

CONFIDENTIAL FILING

CIVIL JUSTICE REVIEW

LEGAL PROCEDURE

[In attached folder: Civil Justice Review Report]

DECEMBER 1984

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
12/12/84							
12.1.85							
29.1.85							
4.2.85							
23.8.88							
24.5.88							
7.6.88							
20.6.88							
PREM 19/2292							



ccfa.
HOUSE OF LORDS,
SW1A 0PW

20 June 1988
nbpm
R21

Dear Nicholas,

CIVIL JUSTICE REVIEW

Thank you for your letter of 7 June welcoming this report. I am most grateful to have your rapid and positive reaction. I am also very grateful for the valuable part your officials have played in the work of the Review.

My officials will continue to work closely with yours in carrying the Review forward. A detailed evaluation of the various proposals has now begun, in parallel with the public reactions we can expect to receive. This should enable discussion with Treasury on resource implications, and with other Departments on particular aspects, to begin as soon as possible after the summer break. This will, of course, include discussion of the resource impact of the housing proposals.

I believe that we can arrange matters in such a way that the need for legislation on housing cases is kept to a minimum. Indeed, it looks as if the scale of legislation required to give effect to the Report as a whole may well be fairly modest. Setting up arrangements on the ground for housing cases is however likely to be quite a task. My officials are working on all that and will be in touch with yours.

The Right Honourable
Mr Nicholas Ridley

The Secretary of State for
the Environment
2 Marsham Street
London SW1P 3EB

/.....

Thereafter I hope to bring forward recommendations to H Committee with a view to publishing a White Paper fairly early next year.

I am sending copies of this to the Prime Minister and to all members of H Committee, to the Law Officers and to Sir Robin Butler.

Yours ever,

James.

LEGAL PROC. CIVIL Justice Review,
Dec 84

FROM THE PRIVATE SECRETARY



HOUSE OF LORDS,
LONDON SW1A 0PW

7 June 1988

N L Wicks Esq
10 Downing Street
LONDON SW1

1 *PG*
2 *AB*
3 *DD*
to see tpr

Dear Nigel,

CIVIL JUSTICE REVIEW

I enclose a copy of the Report of the Civil Justice Review Body, which is to be published today as a Command Paper.

I am copying this letter, with a copy of the Report, to the Private Secretaries to the other members of the Cabinet, Michael Saunders (Law Officers' Department), Alan Maxwell (Lord Advocate's Department) and to Sir Robin Butler.

Mrs. [Signature]

Paul Stockton

NBpm

cc BG



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

The Lord Chancellor
Lord Chancellors Office
House of Lords
LONDON
SW1A 0PQ

7 June 1988

Dear James

CIVIL JUSTICE REVIEW

will request if required
I have seen the proof copy of the Report of the Advisory Committee on the Civil Justice Review, circulated under cover of the letter of 16 May from your Private Secretary.

This is clearly a very important report with major implications for the administration of civil justice in England. Of prime concern to me are its recommendations for the handling of housing cases in the civil courts.

I endorse the report's conclusions that the case for a separate housing court is not made. Research conducted by my own Department suggested that the foundations on which the supporters of a housing court constructed their arguments were always weak, and I believe the report will nail that particular issue once and for all. I firmly support those recommendations which point to more systematic handling of housing cases and specialist training in housing matters for judges and registrars. The report recognises the significance of housing cases as an area of civil law, and I believe we must introduce reforms to give practical effect to that recognition.

I also welcome both the revised form of rent action, which I believe has potential value as an effective and speedy form of debt recovery for local authorities, and the housing action. The extensive body of legislation we have enacted to safeguard individual housing rights is useless if people are deterred from taking their cases to court. The housing action seems to me to offer a low-cost, informal method of settling housing disputes, many of which do not require the panoply of a full court hearing, and I believe it could become as successful as the small claims procedure.

I am copying this to the Prime Minister and the members of H Committee, to the Law Officers and to Sir Robin Butler.

James
Ames

NICHOLAS RIDLEY



Legal Procedure - Civil Justice. Pt 2



From: THE PRIVATE SECRETARY

CCBA.



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

24 May 1988

WJm

Dear Paul,

CIVIL JUSTICE REVIEW

Prop.

The Home Secretary has seen your letter to Andy Bearpark covering the report of the Review Body on Civil Justice. He is content with the Lord Chancellor's proposals for the publication of this report.

There appears to be only one recommendation directly affecting Home Office responsibilities, and that relates to the provision by the police of accident reports (paragraph 442). This can no doubt be left to officials to pursue.

I am sending copies of this letter to the other recipients of yours.

Yours sincerely,

P J C MAWER

Paul Stockton, Esq





10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

23 May 1988

Dear Paul

CIVIL JUSTICE REVIEW

Your letter of 16 May refers. The Prime Minister has seen this, and has confirmed that she is content for the report to be published in the form of a Command Paper, by way of an arranged question in the Lords.

I am copying this letter to Members of H Committee, Michael Saunders (Law Officer's Department), and Trevor Woolley (Sir Robin Butler's Office).

Yours truly
Andy

(P. A. BEARPARK)

Paul Stockton, Esq.,
Lord Chancellor's Office.

JK

KK.
C HO
DES
SO
WO
DOE
DHSS
CST
TPY

*M/S DOE
COL.
HUT
TEMP.
CO.
LPSO*



HOUSE OF LORDS,
LONDON SW1A 0PW

16 May 1988

P A Bearpark Esq
10 Downing Street
LONDON SW1

Prime Minister⁴

Content for the report to be
published as a Command Paper with an
answer given in the Lords?

Dear Andy,

Yes not

PA/16/5

CIVIL JUSTICE REVIEW

The Lord Chancellor has received the Report of the Review Body on Civil Justice. It contains important findings and recommendations on the civil courts and their work, namely:-

- (a) Too many cases are handled in the High Court which could be handled lower down in the system. Tough steps are needed to reverse this trend thus speeding up cases and making better use of resources.
- (b) New techniques have been devised to cut delay in handling cases and render trials more efficient.
- (c) Major changes are proposed for County Courts to ensure a more effective service to litigants and to reduce the need for legal representation.
- (d) The hope of lower prices to the parties is held out by handling cases lower in the system, more quickly, and on the basis of price competition between lawyers.

The Report is in two main parts, the first dealing with major general features of the civil courts and their work, and the second dealing with the handling of certain main types of case. The main deficiencies and a summary programme for reform are set out in Chapter 2. Detailed recommendations are listed at the end.

The Review was set up in February 1985 by Lord Hailsham, with the agreement of H Committee and of the Prime Minister. Its terms of reference were "to improve the machinery of civil justice in England and Wales by means of reforms in jurisdiction, procedure

and court administration and in particular to reduce delay, cost and complexity."

The Review Body comprised an outside committee chaired by Sir Maurice Hodgson (of ICI and British Home Stores) and a Departmental team of officials.

If the Prime Minister is content the Lord Chancellor proposes to present this Report to Parliament, in the form of a Command Paper, at an early date in June, possibly 7 June. He also proposes to announce it by way of an arranged question and answer in the Lords of which I enclose the draft. Thereafter there will be a short period for public reaction to the Report, followed by detailed evaluation, discussion with Treasury on resource implications and with other Departments on particular aspects, and proposals to H Committee for action.

I wonder if I might, kindly, know by 26 May whether the Prime Minister is content with these arrangements.

Copies of this letter go to Private Secretaries to all members of H Committee and to Michael Saunders (Law Officers' Department) and Trevor Woolley in Sir Robin Butler's Office.

A handwritten signature in dark ink, appearing to read 'Paul Stockton', with a large, sweeping flourish at the end.

Paul Stockton

DRAFT PARLIAMENTARY QUESTION AND ANSWER

Q. To ask Her Majesty's Government when it is expected that the report of the Civil Justice Review will be published.

A. The report has been laid before Parliament today. It contains wide-ranging recommendations, put forward by a Review Body consisting of an independent advisory committee working with a team of officials. The Government will consider the report in detail and a further announcement will be made in due course.

Spoke to the Lord Chancellor's Office
to say that the way was clear.
please p.a.

PRIME MINISTER

CIVIL JUSTICE REVIEW

Dub
6/2

You asked what was the rationale behind the Lord Chancellor's choice of members for the Advisory Committee on the Civil Justice Review.

As you know, the Lord Chancellor was anxious to secure a lay Chairman (Sir Maurice Hodgson) who will be supported by Sir Kenneth Bond as someone with considerable experience of management (he is also an accountant).

The remaining eight members of the Advisory Committee are predominantly lawyers - a Judge, a Barrister, a Solicitor, and a Professor of Law. In addition, however, the Lord Chancellor thought it important to include people who could speak for the "lay interest" in litigation - hence his choice of Mrs. Borrie (Chairman of Legal Services National Association of Citizens Advice Bureaux); and Mr. Thomas (National Consumer Council, and himself a Solicitor).

Finally, the Lord Chancellor included two experts in public and private sector insurance, since this is very important in the assessment of damages for personal injury. They are Mr. Kerr of Guardian Royal Exchange, and Mr. Jacques of the TUC Social Insurance and Industrial Welfare Department.

Content, in the light of this information, for the Lord Chancellor to proceed with his announcement?

Dub

Yes - but have
no great hopes
of the results

David Barclay

4 February 1985

FROM THE PRIVATE SECRETARY



HOUSE OF LORDS,
SW1A 0PW

CF: further note
coming from the
Lord Chancellor

1st February, 1985

David Barclay Esq.,
Private Secretary to
The Right Honourable
The Prime Minister,
10 Downing Street,
London, SW1.

DWB
4/2
Prime Minister

To be aware.

Dear David,

DWB
1/2

Civil Justice Review

I enclose for your information a copy of the draft Written Answer which the Lord Chancellor proposes to give in the House of Lords on Wednesday 6th February by way of announcement of the review.

I would be extremely grateful if you could let me know as soon as possible if there are any points you would like to raise. We will need to put down the question by noon on Monday 4th February.

Yours sincerely,
Richard

Richard Stoate

How were the
names considered -
other than
Dame Hodgson.

I had the impression
that all the other
would be distinguished
lawyers. I am
rather surprised
at the composition
of

DRAFT PARLIAMENTARY QUESTION AND ANSWER

Question: To ask Her Majesty's Government whether it is in a position to make a further statement about a review of civil procedure.

Draft Answer: I have decided to set up an inquiry, to be called the Civil Justice Review. The purpose of the review is to improve the machinery of civil justice in England and Wales by means of reforms in jurisdiction, procedure and court administration, and in particular to reduce delay, cost and complexity.

The review will examine in turn the arrangements for each of the main classes of civil business, namely, personal injuries, small claims, debt, housing and commercial cases. It will not address family business which is the subject of separate studies.

I shall direct the review and will be assisted by factual studies commissioned from outside consultants. I have also set up an independent committee whose terms of reference are -

"To advise the Lord Chancellor and his officials on matters arising in the course of the conduct by him of a general review of civil justice."

The Chairman is Sir Maurice Hodgson and the other members are:-

Sir Kenneth Bond - Deputy Managing Director, General Electric Company

Mrs. Gillian Borrie - National Association of Citizens Advice Bureaux

- The Right Honourable Lord Justice Griffiths, MC

Peter Jacques Esq - Social Insurance and Industrial Welfare Dept., TUC

R. J. Kerr, Esq - Personal Insurances Manager, Guardian Royal Exchange

- R. J. Pannone, Esq - Solicitor

- Mark Potter, Esq QC

- Professor Ian Scott - Barber Professor of Law, University of Birmingham

- Richard Thomas, Esq - Solicitor, National Consumer Council.

/I intend that

I intend that each class of civil business be considered in a three stage process -

first - a factual study of the progress of cases through the courts, in order to establish the time taken, the cost incurred at various stages and the factors that significantly affect progress;

secondly - consultation on the basis of a published document analysing the results of the factual study and outlining proposals for change; and

thirdly - Ministerial decisions, to be followed by legislation and implementation.

Work on personal injuries will start immediately so as to enable policy decisions to be made by the end of 1986; work on the other areas of business will be progressively instituted with a view to reaching decisions on each by the end of 1987.

As the pattern of information from the factual studies becomes clearer the review will also address itself to more general matters including the structure of the courts and the distribution of business between them; the adequacy of the procedural rules and practices that govern the conduct of proceedings; and the question whether the court should involve itself more actively in the conduct of cases in order to speed up progress.

Account will be taken of developments in jurisdictions outside England and Wales. The review will concentrate mainly on the work of the courts but the study of housing cases will include those dealt with by tribunals.



10 DOWNING STREET

From the Private Secretary

29 January, 1985.

Civil Justice Review

Thank you for your letter of 28 January to Robin Butler.

The Prime Minister is content with the Lord Chancellor's proposal to appoint Sir Maurice Hodgson to chair the proposed advisory committee on the Civil Justice Review. Subject to the views of colleagues, she would also be content for the Lord Chancellor to announce the Review, and the membership of the advisory committee, during the week beginning 4 February.

I am sending a copy of this letter to Sir Robert Armstrong.

David Barclay

Sir Derek Oulton, K.C.B.,
Lord Chancellor's Office.

APPOINTMENTS IN CONFIDENCE

Civil Justice Review



*Serious - I've dealt
with this by phone.*

10 DOWNING STREET

From the Private Secretary

16 January 1985

Civil Justice Review

Further to my letter of 10 January, the Prime Minister has now received Sir Robert Armstrong's advice about possible candidates for the Chairmanship of the proposed Advisory Committee on the Civil Justice Review.

The Prime Minister has asked me to pass to you, for the Lord Chancellor, the names which Sir Robert suggested. These are (in no particular order) Dr Jack Butterworth, Lord Hunt of Tanworth, Mr Alan Lord and Sir Anthony Rawlinson.

Sir Robert has offered to approach Lord Hunt to ascertain his availability, if the Lord Chancellor so wishes. He has also suggested that Lord Richardson of Duntisbourne might be considered for the post, although he is known to be very busy.

Perhaps you could let Richard Hatfield know if you would like Sir Robert to approach Lord Hunt? Otherwise no doubt you will keep him and us in touch with progress.

I am sending a copy of this letter to Richard Hatfield (Cabinet Office).

(David Barclay)

Richard Stoate Esq
Lord Chancellor's Office

CF: pps pcc
Dmb
16/1

Ref. A085/120

MR BARCLAY

Names passed
to Mr Stewart
Dmb
16/1

Prime Minister⁽¹⁾

Agree that we pass the
names in para 5 to the
Lord Chancellor?

Civil Justice Review

Dmb

Thank you for your minute of 10 January.

2. I was not sure whether you wanted me to approach Lord Hunt of Tanworth direct, to see if he would be willing to take this on. It was not clear that discussions with the Lord Chancellor have taken the matter that far. If you think they have, and you would like me to approach Lord Hunt, I should be very happy to do so.

I will find out what the Lord Chancellor would prefer.

3. I think that he may be reluctant to take on anything more. My understanding is that he is to take over from Lord Carr as Chairman of the Prudential Assurance Company plc later this year, and I imagine that that will constitute something of an addition to his workload. But it might nonetheless be worth asking.

4. As to the other names in your list, I wonder if Dr Butterworth (at very nearly 65) is a little old to take on a review which could last for some years. But, like Lord Hunt (who is also 65), he seems to be full of vigour. My impression is that Sir Maurice Hodgson is doing as much as he wants to do; and I believe that his eyesight is increasingly a problem. Sir Christophor Laidlaw would do the job energetically. I wonder whether he would be a little too impatient for something of this kind. I do not know what Mr Lord is doing, now that he has left Dunlop. Either he or Sir Anthony Rawlinson would do this review well. It seems likely that Sir Anthony Rawlinson will accept the Home Secretary's invitation to become Chairman of the Gaming Board, but that will only take up two-and-a-half days a week, and he should therefore have time to do other work. I am afraid that I do not know Sir Anthony Touche sufficiently well to comment on his suitability.



5. Of the characters so far listed, I think that Dr Butterworth, Lord Hunt of Tanworth, Mr Lord and Sir Anthony Rawlinson would be my short list.

6. The only other name which I have thought of is that of Lord Richardson of Duntisbourne, who was of course a barrister before he became a banker. He will be 70 towards the end of this year, but still seems to be in very complete possession of all his energies and faculties. On the other hand he has plenty on his plate, and is tending to refuse new invitations.

RA

ROBERT ARMSTRONG

14 January 1985

Legal Procedure : Civil Justice Revised : Dec '84



COMMISSIONER

Enclosed:

JD2ABJ

JD2ABI

Ld.Ch.min to PM of 10/12



10 DOWNING STREET

From the Private Secretary

Mr. Hatfield

Civil Justice Review

I enclose for information copies of correspondence with the Lord Chancellor's Office about the proposed review of the business of the civil courts.

As you will see, the Prime Minister was unhappy with the Lord Chancellor's suggestion that Sir Kenneth Clucas might be invited to chair the outside advisory committee. She wondered whether Lord Hunt of Tanworth might be preferable, and the Lord Chancellor appeared to welcome this idea.

After the meeting, the Prime Minister suggested several further names for consideration. These were:-

Dr. Jack Butterworth
Sir Anthony Touche
Sir Anthony Rawlinson
Sir Maurice Hodgson
Sir Christophor Laidlaw
Mr. Alan Lord

I should be grateful if you could let me know Sir Robert's views on these possibilities as soon as possible. Could you also please ascertain Lord Hunt's likely availability, and include any other suggestions that may commend themselves.

David Barclay

10 January, 1985.

APPOINTMENTS IN CONFIDENCE

do
[scribble]

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10 DOWNING STREET

From the Private Secretary

10 January, 1985.

Dear Richard,

Civil Justice Review

The Lord Chancellor came to see the Prime Minister this afternoon to discuss his minute to her of 10 December, 1984, in which he set out proposals for a review of the business of the civil courts.

The Prime Minister said that she had two main worries about the Lord Chancellor's proposals. First, the timescale seemed rather extended, with no possibility of legislation in the present Parliament. Secondly, she doubted whether Sir Kenneth Clucas would make a suitable Chairman for the proposed advisory committee.

The Lord Chancellor said that he believed that both the Prime Minister's concerns should be met. He had been giving further thought to the timescale for the review. There were five subjects to cover, but some of them could be progressed simultaneously. Thus, he thought it would be possible to bring forward recommendations on personal injuries and on small claims by the end of 1986. Recommendations on the other three areas would follow by the end of 1987.

As regards the chairmanship of the advisory committee, the Lord Chancellor accepted the Prime Minister's view of Sir Kenneth Clucas, whom he did not know personally. He was very willing to consider alternative candidates.

The Lord Chancellor stressed that the review would be directed primarily at procedure and at the management of civil court business, rather than at the substantive law. He hoped that any necessary changes could therefore be made without legislation, by amending the Rules of the Supreme Court. The real obstacle to progress was likely to prove the innate conservatism of the legal profession. For that reason, he thought it preferable not to have a lawyer as chairman of the advisory committee. The Prime Minister agreed, and commented that it would also be important to find someone who would be regarded as independent of the Government.

Summing up the discussion, the Prime Minister said that she would be content for the Lord Chancellor to proceed with the review on the revised timescale he had proposed, and

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CONFIDENTIAL

- 2 -

subject to any necessary further consultation with colleagues. The question of the chairmanship remained to be settled, and she would herself give thought to possible names.

Yours ever,
David

David Barclay

Richard Stoate, Esq.,
Lord Chancellor's Office.

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COVERING CONFIDENTIAL



10 DOWNING STREET

From the Private Secretary

10 January, 1985.

Dear Richard,

I enclose a letter recording the Lord Chancellor's discussion with the Prime Minister today about the civil justice review.

You will see from the last paragraph that the Prime Minister undertook to give further consideration to possible chairmen of the advisory committee. Her main suggestion at the meeting was Lord Hunt of Tanworth. The Lord Chancellor reacted favourably to this possibility. I am in touch with Sir Robert Armstrong about his availability, and about other possible candidates.

I will let you have the resulting names, and the Prime Minister's views on them, as soon as possible.

Yours ever,
David

David Barclay

Richard Stoate, Esq.,
Lord Chancellor's Office.

COVERING CONFIDENTIAL

ls

PRIME MINISTER

Meeting with the Lord Chancellor: Civil Justice
Review

You had considerable reservations about the Lord Chancellor's proposals for a review of the business of the civil courts. These were set out at some length in his minute of 10 December which I attach (Flag A) together with comments from the Policy Unit (Flag B).

I think your main concerns were:

- (i) the proposed timescale - a review lasting until 1987 with no legislation before the next Parliament;
- (ii) the extent to which the Lord Chancellor proposes to retain personal control of what would normally be an independent enquiry;
- (iii) his suggestion that the Chairman might be Sir Kenneth Clucas.

Duty Clerk
pp DMB.

9 January 1985

CONFIDENTIAL



huc

KAMASL

10 DOWNING STREET

13 December, 1984

From the Private Secretary

CIVIL JUSTICE REVIEW

The Prime Minister was grateful to the Lord Chancellor for his minute of 10 December conveying his proposals for a fundamental review of the business of the civil courts.

The Prime Minister welcomes the Lord Chancellor's intention to conduct such a review, but she is not persuaded that his detailed proposals necessarily offer the most effective or appropriate way of carrying it forward. She is concerned in particular about the proposed timescale, and about the Lord Chancellor's suggestion that Sir Kenneth Clucas might be invited to chair the outside advisory committee. The Prime Minister doubts whether Sir Kenneth has the appropriate background and experience for this particular role.

I am sending a copy of this letter to Richard Hatfield (Cabinet Office).

(David Barclay)

R. Stoate, Esq.,
Lord Chancellor's Office.

CONFIDENTIAL

cc



10 DOWNING STREET

Capstone

Could you please find $\frac{1}{2}$ hr
for the Lord Chancellor to
come in and talk about
this in January?

CR.
arranged for
10/1/85. at 17.00.

CR
14/12. 12/12

RESTRICTED

Prime Minister (1)

B

Agree Policy Unit
Recommendation?

PRIME MINISTER

Concerned about this

11 December 1984

DMB

11/12

I do not think we can review this

CIVIL JUSTICE REVIEW

issue in this way

The Lord Chancellor's proposal to attack delay, cost and complexity in civil litigation is likely, in his view, to take until the end of the Parliament and is likely to produce legislation in the next Parliament. The review will impress the public more if it practised the speed that it will advocate for others. A proposal to review this area was overdue in 1979 when the Royal Commission reported. The Commission (attached) recommended on page 308 R 22.3: "a sustained effort is required to reduce the length of all legal proceedings". The proposed statement of the Lord Chancellor is so late and so slow in its charted course that the press are likely to interpret the proposed announcement as tantamount to doing nothing and an indictment on a Government that flies the flag of efficiency.

We recommend a much tighter schedule for this review. It should be possible to obtain the relevant evidence in 9-12 months and if the suggested committee members were persuaded to attend frequently they should be able to decide on their proposals in a further 9-12 months. At the very least if the Lord Chancellor proceeds on a "rolling programme" certain improvements should be achievable in the lifetime of this Parliament and the announcement should set out this aim.


Hartley Booth

HARTLEY BOOTH

RESTRICTED

ew
13

Prime Minister



Civil Justice Review

1. I propose very shortly to announce my full plans for the conduct of a fundamental review of the business of the civil courts which will involve a thorough examination of the civil courts system and the way cases are handled in it. The object will be to attack the long-standing evils of delay, cost and complexity in civil litigation. Every aspect of the system - jurisdiction, administration and procedure - will be subject to scrutiny, and nothing in present arrangements for handling civil business will be immune from the possibility of radical reform. It is the sort of inquiry which formerly would have been the subject of a Royal Commission. I intend, however, that control of the programme shall remain with me, drawing upon such external, expert help as I consider suitable.

2. An essential feature of the review, to take place before detailed discussion of possible reform begins, will be a stage of systematic fact-finding designed to establish precisely what happens to cases going through the courts and to be conducted by business consultants commissioned by my Department. This approach will provide a greater measure of detachment and objectivity than previous inquiries into civil procedure and this in turn will increase the likelihood of bringing about effective change. The thorough and detailed work which the review involves is likely to take until the end of this Parliament to complete, with legislation early in the next Parliament.

3. I have decided that it will be necessary to set up a small advisory committee to assist the review. My original intention had been to operate without such a body and I remain determined not to hand the review over to an outside commission. I have to recognise however that this is not a field in which effective reform can be achieved without an outside element being involved,
/a matter which

a matter which was, together with attendant publicity, strongly pressed on me at a Law Commission seminar in September. I have concluded that the advisory body I now propose is a modest price to pay for avoiding a more cumbersome and less controllable body such as a Royal Commission, particularly as I firmly intend to ensure that day-by-day direction remains with me.

4. The task of the advisory committee will be to comment on proposals put forward by the Department or the consultants both as to working methods and recommendations for change. The committee will have no executive functions and no responsibility for the expenditure of public money. In particular, it will not be concerned with the level of lawyers' remuneration. The three-fold structure I have in mind - direction by my Department; business consultants to find facts; outside committee to advise - has been put to colleagues on H Committee without objection having been raised. (The deadline for responses is tonight and any late comments will of course be reported to your office.)

5. There will be ten members on the committee, including the chairman. One of these will be a first-class commercial judge and I have Mustill in mind whom you recently decided should go to the Court of Appeal. There will also be a practising barrister and a practising solicitor, both chosen by me rather than nominated by their professional bodies. The other members will be drawn from the fields of finance and industry (one will be Sir Kenneth Bond, the Deputy Managing Director of GEC) and from those who can reasonably be said to speak for lay interests in litigation. I shall also include a member with experience in court management in Australia and the U.S.A.

6. I have looked for a chairman of standing and experience in a non-legal field and I have trawled widely in the areas of commerce, industry, finance and the public service, working very closely all the time with the Public Appointments Unit in the Cabinet Office. Those I have approached have included

/Sir Kenneth Bond,

Sir Kenneth Bond, Sir Adrian Cadbury, Mr. John Raisman (Managing Director of Shell U.K. Limited) and Sir Robert Clark (Chairman of Hill Samuel). There was a considerable degree of interest in the work, but in the end all those I have mentioned declined to serve, with the exception of Bond, who indicated that he would prefer to serve as a member of the committee. I was disappointed when the last of this group of candidates withdrew on Friday, leaving me with only one name.

7. The remaining candidate is Sir Kenneth Clucas who was Permanent Secretary at the Department of Trade until 1981. I have no doubt that he would be very effective in obtaining good results from the mixed committee I have in mind and that he is also well qualified, without being a lawyer, to understand the business of the review. (He is a member of the Council on Tribunals and is now Chairman of the National Association of Citizens Advice Bureaux).

8. While I certainly did not set out with the object in mind of appointing a former civil servant - rather the contrary - I do not think that Clucas's former status rules him out. I must, moreover, have regard to the pressure of events. It is now just over a year since I originally announced the review (as part of the Government Response to the Royal Commission on Legal Services, which reported in 1979). If I delay any longer in making a full announcement the Government's willingness and competence to get on with this important job are likely to be brought into question. I am also concerned that news of my plans could be released at any time by one or other of the persons and agencies I have had to consult in the course of recruiting a committee and a chairman, and such a leak could notably weaken the authority of the exercise as a whole. Even another month's delay in finding a chairman involves a degree of risk which I ought, if at all possible, to avoid.

/The balance

9. The balance of advantage, in my view, lies in making an appointment now if I can. Clucas will certainly be a good chairman and, subject to your views, I would propose to appoint him for a term of three years. I should add that Sir Robert Armstrong has been consulted and that he is content that your approval be sought for the appointment of Clucas.

No 10. If you agree, it will be possible for me to announce full details of the review to Parliament before the Recess. I will, of course, clear a draft of what I propose to say with your office.

H: of Sr M
16 Dec 84



IT8.7/2-1993

2009:02

Image
Access

IT-8 Target

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