries. This figure of £8.6m represents a reduction in the overall estimated cost of the JMB operation to the Bank of England, which last year stood at just under £21m. Naturally uncertainties remain - including of course MF's suit against Arthur Young - but the year has been a satisfactory one.

3. With an eye to possible wider circulation of the accounts by the Bank, there are a few minor points just about worthy of note:

a. the highest paid director (not David Walker, the Chairman) earned £70,000 during the year. I understand this is expected to come down next year, because there should be less work and part of the remuneration is on a daily rate;

b. following the sale of most of JMB to Mase Westpac, the accounts reveal that Mase Westpac have exercised their rights under the sale agreement to transfer certain assets back to Minories Finance. But I have been assured that

1367/14

the total assets involved are very small (single figures in £m);

c. police enquiries are still continuing, but we have no further details.

Douglas Board

D R H BOARD

BF 1/11



FROM: A C S ALLAN

DATE: 16 October 1987

MR D R H BOARD

cc PS/Economic Secretary
PS/Sir P Middleton
Mr Cassell
Mrs Lomax
Miss Noble
Mr Roberts

MINORIES FINANCE (JMB): 1987 REPORT AND ACCOUNTS

The Chancellor was grateful for your minute of 13 October. What is the state of play on Minories Finance's suit against Arthur Young?

ACS

A C S ALLAN

CONFIDENTIAL

Papers
Next Monday

FROM: D R H BOARD
 DATE: 23 October 1987

PRINCIPAL PRIVATE SECRETARY

Smart look forward to it!

c c PS/Economic Secretary
 PS/Sir P Middleton
 Mr Cassell
 Mr A Wilson
 Mrs Lomax
 Miss Noble o/r
 Mr Roberts

Mr R Jackson T.Sol

MINORITIES FINANCE (JMB) : SUIT AGAINST ARTHUR YOUNG

Your minute of 16 October asked about the state of play on this legal action. A trial date has been set, January 1989. We are still embroiled, with Treasury Solicitor and others, in considering what public interest immunity issues are raised by the pre-trial process of discovery of Bank of England documents (AY have levelled a counter-charge against the Bank's record in supervising JMB). We shall report on this, but the issues are still at a very complex stage. Although AY would probably be happy to find excuses for putting the trial date back further, Treasury Solicitor believes that resolving the PII issues should not require a postponement.

D R H Board
 D R H BOARD

pmf



FROM: A C S ALLAN
DATE: 27 October 1987

MR BOARD

cc PS/Economic Secretary
Sir P Middleton
Mr Cassell
Mr Wilson
Mrs Lomax
Miss Noble
Mr Roberts
Mr R Jackson - T.Sol

MINORIES FINANCE (JMB): SUIT AGAINST ARTHUR YOUNG

The Chancellor was grateful for your minute of 23 October:
something to look forward to in 1989!

ACSA

A C S ALLAN



4/2/87

Ch.

See in particular the section of David's note on the expurgated P-W report and the attached lawyers letters-classics. (Heathfields & Bailey). The whole thing is quite ridiculous - though predictable. Apparently we cannot even see a copy of his bowdlerised ~~the~~ report - even though all of us have seen the complete report! David's note suggests we simply have to see what happens.

The conclusion we are intended

to draw is that we
drop the whole idea - surprise.
Surprise.

You'll want to raise
with Peter - I with the
Governor on Friday.
But for you might consider
whether you see any
advantage in getting the
expurgated P-W report published
before the House rises - or
you make your statement.
If you do, it will be a mighty
move.

However, if the expurgated



Version can indeed only
be published under some
ancient act, is a
absolute privilege, the
question with no doubt arise -
why not publish the whole
thing. ^{No}

If this thing has through
I hope we can make it very
clear to the PM ~~just~~ how
the Board have led us up
the garden path on this -
again.

What an absurd mess! Re ^{24/12}

From: SIR PETER MIDDLETON

Date: 18 December 1987

CHANCELLOR

cc Economic Secretary
Mrs Lomax
Miss Noble
Mr Board

Miss Wheldon - Tsy Sol

JK

JMB: PUBLIC INTEREST IMMUNITY

You should be aware that there is to be a Court hearing next Tuesday about the disclosure of documents in the JMB/Bank case against Arthur Young. The Crown will have to state its intention to claim public interest immunity for a number of the documents, though it should be several weeks before we need to lodge the actual claims. None of this has any immediate relevance to your libel case. That, as you know, is running at least 9 months behind the various suits between the Bank, Minorities Finance, Johnson Matthey plc and Arthur Young.

2. It is quite clear that the claims for PII, when we come to make them, will have to be supported by certificates from a Treasury Minister with policy responsibility for the relevant area. I think it best that the Economic Secretary should take on this task. In most cases, the certificates will be backed by affidavits from the Bank, stating that production of the documents would prejudice the discharge of their public functions (as statutory supervisors or as a central bank). So it will be for the Bank, in the first instance, to justify the claim for PII. In principle, the Economic Secretary could be called upon to appear in Court, though in practice, no Crown Minister has so far been called upon to do so in a PII case.

3. Mr John Laws, the Counsel who has been advising us on this, will vet the Bank's affidavits, as well as prepare the Ministerial certificates.

4. It seems inevitable that in some respects the case will break new ground. This will be the first time that PII claims have been made to protect documents relating to banking supervision, or the Bank's functions as central bank. There is thus some risk of legal challenge. But, after months of discussion, we are all agreed that the claims must be made. Failure to do so in the case of sensitive banking supervision papers could prejudice the position of other statutory supervisors in subsequent cases.

5. Our Lawyers and those representing the Bank are now in complete agreement. They say that we should now have a few weeks to go carefully through all the documents with the Bank and the Lawyers to settle the precise scope of these claims. Experience has made me wary of legal timetables. So it may be prudent for the Economic Secretary to start familiarising himself with the background. To ... that end, I attach a note from Gill Noble, which explains in more detail where we have got to, and how we got there.



P.P.

P E MIDDLETON

(approved by Sir Peter Moxall
and signed in his absence)

FROM: MISS G M NOBLE
DATE: 18 December 1987

1. SIR P MIDDLETON
2. CHANCELLOR

c c Economic Secretary
Mr Cassell
Mr Scholar
Mrs Lomax
Mr Board
Miss Wheldon T.Sol
Mr Jackson T.Sol

JOHNSON MATTHEY : PUBLIC INTEREST IMMUNITY

This note summarises where we have now got to on the issue of public interest immunity claims for the papers in the Johnson Matthey litigation, how we got there, what is to happen on Tuesday when there is a court hearing on disclosure of documents, and what the next steps are. There is no immediate action for Ministers, but they may wish to note that the court will be told that PII claims will be made. The Economic Secretary will have to sign the necessary certificates in due course.

Outstanding litigation

2. There are five separate, but related legal cases outstanding as a result of the Johnson Matthey affair:-

1. A claim by Johnson Matthey Bank (now Minorities Finance) against Arthur Young for damages resulting from their alleged negligence as auditors.
2. A similar claim by Johnson Matthey plc against Arthur Young, for damages resulting from their alleged negligence as auditors.
3. A claim by Arthur Young against the Bank, for any damages which Arthur Young have to pay out under 1. above on the grounds that the Bank failed to supervise Johnson Matthey Bank adequately.

4. A similar claim by Arthur Young against the Bank for any damages which they have to pay out under 2. above.

5. Arthur Young's libel suit against the Chancellor.

3. None of the immediate action is of direct relevance to the Chancellor's libel case. It has been agreed that that should be deferred until nine months after the other litigation between Johnson Matthey plc, Minorities Finance, the Bank and Arthur Young. (But the documentation for the libel case might eventually have to be looked at again in the light of the outcome of any PII claim in the damages action.

Tuesday's proceedings

4. Tuesday's proceedings are to do with the first, third and fourth of the cases. Arthur Young is seeking court orders requiring the Bank and Minorities Finance respectively, to produce further lists of documents relevant to the cases within 14 days and to produce the documents for inspection within a further 7 days.

5. The normal procedure would be that a list would be produced, a PII claim (if appropriate) would then be made specifying which of the individual documents it applied to, and giving the reasons in general terms; the judge would then consider the claim, if necessary read the documents, hear any arguments from either side and decide whether to accept or reject the claim. If he rejected the claim, he would then order (subject to appeal) that the documents be produced for inspection.

6. In this case, Arthur Young are trying to condense the whole proceedings by asking the Court to order now that the documents be produced within 21 days. This tactic is unlikely to succeed but adds to the confusion. The PII claim will not be made at the proceedings on Tuesday (it cannot be because the list of documents has not been served) but the judge will be told that a claim will be made on some of the documents, the exact scope of the claim to be settled.

The documents concerned

7. The summons contains a general description of the Bank documents in question. A copy is attached. The descriptions are not entirely accurate (because Arthur Young's lawyers have obviously not seen them) but they give a reasonable indication of what is involved. There is also a separate batch of Minories Finance papers which include the minutes of board meetings at which exchanges between the Bank of England and the Nigerian Central Bank were reported and discussed.

The general basis for the PII claims

8. We have no option but to claim PII if we consider that production of the documents would damage the performance of a public function. And once a claim has been made for a class of documents, a similar claim must be made for further documents falling into the same class. Some of the papers concerned in this case would be covered by the PII precedents established in the 1980 Burmah Oil case and we must claim for them. Roughly speaking those cover:-

- a. high level exchanges between the Treasury and the Bank on the formation of policy;
- b. related briefing and Treasury's internal exchanges, and
- c. certain information provided in confidence to the Treasury and the Bank.

Other documents will involve claiming PII for three new classes, namely documents related to the Leigh Pemberton Committee i.e. a high level committee, set up by Ministers' inter alia to advise on policy formulation; documents relating to the Bank's functions as a central bank; and documents relating to the Bank's statutory functions as banking supervisor. The first is unlikely to cause difficulties; the second and third, however, break new PII ground. They may well prove to be contentious and if challenged, will be the subject of court proceedings.

Difficulties with the Bank

9. As you know, we have been conducting a rather odd and prolonged correspondence with the Bank about these documents and the possible PII claims since May, and that is largely why Arthur Young's lawyers have now gone to court. For reasons which are still far from clear, the Bank appeared to be taking the rather odd position that:-

- a claim for PII for banking supervision documents and those relating to their central bank functions was unnecessary and could not be sustained.
- failure to claim PII for banking supervision documents in this case would not prejudice such a claim being made in subsequent litigation.
- if we nevertheless wished to make a PII claim for supervisory documents, the Bank would not oppose it; but they would not provide affidavits to support it.

10. Clearly we could not make a claim if the Bank refused to support it; yet their position seemed to be inconsistent with everything they have said to us about the need for banking confidentiality.

11. From the limited evidence we had, it appeared that the Bank were operating on the basis of some rather odd advice from their Counsel. We therefore also took separate Counsel's advice, from John Laws, which appeared to contradict the Bank's advice. The essence of Counsel's opinion was passed to Freshfields last week, and Treasury Solicitor has since had lengthy, detailed discussions with them.

Meeting with the Bank

12. The meeting you had on Wednesday with the Deputy Governor and Mr Galpin finally resolved the issue. At that meeting, the Deputy Governor agreed that:-

- there is potentially a class of banking supervision documents, and a class of documents about the Bank's functions as a central bank, for which PII should be claimed;

- the Bank would provide affidavit evidence to support such a claim.

13. He appeared to be saying that, in his opinion, very few of the documents in question would fall into either category. We are not yet in a position to judge this assertion because we have only just received the papers from the Bank. Mr Jackson (T.Sol) has been through them with Freshfields, but Mr Board and I have only had time to glance at them. Our impression is that there is potentially a large number of documents which would fall into the class. But the explanation may be that the vast majority of the documents fall, for the moment, into a separate category which the Bank are going to argue they should not disclose because such a request is "onerous and oppressive". Only if that defence fails will PII be claimed.

14. In short, although there seemed, two or three weeks ago, to be a very high risk that we would finish up in open dispute with the Bank in court, we now have a satisfactory, agreed position. The legal differences have now been resolved, and the Bank's Counsel and ours will argue a consistent line on Tuesday.

The precise basis and scope of the PII claims

15. We have been through the various categories of document in the summons with the Bank and Freshfields and agreed in general terms the basis on which PII would be claimed for each, and where a Bank affidavit would be necessary.

16. I have indicated these on the attached schedule where we will be claiming PII on the basis of established precedent and where we will not require a bank affidavit. We will also not need one for the claim relating to the main Leigh Pemberton papers which are to do with policy formulation. In all other cases,

it is agreed that there will be a Bank affidavit saying that, in the Bank's opinion, their function as central bank or statutory supervisor would be damaged if the documents were produced in Court.

The Ministerial certificate

17. Whether there is a Bank affidavit or not, a Ministerial certificate is still required in each case. But where there is a Bank affidavit, the certificate need say no more than that the Minister has read the papers in question, and seen the affidavit, and accepts that there is a public interest which would be damaged by production. The onus for justifying the opinion in court if necessary, will then rest on the signatory of the Bank's affidavit. The certificates must be signed by the Minister with policy responsibility for the banks (see attached extract from "Supreme Court Practice") and it would therefore be appropriate for the Economic Secretary to do so. The Attorney General cannot sign the certificates in this case because he has no policy responsibility for the subject. He must be informed that the certificates are to be signed, but his officials are being kept in touch by the Treasury Solicitor. He may also, if he wishes, choose to argue the case in court, if it comes to that.

Next steps

18. Subject to the outcome of the hearing, the next step will be for the Bank to produce draft affidavits, for Mr Board and I to go through the papers with the Bank (and lawyers) and settle the description and boundaries of the classes to be claimed; for Treasury Solicitor to draft the certificates, and clear them with John Laws and for the certificates to be signed by the Economic Secretary after he has also read the papers.

19. There is an outside chance that all this will have to be done very quickly indeed for say, 10 January. But that is only if things go very wrong on Tuesday. It is more likely that the certificates will be needed for a full hearing in the second half of January or later.

20. We will keep you in touch with developments. In the meantime, we are available to talk to the Economic Secretary if he wishes to familiarise himself further with the background to the case.



MISS G M NOBLE

SCHEDULE (OF BANK PAPERS)

- ① PII claim. No Bank affidavit required. *Burmah precedent*. Similar PII claim made in libel case

① Documents relating to the discussions and meetings leading up to the purchase by the First Third Party of the shares in the Plaintiff held between the First Third Party and government agencies, including the Chancellor of the Exchequer and representatives of HM Treasury, and members of the banking community and other representatives of the business community. *(ie Bank)* *(ie JMB)* *(ie discussions with the gold market about potential systemic problems)*
- ② PII claim on Bank affidavit. Either central bank or supervisory class.

② Documents prepared in connection with the Committee which reported to the Chancellor of the Exchequer on the system of banking supervision in the light of the problems encountered at JMB (the "JMB Review Committee"). *(ie Leigh Pemberton Committee)*
- ③ No bank affidavit required for L-P papers as such. But some of the docs are more akin to supervisory docs. For which Bank affidavit will be provided.

③ The papers described as "relating to proceedings in Parliament" in the letter dated 13th May 1987 from Messrs Freshfields to Messrs McKenna & Co. *(ie drafts and briefing for Parliamentary statements)*
- ④ Bank say these are actually part of ①

④ Correspondence on aspects of policy relating to the Plaintiff and passing between representatives of the First Third Party and HM Treasury. *(JMB)* *(Bank)*
- ⑤ Bank affidavit required. Either central bank or supervisory class

⑤ Memoranda internal to the First Third Party referring to events at the Plaintiff and prepared for use by senior representatives of the First Third Party at meetings with foreign supervisory authorities. *(Bank)* *(JMB)* *(Bank)* *(ie Basle Committee)*
- ⑥ PII to be claimed by police

⑥ Witness statements, draft statements and other memoranda prepared at the request of the Metropolitan & City Police.
- ⑦ PII claim on Bank affidavit - Supervisory class

⑦ Drafts of the Annual Report of the First Third Party for 1984/1985. *(ie Statutory report under the Banking Act on the supervisory function)*
- ⑧ Bank will resist first on grounds that request "onerous and oppressive". If that fails, PII on Bank affidavit. Supervisory class

⑧ Documents relating to the development and evolution of the policies adopted by the First Third Party for the purpose of the supervision of institutions generally. *(Bank)* *(ie a mass of internal papers on general supervisory policy)*

Also: Minorities Finance papers, comprising minutes relating to discussions involving government agencies, the Bank and members of the Nigerian banking community

PII on Bank affidavit - Central bank class

"SUPREME COURT PRACTICE" 1988 "The White Book"
O. 24, r. 5
DISCOVERY AND INSPECTION OF DOCUMENTS
(Commentary on the Rules of the Supreme Court)

Arias v. Metropolitan Police Commr. (1984) 128 S.J. 784; C.A. (documents of finance corporation seized by police investigating offences involving fraud);
Hasselblad (G.B.) Ltd. v. Orbinson [1985] Q.B. 475; [1985] 1 All E.R. 173, C.A. (public interest requires that a letter written to the European Community Commission, in the course of proceedings begun by the Commission against the plaintiff alleging breach of Art. 85 of the EEC Treaty, could not be used as the basis of a libel action);
Continental Re-insurance Corpn. (U.K.) Ltd. v. Pine Top Insurance Ltd. [1986] 1 Lloyd's Rep. 8, C.A. (documents brought into being in circumstances of confidentiality);
R. v. Bournemouth Justices, ex p. Grey. *The Times*, May 31, 1986 (records of adoption agency, containing admission of paternity by the putative father not protected).
The confidentiality of the records of a local education authority is insufficient ground for protection from disclosure (*Thompson v. Inner London Education Authority* (1977) 74 L.S.Gaz. 66).

Public interest immunity attaches to statements made in the course of a private investigation by the police carried out pursuant to s.49 of the Police Act 1964 to see if the police have acted improperly (*Neilson v. Laugharne* [1981] Q.B. 736; [1981] 1 All E.R. 829, C.A.; *Hehir v. Commissioner of Police for the Metropolis* [1982] 1 W.L.R. 715; [1982] 2 All E.R. 335, C.A.). Since the reason for the immunity is the need to protect the public interest, the recipient of such a statement cannot waive the immunity, and therefore in an action against the police it is not open to the Commissioner to waive the immunity in order to cross-examine the plaintiff on such a statement (*Hehir v. Commissioner of Police for the Metropolis* above). Any evidence given to a police complaints board or other similar body, whether in the form of written statements or oral testimony, is equally protected by public interest immunity, but the protection does not extend to the written complaint on which the proceedings before the board or under s.49 are founded (*Conerney v. Jacklin* (1985) 129 S.J. 285, C.A.). Moreover where the purposes of s.49 are incidental to, rather than the dominant purpose of the investigation into a violent death which may be a crime, public interest immunity does not apply (*Peach v. Commissioner of Police for the Metropolis* [1986] 2 W.L.R. 1080; [1986] 2 All E.R. 129 C.A.). The decision for or against discovery of the documents is the decision of the Judge.

Although public interest immunity cannot be waived, it may evaporate if those involved in the giving and receiving of the information concerned consent to its disclosure; in deciding whether the administration of justice should prevail over public interest immunity, the fact that partial disclosure has already eroded the immunity is a relevant consideration (*Multi Guarantee Co. Ltd. v. Cavalier Insurance Co. Ltd.*, *The Times*, June 24, 1986).

The objection on ground of public interest immunity may be made either on an application for discovery under this Order—as when inspection is asked of documents referred to in a party's list of documents—or at the trial when, by subpoena or other means, the production of the documents is called for. Where the objection is taken before trial, the decision to object should be taken by the Minister who is the political head of the department, and he should have seen and considered their contents and himself have formed the view that it would be contrary to the public interest to produce them—either because of their actual contents or because of the class of documents to which they belong. And if the objection is that they belong to a class of documents which it would be contrary to the public interest to produce, the class to which they belong must be specified (*Re Grosvenor Hotel, London* [1964] Ch. 464; [1964] 1 All E.R. 92, C.A.; *Merricks v. Nott-Bower* [1965] 1 Q.B. 57; [1964] 1 All E.R. 717). But the decision remains that of the Judge, and if, in spite of the Minister's affidavit, in the view of the Court the objection was not taken bona fide, or there are no reasonable grounds for apprehending danger to the public interest, the Court has a residual power to override the objection. It is generally best that the Judge should see the documents before ordering production, and if he thinks that the Minister's reasons for refusing production are not clearly expressed he will have to see them before ordering production. He can see them without their being shown to the parties and the Minister has a right to appeal before they are produced.

The objection should be made by affidavit of the political head. But where it is not convenient or practicable for the Minister to act, either because he is ill or out of reach or because the effective head of the department is a permanent official, it would be reasonable for the permanent head to take the objection, as, e.g. the Chairman of the Board of Customs and Excise (*Alfred Crompton Amusement Machines v. Commissioners of Customs etc.* [1971] 2 All F.R. 843, per Eveleigh J.). If the objection to production arises at the trial, it may in the first instance be conveyed to the Court by an official of the department, producing a certificate signed by the Minister, stating what is necessary. If the Court is not satisfied, it can request the Minister's personal attendance (see, on the question whether the Minister can be cross-examined, *Re Grosvenor Hotel* [1964] Ch. 464, C.A.). The same principles apply to the exclusion of oral as of documentary evidence (*Duncan v. Cammell Laird & Co.* [1942] A.C. 624 and cases there cited). So, a witness may not look at those documents to refresh his memory and then give oral evidence (*Gain v. Gain* [1961] 1 W.L.R. 1469; [1962] 1 All E.R. 63). Once a Court has decided that documents are covered by this privilege, that position continues though they have passed into the possession of another person (*Auten v. Rayner (No. 2)* [1960] 1 Q.B. 669; [1958] 3 All E.R. 566).

See further, as to the circumstances in which the objection to discovery should and will be



mpw

FROM: MISS M P WALLACE
DATE: 21 December 1987

SIR P MIDDLETON

cc Economic Secretary
Mrs Lomax
Miss Noble
Mr Board

JMB: PUBLIC INTEREST IMMUNITY

The Chancellor has seen your minute of 18 December, covering Miss Noble's minute of the same date. He agrees with the conclusions you have reached.

mpw.

MOIRA WALLACE