PREM 19/2748

MT

PART TWO

Confidential Filing.

De Lorean Sports Car Project.

IRELAND.

Part 1: July 1980

Part 2: June 1986

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~13.6.86~~							
~~20.6.86~~							
~~8.7.86~~							
~~5.3.87~~							
~~23.12.88~~							
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~~16.10.89~~							
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~~23.2.90~~							
~~16.3.90~~							
~~29.10.91~~							
~~31.10.91~~							
20.1.92							

PREM 19/2748

NOTE FOR TOP OF THE FILE

The original copies of flags A - C are held by Political Office.

Tony

3.1.89.

Andrew

De Lorean

With reference to the attached papers, the piece of briefing dated 21 October 1982 appears not to have been raised in the House and we therefore do not have any papers relating to it.

The question and answer to Harry Greenway on 23 November was answered (copy attached).

Highlighted on the attached POLIS print out are 3 questions that were answered by the Prime Minister on De Lorean, 2 of which were prior to 1985. Do you require any further information on these?

AAS

Roy

27.2.92

Andrew Folders attached

Roy. AAS

Can you see if we still have any briefing on the Questions to be undisclosed to be Lawyers

AF

27/2

DRAFT

(46)

PRIME MINISTER'S QUESTIONS: THURSDAY 21 OCTOBER 1982

DE LOREAN

Line to Take

As my Rt Hon Friend the Secretary of State for Northern Ireland said yesterday the Government greatly regrets that, despite the exhaustive efforts of the Receivers, it has not proved possible to find a way of continuing the business at Dunmurry.

Supplementary Questions and Answers

Q Was the Government aware of Mr De Lorean's impending arrest and did this influence yesterday's decision to close the plant?

A. The decision to run down the plant was based solely on commercial judgment. De Lorean was unable to demonstrate the availability of money, having been given successive opportunities to do so by the Receivers. It would not be right to comment on the Government's knowledge of matters under investigation in another country.

Q Does the arrest of Mr De Lorean not prove what many people have been saying all along - that the Government has been dealing with a crook?

A The hon Member will not expect me to comment on a matter that is now sub judice in the United States.

Q A large amount of taxpayers' money has been lost in the De Lorean collapse. Will the Government be holding an inquiry into its dealings with Mr De Lorean and what lessons will it learn from this experience?

1027043

NIO.L.

A The Government will of course consider what lessons can be learnt from this affair but I do not want to comment further at present. With the benefit of hindsight it would appear the project was over-ambitious: one of the major factors behind its failure was that the original sales targets were over-optimistic.

Q Is there any hope at all that the factory will re-open?

A The factory is in its final run-down. If any realistic possibility should later arise of a new investor re-opening it, the Government will, of course, be anxious to help.

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NIO.L.

E.R.

Background Note

1 The joint Receivers and Managers of De Lorean Motor Cars Ltd (in Receivership), Sir Kenneth Cork and Mr Paul Shewell, met the Unions on Tuesday (19 October) afternoon to announce that there was no alternative but to allow the operation to close. Since the onset of the Receivership in February the Receivers have been discussing possible investments in the De Lorean Co with a number of interests. Discussions with a group of investors, for which Mr De Lorean was acting as spokesman, have been going on since early August. A detailed proposal, unsupported by finance, was put by Mr De Lorean to the Receivers in early September, since then the Receivers have been trying to establish the availability of finance to support these proposals. On each occasion on which they sought verification the answer was that the funds would be available "within a few days". Mr De Lorean failed to meet the final deadline at 10.00 pm on Monday for producing evidence of his ability to raise the necessary finance. A copy of a press release by the Secretary of State for Northern Ireland, regretting this outcome to the receivership is attached.

2 It has been announced this morning that Mr De Lorean and two others have been arrested in California on charges of conspiring to sell drugs. It appears the US Authorities have been investigating this matter for some months. There has inevitably been considerable press speculation that the Government was tipped off about the impending arrest and that the timing of the closure decision was no coincidence. The line taken by the Northern Ireland Office on the arrest is that this is something which happened outside the jurisdiction on which they have no comment. As far as the De Lorean

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( ) business in Belfast is concerned the decision to run it down was taken on the commercial grounds that no funds had been made availabl to keep it running.

[NOT FOR DISCLOSURE]

3 For the PM's information. The Secretary of State for Northern Ireland has been aware for the last few days of the possibility of Mr De Lorean being arrested. Notwithstanding this, the final decision to run down the plant was based on the inability of Mr De Lorean and his colleagues to produce funds to support their bid.

NIO.L.

Covering CONFIDENTIAL

FILE

22/308/21

E.R.

MR WAGHORN

cc PS/S of S (L&B) M
PS/Mr Butler (L&B) M
PS/PUS (L&B) M
Mr Bennan
Mr Alexander

DE LOREAN: PQ TO THE PRIME MINISTER -
23 NOVEMBER

Your minute of today's date refers. I am attaching a draft reply and background note to the question by Mr Greenway MP.

I M BURNS
22 November 1982

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PRIORITY WRITTEN QUESTION FOR ANSWER BY THE PRIME MINISTER ON TUESDAY 23 NOVEMBER

MR HARRY GREENWAY (EALING NORTH): To ask the Prime Minister, when she expects the Chief Constable of the Royal Ulster Constabulary to complete his consideration of the matters relating to the conduct of the de Lorean business, referred to in the Answer by the Minister of State in the Northern Ireland Office to the honourable Member for Newbury on 19th November.

DRAFT REPLY (The Prime Minister):

It is for the Chief Constable of the Royal Ulster Constabulary to consider the nature and extent of any enquiries which should be pursued into the matters relating to the conduct of the De Lorean companies which were recently referred to him. It is impossible to forecast how long these inquiries will take but I am confident that they will be pursued expeditiously.

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BACKGROUND NOTE

DE LOREAN MOTOR CARS LIMITED (DMCL)

1002614

1 On 19 January 1982 the Minister of State at the Northern Ireland Office with responsibility for Industrial affairs (Mr Butler) informed the House that a major review of the Government's relationship with the De Lorean companies was being arranged. This assessment was carried out by Coopers and Lybrand and Sir Kenneth Cork acted as a special adviser to Government.

Sir K Cork and Coopers and Lybrand reported to Government on 11 and 12 February 1982. They recommended that no further public funds should be made available to the De Lorean project and at the request of the directors joint receivers (Sir K Cork and Mr P F N Shawell) were appointed on 19 February 1982 to De Lorean Motor Cars Limited by the Department of Commerce, as debenture holder.

2 The Coopers and Lybrand report of 11/12 February summarised the results of their investigation into the affairs of the De Lorean companies and pointed to a number of areas which required further enquires to be made. These enquiries were pursued by the joint receivers and in a report dated 15 November 1982 (which was received by the Industrial Development Board on 17 November 1982) a number of points arising from these further enquiries were summarised.

3 There has for some time been speculation about the nature of a contract which DMCL and the De Lorean Research Limited Partnership (DRLP) (a US based Partnership of investors) plac ed with GPD services Inc, a Panamanian registered company with an office and bank account in Switzerland. Under this contract both DMCL and DRLP made payments to GPD Services Inc. for further development work on the sports car to bring it to pilot production readiness. The report from the Receivers indicates that there are doubts about what was actually required in

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return for these payments and about the distribution of proceeds received by GPD Services Inc. The joint Receivers reported on the nature of further inquiries into this and other matters which their investigations had highlighted, but commented that in their opinion the police were the only people with the necessary powers and facilities to carry out a (full) investigation. Accordingly the reports of Cooper and Lybrand of 11/12 February 1982 and of the Receivers dated 15 November 1982 were conveyed to the Chief Constable of the Royal Ulster Constabulary on 18 November 1982 with a formal request that he should consider what enquiries should be made into the matters raised.

4 The matters raised by the Receivers were discussed informally with the Director of Public Prosecutions for Northern Ireland and a senior police officer on 18 November before the formal request to the Chief Constable was made. The DPP felt that it would not be proper on the basis of the evidence which was available for him to make a statutory request for an investigation by the RUC but that the papers should be referred to the Chief Constable to enable preliminary enquiries to be pursued. When this phase was completed the Police would consult the DPP about any matters uncovered by the enquiries which seemed to require further detailed investigation or to seek his agreement that it was unlikely that a detailed investigation would uncover evidence of criminal matters which could be successfully prosecuted. It was difficult to give any precise estimate of the time required for the preliminary enquiries to be completed but the police estimate was three months.

1002615

5 The Public Accounts Committee was due to commence its hearing of evidence on the De Lorean companies from officials on 22 November but

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in the light of the announcement of Police enquiries postponed this hearing. The Committee will decide however at its meeting on 22 November whether or not to proceed with its enquiry.

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AN192

committee on nutrition education (JACNE) of the British Nutrition Foundation and the Health Education Council has been asked to translate the scientific advice contained in the report into practical dietary guidance, in the first instance for the public. The application of this guidance to schools, in terms of classroom material and in other ways, is under consideration.

Discussions are taking place between Government Departments and the food industry on the fat content labelling of food, in an informal working group which was set up before the report was published. The various sectors of the food industry are also being asked to consider the possibilities for the reformulation of foods so as to reduce fat and salt content. Ways of encouraging the production of leaner carcases in sheep, cattle and pigs are also under consideration.

The report's recommendations for changes in the common agricultural policy will be borne in mind in our negotiations with our European partners. The Department of Health is considering how best to take forward the report's recommendations about those at increased risk of cardiovascular disease and research into simpler and cheaper methods of measuring blood lipids.

De Lorean Motor Cars Ltd.

Mr. Latham asked the Prime Minister whether any of the public officials closely involved in the monitoring of expenditure of De Lorean Motor Cars Ltd. are still responsible for approving finance for industrial projects in Northern Ireland; and whether she will make a statement.

The Prime Minister: I understand that of the officials closely involved in the monitoring of De Lorean Motor Cars Ltd. between 1978 and 1982, two currently have a responsibility for approving finance for industrial projects in Northern Ireland. I have nothing to add to the Department of Finance and Personnel memorandum of 24 October 1984 on the 25th report from the Committee of Public Accounts. (Cmnd. 9374)

Mr. Latham asked the Prime Minister how many civil servants or other public officials have been *(a)* reprimanded, *(b)* retired on grounds of limited efficiency or *(c)* otherwise disciplined as a result of the failure of De Lorean Motor Cars Ltd.; and whether she will make a statement.

The Prime Minister: None. I have nothing to add to the Department of Finance and Personnel memorandum of 24 October 1984 on the 25th report from the Committee of Public Accounts. (Cmnd. 9374)

Ethiopia

Mr. Parry asked the Prime Minister what recent representations she has received concerning the famine in Ethiopia; and if she will make a statement.

The Prime Minister: I have received approximately 2,500 such representations. My right hon. Friend the Minister for Overseas Development made a statement to the House on this matter earlier today.

HOME DEPARTMENT

Child Prostitution

Mr. Greenway asked the Secretary of State for the Home Department if he is satisfied with the effectiveness of the law relating to child prostitution; what surveys or other evidence is available to him on this subject; and if he will make a statement.

Mr. Mellor: We have not set up any special study of child prostitution, but have taken note of published material on the subject from other sources.

The Criminal Law Revision Committee, with the assistance of a policy advisory committee including members from the police and from the medical, teaching and social work professions, has been engaged on a comprehensive review of the law relating to prostitution, and has received evidence from a wide range of bodies, of which the CLRC's report, now in course of preparation, will no doubt take full account. In its report on sexual offences, published in April, the CLRC recommended increased penalties for certain sexual offences involving children.

Subject to consideration of the CLRC's recommendations, we believe that the existing law relating to child prostitution is generally adequate. It includes provisions prohibiting the procurement of a girl under the age of 21 for the purpose of unlawful sexual intercourse in any part of the world with a third person, and prohibiting sexual intercourse with those below the age of consent, and the exploitation of children for the purposes of pornography. There are inevitably difficulties in enforcing the law where the children are themselves unwilling or unable to seek the protection of the police or other social agencies.

Prison Rules

Mr. Kilroy-Silk asked the Secretary of State for the Home Department what is the timetable for the revision of the prison rules announced in the debate on prison education on 4 July.

Mr. Mellor: The revision of the prison rules represents a very substantial task and we are not able to make a more precise commitment about it at the moment.

Police Officers (Identification)

Mr. Deakins asked the Secretary of State for the Home Department what guidance has been given to chief constables regarding the covering by police officers of the personal identifications on their uniforms; if he will call for reports from each chief constable as to the circumstances and extent to which uniformed officers have operated without such identification during the current miners' dispute; and if he will make a statement.

Mr. Giles Shaw: It is the policy of the Department and the Association of Chief Police Officers (ACPO) that means of personal identification should be worn by uniformed officers whenever they are on duty, including public order duty. ACPO has recently written to all chief constables reminding them of the association's policy and my right hon. and learned Friend has asked HM inspectors of constabulary to pay special attention to this matter in the course of their annual inspections.

Telvision Licensing Records (Personal Information)

Mr. Cohen asked the Secretary of State for the Home Department for what purpose his Department receives personal information from the television licensing records from the computer system of the Broadcasting Receiving

Tuesday 30 October 1984

(Answered by the Prime Minister on Tuesday 30 October 1984)

UNSTARRED No. 53 (W) Mr Michael Latham: To ask the Prime Minister, whether any of the public officials closely involved in the monitoring of expenditure of De Lorean Motor Cars Ltd, are still responsible for approving finance for industrial projects in Northern Ireland; and whether she will make a statement.

I understand that of the officials closely involved in the monitoring of De Lorean Motor Cars Ltd between 1978 and 1982, two currently have a responsibility for approving finance for industrial projects in Northern Ireland. I have nothing to add to the Department of Finance and Personnel Memorandum of 24 October 1984 on the 25th Report from the Committee of Public Accounts. (Cmnd 9374)

Tuesday 30 October 1984

(Answered by the Prime Minister on Tuesday 30 October 1984)

UNSTARRED No. 54 (W)

Mr Michael Latham: To ask the Prime Minister, how many civil servants or other public officials have been; (a) reprimanded, (b) retired on grounds of limited efficiency or (c) otherwise disciplined as a result of the failure of De Lorean Motor Cars Ltd; and whether she will make a statement.

None. I have nothing to add to the Department of Finance and Personnel Memorandum of 24 October 1984 on the 25th Report from the Committee of Public Accounts. (Cmnd 9374)

E.R.

Background Note

Mr Latham is a member of the Committee of Public Accounts which published its Report on Financial Assistance to De Lorean Motor Cars Ltd (DMCL) on 18 July 1984. He has recently exchanged letters with the Prime Minister about the Report. During Business Questions on 25 October he sought an assurance that the Leader of the House will give early priority to a full debate on PAC's Report and the Memorandum of Response published on 24 October. Mr Latham's Questions were put down following publication of the Response.

\t 'B' & 'C'

\t 'D' & 'E'

\t 'A'

The PAC Report

The two main areas addressed by PAC are noted at para. 40 of the Report. The first concerns the initial decision. The Report's conclusion is that the prospect of creating a large number of jobs in West Belfast proved so irresistible that it diminished sensitivity to the commercial risks involved and this impaired the judgement of those concerned and led to a totally wrong decision. Para 7 of the Report describes the De Lorean project as one of the gravest cases of the misuse of public resources to have come before PAC for many years.

The second area of PAC's examination concerned the actions taken by the then Department of Commerce and the former Northern Ireland Development Agency during the life of the project. PAC suggest that officials placed too much reliance on the abilities of the non-executive nominee directors appointed to the Boards of DMCL and the American company De Lorean Motor Cars. Officials and the nominee directors are heavily criticised for the arrangements made between DMCL and Lotus Cars via the off-shore company GPD operating in Switzerland which resulted in the undetected misappropriation of over $17M. (Paragraph 78). There is also criticism in respect of unsecured and credit free

/...

loans (para 82) and the contractual arrangements with the De Lorean Companies (para 53). There is also implied criticism of Ministers (para 6). The Committee reported that in its view hardly any of those at a senior level who dealt with Mr De Lorean on behalf of the British tax payer can escape substantial blame or criticism.

Memorandum of Reply prepared by the Department of Finance and Personnel

The Memorandum records that the decision to fund the De Lorean project was a matter of policy by the then Government - that policy has now changed and a project such as De Lorean would not be supported. It acknowledges that whilst extensive arrangements were made for monitoring in the event they failed to detect the misappropriation of public funds made available to the company. However the Memorandum fully recognises a large number of important lessons to be learnt from the project and notes that formal and comprehensive guidance has now been issued to nominee directors. The Memorandum records that officials who were concerned with the De Lorean project were also responsible for negotiating American job creating projects for Northern Ireland which have resulted in over 2,300 jobs.

Question 261

It was formally agreed at the start of the De Lorean project between the then Minister (Mr Concannon) and the Chairman of the Northern Ireland Development Agency (Mr Faulkner) that the Agency would be responsible for monitoring the progress of the project. Mr Latham's question can be legitimately regarded as relating to the functions of the Agency. The functions of the Agency, together with most of its staff, were transferred to the newly formed Department of Economic Development in September 1982 (ie after the collapse of the De Lorean project). Amongst the staff who transferred and who currently have a responsibility for approving finance for industrial projects in NI are 2 who were closely involved in the monitoring of the De Lorean project.

Question 262

Earlier this year, Mr Prior considered whether he should initiate disciplinary enquiries. On the basis of the evidence available as to the history of the project and conduct of officials he decided there was no particular action he wished to set in hand.

MC 9063

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PRIVATE OFFICE

PS/SofS (L+B)
PS/Dr Boyson (L+B)
PS/Sir Ewart Bell
Dr Quigley
Mr Bloomfield
Mr Tate
Mr Burns
~~Mr Coode-Adams~~
Mrs Newman
Mr Coldwell IDB

10 DOWNING STREET

THE PRIME MINISTER

15 October 1984

Mr Newman

Dear Richard.

Thank you for your letter of 17 September drawing to my attention your fear that there is a growing cynicism in some quarters about the determination of the Government to take appropriate action in the light of the findings of the PAC about the De Lorean affair.

I would wish first to assure you as a member of the PAC that the Committee's findings are regarded with the utmost seriousness by Government. The Committee's work demonstrated beyond question that in this case the arrangements for monitoring the development of the project were not sufficiently robust to bring to light any acts of criminality which may have been taking place. Every effort will continue to be made to recover funds due to creditors and to bring to book anyone who may have committed a criminal offence. In this context, the Joint Receivers appointed by Government have been pursuing their enquiries vigorously. In addition, other steps are in hand, both here and abroad, to pursue Government's interest in this matter.

It is no less important that future arrangements for assessing large high-risk projects should be tightened up to minimise the prospect of any repetition of the circumstances of this case. The PAC Report identifies a number of areas where lessons have been learned, and I understand that steps have been taken already on several of these, including

clarification of the role and responsibilities of Government nominee directors, a matter which caused the Committee some concern and which, I understand, the Committee may examine further.

The Government's formal response to the PAC Report is being prepared by the Department of Finance and Personnel in Northern Ireland. You will want to look at this carefully. Both Douglas Hurd and I are clear that the lessons from the De Lorean affair must be carefully learned and thoroughly applied.

Yours

Margaret

Michael Latham, Esq., MP.

FROM: MICHAEL LATHAM M.P. (RUTLAND & MELTON)

cc: Mr. Alison (19/9

Add'd (19/9)

HOUSE OF COMMONS
LONDON SW1A 0AA

17th September, 1984.

Dear Prime Minister,

The De Lorean Motor Company

I am sure you will have seen the Report of the Public Accounts Committee regarding the De Lorean affair. I am a member of that Committee and was involved throughout in the particular Enquiry and the drafting of the Report.

The Treasury will, of course, be replying to the Report in due course, and it is not about that which I am writing to you. I would not expect you to anticipate their findings and response to the Committee.

Since the Report appeared, I have done a number of interviews and letters to the newspapers. I have been dismayed, both from comments written in the newspapers by highly knowledgeable people, such as Jock Bruce-Gardyne and Ivan Fallon, and also by letters which I have received from creditors of the De Lorean Motor Car Company who have been left without any financial redress, at the high level of cynicism which has followed the Report of the Committee. While that Report was critical and outspoken, the feeling expressed in public articles by the two journalists and also in letters to me was that nothing would, in practice, happen and certainly no heads would roll. The fact that Mr. De Lorean had wasted over £70,000,000 of taxpayers' money and that several million pounds had actually been misappropriated ought to be enough to ensure that senior officials who were responsible for monitoring this disastrous situation should be called to account. There is also the question of ministerial responsibility, though I appreciate that most of the ministers involved have left office. What has worried me is the explicit cynicism of my correspondents to the effect that nothing would happen because this disastrous situation happened under governments of both main political parties and that there would be a vested interest in ensuring that it was just shrugged off.

I would suggest to you that the public would find it hard to understand if the net result of such a critical Report was that nobody was considered to be blameworthy and the affair was regarded as an unfortunate closed book. If this were to be the case, it would suggest that the public's cynicism had some degree of justification, which, I cannot believe, would be your intention.

Yours sincerely,

Michael Latham

The Rt. Hon. Margaret Thatcher, M.P.,
10 Downing Street,
LONDON, S.W.1.

IN CONFIDENCE

file KB
c. Jenkin

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBIN BUTLER

LORD JENKIN AND DE LOREAN

The Prime Minister was most grateful for your minute of 30 January. She was very interested to learn the history of this case and was pleased that a satisfactory outcome had been achieved.

ANDREW TURNBULL

31 January 1990

KB

Prime Minister
Very interesting and a happy ending!
AT 30/1

Ref. A090/258

MR TURNBULL

Lord Jenkin and De Lorean

You will remember that I mentioned to the Prime Minister that some of us had been surprised when Lord Jenkin called on the Secretary of State for Northern Ireland on behalf of Arthur Andersen and had made presentations about HMG's continuing legal action against Arthur Andersen in relation to De Lorean, in view of the fact that he had been a member of the Cabinet (and for part of the time Secretary of State for Trade and Industry) during much of the period to which the proceedings related. The Prime Minister agreed that I should see Lord Jenkin and draw his attention to the potential conflict of interest.

2. I was subsequently reinforced when there was brought to my attention a minute of 24 October 1985 from Sir Robert Armstrong to Mr Wicks which reported that Lord Jenkin had consulted my predecessor about the propriety of his joining Arthur Andersen and had received advice that there was no objection to this provided that he concerned himself entirely with Arthur Andersen's management consultancy activities and not with its audit activities!

3. When I saw Lord Jenkin, he too had clearly been refreshing his mind about the papers and acknowledged that, when he was originally invited to join Arthur Andersen, he was given an assurance that no attempt would be made to involve him in this litigation. He acknowledged that, with hindsight, it would have been better for him not to act for Arthur Andersen in this respect, but he had been concerned that the litigation might be continuing out of sight of Ministers and he had therefore wanted to make sure that the Government at the highest level was aware

of the sort of embarrassments over disclosure and the calling of witnesses to which it might lead. But he recognised the potential conflict of interest and, having performed this one function, he agreed that it was better that he did not involve himself any further.

4. Lord Jenkin was very good natured about the whole matter: it was clear that, as the Prime Minister surmised, he simply had not thought through the implications of his involvement.

5. I have informed the Northern Ireland Office and the DTI.

R.E.R.B.

ROBIN BUTLER

30 January 1990

MINISTERS: Owson Wenesta AC

PM 9 0
10.01.



FLAG A

CONFIDENTIAL

CC BCUP

Ref. A090/80

MR TURNBULL

Lord Jenkin of Roding

Sir Robin Butler wishes to raise with the Prime Minister tomorrow the question of Lord Jenkin's position as an adviser to Arthur Andersen in relation to the De Lorean litigation.

--- 2. As background, I attach a copy of a letter from Arthur Andersen to Sir Robin, attaching a paper which Lord Jenkin passed to the Secretary of State for Northern Ireland at a recent meeting.

Sonia Phippard

MISS S C PHIPPARD

10 January 1990

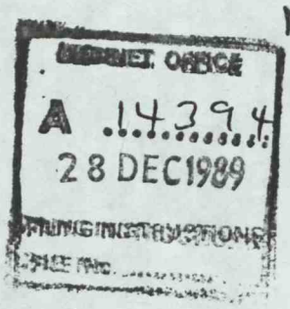
Note.
PM spoke to FERB. Agreed that Lord Jenkin was wrong to involve himself so closely in the matter as it was against a Govt of which he was a member during the events concerned. He was seeking disclosure of minutes of Cab in which he served. Agreed FERB would speak to him.

AT 11/1

CONFIDENTIAL

C - Mr Wilson
Mr Taylor
Mr Andrews
Mr Davis
NLD

3/1



Arthur Andersen & Co.

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Telephone: 01-836 1200 Direct Line: 438-3562
Telex: 8812711 Facsimile: 01-831 1133

Our Ref 2465/kb
Your Ref

We have already seen this via NIO. Mr Wilson has no comments.

SLP 3/1

22 December 1989

Sir Robin Butler, KCB., CVO.,
Secretary of The Cabinet and Head of
The Home Civil Service,
Cabinet Office,
70 Whitehall,
London SW1A 2AS

NLD

Dear Sir Robin,

De Lorean

At a meeting between our adviser, Lord Jenkin of Roding, and the Secretary of State for Northern Ireland, which took place on 15 December, a memorandum was left with the Secretary of State which records the views of this Firm about certain aspects of the De Lorean Litigation. In the course of the discussion it was indicated that a copy would be passed to you in your official capacity and the Secretary of State raised no objection.

We therefore enclose a copy of the memorandum for you.

Yours sincerely,

Roy J. Chapman

Roy J. Chapman
Managing Partner

Encs;

Offices in: London Birmingham Bristol Cambridge Edinburgh Glasgow Leeds Manchester Nottingham Reading St. Helier
Authorised by the Institute of Chartered Accountants in England and Wales to carry on investment business
A list of partners is available at 1 Surrey Street London WC2R 2PS (principal place of business)
Associated with Arthur Andersen & Co in: Argentina Australia Bahrain Belgium Bermuda Brazil Canada China Colombia Denmark Ecuador Egypt Finland France W. Germany Greece Guatemala Hong Kong India Indonesia Ireland Italy Ivory Coast Japan Jordan Luxembourg Malaysia Mexico The Netherlands Nicaragua Nigeria Norway Oman Peru Philippines Portugal Puerto Rico Saudi Arabia Singapore South Africa South Korea Spain Sweden Switzerland Taiwan Thailand Turkey U.A.E. U.S.A. Venezuela

ARTHUR ANDERSEN & CO.

LITIGATION WITH H.M. GOVERNMENT RELATING TO DELOREAN MOTOR CARS LIMITED

Introduction

1. The purpose of this memorandum is to provide a brief summary of the position in the litigation commenced by the British Government ("HMG") against the Arthur Andersen & Co. firms in the UK, US and Ireland ("Arthur Andersen") arising out of the collapse in 1982 of the DeLorean car project in Northern Ireland.

2. In 1985 the Government commenced proceedings in both the UK and in the US claiming damages arising out of Arthur Andersen's role as auditors of DeLorean Motor Cars Limited (of Northern Ireland) ("DMCL") and DeLorean Motor Company (of the United States) ("DMC"). At present, however, HMG is proceeding only with the US action. Given that the UK aspects of the litigation clearly outweigh the US aspects and the difficulties in pursuing an action in a foreign jurisdiction, this is presumed to be because HMG hopes to be awarded, under the provisions of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), triple damages in the US (a concept which does not exist in the UK). The US litigation is proceeding

extraordinarily slowly, notwithstanding efforts by Arthur Andersen to bring the matter to trial so that the serious issues can be determined and Arthur Andersen's position and professional reputation defended. This delay may be because HMG did not fully appreciate the ramifications of commencing proceedings in the US, including discovery in the US Courts of HMG's documents and witnesses.

3. In any event, Arthur Andersen is convinced that there is no merit to HMG's claims and that these claims will fail. This view, and the views set out below, are fully supported by Arthur Andersen's professional advisers.

Status of the Proceedings Brought by HMG

4. Although three sets of proceedings were commenced by HMG against the Arthur Andersen firms concerning the DeLorean project, only the RICO action brought by HMG through the Department of Economic Development in New York is currently active. The action commenced by HMG in Northern Ireland was discontinued by agreement in 1985 immediately after issue of the Writ, and the action in the UK High Court has been stayed on the application of HMG following closure of pleadings.

5. The major element of HMG's claim is that John DeLorean conceived and executed a fraudulent plan whereby (amongst other things) he converted to his own use approximately $8.5 million which had been provided by investors in the

United States for use in connection with the DeLorean project and which was paid into the Swiss bank account of a Panamanian company located in Geneva called GPD Services, Inc. ("GPD"). HMG claims that such monies were not, in fact, used for the project but were used to assist John DeLorean to acquire the Logan Division of the Thiokol Corporation, and that Arthur Andersen as auditors substantially assisted the fraud by failing to detect and expose it - a claim which is strenuously rejected by Arthur Andersen, who deny any liability whatsoever for HMG's loss of the monies it invested in the project.

6. The New York action has now entered the discovery and deposition stage. Insofar as HMG's documents are concerned, production remains incomplete notwithstanding that Arthur Andersen's document request has been outstanding since September, 1988. HMG has recently provided a list of a large quantity of documents as to which it is asserting various claims of privilege. It is anticipated that during the coming months disputes as to specific document categories will be the subject of applications to Court. Of primary importance are Government documents, such as Cabinet Minutes, which are relevant to the matters in issue and, being governed by the rules of discovery applicable in New York, are under the rules applicable in New York, discoverable and will be publicly disclosed at a trial.

7. The deposition programme has commenced, and it is possible that in excess of 200 witnesses need to be examined. This is likely to take at least the next two years.

The Practical Difficulties Facing HMG

8. It appears that HMG may now be recognising the practical difficulties which arise out of its decision to bring proceedings in the US. These difficulties are additional to and compound HMG's difficulty in establishing its claims.

9. The obligation to disclose documents is very much more extensive in the US than in the UK and extends through to the highest levels of decision-making (e.g. the Cabinet). Therefore, Arthur Andersen are seeking discovery of Cabinet Minutes and similar Government documentation which is not normally disclosable under UK practice. It appears likely that the Court will hold that Crown (or executive) privilege, public interest immunity, etc., even if applicable, were waived by HMG by the filing of the action in New York.

10. HMG's obligation to make witnesses available to give depositions is also clear under U.S. law. For example, Nicholas Winterton M.P. has stated that in 1981 he met with Mrs. Thatcher to draw her attention to allegations of wrongdoing at DMC - allegations which HMG did not

seriously investigate. Given Mrs. Thatcher's participation in such discussions and, subsequently, her role in monitoring and terminating the funding for the project (which directly caused its demise) combined with the fact that DED has acknowledged, in answers to interrogatories, that Mrs. Thatcher has relevant evidence, Arthur Andersen will be able to obtain evidence from her. Should she refuse, the Court may well dismiss the case.

11. Finally, it is inevitable that there will be increased media attention as the case proceeds to trial. When that occurs will depend upon the unpredictable timing of the US legal processes. Although a confidentiality order at present protects HMG and its conduct from public scrutiny, the trial itself will be a public event and the evidence at the trial will be public.

The Merits of HMG's Action

12. Arthur Andersen are convinced that HMG's actions in both the US and the UK will fail. Arthur Andersen pursued all reasonable avenues of enquiry open to them in relation to the DeLorean project, and there is no credible evidence that Arthur Andersen knew or should have known of the alleged fraud. The impenetrable nature of the conduct of Mr. DeLorean which is complained of is more than demonstrated by the facts that:

(i) Sir Kenneth Cork, when giving evidence to the Public Accounts Committee, said that the fraud was unlikely to come to light other than as a result of the company going into liquidation;

(ii) it took investigators with far greater powers than those of auditors a considerable period of time to discover what had happened;

(iii) John DeLorean was acquitted of fraud charges;

(iv) it was not until after six years of continuous police investigation and enquiry that anyone was charged in the UK with having defrauded the DeLorean project (and that was Fred Bushell of Lotus Cars, a company which performed research and development on the car and which was wholly unconnected with Arthur Andersen).

13. In any event, all the evidence suggests that HMG through those responsible for the DeLorean project in Northern Ireland (who were directors of both DMCL in the UK and DMC in the US, and also sat on DMC's audit committee) were in very regular contact with the project and fully aware of the activities of John DeLorean, including the transactions now complained of. In particular, the NIDA representatives on the DeLorean boards of directors knew and approved of the matters now complained of such as the

GPD contract, transfers of funds from DMCL to DMC, the travel and entertainment expenses, etc.

14. HMG's case is no easier in the area of causation. HMG was advised at the outset by its consultants, McKinsey & Co., that the project was an "extraordinarily risky venture" whose chances of succeeding as planned were "remote", and was advised by Coopers & Lybrand after an investigation by Sir Kenneth Cork at the time of the receivership that the project was "impracticable from the start".

15. Finally, HMG's damages claim is unsustainable. It seeks to recover the Treasury's entire loss, £80m, most of which cannot, on any basis, be the responsibility of Arthur Andersen. For example, as the New York courts recognised, a substantial portion of the monies now claimed were irrevocably committed by HMG when it entered into the 1978 Master Agreement. HMG made its commitment after but a few weeks consideration of the project and prior to any audit by Arthur Andersen in relation to which fault is alleged. The Master Agreement committed HMG to purchase £17,757,000 of preferred stock and to extend grants, loans and loan guarantees up to £44,936,000. An additional £10,300,000 of HMG's loss arises from guarantees given by HMG notwithstanding Mr. Winterton's warnings to Mrs. Thatcher. Only $5.15 million of HMG's funds went to GPD - and those monies are not alleged to have ended up with DeLorean but rather

with Lotus - the very company which HMG had agreed would receive it and with which Arthur Andersen had no connection. Finally, HMG will have to give credit for the substantial recoveries - in the neighbourhood of £10 million - which it is due to make through, for example, DMC's trustee in bankruptcy.

16. In short, the collapse of DMCL and HMG's loss have virtually no connection whatsoever with GPD or with anything Arthur Andersen did or did not do. Indeed, the Public Accounts Committee concluded that the loss of public funds in the DeLorean project was due to mismanagement of the investment by successive Governments. These issues, together with HMG's decision making process, will be of fundamental relevance to the questions of liability, causation and damages (leaving aside the fact that Arthur Andersen conducted the audits thoroughly and properly).

Strycker

17. Walter P. Strycker was the Chief Financial Officer of DMC from August, 1978 to December 31st, 1979. His deposition was recently taken in San Francisco. The deposition was of importance because HMG has always made it plain that it attaches considerable weight to a discussion that Strycker is alleged to have had with two Arthur Andersen partners in New York in late 1979. HMG alleged that Strycker suggested to Arthur Andersen at that time that

there might be a connection between the monies paid to GPD and the funds used by John DeLorean to repay a loan he had taken to acquire Logan. It is doubtful, however, whether HMG can now take much comfort from Strycker's testimony, for, inter alia, the following reasons.

18. First, Strycker's testimony was inconsistent and contradictory. For example, it is alleged in the Complaint that, in November 1979, Strycker advised Arthur Andersen that there might be a connection between the GPD monies and the loan which John DeLorean obtained to acquire Logan. At his deposition, Strycker insisted that the meeting occurred in October, 1979 rather than in November, 1979, but maintained that he had asked Arthur Andersen to look into the possible linkage between the GPD monies and the loan. Yet, the allegation in the Complaint and the evidence given by Strycker at his deposition, is totally inconsistent with the evidence that Strycker gave in 1984 (when Strycker's memory of the events was better than at his deposition), to a US Grand Jury, which returned criminal charges against John DeLorean (of which he was acquitted). There, Strycker testified:-

> Q. Did you ever request Arthur Andersen to make specific inquiries of Mr. DeLorean pertaining to the GPD contract on this loan?
>
> A. Well, we asked him [Arthur Andersen] really that in view of the transfer of the funds from Switzerland that they review the source of that Swiss loan, <u>not so much to go back to GPD</u>. (Emphasis added)

19. Second, Strycker was unable to give any particulars about the meeting at which HMG alleges that his statements to Arthur Andersen were made. He flatly denied that the meeting took place in November, 1979 (a meeting for which a detailed contemporaneous note exists which contains no reference to any concerns that the GPD monies had been used to repay the loan used in the acquisition of Logan); instead, Strycker asserted that the meeting took place in October. Yet, his own diary contains no reference to such an October meeting. Strycker was also unable to explain why he did not raise his concerns on any subsequent occasion, for example at DMC audit committee meetings which he attended and at subsequent meetings of the board of directors. In short, it appears clear that Strycker's "recollection" is the product of what he wished he had said to Arthur Andersen rather that what he had actually said.

20. Third, Strycker defended the commercial purpose of the GPD contract and its benefit to the DMC car project both whilst employed by DMC and during his deposition. Indeed, it was Strycker who had responded to Arthur Andersen's inquiries in 1979 about GPD by stating that "GPD held all the patents and licensing rights for" a key technology used on the car and that "GPD/Lotus spent over nine years in developing the technology and bringing it to commercial operation". On deposition, Strycker testified that when he gave those assurances to Arthur

Andersen in 1979 he was himself satisfied that there was a sufficient business purpose for the GPD contract.

Conclusion

21. It must now be clear to HMG's legal advisers that HMG's chances of success in either of the actions against Arthur Andersen are remote indeed. Strycker's deposition provides minimal, if any, support for HMG's case and it is inconceivable that a Court would be prepared to found a decision in HMG's favour upon it. No new evidence to support HMG's case has come to light and indeed the documents disclosed to date demonstrate that HMG knew every bit as much about the project, if not more, as Arthur Andersen and cannot fix the blame for what has happened upon some supposed shortcoming of the auditors.

22. In the event that the actions are not discontinued, Arthur Andersen will leave no stone unturned, including the disclosure of Cabinet papers, the depositions of present and former Ministers, and all other steps necessary to defend the case with the utmost vigour and with every means at their disposal.

23. In these circumstances it is hoped that the continuance of the actions against Arthur Andersen will now be

reviewed, not just by the Treasury Solicitor's Department or officials in the Northern Ireland Office, but by Ministers including the Law Officers.

The foregoing is submitted under Rule 408 of the U.S. Federal Rules of Evidence with a view to the eventual termination of proceedings.

NBM
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THE TREASURY SOLICITOR

Queen Anne's Chambers
28 Broadway London SW1H 9JS
Telephones Direct Line 01-210 3416
Switchboard 01-210 3000
Telex 917564 GTN 210
Fax No. 01-222 6006 – 210-3488
DX No. 2318 Victoria

A. Turnbull Esq.,
Principal Private Secretary,
10 Downing Street,
London,
SW1A 2AA

Please quote L85/552/AT

Your reference

Date 1 December, 1989

Dear Andrew

DE LOREAN - LITIGATION AGAINST ARTHUR ANDERSON IN NEW YORK

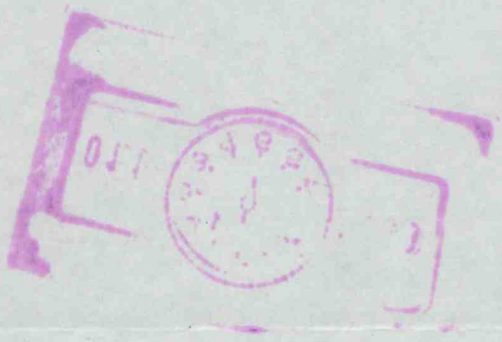
I must first apologise for not having answered your letter of 15 November immediately. As you know I was on leave when we spoke on 15 November and have subsequently been at a hearing out of London.

I confirm that I made arrangements for the document enclosed with your letter of 15 November to be copies forthwith to Mr Sidorsky in New York by Courier and I await his comments.

Yours sincerely,

Andrew Turek

ANDREW TUREK



IRELAND: De Lorean
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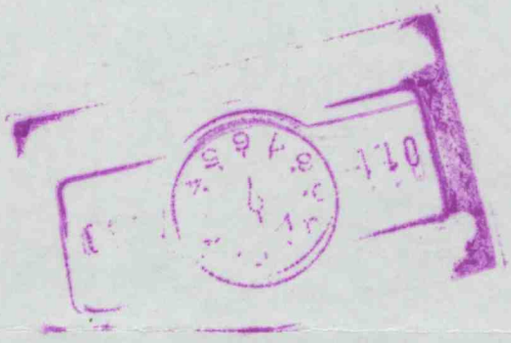

CONFIDENTIAL

From: THE PRIVATE SECRETARY

NAPM AT 16/4

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

Andrew Turnbull Esq
Private Secretary to the Prime Minister
10 Downing Street
LONDON SW1A 2AA

16 November 1989

Dear Andrew,

DE LOREAN: LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

Pike will AT

You wrote to me on 27 October to confirm that the Prime Minister was content with the recommendations about disclosure of documents in this case set out in my Secretary of State's minute of 26 October, but adding that Lord Callaghan and Lord Mason should both be consulted about the release of the small number of documents for which executive privilege could have been claimed.

Arrangements were made for Sir John Blelloch, on Mr Brooke's behalf, to see Lord Callaghan and Lord Mason on 13 November. Sir John took both through the background to the conclusion reached by Ministers and made available copies of the relevant documents for them to study. Both have since confirmed that they see no objection to disclosure.

In the course of his briefing, Sir John was asked what would happen if, in the event, requests for disclosure were to be made in respect of those categories of material where Ministers had, at this stage, decided against it. Sir John said that in that case, of course, a further round of Ministerial consultation would be required. He went on to say that, if as a result of that it were to be concluded that further documents should be released for which privilege could be claimed and that if any of those documents dated back to the time of the previous administration, then he believed that Ministers would wish a similar process of consultation to be followed.

CONFIDENTIAL

I am copying this letter to Steven Catling (Lord President's Office), John Gieve (HM Treasury), Colin Walters (Home Office), Stephen Wall (Foreign and Commonwealth Office), Stephen Williams (Welsh Office), Clive Norris (Department of Employment), Neil Thornton (Department of Trade and Industry), Gillian Kirton (Lord Privy Seal's Office), Roger Bright (Department of the Environment), Michael Saunders (Law Officers' Department), Jim Nursaw (Treasury Solicitor's Office) and Trevor Woolley (Cabinet Office).

Yours sincerely,

Stephen Leach

STEPHEN LEACH

IRELAND: DeLorea
R2



Please send
to Tsy Solicitor's Office
in normal way
No longer necessary
to send to
Mr Turch's
home
AT

N.B. ~~Despatcher - please send by registered post.~~

CONFIDENTIAL

FILE DA.

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

15 November 1989

DE LOREAN - LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

Among the documents you have been sent were the briefing papers for a meeting the Prime Minister held with Mr. Nicholas Winterton on 15 December 1982. I have now located a copy of the record of that meeting. Please could you advise on whether this is a document for which a claim of privilege could be made or whether it is discoverable.

copy attached

I am copying this letter to Stephen Leach (Northern Ireland Office) and Trevor Woolley (Cabinet Office).

(ANDREW TURNBULL)

Andrew Turek, Esq.

(Sent to home address: 52A The Vale London NW11 8SG)

Now sent to Tsy Sol. dpt 16/11

CONFIDENTIAL

cc. Mr. A. Turnbull,
PS/ Prime Minister,
10 Downing St.

SJ2
9/xi/89

10 DOWNING STREET

From the Principal Private Secretary

15 December 1982

CONFIDENTIAL AND PERSONAL

2226
16 DEC 1982
1002646

Dear Philip,

MR. NICHOLAS WINTERTON, MP, AND THE DE LOREAN COMPANY

I attach a note of a discussion between the Prime Minister, the Attorney General and Mr. Nicholas Winterton, MP, which took place at 10 Downing Street today. I apologise for its length but thought it right to make a detailed record of this meeting.

The meeting was held, at Mr. Winterton's request, because Mr. Winterton had told the Prime Minister's Parliamentary Private Secretary that he wanted to see the Prime Minister in order to complain about the way in which the Law Officers Department had conducted investigations, following Mr. Winterton's approach to 10 Downing Street in the latter part of September and the early part of October 1981. In the course of the discussion, you will see that Mr. Winterton accepted that the allegations which he made at that time did not constitute evidence of criminal activity. However, it was not possible at this meeting to dispose of Mr. Winterton's fall-back argument that the Government should have followed up the evidence of misuse of public funds; and it is to be expected that Mr. Winterton will return to this point.

Following Mr. Winterton's departure, the Prime Minister instructed me to ask you if you would prepare a note on the action taken by the Northern Ireland Office on Mr. Winterton's allegations and the material which he provided. Presumably this is a matter which the PAC inquiry will also be covering, but the Prime Minister would like to know whether you are satisfied that it can be demonstrated that the Northern Ireland Office did all they could to establish whether this material contained evidence of misuse of public funds or other misconduct.

I should be grateful if you could restrict sight of these papers to as few people as possible. I imagine that you will want to show them to the Secretary of State, and there is of course no objection to that.

I am copying this letter and the enclosure to Jim Nursaw (Law Officers Department).

Yours ever,

Robin Butler

P.J. Woodfield, Esq., C.B., C.B.E.,
Northern Ireland Office.

DE LOREAN

The Prime Minister and the Attorney General had a meeting with Mr. Nicholas Winterton, MP, at 10 Downing Street on Wednesday 15 December at 1030 a.m. Mr. Gow and I were also present.

Mr. Winterton spoke on the lines of notes attached to this record. He added the following points. The story of his involvement began in September 1981 when he was contacted by a constituent of standing, who told him that a former employee of De Lorean had some disturbing information about the company. Mr. Winterton met this employee, who turned out to be Miss Marion Gibson, at the constituent's home. Miss Gibson made allegations which seemed serious and Mr. Winterton said that he could not take any action without supporting evidence. About a week later, he met Miss Gibson again at the house of the same constituent. She produced two folders of documents, some of which seemed to substantiate her allegations. Since he was not an accountant or a barrister, Mr. Winterton arranged for these documents to be sealed with a witness present and for them to be deposited in a Manchester bank. He contacted the Prime Minister's Parliamentary Private Secretary asking for an urgent meeting.

Mr. Winterton said that shortly afterwards Miss Gibson, having returned to the United States, rang up to say that insufficiently urgent action appeared to be being taken in Britain and that she was giving an interview to a journalist in the United States. Mr. Winterton said that he then telephoned 10 Downing Street and spoke to Mr. Pattison. On the following day, the Solicitor-General rang him on three occasions when Mr. Winterton was out. Mr. Winterton rang him back and the Solicitor-General said that the allegations appeared serious. The Director of Public Prosecutions also rang; both said that they were asking members of the Fraud Squad to call on Mr. Winterton to investigate the allegations.

/ Mr. Winterton

Mr. Winterton said that he arranged for the documents to be released from the Manchester Bank and received two officers of the Fraud Squad at 3 p.m. on Saturday 3 October. The officers took the documents away at the end of the interview. Shortly after they had left, the Director of Public Prosecutions rang and asked to speak to the officers but was told that they had left to return to Congleton Police Station. Mr. Winterton went to discover the telephone number of Congleton Police Station but by the time he returned the DPP had rung off and, since then, Mr. Winterton had had no contact with 10 Downing Street, the Law Officers or the DPP.

Mr. Winterton then spoke on the lines of his notes, adding that he thought it discourteous on the part of No. 10 to have put out a statement without warning him that they were doing so. When Mr. Winterton said that on Saturday 10 October the Attorney General had let it be known to the press that on the following Monday, 12 October, a statement was going to be made clearing De Lorean, the Attorney General intervened to say that he had not made any statement on the Friday that De Lorean would be cleared and was not in a position to do so since conferences were not held with the police officers on their return from the United States until the following Monday.

Having spoken from the attached notes, Mr. Winterton concluded by saying that he hoped that he would be given credit for not having exploited his position as a Member of Parliament by asking embarrassing Questions in the House as he could have done. He felt that he had behaved responsibly in taking the initiative in bringing allegations about misuse of public money to the attention of the Prime Minister's office. In return, he had received publicity that he did not want and, although everything he had said had turned out to be true, libel actions were continuing against him. He thought it significant that De Lorean had asked Lord Goodman to act on his behalf and Lord Goodman had instructed Lord Rawlinson, a former Conservative Attorney General. He felt

 / that there was

that there was here a "mini Watergate" involving a cover-up, although he was not aware of the reasons for it. But he was not prepared to sit back. The press were close to the story and a great deal of dirt was likely to come out in the press and in books which were being prepared. He felt entitled to ask that a Government Minister should acknowledge his part in the events and explain why the Government did not act sooner. He recognised that the Government could not cause the actions to be dropped, but he would like the Government to say that his allegations had proved well-founded. If not, he might be forced to make a public statement which would be damaging to the Attorney General and to the Government.

The Prime Minister said that the press did not learn in October 1981 of Mr. Winterton's involvement from the Government. Mr. Winterton acknowledged this, saying that, following a statement from No. 10, Miss Gibson had given Mr. Winterton's name to journalists. The Prime Minister and the Attorney General pointed out that Mr. Winterton was not under any obligation to broadcast the allegations, and the proper course would have been to refrain from comment since the matter was in the hands of the police. Mr. Winterton pointed out that he had been beseiged by journalists and he thought that, if this was the proper course, it would have been courteous for the Solicitor-General to have so advised him.

The Attorney General pointed out that the specific allegations made by Mr. Winterton, when investigated, had not produced any evidence of criminal activity. The first - that De Lorean had not invested what he claimed to have invested - was not a criminal offence: if there was any breach of contract with the Government, that was a matter to be pursued through civil proceedings. The second allegation - that payments had been made into a foreign bank account in connection with the design of the car - was the result of an agreement with the Lotus Company, which was well known to the Northern Ireland Office. The third allegation - that money had been spent on projects which had nothing to do with the car - was more likely to give

/ rise to

rise to complaints from shareholders than to involve any criminal activity. The fourth allegation - that the proposed public issue in New York would enrich De Lorean at the expense of the British taxpayer - could not by definition involve any criminal activity since the public issue had not occurred. There was a fifth allegation - that De Lorean had made fraudulent claims for compensation for the loss of his factory in Northern Ireland through fire. The facts were that De Lorean had received £450,000 which was agreed following an independent survey and had put in a claim for a further £10.5 million for loss of business: whether or not this claim was well founded it was one which De Lorean was entitled to make.

Mr. Winterton interjected that it was not for him to say whether there had been criminal offences: whether the matters should have been followed up by criminal or civil proceedings, he had still done his duty in bringing them to the attention of the Government. The Attorney General pointed out that, for his part, he was only concerned with criminal offences. As regards other matters, the Northern Ireland Office had been brought in by the DPP throughout and were fully aware of the material made available through Mr. Winterton.

have asked for this

Mr. Winterton then referred to the story in Private Eye on 19 November and, in particular, to the reports that the police had not kept an appointment for a second interview with Mr. Haddad and that, before Mr. Haddad was interviewed for the first time, De Lorean had appeared to know what the police were going to ask him.

The Attorney General said that the explanation was quite simple. Haddad had failed repeatedly to keep appointments and De Lorean had been asked to instruct Haddad to meet the police. It seemed perfectly reasonable to seek De Lorean's co-operation in getting an employee to cooperate with the police in this way. The police had finally seen him on

Friday 9 October and reported to London that evening that they were making no progress. They were therefore instructed to return to London for a conference to be held on the following Monday, and this was the reason why they had not had a further interview with Haddad.

Mr. Winterton said that he still did not accept this version of events. He felt that the British Government had not been straight with him. After his responsible action in bringing allegations of the misuse of public funds to the attention of the Government, the Government should have warned him that it was putting out a statement and to have kept him in touch with developments. The Attorney General said that after seeing that Mr. Winterton had given interviews to the press on 5 October, he had given instructions that further information should not be passed to Mr. Winterton for fear that Mr. Winterton would publish it.

Mr. Winterton said that he would like to have a further meeting with the Prime Minister with his Solicitor present, and had understood from Mr. Gow that this would be possible. The Prime Minister said that she could only meet Mr. Winterton as one Member of Parliament to another: if he was to bring in his Solicitor, the matter would have to be handled between legal advisers on both sides. Mr. Gow quoted from his letter of 26 November in which he had advised Mr. Winterton first to see the Prime Minister on his own and had said that, if Mr. Winterton insisted on bringing his Solicitor, he would have to ask the Prime Minister about it.

The Prime Minister asked Mr. Winterton whether he accepted that his allegations had not included evidence of criminal activity. Mr. Winterton said that he did, but said that in that case it had been the duty of other parts of the Government to follow up the material he had given. There were still many further points to be investigated, including tax irregularities, involving Colin Chapman. He believed that what he had said had turned out to be fully

/justified

justified and his simple request was that a member of the Government should say so. The Prime Minister and the Attorney General said that the Government could not make any such statement on the basis of what was currently known: enquiries by the RUC were still continuing.

Mr. Winterton asked why there had been no enquiries between October 1981 and February 1982 when receivers were put in. The Prime Minister said that the Northern Ireland Office would have been closely monitoring the company during that period. Mr. Winterton said that it did not create confidence in the control exercised over the company when two nominee directors had voted huge bonuses to De Lorean and his right-hand man only a few days before liquidation. The Prime Minister commented that her recollection was that the bonuses had not actually been paid, and Mr. Winterton confirmed that this was so.

Mr. Winterton said that he did not think that the discussion could be carried further at present. His respect for the establishment, never high, had been reduced by this episode in which he had been innocently involved and in which he had been trying to do his public duty. He would consult his Solicitor, but had to warn that there was likely to be unpleasant publicity which would damage the Government. The Prime Minister suggested to Mr. Winterton that, in his own interest, he should only discuss the content of the present meeting with his Solicitor, and Mr. Winterton confirmed that he would do so. The Prime Minister said that she was comforted by this assurance.

F.E.R.B.

15 December 1982

Notes:
* The information requested is only available on a quarterly basis.
† and ‡ Based on expenditure data at factor cost.
‖ At 1975 prices.
¶ Broadly, the "price" of total output, that is the implied index of total home costs based on expenditure data.

De Lorean Motor Cars Ltd.

Mr. Greenway asked the Prime Minister when she expects the Chief Constable of the Royal Ulster Constabulary to complete his consideration of the matters relating to the conduct of the De Lorean business, referred to in the answer by the Minister of State, Northern Ireland Office to the hon. Member for Newbury (Mr. McNair-Wilson) on 19 November, *Official Report*, c. 295.

The Prime Minister: It is for the Chief Constable of the Royal Ulster Constabulary to consider the nature and extent of any inquiries which should be pursued into the matters relating to the conduct of the De Lorean companies which were recently referred to him. It is impossible to forecast how long these inquiries will take, but I am confident that they will be pursued as quickly as possible.

HOME DEPARTMENT

Firearms Act 1968

Mr. Ford asked the Secretary of State for the Home Department whether the terms of reference for the working party recently announced to examine the administration of the Firearms Act 1968 has been amended in any way since his written answer on 28 July.

Mr. Mayhew: No.

Detained Persons (Ethnic Minorities)

Mr. Kilroy-Silk asked the Secretary of State for the Home Department if he now has any information as to the number of prisoners belonging to the ethnic minorities currently in prison.

Mr. Mayhew: Collection of information on the ethnic origin of all those received into prison department establishments in England and Wales began on 1 March 1982. This new collection system is not yet working satisfactorily and it will be some time before it will be possible to publish any information from it.

Exercise Square Leg

Mr. Newens asked the Secretary of State for the Home Department what blast overpressures were taken as a basis for the civil defence exercise Exercise Square Leg in London.

Mr. Mayhew: The London civil defence scientific advisers who participated in the military home defence Exercise Square Leg had access to the operational handbook for scientific advisers supplied by the Home Office to local authority scientific advisers.

Sheet B5 of the handbook permits calculation of the ranges at which certain blast overpressures would result from various yields of weapon. The following table illustrates these calculations:

Ranges in Kilometres

Weapon Yield in Megatons	*Ground Burst*		*Air Burst, at Hei to Maximise Ran of 6 pounds per square inch*	
	6 psi	*1·5 psi*	*6 psi*	*1·5*
0·5 MT	3·3	8·0	4·9	1
1·0 MT	4·1	10·0	6·2	1
2·0 MT	5·2	12·6	7·8	1
3·0 MT	5·9	14·4	8·9	2
5·0 MT	7·0	17·1	10·6	2

Jack Wesley Savage

Mr. Arthur Lewis asked the Secretary of State for t Home Department why Jack Wesley Savage, an Americ citizen, who had been convicted of fraud and was charg with drug offences, was allowed into the United Kingdo and whether he will deport this man to the United Sta of America to stand trial and answer the charges now ma against him.

Mr. Raison: On the information available, Mr. Sava appears to have been admitted as a visitor. If inquir confirm the allegations made about Mr. Savage, we sh be considering carefully his immigration status.

Elections (Voting Rights)

Mr. Alton asked the Secretary of State for the Ho Department if he will request the European Econon Community member States to extend voting facilities European Parliament elections to United Kingdom citize resident in those States.

Mr. Mayhew: The Council of Ministers of t European Community is considering the right to vote elections to the European Parliament in the context of t Parliament's proposals for a uniform electoral procedu

Detained Persons

Mr. Greenway asked the Secretary of State for t Home Department what has been the cost of keeping prisoner in *(a)* a high security prison and, *(b)* a local pris in each of the past 10 years.

Mr. Mayhew: The average annual cost of keeping male prisoner in a dispersal and a local prison is as follow Costs for years before 1975-76 are not available.

Year	*Dispersal prison* £	*Local prison* £
1975-76	7,468	3,617
1976-77	8,456	3,879
1977-78	9,761	4,437
1978-79	12,110	5,429
1979-80	15,869	6,368
1980-81	19,262	8,770

THE TREASURY SOLICITOR

Queen Anne's Chambers
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Switchboard 071-210 3000
Telex 917564 GTN 210
Fax No. 071-222 6006 - 210-3488
DX No. 2318 Victoria

Note - Spoke to Mr Turnbull
Agreed more of the papers he wanted to disclose raised new principles and that he should make copies & send them.
Mr Turnbull said that on reflection the Butler comment on the ~~[illegible]~~ letter of 23/12/82 was less worrying. In any case it had been recorded in FERB's letter of the next day which has already been disclosed
AT 19/2

Andrew Turnbull Esq CB
Principal Private Secretary
to the Prime Minister
10 Downing Street
LONDON
SW1A 2AA

Quite right
RRB 19.2.

Please quote L85/552/AT

Your reference

Date 19 February 1992

M. Turnbull
Letter returned. I have passed the files to Mrs Thatcher
CAD 20/2

CONFIDENTIAL

Dear Mr Turnbull

RE: DEPARTMENT OF ECONOMIC DEVELOPMENT -v- ARTHUR ANDERSEN

I confirm my note of yesterday's date about the Downing Street confidential file on De Lorean.

On the face of it everything in it is discoverable to AA (for which purpose I will need copies) except as excluded in this letter, in the terms of the American Judge's Order and the decision to comply with it. Even when Mrs Thatcher did not annotate a document she usually underlined or initialled it and that is sufficient to make it a new document.

Part 2 is wholly non-discoverable as it is about the running of the present action. In Part 1 everything is discoverable up to 31 December 1984 except the following:-

The note to "CW" over the letter of 21 May 1981.

The form and the copy of it upon which Mr Pattison prepared his telegram to Mr Whitmore.

Cuttings from Hansard and the Press throughout.

The draft statement by the Secretary of State in February 1982 and the statement itself.

The letter from Mr Putt of Barrett Engineers to the Prime Minister of 29 September 1982 and the correspondence which led to it being answered (Scholar to Lyon 1 October 1982; Scholar to Mr Putt 1 October 1982; draft letter to Mr Putt and background note; Hopkins to Scholar 26 October 1982; Prime Minister to Mr Putt 27 October 1982).

A PQ and the answer of 25 October 1982.

CONFIDENTIAL

Cf

Return until files
are returned

JT

(Dehoseen file with
FERB 22/2).

CONFIDENTIAL

The "Notes by Nicholas Winterton".

Letter from Mr Winterton to Mr Gow of 25 November 1982.

Letter from Mr Gow to Mr Winterton of 26 November 1982.

The statements by the DPP on 12 October 1981 and the Solicitor General on 6 October 1981.

Minute from "Tessa" pp Mr Gow to the Prime Minister on 9 December 1982.

Mr Butler's notes of 15 and 18 December 1982.

Mr Butler's letters to Mr Woodfield of 15 December and 24 December 1982.

Most of the material which will have to be disclosed is innocuous but I must draw your attention to the fourth page of Mr Woodfield's letter to Mr Butler of 23 December 1982 upon which Mr Butler and Mrs Thatcher made annotations which I (and therefore AA) have not previously seen and which are unfortunate.

As I mentioned in my letter yesterday there is some urgency as we must disclose this file to AA as quickly as possible and I would like to send copies over by courier this week.

I await hearing from you.

Yours sincerely

Andrew Turek

ANDREW TUREK



File

R 18/2

THE TREASURY SOLICITOR

Queen Anne's Chambers, 28 Broadway, London SWIH 9JS
Tel (switchboard) 071 210 3000 (GTN 210)
(direct) 071 210 3416

Andrew Turnbull Esq CB
Principal Private Secretary to the
Prime Minister
10 Downimg Street
SW1

Please quote: L85/552/AT

18 February 1992

Dear Mr Turnbull

DEPARTMENT OF ECONOMIC DEVELOPMENT -v- ARTHUR ANDERSEN

As you may have realised I was with Mrs Thatcher yesterday when she spoke to you about her confidential file on De Lorean. What happened was that she was certain that her copies of various submissions must exist and would have her underlinings or notations on them. She showed us a list of such files prepared in connection with her memoirs and De Lorean appears under "Ireland".

I gather she has arranged or will arrange to come in, perhaps tomorrow, to see the file. What concerns me is that the contents are almost certain to be discoverable to Arthur Andersen's lawyers under the terms of Judge Stewart's order of last year with which we have complied; and it is obviously embarrassing for us to have to tell them, just a month before Mrs Thatcher's deposition (which has been fixed for 18 March) that this file has only now been found.

If the file consists of duplicates of documents already discovered to AA, even with Mrs Thatcher's underlinings or similar marks, it may not matter very much; but I need, as a matter of urgency, to inspect the file (here or in the Cabinet Office or at Number Ten as may be convenient to you) and it is probable that I shall need to copy its entire contents to AA's lawyers (on the terms, of course, of the stipulation which protects the confidential nature of any document unless and until it is read out in court.

I would be grateful if you or one of your colleagues could contact me so that we can take this matter forward.

Yours sincerely

Andrew Turek

Andrew Turek.

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Andrew Turnbull Esq CB
10 Downing Street
LONDON
SW1A 2AA

Please quote L85/552/AT

Your reference

Date 21 January 1992

CONFIDENTIAL

Dear Mr Turnbull

RE: DEPARTMENT OF ECONOMIC DEVELOPMENT -v- ARTHUR ANDERSON

Thank you for your letter of 20 January and its enclosure which have been very helpful.

Yours sincerely

Brian Mahony

pp ANDREW TUREK

CONFIDENTIAL



CONFIDENTIAL

FILE KK

PPS/Turek

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

20 January 1992

DEPARTMENT OF ECONOMIC DEVELOPMENT
-V- ARTHUR ANDERSEN

Thank you for your letter of 13 January. You report that the initials M.A.P. at the bottom of Mr. Pattison's minute to Mr. Whitmore were not in his handwriting. I can confirm that this is the case. Although the photocopy you have has "original held in Political Office" written on it I have now checked to see whether this is in fact the case but have been unable to locate it. The file in the Private Office only has a photocopy though this version has the initials M.A.P. written on in biro. I suspect that the original had Mr. Pattison's own initials and that one of the clerks here wrote M.A.P. on the photocopy as a way of confirming that the minute did in fact issue.

You ask whether the telegram sent to Australia on 2 October is still on our files. The answer is that it is and I enclose a copy.

(ANDREW TURNBULL)

Andrew Turek, Esq.,
Treasury Solicitor's Department

CONFIDENTIAL

THE TREASURY SOLICITOR

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DX No. 2318 Victoria

Andrew Turnbull Esq CB
Principal Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Please quote L85/552/AT

Your reference

Date 13 January 1992

Dear Mr Turnbull

RE: DEPARTMENT OF ECONOMIC DEVELOPMENT -v- ARTHUR ANDERSON

I am sorry to have to trouble you further about this matter but a point has come up on which I need some help.

You will know that the American lawyers who act for us and I have been conducting interviews with various former Ministers and Officials whose depositions the Defendants intend to take. On Friday we saw Michael Pattison, who was one of the Private Secretaries at 10 Downing Street in October 1981 when Mr Winterton made certain allegations about the De Lorean car project upon which Arthur Anderson rely heavily to establish that the Government was warned about the fraud which was being practised.

Among the documents in the case is a minute from Mr Pattison to Mr Whitmore of which I enclose a copy and it is on this document that two questions arise.

First, Mr Pattison expressed some surprise that the original is held by the Political Office and was puzzled that the initials "MAP" which appear on page 3 are not in his handwriting. It may, of course, be that he had approved the minute in draft and had asked somebody else to affix his initials because he was to be out of the office when it was typed up, but he felt that there may be another copy in the Private Office with his initials on it which may have annotations of value. It would be helpful if any such document could be traced.

More seriously, in the middle of page 2 Mr Pattison writes "In the course of 2 October I telegraphed you in Melbourne"; Mr Whitmore and the Prime Minister were in Australia for the CHOGOM. I have not seen that telegram and it may be of value; it is in any event likely that Arthur Andersen's lawyers will call for its production. Mr Pattison suggested that the original would have been filed in the ordinary way; there would have been a day-file kept by the team in attendance upon the Prime Minister in Australia; and the FCO through whom communications with the team were arranged may have kept a copy, although that will probably have been destroyed long since.

If the telegram proves to be very short Mr Pattison felt that there might be a full aide-memoire prepared by him for his own use and placed on file. That, too, would be of value.

.../.

Mr Pattison was kind enough to say that if you or whoever looks for the papers cares to telephone him (222-7000) he may be able to assist. Let me again apologise for troubling you further; but I would rather find these documents now than in response to a demand during a deposition from Arthur Andersen.

Yours sincerely

Andrew Turek

ANDREW TUREK

CONFIDENTIAL (A)

ORIGINAL HELD BY POLITICAL OFFICE

MR. WHITMORE

cc. Mr. Colver ✓

De Lorean

Ian Gow asks for a note of our involvement, following Mr. Winterton's conversation with him.

Mr. Winterton wrote to Ian Gow early in the week beginning 28 September. On the afternoon of Thursday 1 October, he spoke to me on the telephone in Ian's absence in Australia. He said that he had written to Mr. Gow warning of a possible commercial scandal, but that he had since learned that the story was liable to break publicly in the very near future. I believe he said "before the weekend". He spelt out to me the company involved and the nature of some of the allegations. He asked that the matter should be brought to the Prime Minister's attention. I undertook to come back to him as soon as possible.

I spoke to you in Australia before leaving the office that evening. Our secure line was not functioning, so I told you in guarded terms that new allegations had come to hand about some commercial business in Northern Ireland, and I told you who I proposed to consult.

Early on Friday 2 October, I consulted one senior official, and he and I then spoke to Sir Brian Cubbon at the Home Office. The unanimous view was that the Law Officers should be informed of the allegations, so that they could take whatever action they considered appropriate.

I therefore spoke to Jim Nursaw, Legal Secretary, around lunchtime on 2 October, and asked if he could arrange for the DPP to institute whatever enquiries seemed necessary. Around the same time, I told Mr. Winterton that, after arranging for the Prime Minister to be informed of the allegations, I was referring the matter to the Law Officers, who would arrange for someone to see Mr. Winterton.

00554220 / In the course

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CONFIDENTIAL

No. 10

EXHIBIT
WINTERTON
#6

In the course of the afternoon, the DPP made arrangements to send a police officer to see Mr. Winterton over the weekend, so that the documentary evidence he held could be collected. I also spoke to the Solicitor General during the afternoon, on whose authority the DPP had been brought in. (Our contacts with the DPP were of course, entirely informal, since he cannot take instructions from Ministers other than Law Officers.)

The DPP spoke to me at the end of the day, after he had got in touch with Mr. Winterton. For what it is worth, I might record that the DPP said that he was alarmed at the extent of Mr. Winterton's indiscretion over the telephone. All our activity on the matter has been carried out with maximum possible discretion, and the DPP clearly believed that this was essential at that stage of events.

In the course of 2 October, I telegraphed you in Melbourne, outlining what had happened and what steps we were taking to arrange for the allegations to be investigated rapidly.

I was on duty over the weekend, but I did not pick up these events until quite late on Saturday, when I was in touch with the Northern Ireland Office on other business. In the meantime, I understand that the Duty Press Officer, Mr. Colver, had had a telephone enquiry from Gordon Leak of the News of the World. This was around midday, and at that stage Leak did not name Mr. Winterton. This led the Press Office to take the matter up direct with the party in Australia. As a result of these contacts, you and the NI Permanent Secretary agreed a Press line as follows:

> "The Government has recently been informed of allegations of financial irregularities in the De Lorean company and insofar as these may relate to the company's operations in the UK the police are making inquiries."

The Press Office were also equipped with a further line, to be used only if asked about Mr. Winterton's involvement. They could then confirm that he conveyed his allegations to the Prime Minister / the Solicitor General

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No. 10 CONFIDENTIAL

that the Solicitor General was consulted, and that he asked the DPP to institute an enquiry.

Initially, the Press Office used the line not mentioning Mr. Winterton. But further calls from the News of the World and the Observer included questions about Mr. Winterton's role, at which point the Press Office started to use the formula describing Mr. Winterton's role.

As I recall it, Mr. Winterton allowed himself to be interviewed for television starting with the lunchtime news bulletins on Sunday. The News of the World had, as you know, decided on legal advice not to run its story, but the Observer carried a brief piece about enquiries.

There were two further statements the following week. The NIO issued one to play down the extent of the enquiry, in order to reassure commercial creditors. The Solicitor General issued one to make it clear that he had ordered the police enquiry, after the allegations referred to by the Prime Minister.

In effect, our direct involvement ceased after the weekend. Throughout that period, we done done our best to keep matters privat Once it became clear that the Press had picked up the story, we at no stage volunteered comments, but equally we made sure that we could respond in a factually accurate way to specific questions put to us. (It appeared to us at the time that the questions were probably arising because Mr. Winterton had already been talking to the Press, but there was some suggestion that some of Miss Gibson's material might have appeared in a New York evening paper on the afternoon of Friday 2 October.)

MAP

28 October 1981

000003

00554228

CONFIDENTIAL No. 10

Ref. AO91/2800

MR TURNBULL

The De Lorean Case Against Arthur Andersen

Your minute of 28 October asked for a brief note on the background to the case being brought by the Northern Ireland Department of Economic Development against Arthur Andersen, as the Auditors of the De Lorean company.

Background

2. In July 1984, the De Lorean joint receivers sought advice from their US lawyers on the merits of an action against Arthur Andersen and in October 1984 the Trustee of De Lorean Motor Co (DMC) (the US parent company) filed an action for damages in the New York court against Arthur Andersen based on negligence, fraud and breach of contract in connection with the diversion of funds and other acts of impropriety by the DMC Directors which should have been discovered and reported by the Auditors. In November 1984 the same firm of US lawyers advised that a similar action could be brought by either the Department of Economic Development (DED) (the responsible Northern Ireland Department) or the joint receivers in the US courts. The joint receivers concluded that they were not well placed legally to take proceedings and DED sought further advice from the US lawyers and the Treasury Solicitor.

3. Initially, the Treasury Solicitor's view was that the proper forum for an action against Arthur Andersen was the Northern

Ireland High Court. He thought that it would be very difficult for the Crown to justify taking action in a foreign court unless it could be shown that there were substantial legal or financial reasons for doing so.

4. Writs were issued against Arthur Andersen in Belfast and London in January 1985. At the same time, the American lawyers were asked for further advice on the merits of a US action. Their response presented a convincing case which was accepted by the Treasury Solicitor and DED. Following approval by the Secretary of State for Northern Ireland, DED filed the present action in the New York court in February 1985. Arthur Andersen strenuously, but unsuccessfully, argued that the case was not appropriate to the US jurisdiction. The two United Kingdom actions were not pursued.

Disclosure of Papers

5. It was recognised from the outset in legal advice that problems could be experienced over the disclosure of documents. The action taken by DED was effectively an action by the Crown and the rules on discovery of documents would apply to any Government Department. It was also recognised that the powers to discover documents in the USA were wider than those in the United Kingdom and that any refusal to comply with a court order could lead to dismissal of the case. The principal concern brought before Ministers was, however, whether the content of any Departmental papers (as then unscrutinised) might be prejudicial to the successful outcome of the proposed litigation or in any way embarrassing to the Government.

Meeting with Mr Winterton

6. You also asked whether there was any truth in the report that Arthur Andersen's lawyers were threatening to summon Mrs

Thatcher as a witness, in relation to the meeting she, Lord Havers and Mr Gow had with Nicholas Winterton MP. Arthur Andersen's lawyers have indeed filed a formal notification that they intend to take Mrs Thatcher's deposition, and those from other former Ministers and officials involved in the De Lorean issue, during the course of next year. I have been in touch with Mrs Thatcher to offer her necessary briefing support from Treasury Solicitor.

F.E.R.B.

ROBIN BUTLER

12 November 1991

IRELAND: DeLorean pt 2

The Rt. Hon. The Lord Callaghan of Cardiff KG

File

cc - PS/Sir T Burns
PS/ Sir D Gillmore
PS/ Mr Nursaw
PS/ Sir J Chilcot
Miss Wheldon
Mr Turnbull
Mr Whetnall

Prime Minister
As expected, he cooled down when the case was set out in writing.
AT 6/11

6th November, 1991

Good. f.

CABINET OFFICE
A 12853
-6 NOV 1991
FILING INSTRUCTIONS
FILE No.

Dear Robin.

Map

Thank you for your letter of 30th October about the Government's proceedings against Arthur Andersen in the United States. When you spoke to me on the telephone I was strongly against disclosing to the United States' Courts material that in this country will be covered by the 30 year rule and would not be made public. However the material you have now sent me seems to show that in view of the House of Lords' attitude to Air Canada that an English judge would be very likely to inspect and perhaps to order disclosure. In these circumstances I agree that relevant documents from my own administration can be made available and I answer the questions you put in the last page of your letter in the affirmative. I have so informed Lord Mason.

Yours sincerely

Jim Callaghan

Sir Robin Butler, KCB, CVO,
Secretary of the Cabinet and Head of
the Home Civil Service,
Cabinet Office,
70 Whitehall,
London SW1A 2AS.

Ireland: De Lorean Pt 2

CONFIDENTIAL

NBPM

Foreign &
Commonwealth
Office

London SW1A 2AH

31 October 1991

Dear Sonia,

The De Lorean Case against Arthur Andersen

The Foreign Secretary has seen the Cabinet Secretary's minute of ~~28~~ 4 October. He agrees with the Attorney General's advice (recorded in paragraph 12 of the minute). He also agrees to the disclosure of certain documents from FCO archives subject to stipulations as to confidentiality.

I am copying this letter to Jeremy Heywood (HM Treasury), Tony Pawson (NIO), Juliet Wheldon (Attorney General's Office) and Andrew Turnbull (No 10).

Yours,

(R H T Gozney)
Private Secretary

Miss Sonia Phippard
PS/Cabinet Secretary

CONFIDENTIAL

Queen Anne's Chambers
28 Broadway London SW1H 9JS
Telephone 071-210 3050

NVSPM
AO 31/10

J Nursaw Esq CB QC

CONFIDENTIAL

Our reference

Your reference A091/2683

31 October, 1991

Dear Robin,

DE LOREAN: DISCLOSURE OF PAPERS

Thank you for your letter of 29 October reporting your conversations with Lord Callaghan, Lord Mason and Mrs Thatcher. I am grateful to everyone involved for helping to obtain decisions so swiftly. We have met the deadline in respect of all papers except those about which letters have been sent to Lord Callaghan and Lord Mason. I am sure that our American lawyers will be able to reserve the position in respect of those papers when they offer to show the others to the trial Judge.

I shall arrange for our American lawyers to consider the possibility of requesting that any part of the proceedings in which quotations were being made from Cabinet documents to be held in camera. I agree that it would not be wise to raise this point with the Judge at this stage.

I am copying this letter to Terry Burns, David Gilmore, John Chilcot, Andrew Turnbull and Juliet Wheldon.

Yours ever,

J Nursaw

Sir Robin Butler, KCB. CVO.
Cabinet Office
70 Whitehall
London SW1A 2AS

IRELAND : De Lorean



The National Archives

DEPARTMENT/SERIES PREM 19 PIECE/ITEM 2748 (one piece/item number)	Date and sign
Extract details: Fellowes to Turnbull dated 30 October 1991	X
CLOSED UNDER FOI EXEMPTION	
RETAINED UNDER SECTION 3(4) OF THE PUBLIC RECORDS ACT 1958	
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Instructions for completion of Dummy Card

Use black or blue pen to complete form.

Use the card for one piece or for each extract removed from a different place within a piece.

Enter the department and series,
eg. HO 405, J 82.

Enter the piece and item references, .
eg. 28, 1079, 84/1, 107/3

Enter extract details if it is an extract rather than a whole piece.
This should be an indication of what the extract is,
eg. Folio 28, Indictment 840079, E107, Letter dated 22/11/1995.
Do not enter details of why the extract is sensitive.

If closed under the FOI Act, enter the FOI exemption numbers applying to the closure, eg. 27(1), 40(2).

Sign and date next to the reason why the record is not available to the public ie. Closed under FOI exemption; Retained under section 3(4) of the Public Records Act 1958; Temporarily retained; Missing at transfer or Number not used.

IN CONFIDENCE

CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 071-270 0101

From the Secretary of the Cabinet and Head of the Home Civil Service
Sir Robin Butler KCB CVO

Ref. A091/2687

30 October 1991

cc – Miss Wheldon
PS/ Sir J Chilcot
Mr Whetnall
PS/ Mr Nursaw
PS/ Sir T Burns
PS/ Sir D Gillmore
Mr Turnbull

without attachments

Dear Jim,

Following my telephone call yesterday, I thought that I should take up your suggestion that I should write to you about the position now reached in the Government's proceedings against Arthur Andersen in the United States. Had you been in London I should have liked to have called on you, as the telephone is not a very satisfactory way of dealing with such matters. This letter set outs more fully the position that has been reached, and explains the reasoning for the decisions that have now been made in respect of the papers of the present administration.

When Sir John Blelloch called on you in November last year, I believe he explained the background to the litigation against Arthur Andersen as auditors of the De Lorean companies. In brief, the Government's claim is that Arthur Andersen negligently failed to discover and disclose details of fraudulent transfers of funds intended for the development of the De Lorean car in the Government assisted project in Northern Ireland. As part of that case the Government has claimed executive privilege to avoid the disclosure of Cabinet and other papers which Arthur Andersen feel may be relevant to their case. The claim is the equivalent of a public interest immunity claim which would have been made in similar circumstances in an English court.

Arthur Andersen hope that the papers contain information supporting their claim that when initial decisions were made under your administration, and subsequently, the Government was not in fact particularly concerned with the commercial merits of the enterprise,

/but supported

The Right Honourable
The Lord Callaghan of Cardiff KG
House of Lords
LONDON SW1

IN CONFIDENCE

but supported it uncritically for essentially political reasons because it created employment. Alternatively they claim that the Government was as well-placed to be aware of the fraud as Arthur Andersen and as much or as little to blame for failing to discover fraud. The judge has made his ruling requiring disclosure without inspecting the Cabinet and Cabinet Committee documents, which in fact give little support to Arthur Andersen's case.

When Sir John Blelloch came to see you and Lord Mason, you agreed to the release to the judge of the working papers, but it was agreed that you would be consulted further if the judge asked to see Cabinet or Cabinet Committee documents.

This latter category consists of 13 Cabinet and Cabinet Committee minutes, and further minutes and documents relating to them, of which the majority are from the Conservative Administration. On the telephone I did not perhaps make it clear that the 2 papers dating from your administration are not papers of Cabinet itself, but consist of one extract from the minutes of EI Committee chaired not by you but by Eric Varley, and a memorandum submitted to that Committee by the Northern Ireland Secretary. I should of course be happy to arrange for you to see the papers in question.

The Government has decided, following advice from the Law Officers and Treasury Counsel, to seek reconsideration of the judge's decision in respect of the disclosure of both Cabinet and Cabinet Committee papers. This will entail inspection of the papers by the judge under seal and in camera. The aim will be to persuade the judge that the papers reveal nothing relevant to Arthur Andersen's contention that the initial decisions and subsequent handling of the De Lorean case were ill-considered and conducted without regard to commercial considerations. The submission will be that the papers are not relevant to consideration of the issues, and need not be disclosed to the defendants. If however the judge is not persuaded to reverse his order, the Government intends to comply and disclose the papers in question, including Cabinet and Cabinet Committee minutes, to the defendants rather than withdrawing from the case. Under US law, it would be a contempt of court for the defendants to use the papers other than strictly for the purposes of the action. The consent of The Queen is being sought on that basis. The position in respect of the papers of your administration is of course being reserved, pending my approach to you.

In reaching its decisions the Government has taken the following points into account:

/ i. while it is

i. while it is unprecedented for the Government to disclose documents relating to Cabinet proceedings to other parties in litigation, judgements in courts in the United Kingdom have made it clear that the public interest immunity case against disclosure of such documents is not an absolute principle, to be accepted at all times, but a balance between the public interest in upholding the privacy of deliberations in Cabinet, and the need for justice to be done in the case in question. Each case is decided on its own facts. In US courts similar considerations apply: executive privilege may be claimed to resist disclosure of pre-decision discussion of policy matters, each case is decided on the facts, although the practice runs to wider disclosure;

ii. the judge cannot form a view on the balance between privilege and disclosure in this case without inspecting documents. He has inspected some other papers in respect of which privilege has been claimed, but not Cabinet and Cabinet Committee papers;

iii. if the Government complies with the judge's order, Treasury Solicitor's advice is that the Government stands a reasonable chance of succeeding with its action, but this would be much reduced if the Government does not disclose papers, as the Court would be entitled to put the worst interpretation on the Government's reasons for withholding them. The damages in dispute are some £108m, of which some £20-30m might be recovered in a settlement. If the Government as plaintiff withdraws, costs of some £5m will have been wasted;

iv. Treasury Counsel has advised that an English judge in a similar case would be very likely to inspect the documents not so far shown to the courts, including Cabinet minutes, but unlikely to order their disclosure if they did not advance the case of the party applying for disclosure. Even if the judge does not reverse his order, Counsel considers it doubtful whether compliance with it will have any very disturbing consequences for the maintenance of public interest immunity claims in the English jurisdiction. The American decision has no binding force here, and it can readily be demonstrated that, by making his ruling without inspection and not referring in it to the fact that the order relates to Cabinet papers, the American judge has gone about his decision in a way that would not be reflected in England; and

/ v. if the Government

v. if the Government abandons a promising action to avoid having to disclose high-level papers it would encourage litigants in future cases to redouble efforts to obtain confidential documents in the hope that HMG would always chose to abandon or settle cases, rather than disclose.

You may wish to see the judge's ruling, and the opinion of Treasury Counsel, Mr Laws, which is referred to at indent (iv) above. --- I attach copies.

Finally, I have to make the following point , although I am sure it will occur to you anyway. It must be expected that, if the Conservative Government's papers are made available to the Court but those of the Labour Administration are not, Arthur Andersen's lawyers will make the most of their right to press the Court to draw the inference that the papers have not been disclosed because they contain some "smoking gun" which would have undermined the Government's case. This will greatly weaken the UK Government's chances of success in the action.

In the light of all this the questions which I have to put to you are:

a. whether you agree that the Government may comply with the judge's order to disclose to Arthur Andersen the working documents of your Administration that, with your agreement, he has already seen;

b. whether you agree that the judge may inspect in camera and under seal the two EI Committee papers of your Administration as part of an application for reconsideration of his ruling on the disclosure of papers to the defendants;

c. should the application at (b) fail, and the judge does not reverse his ruling, whether you agree that these papers should be made available to the defendants, strictly for the purposes of the litigation.

Please let me know whether I can offer any further help. I am copying this letter to Lord Mason.

Yours ever,

Robin

CONFIDENTIAL

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

SIR ROBIN BUTLER

DISCLOSURE OF DE LOREAN PAPERS

I wrote to Sir Robert Fellowes using the draft you provided. I subsequently warned him that we had not yet secured Lord Callaghan's agreement to the release of the papers dating from his administration. Sir Robert has confirmed that The Queen agrees that the best course is to release the papers if the judge in the case so dictates. I told Sir Robert I would come back to him when we know the result of your further approach to Lord Callaghan.

ANDREW TURNBULL

30 October 1991

CONFIDENTIAL

CONFIDENTIAL

CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 071-270 0101

From the Secretary of the Cabinet and Head of the Home Civil Service
Sir Robin Butler KCB CVO

Ref. A091/2683

29 October 1991

Dear Jim

De Lorean: Disclosure of Papers

I am writing to report on conversations with Lord Callaghan, Lord Mason and Mrs Thatcher about the judge's order for disclosure in the DED's case against Arthur Andersen.

As I mentioned to you this afternoon, Lord Callaghan drew a distinction between Cabinet papers and others and was unwilling for Cabinet papers of his administration to be disclosed, even to the judge. I propose now to write to him so that he can consider the matter at more leisure, but this is bound to take a little time. I also spoke on the telephone to Lord Mason, who did not comment on the substance but gave me the impression that he was more relaxed.

I also called on Mrs Thatcher this evening, who, while expressing her misgiving about disclosure of Cabinet and Cabinet papers, both agreed with the course recommended on Cabinet and Cabinet Committee papers and agreed that the Government should comply with the order of the judge in relation to those papers already examined by him for which we had claimed executive privilege. Mrs Thatcher made the suggestion, which may be valuable, that if the judge eventually orders the disclosure of Cabinet and Cabinet Committee papers to Arthur Andersen, we might request that any part of the proceedings in which quotations were being made from these papers should be held in camera. I should be grateful if you could ask our American lawyers to consider this, although they may judge it best not to raise the point unless and until the judge confirms his order for the disclosure of Cabinet and Cabinet Committee papers.

\I gather from

J Nursaw Esq CB QC
Treasury Solicitor

CONFIDENTIAL

I gather from Andrew Turnbull that The Queen has now given her permission for the release to the judge, and ultimately if necessary to Arthur Andersen, of the Cabinet and Cabinet Committee papers of the Conservative Government. Our lawyers can therefore go ahead with releasing to Arthur Andersen the papers of the Conservative Government which the judge has already seen and showing him the Cabinet and Cabinet Committee papers of the Conservative Government. They should tell the judge that it will take us a little longer to conclude our consultations with the Ministers of the former Labour Government.

I am copying this letter to Terry Burns, David Gillmore, John Chilcot, Andrew Turnbull and Juliet Wheldon.

Yours ever,

Robin

CONFIDENTIAL

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

SIR ROBIN BUTLER

THE DE LOREAN CASE AGAINST ARTHUR ANDERSEN: DISCLOSURE OF PAPERS

The Prime Minister has seen your minute of 20 October. He too has concluded that the balance of advantage lies in pressing on with the case. We should make available to the judge the Cabinet and Cabinet Committee papers he seeks and should seek to persuade him that they do not need to be disclosed to Arthur Andersen. If the judge rules otherwise we should be prepared to disclose the papers to Arthur Anderson subject to the caveat in your para 15 iii.

I am now writing to The Queen's Private Secretary to seek Her consent for the disclosure of these papers while you are consulting Lords Callaghan and Mason.

I am copying this minute to Richard Gozney (Foreign and Commonwealth Office), Jeremy Heywood (HM Treasury) and Jonathan Margetts (Northern Ireland Office) and Juliet Wheldon (Attorney General's Office).

AT

(ANDREW TURNBULL)
29 October 1991

CONFIDENTIAL

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file DTS.

bc C.O.

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

29 October 1991

This letter seeks The Queen's consent to the disclosure of Cabinet papers in legal proceedings in the United States of America concerning the recovery of damages from Arthur Andersen, the auditors of the De Lorean Company.

The Government is the plaintiff in a civil case against Arthur Andersen in the US courts. The Government's claim is that Arthur Andersen negligently failed to discover and disclose details of fraudulent transfers of funds intended for the development of the De Lorean car in a Government assisted project in Northern Ireland. The damages sustained are put at £108 million (£66 million plus interest). As part of that case it has claimed executive privilege to avoid the disclosure of Cabinet Papers which Arthur Andersen feel may be relevant to their case. (The equivalent in a UK court would be a public interest immunity claim.)

The Government's legal advice, at the outset of the case, was that there was a good chance of success, and a better than evens chance that the American judge would not insist on the disclosure of Cabinet papers. The case has not yet come to trial and the Judge has not addressed the substance of the Government's claim, but he has ordered the disclosure of Cabinet papers to the defendants.

The papers concerned are passages from 13 Cabinet and Cabinet Committee minutes, and minutes and documents relating to them, some 110 documents in all. Arthur Andersen hope that they contain information supporting their claim that the Government was not in fact particularly concerned with the commercial merits of the enterprise, but supported it for essentially political reasons because it created employment. The Judge has made his ruling without inspecting the documents, which contain little to support this claim.

In considering the next steps following this judgement, the Government has had the following points in mind:

(i) It is unprecedented for the Government to disclose documents relating to Cabinet proceedings to other parties in litigation (although the Government disclosed an extract from the Cabinet paper "Questions of Procedure for Ministers" in the Crossman diaries case); and there are numerous

cases in the United Kingdom and elsewhere in which such disclosure has been successfully resisted.

(ii) Judgements in courts in the United Kingdom have made it clear that the public interest immunity case against disclosure of such documents is not an absolute principle, to be accepted at all times, but a balance between the public interest in upholding the privacy of deliberations in Cabinet, and the need for justice to be done in the case in question. Each case is decided on its own facts. In US courts similar considerations apply: executive privilege may be claimed to resist disclosure of pre-decision discussion of policy matters, each case is decided on the facts, although the practice runs to wider disclosure.

(iii) The Judge cannot form a view on the balance between privilege and disclosure in this case without inspecting documents. He has inspected some other papers in respect of which privilege has been claimed, but not Cabinet papers.

(iv) If the Government complies with the Judge's order, Treasury Solicitor's advice is that the Government still stands a reasonable chance of succeeding with its action, but this would be much reduced if the Government does not disclose papers, as the Court would be entitled to put the worst interpretation on the Government's reasons.

(v) Treasury Counsel has advised that an English Judge in a similar case would be very likely to inspect the documents not so far shown to the courts, including Cabinet minutes, but unlikely to order their disclosure if they did not advance the case of the party applying for disclosure. Even if the Judge does not reverse his order, Counsel considers it doubtful whether compliance with it will have any very disturbing consequences for the maintenance of public interest immunity claims in the English jurisdiction. The American decision has no binding force here, and it can readily be demonstrated that, by making his ruling without inspection and not referring in it to the fact that the order relates to Cabinet papers, the American Judge has gone about his decision in a way that would not be reflected in England.

(vi) If Her Majesty's Government abandons a promising action to avoid having to disclose high-level papers, it would encourage litigants in future cases to redouble efforts to obtain confidential documents in the hope that HMG would always choose to abandon or settle cases, rather than disclose.

Her Majesty's Government has considered the alternatives of:

(a) Abandoning the case: this would end any prospect of a successful recovery of part of the Government's losses on the De Lorean project. If the Government complies with the orders on disclosure there is a reasonably good chance of winning the action or receiving in settlement some £20-30 million. If the Government as plaintiff withdraws, costs of some £5 million will have been wasted.

(b) Seeking reconsideration of the Judge's decision in respect of the Cabinet papers: this must be done by 1 November; it would entail inspection of the papers by the Judge under seal and in camera. The aim would be to persuade the Judge that disclosure of these papers to Arthur Andersen is not essential to resolution of the issues, giving priority to protection of the minutes of the Cabinet itself. If this approach does not succeed, the choice would be between abandoning the case or:

(c) Complying with the order to disclose the documents to the defendants, Arthur Andersen. It would be a contempt of court for Arthur Andersen to use the papers other than for the purposes of the litigation, although they would be free to read any part of them into the record if the case comes to trial.

The Government has decided, taking into account the advice of the Cabinet Secretary and the Law Officers, that option (b) (requesting reconsideration of the Judge's ruling) is the best course, but that the Government should be ready to disclose the papers to Arthur Andersen (option c) if this is unsuccessful. Lord Callaghan and Lord Mason, who were Prime Minister and Northern Ireland Secretary during the early stages of the De Lorean affair, have been kept in touch with the progress of the case and are being consulted on this further step.

Because the conclusions of Cabinet constitute advice to the Monarch, it is a long-standing convention that Her Majesty's consent is necessary to the disclosure of Cabinet papers. In the Crossman diaries case in 1975, Her Majesty gave her consent to the disclosure of documents on Cabinet procedures to the solicitors acting for Mr Crossman's literary estate.

Provided that Lords Callaghan and Mason give their agreement in relation to those papers which belong to the last Labour Government, the Prime Minister would be grateful for Her Majesty's consent, first to the disclosure of Cabinet papers to the Judge in the Arthur Andersen case, with a view to persuading him to reconsider his order that they should be disclosed to the defendants; and secondly, to disclosure to the defendants in the litigation if the order is maintained.

Because of the US court rules the Government must make its application by 1 November.

ANDREW TURNBULL

The Rt. Hon. Sir Robert Fellowes, K.C.B., K.C.V.O.

The National Archives

DEPARTMENT/SERIES PREM 19 PIECE/ITEM 2748 (one piece/item number)	Date and sign
Extract details: Note to Turnbull dated 29 October 1991 with attachment	X
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Instructions for completion of Dummy Card

Use black or blue pen to complete form.

Use the card for one piece or for each extract removed from a different place within a piece.

Enter the department and series,
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Enter the piece and item references, .
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Enter extract details if it is an extract rather than a whole piece.
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Do not enter details of why the extract is sensitive.

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Sign and date next to the reason why the record is not available to the public ie. Closed under FOI exemption; Retained under section 3(4) of the Public Records Act 1958; Temporarily retained; Missing at transfer or Number not used.

The National Archives

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Extract details: Phippard to Turnbull dated 28 October 1991 with attachment	X
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FILE JD

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

SIR ROBIN BUTLER

THE DE LOREAN CASE AGAINST ARTHUR ANDERSEN: DISCLOSURE OF PAPERS

The Prime Minister discussed this issue with you. He was very grateful for an advance sight of the submission which will be circulated later in the week on which rapid decisions will be needed.

2. The Prime Minister said the Government was in a very difficult position. If it pressed ahead, it would have to concede a difficult precedent on the disclosure of Cabinet papers; but if the case were dropped now, the Government would look weak and too obsessed with secrecy. It would also open itself up to a claim for damages by Arthur Andersen.

3. You pointed out that, the precedent aside, the papers concerned were not damaging to the Government - indeed, they very much strengthened its case. The first stage would be to make the Cabinet papers and minutes available to the judge. It was likely, however, that he would rule that they should be shown to Arthur Andersen though it might be possible to persuade him that only the papers and not the minutes should be disclosed. The Government would have to take a final decision at that stage.

4. The Prime Minister said he would await advice including the opinion of the Law Officers, but on the arguments now presented to him, he felt it was better to press on. He asked how it came about that this case was brought and whether the present difficulties were anticipated. Could a brief note be prepared on this?

5. Among the papers which I believe have already been made available are those relating to a meeting which Mrs. Thatcher held with Mr. Winterton. I have seen reports that lawyers for Arthur Andersen are threatening to summon Mrs. Thatcher as a witness. This may be bluster, but I would be grateful for advice on whether this a genuine risk.

AT

ANDREW TURNBULL

28 October 1991

CONFIDENTIAL

Prime Minister
FERD confirms his advice that we stand firm on. The Attorney has indicated that he agrees

AT 28/10

Ref. A091/2660

PRIME MINISTER

Agreed 28.10

The De Lorean Case against Arthur Andersen: Disclosure of Papers

A very urgent decision is needed about the disclosure of Government papers, including Cabinet papers, in the Government's case against Arthur Andersen over De Lorean. The judge in the case has produced a judgement, received by our lawyers on 21 October, ordering us to produce all the papers for which we had claimed privilege, including Cabinet papers, to Arthur Andersen (AA). We can ask him to reconsider his judgement provided that we do so by 1 November and provided that we allow the judge to inspect the papers, including Cabinet papers, under seal and in camera. Otherwise we have no effective alternative to dropping the case. If we decide to produce the Cabinet papers, clearance is needed from the Opposition and from The Queen.

Background

2. AA were auditors of the De Lorean companies. HMG's case against them is that, in their dealings with De Lorean, the former Northern Ireland Department of Commerce and the former Northern Ireland Development Agency relied on the reports and statements of AA as reflecting the true financial position of the companies, and on certificates issued by AA relating to expenditure on the development of the car. But AA failed to discover and disclose details of a fraudulent transfer of funds and that engineering work carried out by Lotus Cars Ltd of Norwich was effectively paid for twice (the funds had been intended for development of the De Lorean car by Lotus but were

transferred via a Swiss-based Panamanian Company called GPD to the personal use of Mr De Lorean and the late Mr Colin Chapman (then the Managing Director of Lotus), and others). The claim therefore alleges negligence and various other improprieties. It is also claimed that further negligence arose when Arthur Andersen failed to follow up/disclose an approach to their representatives by the Chief Financial Officer of the US-based De Lorean Motor Company (DMC) and his assistant concerning suspicions that a loan obtained by Mr De Lorean and used by him to purchase another unconnected company was linked to the GPD funds.

3. The total damages sustained have been assessed at £108 million (£66 million plus interest) on the grounds that had the fraudulent dealings been exposed soon after the auditors first learnt of the GPD contract in the early stages of the project, the subsequent losses would not have been incurred.

4. Part of Arthur Andersen's strategy is to counter-attack, both by bringing third party actions against the Government-nominated directors of DMCL, who are contesting the action with our backing, and by claiming that HMG was as much at fault as they were. They claim the Government was as well-placed to be aware of the fraud as were Arthur Andersen and as much or as little to blame for failing to discover it or that alternatively the Government was in fact not particularly concerned with the commercial viability of the enterprise because they supported it for its employment-generating qualities, essentially on political grounds.

Discovery Issues

5. Arthur Andersen plausibly claim that any document which gives information about Ministers' or their advisers' attitude to investment in and support for the project throughout its life is

relevant. Furthermore the Government is now effectively bound to sue in the US or not at all. This means that US procedures have to be followed. In this context although the requests for discovery made by AA go further than would be the practice here, they are not exceptionally wide. The closest equivalent to "public interest immunity" here is US "executive privilege". This can be claimed only for documents which include pre-decision discussion of policy matters. This may be a somewhat narrower definition than the equivalent in an English court, but the same arguments could be made in a UK-based action: namely that the case cannot be tested without access to the documents which have been withheld. It is, however, unprecedented for HMG to disclose documents relating to proceedings of the Cabinet to other parties in a litigation and there are numerous cases, here and elsewhere, in which application for such disclosure has been successfully resisted.

6. About 435 documents, of which 110 were Cabinet and Cabinet Committee papers and minutes and documents relating to them, were withheld from AA on grounds of executive privilege. As expected the US Judge, in anticipation of AA's Motion to compel discovery, asked if he could inspect in camera the executive privilege documents withheld. The then Prime Minister requested that Lords Mason and Callaghan as representatives of the previous administration be consulted on 35 papers. They agreed to the disclosure to the Judge of 33, and made the stipulation that they be consulted further on any proposals to make the other two documents available. The then Prime Minister's agreement was also conditional on there being further consultation with Ministers if the Judge either insisted on seeing Cabinet and Cabinet Committee papers or if he ordered the discovery to Arthur Andersen of any papers for which we were claiming executive privilege. 313 documents were provided to the judge, and some 122 papers withheld on instructions from myself that not only Cabinet minutes and memoranda but also briefs for Cabinet and any

papers which referred to conclusions reached at Cabinet or Cabinet Committee should not be offered to the Judge.

Decisions now required

7. There are effectively three sets of decisions now required, of which two are very urgent:-

i) Are Ministers now willing that we should comply with the Judge's order and release to Arthur Andersen the documents (excluding the Cabinet papers) which have already been inspected by the Judge and which we have been ordered to disclose to Arthur Andersen?

ii) Are Ministers willing, as part of seeking reconsideration of the Judge's decision in respect of the Cabinet papers, that we should show the Judge Cabinet papers and minutes in camera and under seal?

iii) If the Judge orders that the Cabinet papers (possibly, but not necessarily, excluding the Minutes of the Cabinet itself) be disclosed to Arthur Andersen, will Ministers be willing to comply?

8. The last decision does not, strictly speaking, need to be taken now but it must be regarded likely that the Judge will order the disclosure of the Cabinet documents and there is little point in starting down this road if Ministers are not willing to comply in that eventuality.

Chances of Success in the Action

9. When DED embarked on the action, advice was taken from the Government's American lawyers and they felt that there was a good case for proceeding and a good chance of winning. Treasury

Solicitor's advice is that the Government still stand a reasonable chance of succeeding, although the chances are likely to be much diminished if the Judge is not allowed to inspect all the documents for which executive privilege is claimed or if the Government insist on withholding document which he orders to be discovered to AA. In those circumstances, under US law, the court is entitled to put the worst interpretation on the Government's reasons for withholding the documents.

Likely Costs and Benefits of Action

10. Although total damages were assessed by the Treasury Solicitor at around £108 million, the Treasury Solicitor does not expect that the Government would necessarily be awarded the full £108 million claimed, but that, subject to complying with the Court's decision on discovery, there is a reasonably good chance of winning the action, or receiving in settlement some £20 million to £30 million. Costs to date are in the region of £5 million. Withdrawal, dismissal or total loss of the case would involve a loss of some £5 million in legal costs and £20 million or more in potential damages. There has, moreover, already been a full and critical report by the Public Accounts Committee into the De Lorean affair and a loss of this nature must be expected to attract further interest from the PAC.

Disclosure of papers

11. There is no precedent for disclosing of Cabinet proceedings to other parties to litigation with the Crown. The Cabinet Office has been concerned about precedent which a US Court decision on discovery could set, whether in the US or other common law jurisdictions such as Canada or Australia or the UK itself. There is no doubt that the ordering of disclosure of Cabinet papers and proceedings in the case, if confirmed, will in practice set a precedent, as would the Government's acquiescence

if that is how Ministers decide. But every case involving public interest immunity or executive privilege is to some extent decided on its own facts. This case is unusual in that very high-level documents may be material evidence in the action. It will usually be possible to fight off attempts to secure disclosure of high-level documents by claiming that what was said in Cabinet or Cabinet Committee is not relevant or admissible evidence. Treasury Counsel (Mr Laws) has advised that if a case arose in England where very high-level papers were as highly relevant to the outcome of the proceedings as these are, it is very likely that an English judge would insist on inspecting them. So a defeat on this issue in the US courts will not alter the position in English law as at present understood. On the other hand if HMG abandons a promising action to avoid having to disclose high-level papers, it would encourage litigants against HMG in the UK and elsewhere to redouble efforts to obtain confidential documents in the expectation that HMG would abandon or settle cases rather than disclose those documents. Moreover, in so far as the judgement of a US District Court sets any precedent in this or any other jurisdiction, the present unfavourable judgement has set a precedent anyway.

The Law Officers' Opinion

12. Two years ago, the Attorney General advised that disclosure of the non-Cabinet documents would not prejudice future claims to public interest immunity in this country and that, if the Judge did not accept our claim that Cabinet and Cabinet Committee papers should not be produced, it would be necessary to consider the position then. The Attorney's view is that disclosure should now be made, in accordance with the US lawyers' advice, on the premise that the damage done to the Government or to the case by disclosure does not outweigh the damage done by dropping the case. This point has been checked with the Government's legal

advisers who have confirmed that any embarrassment to the Government or to the case is most unlikely to equal the embarrassment of dropping the case.

Disclosure of the previous Government's papers

13. As regards disclosure of documents from the previous Labour administration, Lords Callaghan and Mason did agree to inspection by the Judge in camera of 33 documents and the withholding of 2 actual Cabinet papers. In the event, following the Treasury Solicitor's consultation with Cabinet Office only 2 of the 33 agreed for inspection were passed on. The Northern Ireland Office agreed to undertake further consultation with Lords Callaghan and Mason if it was proposed to allow inspection of the 2 withheld Cabinet papers or if an order was subsequently made for discovery of any of the 33 papers. If Ministers decide in favour of disclosure of Cabinet papers, Lords Callaghan and Mason will have to be consulted very urgently in the next two days.

The Queen's interest

14. There is a long-standing convention that, on the basis that conclusions of the Cabinet constitute advice to The Queen, Her Majesty's consent is necessary to the disclosure of them. In the only previous case involving disclosure of a Cabinet document in evidence to a court (disclosure of Questions of Procedure for Ministers in the Crossman Diaries case), The Queen's approval was obtained in advance.

Conclusion

15. On the three questions for decision in para 7, I recommend, having consulted the Attorney General and officials of Cabinet Office, Northern Ireland Office, Treasury and Treasury Solicitor's Department:-

i. On the non-Cabinet papers so far shown to the Judge, the Government should now comply with the Judge's order that they should be made available to the company.

ii. On the Cabinet papers, a request for re-consideration should be lodged against the Judge's order, in support of which the Cabinet and Cabinet Committee papers, minutes and related documents should be shown to the Judge under seal and in camera. The agreement of Lords Callaghan and Mason and of The Queen will need to be sought urgently. The aim should be to persuade the Judge that disclosure of these papers to Arthur Andersen is not essential to resolution of the issues, giving priority to protection of Minutes of the Cabinet itself.

iii. Nevertheless, if the Judge eventually so orders, the papers should be disclosed to Arthur Andersen. We are advised that it would be contempt for Arthur Andersen to use those papers other than for the strict purposes of the litigation, although they would of course be free to read any part of them into the record if the case comes to trial and thus describe the contents to the press.

16. I am copying this minute to the Foreign and Commonwealth Secretary, the Chancellor of the Exchequer, the Secretary of State for Northern Ireland and the Attorney General.

Nowa Rippard

ROBIN BUTLER

28 October 1991

(Approved by Sir Robin & signed in his absence)

mf.



FLAG C

CONFIDENTIAL

(C)

Ref. A091/2643

Purely are anticipated this in a NY Court?

MR TURNBULL

The De Lorean Case against Arthur Andersen:
Disclosure of Papers

Sir Robin Butler will be putting to the Prime Minister by close of play of Monday 28 October a submission about the question of disclosure of papers in the Government's case against Arthur Andersen in New York. Since the issue is complex, and Ministers will need to take a decision against a tight timescale, Sir Robin thought that it might be helpful for the Prime Minister to have the chance to see over the weekend a draft of his submission, which sets out the background to the decisions now required.

2. Sir Robin would be happy to discuss this at his bilateral on Monday morning, if this would be helpful.

Sonia Phippard

MISS S C PHIPPARD

25 October 1991

CONFIDENTIAL

NBPM AF 26/6

Queen Anne's Chambers
28 Broadway
London SW1H 9JS

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01-210 3488
DX No. 2318 Victoria

Our reference

Your reference

A Turnbull Esq.
Principal Private Secretary
Prime Minister's Office
10 Downing Street
London SW1A 2AA

26 June 1990

Dear Turnbull

DELOREAN: LITIGATION IN THE UNITED STATES AGAINST ARTHUR ANDERSEN

Lawyers acting for Arthur Andersen have now implemented their threats to seek evidence from the Prime Minister upon oral examination on video tape. I enclose a copy of the Notice which our lawyers have faxed to me. The other side do not ask for the deposition before issues with regard to production of documents are resolved. This is likely to take several months yet.

I have spoken briefly to our lawyer in the United States, Mr Schade. He advises that no immediate procedural action should be taken and I have asked him to advise generally in writing on the matter and as to how we should proceed. I will write to you further when this is received.

I am copying this to Sir Robin Butler, Juliet Wheldon, Greg McConnell (NIO), Mike Warnock (IDB Belfast), and Jim Nursaw.

Yours sincerely

Robert Ricks

R N Ricks

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

DEPARTMENT OF ECONOMIC DEVELOPMENT, :

Plaintiff, :

-against- :

ARTHUR ANDERSEN & CO. (U.S.A.), :
ARTHUR ANDERSEN & CO. (Republic
of Ireland) and ARTHUR ANDERSEN :
& CO. (United Kingdom),
: 85 Civ. 1292 (CES)

Defendants-
Third-Party Plaintiffs, :

-against- :

ALEX H. FETHERSTON, C. SHAUN HARTE, :
RONALD J. HENDERSON, ANTHONY S.
HOPKINS, and JAMES SIM, :

Third-Party Defendants. :

----------X NOTICE OF DEPOSITION

DAVID W. ALLARD, JR., Trustee of :
DeLorean Motor Company,
: 84 Civ. 7703 (CES)
Plaintiff,
:
-against-
:
ARTHUR ANDERSEN & CO. (U.S.A.)
ARTHUR ANDERSEN & CO. (Republic :
of Ireland) and ARTHUR ANDERSEN &
CO. (United Kingdom), :

Defendants. :

----------X

S I R S :

PLEASE TAKE NOTICE that, pursuant to Rules 26 et seq. of the Federal Rules of Civil Procedure, the undersigned

will take the deposition upon oral examination on videotape of Margaret Thatcher, Prime Minister, before a person authorized by law to administer oaths, at No. 10 Downing Street, London, England or at such other place upon which the parties may agree, at such date and time upon which the parties may agree but in no event later than thirty days after plaintiff completes its production of documents requested by defendants, including those documents withheld from production by plaintiff either on the purported ground of executive privilege or on some other purported basis, which the Court may order plaintiff to produce. The examination will continue from day to day until completed. You are invited to attend and cross-examine.

PLEASE TAKE FURTHER NOTICE that the Prime Minister shall be examined on all matters reasonable and necessary to the defense of this action, including without limitation her knowledge of:

- a meeting on December 15, 1981 at No. 10 Downing Street among the Prime Minister, the Attorney General and a member of Parliament, one Nicholas Winterton, at which Mr. Winterton made certain allegations about alleged financial irregularities by John Z. DeLorean

and others at DeLorean Motor Company ("DMC") and subsidiaries and the subsequent investigation of those allegations

- discussions of the political, social and economic considerations underlying the British government's decision in 1978 to provide financial assistance to DeLorean Motor Cars Limited ("DMCL")
- the requests by DMCL for additional assistance and the government's action with respect to such requests
- requests by DMCL for additional loan guarantees in 1981 and 1982 and the government's action with respect to such requests
- the effects of civil disturbances in Northern Ireland and other political considerations on government decisions to lend further assistance to the DeLorean project
- the considerations underlying the decision by the British government to place DMCL in receivership, including the analysis of alternatives thereto

- the government's decision to commence this action

Dated: New York, New York
June 22, 1990

BREED, ABBOTT & MORGAN

By _____
James D. Zirin

153 East 53rd Street
New York, New York 10022
(212) 888-0800

Attorneys for Defendants

TO: MUDGE ROSE GUTHRIE
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180 Maiden Lane
New York, New York 10038
Attorneys for Plaintiff
Department of Economic Development

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30 Rockefeller Plaza
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Attorneys for Plaintiff
David W. Allard, Jr.

SCHOEMAN, MARSH, UPDIKE & WELT
60 East 42nd Street
New York, New York 10165
Attorneys for Third-Party Defendants

CONFIDENTIAL

File

D15

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

14 March 1990

Dear Stephen,

DE LOREAN: LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

The Prime Minister has seen your Secretary of State's minute of 8 March on the progress of the discussions about the disclosure of documents and has noted it without comment.

I am copying this letter to Tim Sutton (Lord President's Office), Stephen Wall (Foreign and Commonwealth Office), John Gieve (HM Treasury), Colin Walters (Home Office), Stephen Williams (Welsh Office), Martin Stanley (Department of Trade and Industry), Gillian Kirton (Lord Privy Seal's Office), Roger Bright (Department of the Environment), Clive Norris (Department of Employment), Juliet Wheldon (Attorney General's Office), Sonia Phippard (Cabinet Office) and to Mrs M Powell (Treasury Solicitor's Office).

Yours sincerely,

Andrew Turnbull

ANDREW TURNBULL

Stephen Leach, Esq.
Northern Ireland Office

CONFIDENTIAL

D85

Prime Minister
To note
AT 9/3

PRIME MINISTER

DE LOREAN: LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

-HOP

In his letter of 23 February, your Private Secretary conveyed your agreement to my proposals for the disclosure to the US Judge in camera, if he so requested, of further documents for which privilege could be claimed: and for further consultation with Lord Callaghan and Lord Mason. This is to inform you where matters now stand.

2. First, at a case conference on 23 February, the US Judge did confirm, as we had anticipated, that he wished to see the documents for which privilege had so far been claimed. Second, Lord Callaghan and Lord Mason have now been approached, and both are content that the 33 non-Cabinet documents from their administration may be released to the Judge in camera, but that the two Cabinet papers from the same period should be withheld. The way is therefore clear for T/Sol to instruct our US lawyers accordingly.

3. Lord Callaghan was asked about consultation in future and indicated that he would like to continue to be kept informed and consulted on the pattern followed thus far. Given Lord Callaghan's view the point was not put to Lord Mason, though he, too, would clearly welcome the same approach. Sir John Blelloch has, accordingly, undertaken to maintain contact with both as developments and/or further Ministerial decisions require.

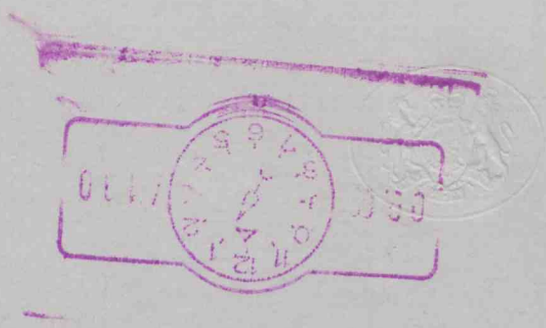
4. Lord Callaghan has also commented to the effect that anyone reading this privileged material without background knowledge of the British Cabinet system would conclude that, with all their references to the risks attached to the project, they lend some force to AA's claim. This reinforced the argument that the papers should be withheld from them if possible. It also suggested that there might be some value in arranging for the US Judge to be briefed on the background at the time the papers are handed over and this point has been drawn already to T/Sol's attention.

5. I am sending copies of this minute to Geoffrey Howe, Douglas Hurd, John Major, David Waddington, Peter Walker, Nicholas Ridley, John Belstead, Chris Patten, Michael Howard and Patrick Mayhew, and to Sir Robin Butler and the Treasury Solicitor.

P.B.

PB

8 March 1990



IRELAND
DeLorean Pt 2

NBM
AF
28/2

PRIME MINISTER

DE LOREAN : LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

Peter Brooke copied to me his minute to you dated 20 February concerning disclosure to the Judge of documents for which claims for privilege have been made in these proceedings, so that he may rule on the claims.

I advised in November that disclosure of these documents would not prejudice future claims for public interest immunity in this country, and I believe that the course of action proposed by Peter Brooke should be followed. If the Judge does not accept our claim that Cabinet and Cabinet Committee papers should not be produced, even to him, then it will be necessary to consider further what line we should take in relation to them, in the light of advice from our American lawyers.

I am copying this minute to Peter Brooke, Geoffrey Howe, Douglas Hurd, John Major, David Waddington, Peter Walker, Nicholas Ridley, John Belstead, Chris Patten and Michael Howard, and to Sir Robin Butler and the Treasury Solicitor.

A.M.

27 February 1990



IRELAND

DE LOREAN

P12

CONFIDENTIAL

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

23 February 1990

Dear Stephen,

DE LOREAN: LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

The Prime Minister has seen your Secretary of State's submission of 20 February. She has agreed that the Judge should be allowed to see in camera the papers for which we are claiming executive privilege in New York, other than Cabinet and Cabinet Committee papers. She takes the view that more serious issues would arise if the Judge either insists on seeing Cabinet and Cabinet Committee papers or if he orders the disclosure to Arthur Andersen of the papers for which we are claiming executive privilege. Were this to occur, colleagues should then be given the opportunity to consider the matter further.

As regards Lords Callaghan and Mason, the Prime Minister is content for the Secretary of State to ask them if they are willing not to be further consulted provided that the Government follows the same principles in respect of the Labour Administration's papers as for its own. Nevertheless, she thinks that your Secretary of State should in any event tell Lords Callaghan and Mason that he will continue to keep them informed of further developments.

I am copying this letter to Tim Sutton (Lord President's Office), Stephen Wall (Foreign and Commonwealth Office), John Gieve (Treasury), Colin Walters (Home Office), Stephen Williams (Welsh Office), Martin Stanley (Department of Trade and Industry), Gillian Kirton (Lord Privy Seal's Office), Roger Bright (Department of the Environment), Clive Norris (Department of Employment), Juliet Wheldon (Law Officers' Department), Jim Nursaw (Treasury Solicitor) and to Sir Robin Butler.

Yours sincerely,

Andrew Turnbull

ANDREW TURNBULL

Stephen Leach Esq
Northern Ireland Office

CONFIDENTIAL

Prime Minister
Content to proceed
as FERB recommends?
AT
22/2

Yes - agree
draft letter
pm

Ref. A090/512

MR TURNBULL

De Lorean: Litigation against Arthur Andersen in New York

The minute of 20 February from the Secretary of State for Northern Ireland proposes that, in response to Arthur Andersen's request to see all our De Lorean papers, we should accede to the Judge's request to see them in camera, except for the Cabinet and Cabinet Committee papers. He also suggests that he should clear this proposal, in respect of the Labour Government's papers, with Lords Callaghan and Mason; and should take the opportunity to obtain their permission to take further decisions without consulting them, provided that we treat the papers of both Governments consistently. Mr Brooke said that he will consult colleagues again if the Judge insists on seeing Cabinet and Cabinet Committee papers or if he orders production to Arthur Andersen of any of the papers for which we claim privilege.

2. The background to this is that, following the Secretary of State's submission of 26 October, the Prime Minister agreed that we should disclose to the Judge and the opposite side all the papers for which we would not claim privilege in the United Kingdom, and a small number of documents for which we would have claimed privilege but which were fundamental to the case since they explained the rationale for the original funding decision. At that point, it was recommended that we should not offer other "pre-decision discussion" papers. The papers which we held back were Cabinet and Cabinet Committee Papers, exchanges between Ministers outside Cabinet, submissions to Northern Ireland Ministers, submissions to other Ministers who are members of

Cabinet or Cabinet Committees which considered the De Lorean project and exchanges between civil servants concerning policy issues.

3. At that stage we considered that this might well not be the end of the issue, and the request from the Judge that he should see the withheld papers in camera is not surprising. In our view, the Prime Minister could safely agree that the Judge should see privately the papers which the Secretary of State proposes. However, it would set an important precedent if either the Judge insisted on seeing privately Cabinet and Cabinet Committee papers or the Judge ruled that the papers which he is now seeing in confidence should be disclosed to Arthur Andersen. The Government would then need to consider whether the case against setting such precedents in the disclosure of policy papers is so strong that it would not be worth proceeding with the case. Hitherto, our lawyers have been reasonably confident that the Judge would not insist on disclosure to De Lorean of Cabinet and Cabinet Committee papers and exchanges between Ministers.

4. As regards consulting Lords Mason and Callaghan, I gather that on the last round they were relaxed, provided that their Administration's papers and the Government's papers were treated in the same way. I suggest that the Prime Minister agree that Lords Callaghan and Mason should be given the option not to be consulted further, provided that the Government follows the same principles in respect of their own and the previous Administration's papers. But the Prime Minister may want to suggest that the Secretary of State should undertake to keep Lord Callaghan and Mason informed.

5. If the Judge were to insist on seeing - even in private- the Cabinet and Cabinet Committee papers, the Prime Minister would also wish to consider consulting The Queen. The Queen's consent was sought before an extract from "Questions of Procedure

for Ministers" was put forward as part of the Government evidence in the case over the publication of the Crossman Diaries in 1975; the only previous example of disclosure of Cabinet documents to a court.

--- 6. I attach a draft reply to the Secretary of State's office.

F.E.R.B.

ROBIN BUTLER

22 February 1990

GR M type

Draft of 20 February 1990 (turnbull.dft/DW)

DRAFT LETTER FROM MR TURNBULL TO PS/SECRETARY OF STATE FOR NORTHERN IRELAND

De Lorean: Litigation Against Arthur Andersen in New York

The Prime Minister has seen your Secretary of State's submission of 20 February. She has agreed that the Judge should be allowed to see in camera the papers for which we are claiming executive privilege in New York, other than Cabinet and Cabinet Committee papers. She takes the view that more serious issues ~~will~~ would arise if the Judge either insists on seeing Cabinet and Cabinet Committee papers or if he orders the disclosure to Arthur Andersen of the papers for which we are claiming executive privilege. Were then to occur, ~~She~~ Colleagues should then be given the opportunity to consider the matter further.

2. As regards Lords Callaghan and Mason, the Prime Minister is content for the Secretary of State to ask them if they are willing not to be further consulted provided that the Government follows the same principles in respect of the Labour Administration's papers as for its own.

Nevertheless, she thinks that your Secretary of State should in any event tell Lords Callaghan and Mason that he will continue to keep them informed of further developments.

3. I am copying this letter to the Private Secretaries of those who received copies of your Secretary of State's submission.

SECRETARY OF STATE FOR NORTHERN IRELAND

PRIME MINISTER

DE LOREAN: LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

1. In response to my minute of 26 October colleagues agreed to proposals for the handling of the first stage of disclosure of documents to Arthur Andersen (AA). I now seek agreement on how we should respond to a probable challenge from AA to our claim of privilege in respect of a number of documents.

Disclosure to date

2. Most of the documents, for which no claim of privilege is to be asserted, have now been handed over and lists drawn up detailing those for which we claim privilege. At an informal case conference with the Judge in December, AA's lawyers indicated, as forewarned in my previous minute, that they would be challenging all our claims of executive privilege (the equivalent in the US courts of public interest immunity in Britain). The Judge indicated that, in ruling on this challenge, he would find it helpful to inspect in camera the documents at issue. Our US lawyers advise that it would greatly prejudice our case to refuse documents to the Judge and that it would be advantageous to volunteer to him as many as possible rather than await an Order to disclose them to the Court.

3. The procedure would be that the Judge would inspect the documents and return them to our lawyers. He would then rule on whether the documents should be disclosed to AA and, in turn, we would have to decide whether to comply. However, as I said in my minute of 26 October, we must recognise that there must be considerable doubt as to whether we could both refuse to produce documents, if ordered, and fight the case to a successful conclusion.

4. The papers (other than PAC and legal ones) we have so far agreed to withhold (paragraph 22 ii and iii of my minute of 26 October) total approximately 440 original documents. These include 13 sets of minutes of Cabinet or Cabinet Committee meetings and two Cabinet Committee memoranda. There are also several exchanges of letters between Ministers outside Cabinet, which relate directly to subsequent discussions in Cabinet, and some submissions to Ministers. The greater part of the material, however, is correspondence between Civil Servants.

The next stage of disclosure

5. A further case conference is scheduled for 23 February and I must now instruct our American lawyers how to respond if, as is only sensible to assume, the Judge's position remains as he has already indicated. The annex to this minute sets out the legal position in this country and in the United States. The key point is that the US courts are less likely than the British courts to accept a claim of executive privilege based on the nature or "class" of the documents in question. In the US courts the concept of privilege depends more on the contents of each document and, hence, in camera inspection of documents is more usual.

6. The Treasury Solicitor agrees with the advice of our American lawyers that as many documents as possible should be produced to the Judge. Nonetheless, he considers that the line should initially, at least, be maintained that Cabinet and Cabinet Committee memoranda and minutes should not be produced to the Judge.

7. I propose, therefore, that we should instruct our American lawyers to state at the case conference on 23 February that they are authorised to produce to the Judge (subject to further consultation as explained in paragraph 9 below) all documents except the Cabinet and Cabinet Committee papers (i.e. we would produce to the Judge all documents in categories (c), (d) & (e) in

paragraph 9 of my previous minute for which we have claimed executive privilege). The American lawyers would also be instructed to state that they are not authorised to produce Cabinet and Cabinet Committee papers.

8. It may be that the Judge will not be satisfied by this but I propose to await a report of the 23 February case conference, and in particular, on the Judge's response to our approach. If the lawyers advise that withholding Cabinet papers from the Judge would seriously damage our case, I will consult colleagues again on whether these too should be produced to the Judge: we know that the next case conference is not due until mid March.

Papers from the previous Administration

9. In response to my previous minute, it was agreed that we should consult Lord Callaghan and Lord Mason before releasing a small number of documents for which we could have claimed privilege. This was done and they agreed to the course of action proposed. The documents which I now propose to show to the Judge date from the period June 1978 to February 1985 and include 33 from the previous Administration. I would propose that Lords Callaghan and Mason should be consulted again on the specific proposal set out above. The opportunity would be taken at the same time to ask if they still wished to be consulted on any future decisions we may take on disclosure in this action. It may be that they would be content for the principles which we decide to follow to be applied to the relevant documents from their Administration.

Disclosure to John De Lorean

10. One other matter related to disclosure of documents has arisen since my last minute. In addition to the case against AA, there are a number of other actions stemming from the collapse of the De Lorean company. One of these is an action against the Receivers of the company, our American lawyer and others in which

John De Lorean is alleging a conspiracy to cause him loss. The Lawyers advise that this is a "nuisance" action in retaliation to an action by the Receivers against De Lorean. He did, however, obtain an order requiring disclosure to him of the unprivileged documents in the possession of our American lawyer which have been disclosed already to AA. They are from the period January 1982 to February 1985. The documents are in the possession of our American lawyer and the Court Order was against him and, as such, he had to comply with it. The documents totalling some 2500 pages have, therefore, been released on terms that they are to remain confidential unless and until they are used at trial. I might add that they do not appear to offer much scope for mischief making.

Conclusion

11. To sum up, we have released to AA the documents proposed in my minute of 26 October and agreed by colleagues. I now propose we accept the advice of the Treasury Solicitor and instruct our American lawyers to indicate that, on completion of consultations at present in progress, we will be prepared to volunteer all documents for which we have claimed executive privilege, except Cabinet and Cabinet Committee minutes and memoranda, to the Judge for in camera inspection. They will be instructed not to reveal with whom (Lords Callaghan and Mason) the further consultations are taking place. Cabinet and Cabinet Committee papers would not be produced on the ground that, as a matter of principle, we hold that the Judge should accept them as a class of documents which should not be produced. If, however, in the course of argument, our American lawyers consider that the continued refusal voluntarily to produce these documents to the Judge is harming our case and that the Judge will, in any event, order production, they should seek further instructions and I will consult colleagues again. I propose that Lords Callaghan and Mason are consulted on this specific proposal and also asked if they agree to forgo the need for further consultation. Finally, I would ask colleagues to note that a number of unprivileged documents have been disclosed to John De Lorean.

12. I am copying this minute to Geoffrey Howe, Douglas Hurd, John Major, David Waddington, Peter Walker, Nicholas Ridley, John Belstead, Chris Patten, Michael Howard and Patrick Mayhew and to Sir Robin Butler and the Treasury Solicitor.

P.B.

PB

20 February 1990



ANNEX

PRIVILEGE IN THE UNITED STATES AND IN BRITAIN

In the United Kingdom, in cases such as this, it is the nature or "class" of documents which attracts immunity, not their contents, and, therefore, the court is in a position to decide the matter without inspecting the documents. If the court has doubts as to whether the document or documents fall within the class, it can inspect them. The next consideration is whether the interests of justice in the particular case outweigh the public interest in non-disclosure. If the court considers that a case has been made out that the balance of interests might favour disclosure and can order inspection. The House of Lords has said that Cabinet Minutes are not completely immune from disclosure and cites as an example where the issue in a case involves serious misconduct by a Cabinet Minister. This situation has arisen in Australia and in New Zealand but not in the United Kingdom. The House of Lords has also made it clear that, while Cabinet documents do not have complete immunity, they are entitled to a high degree of protection against disclosure. Although an American court would probably attach some weight to the decisions of the House of Lords on public interest immunity, it is likely that American law has not developed as strong a doctrine in relation to class claims.

ILGAND · DeLorean PTE



Papers sent to Andrew Turek 28.2.92.

THE TREASURY SOLICITOR

Queen Anne's Chambers, 28 Broadway, London SWIH 9JS
Tel (switchboard) 071 210 3170 (GTN 210)
(direct) 071 210 3416

Andrew Turnbull Esq CB
Principal Private Secretary to the Prime Minister
10 Downing Street
SW1

Please quote: L85/552/AT

26 February 1992

Dear Mr Turnbull

DEPARTMENT OF ECONOMIC DEVELOPMENT -v- ARTHUR ANDERSEN

Thank you for your help last week; the documents in question have been disclosed to AA.

A further question has arisen about what documents related to De Lorean there may be at Number Ten. I enclose copies of two sets of documents at the NIO which concern PM's questions in October and November 1982. The US lawyers are concerned to know whether there are any documents at Number Ten corresponding to these or arising from the same questions as them, or indeed any other De Lorean questions. You will see how awkward it would be if at her deposition on March 18 Mrs Thatcher referred to such material and it had not been disclosed.

I await hearing from you.

Yours sincerely

Andrew Turek



With the Compliments of

The Treasury Solicitor

J Nursaw Esq CB QC

Queen Anne's Chambers,
28 Broadway, London SW1H 9JS

THE TREASURY SOLICITOR

Queen Anne's Chambers
28 Broadway London SW1H 9JS
Telephones Direct Line 01-210 3416
Switchboard 01-210 3000
Telex 917564 GTN 210
Fax No. 01-222 6006 – 210-3488
DX No. 2318 Victoria

Andrew Turnbull Esq.,
Principal Private Secretary,
10 Downing Street,
London,
SW1A 2AA

Please quote L85/552/AT

Your reference

Date 9 November, 1989

Dear Andrew

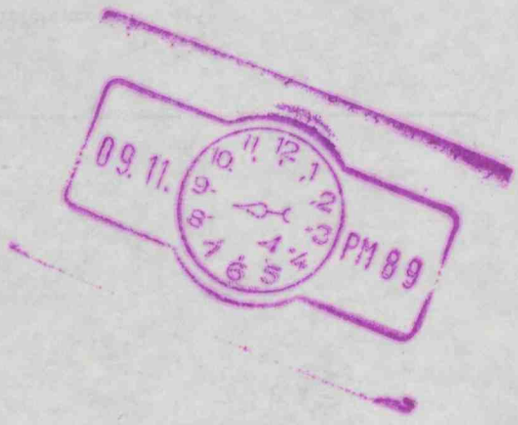
DE LOREAN - LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

Thank you for your letter of 8 November. I have written to the American lawyers accordingly and am most grateful for your most speedy response.

Yours sincerely,

Andrew Turek

ANDREW TUREK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PM 89

NOTES BY NICHOLAS WINTERTON

As soon as Marion Gibson showed me documents to back up her allegations about De Lorean, I wrote to Ian Gow. That was on the 23rd September 1981. On the 2nd October the Solicitor General spoke to me and I repeated Miss Gibson's allegations.

On the 4th October, 1981, Number 10 put out a statement to the effect that the P.M. had asked the Attorney-General to get the Police to look into the matter. My name was not mentioned by Number 10 but it was mentioned by Marion Gibson to journalists. The Press and Media descended on me en masse at my home.

On the 5th October at my home I gave an interview to the BBC and ITN. I attach a transcript of what I said to the BBC. I said much the same to ITN. In effect I repeated Marion Gibson's allegations, which were:-

1. De Lorean had not invested what he had claimed to have invested.

1002654

2. Mysterious payments had been made into a foreign bank account in connection with the design of the car.

3. Money had been spent on projects which had nothing to do with the car.

4. The proposed Public Issue in New York would enrich

De Lorean at the expense of the British taxpayer.

Police Officers from Scotland Yard arrived in New York on Wednesday, 7th October. They had one interview with Bill Haddad, formerly of De Lorean Motors, and a further appointment was made for Tuesday, 13th October. But on Saturday, 10th October they were instructed by the D.P.P. to suspend their investigations. Why?

Also on Saturday, 10th October the Attorney-General let it be known to the Press that on the following Monday, 12th October, a statement was going to be made clearing De Lorean. An article to this effect appeared in The Sunday Telegraph of the 11th October.

1002655

A statement was issued by the D.P.P. on Monday, 12th October acquitting De Lorean of any criminal offence. This resulted in the issue of Writs against me on the following day by De Lorean himself, his American Company and the British Company. De Lorean announced at a Press Conference in Belfast that he was claiming damages against me of £250,000,000

The Police and the Attorney-General having failed to find any evidence against De Lorean, I instructed my lawyers to make their own enquiries. At my considerable expense they went to New York, and very quickly found evidence (some of it on public files) which satisfied them that the four allegations made by Marion Gibson were entirely true. They also spoke to people in Detroit who supplied further evidence, again on public files, of De Lorean's murky past.

I hoped that eventually H.M.G. would realise what had been happening. I thought in particular that the appointment of the Receivers would result in a disclosure of De Lorean's misdoings, but it resulted merely in the continuance of the libel actions against me by among others the Receivers themselves on behalf of the Northern Irish Company, and, I suspect at the expense of H.M.G.

I had hoped that when the Receivers completed their report into the affairs of De Lorean Motor Cars Limited it would be published. Instead it was handed to the Police in Ulster a few days before the Public Accounts Committee was due to make its enquiries. For a reason I do not understand the P.A.C. is now to sit in camera. I am driven to the conclusion that the purpose of my reporting Marion Gibson's allegations to 10 Downing Street, which was to ensure that they were properly investigated, was frustrated. All it achieved for me was a lot of publicity which resulted in an expensive and worrying law suit against me personally. It is of little comfort for me to know that everything I said on the 5th October can be proved to be true in spite of the silence, of (1) the Police, (2) the Receivers and (3) the Public Accounts Committee.

Meanwhile the libel actions against me continue in spite of the efforts of my lawyers to force their discontinuance.

WORDS COMPLAINED OF BY DE LOREAN
AGAINST MR. N. WINTERTON

B.B.C.

Mr. Winterton "They /Marion Gibson's allegations/ relate firstly to the investment that is supposed to have been made by Mr. De Lorean and his Company in De Lorean Motor Cars Limited of Durmurry, Northern Ireland. The figure that was supposed to have been invested by him was four million and I am led to believe the allegation is that has been given to me, that only seven hundred and fifty thousand dollars has been invested in fact, so clearly that is quite a big shortfall and the British Taxpayer has handed up something like £80 million to this Company. Secondly there is concern about payments that have been made to an individual involved with the design of the car and the placing of those sums in a foreign bank account and also the spending of certain sums of money which have no relevance in fact to the motor car company and a final complication which I think is very serious is of course the issue, the Public Rights Issue which at the moment is postponed in the United States relating to this Company, the launch of a Rights Issue by the De Lorean Company which could well prejudice the British Government and the British Taxpayers stake in the Northern Ireland Company."

CONFIDENTIAL

File Mem.
(cc: DeLorean.mem)

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

8 November 1989

DE LOREAN - LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

Thank you for your letter of 7 November setting out the status of the various documents. Thank you also for your letter of 8 November explaining why none of these documents is likely to reveal anything crucial to the case. On this basis, I agree that the unprivileged documents may be disclosed and the privileged documents listed.

I am copying this letter to Trevor Woolley (Cabinet Office), together with copies of your two letters.

ANDREW TURNBULL

Andrew Turek, Esq.,
The Treasury Solicitor

CONFIDENTIAL

THE TREASURY SOLICITOR

Queen Anne's Chambers
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Andrew Turnbull Esq.,
Principal Private Secretary,
10 Downing Street,
London,
SW1

Please quote L85/552/AT

Your reference

Date 8 November, 1989

BY HAND

Dear Andrew

DE LOREAN - LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

Thank you for your call this morning.

You asked why Arthur Andersen would want these documents. The answer is that a material issue in this litigation is the date at which we knew or could have known that a fraud had been commited and what information we had about it and what date. That goes to the issue of whether we could have refused to put up any further money (in fact by the time Mr Winterton made his allegations the money had all been spent); and it may also be relevant to the question whether the proceedings were issued within the appropriate period of limitation, although Arthur Andersen have not pleaded that they were not so issued.

There is no information in the documents of any use to Arthur Andersen which is not available to them from other sources; they are, of course, not in the position to know that until they see the documents. The information is all in other documents which they have already seen and most of it is indeed common knowledge having been the subject of press reports at the time. The documents at 10 Downing Street tell them nothing they cannot obtain from other documents or from witnesses.

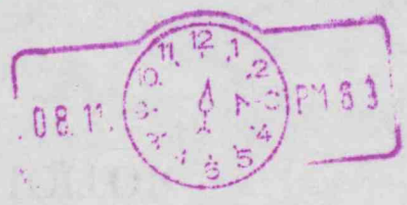
I can therefore confirm that these documents are not likely to be central to the proceedings if they come to trial. The reason AA have asked for discovery of documents from 10 Downing Street and Cabinet Office ahead of others is partly that they believe (mistakenly) that there is valuable material for them in those documents and partly because they believe that it will cause particularly severe embarrassment to the Government if they do so.

I look forward to hearing from you.

Yours sincerely,

Andrew Turek

ANDREW TUREK


08.11.
PM

THE TREASURY SOLICITOR

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Andrew Turnbull Esq.,
Principle Private Secretary,
10 Downing Street,
London,
SW1

Please quote L85/552/AT

Your reference

Date 7 November, 1989

BY HAND

DE LOREAN - LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

Thank you for the copy of your letter of 27 October, to Stephen Leach at NIO. I have told the American lawyers to go ahead accordingly in respect of all documents dated on or after 4 May 1979 and I understand that Sir John Blelloch proposes to approach Lord Mason of Barnsley and Lord Calloghan of Cardiff himself.

I now have the advice of the American lawyers about the documents from Number 10 which you were kind enough to copy over to me. It is as follows : -

1. The letter from Nigel Wicks to Gerald Hosker attracts Attorney-Client privilege, what we would call legal professional privilege.

2. The document flagged "A" which is a minute from Mr Pattison to Mr Whitmore, dated 28 October 1981, attracts no privilege.

3. The document flagged "B" which is a letter from Nicholas Winterton to Ian Gow dated 25 November 1981 also attracts no privilege.

4. Turning to the documents flagged "C" the minute from Mr Gow to the Prime Minister of 9 December 1982 attracts no privilege, and neither do the notes by Mr Winterton or the extract from a BBC broadcast which were the words upon which Mr de Lorean sued Mr Winterton. The extract from Private Eye is of course not privileged. The letter from James Nursaw, then Legal Secretary at LOD and now Treasury Solicitor to Ian Gow, the handwritten note from the Attorney General to the Prime Minister of 2 December 1982, and Sir Thomas Hetherington's note to the Attorney all attract Attorney-Client privilege. The statements by the Solicitor-General and the DPP and the extract from the Sunday Telegraph are not privileged.

In the light of the Prime Minister's decision of last month I propose to instruct the American lawyers to disclose the unprivileged documents and prepare the necessary list of the privileged documents accordingly, may I please have your views as a matter of urgency; Arthur Andersen's lawyers have made it clear that they are more interested in seeing unprivileged documents and lists of privileged documents from Number 10 and the Cabinet Office than in any others. They are under the impression, which I believe is mistaken, that these documents are going to be very helpful to them.

Yours sincerely,

Andrew Turek

ANDREW TUREK

IRENANDI DE LORESI
A.2

NBPM
AT 3/11

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-936 6201

The Rt Hon Margaret Thatcher MP
Prime Minister
No. 10 Downing Street
London
SW1A 2AA

1 November 1989

Dear Prime Minister:

DE LOREAN: LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

Peter Brooke's minute to you dated 26 October was copied to me.

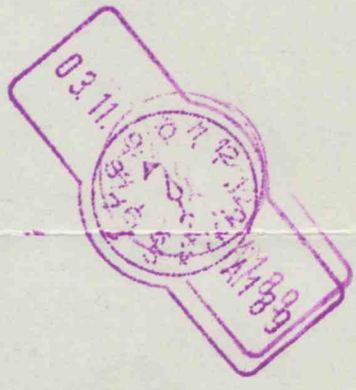
I believe that the course proposed in the minute is the correct one to follow in this case. The disclosure to a court in the United States of documents for which we would claim public interest immunity in proceedings in this country will not, in my view, prejudice the use of public interest immunity in future proceedings in this country. The courts here will understand that when the Government commences proceedings in a foreign jurisdiction it must comply with the procedures of that jurisdiction, and that where disclosure is thereby required of documents which would be protected from disclosure here this should not affect the validity of the principle which underlies the protection given to those documents by our courts.

I believe that the same principle applies to disclosure to Select Committees.

I am copying this minute to Peter Brooke, Geoffrey Howe, John Major, David Waddington, Douglas Hurd, Peter Walker, Norman Fowler, Nicholas Ridley, John Belstead, Chris Patten and to Sir Robin Butler and the Treasury Solicitor.

IRELAND: De Lorea

P 3



RESTRICTED

SRW

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

27 October 1989

Dear Stephen,

DE LOREAN: LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

The Prime Minister has seen your Secretary of State's minute of 26 October. She was content with the recommendations about which documents should be disclosed and for which documents a claim of privilege should be made. In particular, she agreed with the recommendation that a small number of documents should be disclosed for which executive privilege could have been claimed. She has commented, however, that Lord Callaghan should be consulted about the release of these documents as well as Lord Mason.

I am copying this letter to Steven Catling (Lord President's Office), John Gieve (HM Treasury), Colin Walters (Home Office), Stephen Wall (Foreign and Commonwealth Office), Stephen Williams (Welsh Office), Clive Norris (Department of Employment), Neil Thornton (Department of Trade and Industry), Gillian Kirton (Lord Privy Seal's Office), Roger Bright (Department of the Environment), Michael Saunders (Law Officers' Department), Jim Nursaw (Treasury Solicitor's Office) and Trevor Woolley (Cabinet Office).

Yours sincerely

Andrew Turnbull

(ANDREW TURNBULL)

Stephen Leach, Esq.,
Northern Ireland Office.

RESTRICTED

We must secure Jim Callaghan's consent.

Prime Minister
Mr Brooke's minute sets out those documents for which executive privilege can be claimed and those which are disclosable. This note discusses the one difficult category, the 30 pages for which privilege could be claimed but which it would help in this case to disclose. FCRB recommends on balance that we should. Content?

AT 26/10

Ref. A089/2730 They were papers from his admin.

MR TURNBULL

Otherwise agreed

De Lorean: Litigation against Arthur Andersen in New York

The Prime Minister may wish to have a comment from me on the issue discussed in the minute from the Secretary of State for Northern Ireland about the De Lorean case. Both Sir Peter Middleton and I have been involved in the discussions which led up to this minute.

2. Most of the recommendations in paragraph 22 of the minute raise no difficulty since they involve claiming executive privilege for all documents which would be withheld in comparable proceedings in this country. The exception is recommendation (v) which involves disclosing a small number of documents - about 12 amounting to 30 pages - which involve correspondence between officials and advice to Ministers about the original funding decision.

3. These documents (which are the documents of the period of the Labour Government) would not normally be released and the argument for doing so is that they are fundamental to the case since they explain the rationale for the original funding decision. The argument is that they would be sufficiently helpful to the judge that volunteering them would be likely both to assist the Government's prospects in the case and to improve the chances of the claims of executive privilege for the other documents.

4. Those of us who have considered this issue have had misgivings about this recommendation. In the first place, we are reluctant to depart from our normal policy of claiming privilege for papers which reveal policy advice to Ministers. The second

reason is that, although our legal advisers say that the voluntary disclosure of these documents would assist our claim for executive privilege for other documents, there is a possiblity that the defendants may successfully argue that, if we are willing to disclose some documents about "pre-decision policy discussion", we should not be allowed to pick and choose and we should be obliged to disclose all such papers, including Cabinet and Cabinet Committee papers and exchanges between Ministers. If the court supported this, we would then have to decide whether we were prepared to release such papers, or refuse to do so possibly with fatal effects on our chances of success in the litigation.

5. As the Prime Minister knows, while we normally seek to protect documents containing policy advice to Ministers, there have been departures from this practice in exceptional cases. In the recent Barlow Clowes case Sir Godfray Le Quesne had access to policy advice to Ministers and summarised it in his report. Policy advice was also quoted in the report of the Crown Agents Inquiry and in the Franks Report on the Falklands. There is an explicit provision in the Parliamentary Commissioner Act, which prevents the Government from claiming privilege for documents to which the Parliamentary Commissioner has access for the purpose of his inquiries and these have on occasions been quoted or referred to in Parliamentary Commissioner reports. However, none of these cases involve the release of such papers to a court in litigation: the nearest parallel to that was the provision of the chronology of events leading up to the sinking of the Belgrano- "the Crown Jewels" - to the court in the Ponting case. But even this is not strictly a precedent, since it was not policy advice to Ministers.

6. The Prime Minister will want to consider whether, in the light of legal advice that the release of these papers is important to the success of the case and will assist in resisting claims for other papers, we should take the risk and release this category of papers as the Northern Ireland Secretary recommends. I am inclined to think that we should. If the defendants were to be successful in persuading the court that a large number of

further papers incorporating policy advice to Ministers should be released to the court, we would then need to reconsider our position and decide whether we should refuse to comply even if this meant dropping the case. If the judge went as far as ordering the release of Cabinet and Cabinet Committee papers, I am inclined to think that this would raise a sufficiently important point of principle that we would need to refuse to comply even if it meant giving up the case.

F.E.R.B.

ROBIN BUTLER

26 October 1989

CCPR.

PRIME MINISTER

DE LOREAN: LITIGATION AGAINST ARTHUR ANDERSEN IN NEW YORK

1. We are suing, in the United States, Arthur Andersen (AA) who were auditors to the De Lorean companies. The case is still in its early stages but I must now instruct lawyers on how to respond to continuing requests made by AA for the discovery of an extensive range of government papers.

Background

2. The project to manufacture the De Lorean sports car began in 1978, when Ministers approved a package of financial assistance. Production commenced in February 1981 and ceased in May 1982. 8333 cars were manufactured and public funding amounted to £78m.

3. Early in the project - November 1978 - the De Lorean companies contracted with GPD, a Panamanian company operating in Switzerland, for the development of the De Lorean car. The contract involved an up-front payment of $17.65m (of which $5.15m came from public funding) and the actual development work was subcontracted by GPD to Lotus Cars Ltd. Following their appointment in February 1982 the receivers of the Belfast De Lorean company uncovered evidence that this money had not been used for its intended purpose but had been diverted for the personal use of De Lorean himself, the late Mr Colin Chapman (Chairman of Lotus) and others.

The Legal Case

4. The case against AA is that, although they were alerted by the Chief Financial Officer of the company to the possible misuse of funds, they failed adequately to investigate the matter or to qualify their audit reports, and gave "clean" certificates in

support of grant claims. The Northern Ireland Department of Economic Development (DED) was advised by its American lawyers that there were good arguments for bringing proceedings against AA. Subsequently, after discussions with Treasury Solicitors, it was decided to pursue the claim in the appropriate federal court in New York. Since the alleged fraud took place so early in the life of the project as a whole, we believe ourselves entitled to set the claim at the loss of public funds less recoveries to date - a net amount of some £66m plus interest. The American lawyers continue to advise that the proceedings, if pursued to trial, would have a good chance of success and the Treasury Solicitor has recently repeated his view that the case is well worth pursuing.

5. The pleadings, which set out the respective cases of the parties, are now closed. It is part of AA's defence that HMG was aware of the fraud but was so anxious to maintain employment in the De Lorean factory that it would have provided whatever money was necessary to keep it going - whatever might have happened to some of the money invested earlier.

Disclosure of papers

6. As would be the case in English proceedings, there is an obligation on each party to disclose to the other party all documents in their possession which are relevant to the issues in the proceedings. The importance of AA's line of defence, in relation to disclosure of documents, is that it makes relevant every document which gives any information about the attitude of Ministers or their advisers. AA's discovery requests are, therefore, extremely broadly cast. Although the nominal plaintiff is DED, the effective plaintiff is the Crown, and, hence, documents held by all Departments come within the scope of discovery.

Privilege

7. We have already disclosed to AA a substantial first tranche of non-privileged papers. The stage has now been reached when we have to consider for which other papers a claim of privilege is sustainable. The main heads of privilege recognised in the American courts are what in English jurisdiction would be called "legal professional privilege" and "public interest immunity" (in the US termed "executive privilege"). It is in relation to documents within the executive privilege class that disputes between the Government and the defendants are most likely.

8. "Executive privilege" is described in the attached annex A. The key point is that "executive privilege" can be claimed only for documents which include pre-decision discussion of policy matters. Annex B explains the United Kingdom conventions on disclosure of Government documents to Select Committees and discusses the possibility that Committees could argue that disclosure of documents in the American courts would create a precedent for similar disclosure to them. The principle underlying the claim of public interest immunity in the United Kingdom Courts is closely related to the principle underlying the guidance governing disclosure of documents to Select Committees. It is important to the consistency of the Government's position that, as far as possible, executive privilege should be claimed on principles consistent with those which would govern disclosure in an English Court.

9. The documents to which we have to decide our attitude on disclosure can be grouped into the following categories:

(a) Cabinet and Cabinet Committee minutes and documents, from the present and previous Administration.

(b) Exchanges between Ministers outside Cabinet.

(c) Submissions to Northern Ireland Ministers.

(d) Submissions to other Ministers who were members of Cabinet or Cabinet Committees which considered the De Lorean project.

(e) Exchanges between civil servants concerning policy issues.

(f) Papers held by Inland Revenue.

(g) PAC papers - both those held by PAC and those held by Departments - which were prepared in connection with the PAC inquiry.

10. Our American legal advisers state that papers in categories (a) and (b) will almost certainly be covered by executive privilege since they deal with and record "pre-decision discussion". They have, however, advised that roughly half of the material in categories (c)-(e) (some 4000 pages - mainly in (e) - out of a total of about 7000) could not be so described. They advise that these papers should be disclosed now. The Treasury Solicitor is vetting this material and has identified a small number of documents for which, in his view, public interest immunity would have been claimed in English litigation. Our American lawyers are prepared to make a claim for executive privilege in respect of this small number of documents, although they are not optimistic as to the outcome. As to the remainder of these 4000 pages, I propose that we accept the advice both of our American lawyers and the Treasury Solicitor and disclose them now.

11. In addition, our American lawyers have identified among the remaining 3000 pages in categories (c)-(e), for which a claim of executive privilege could be made, a small number of documents (approx. 30 pages) which are fundamental to the case in that they explain the rationale for the original funding decision. Their advice is that we disclose these now. This would be contrary to the practice we would follow in an English Court and, therefore, needs careful consideration.

12. The case for disclosing these papers now is that, if we withheld them, the New York Judge would be likely to conclude that the claim for executive privilege in respect of them had been made without regard to the need for him to establish the essential facts of the dispute. That reaction might in turn prejudice the claims of executive privilege made for other documents. Either would clearly lead to decisions which would severely handicap the Crown's case.

13. It would, therefore, be helpful to our case to disclose these papers now but we need to consider the implications for subsequent claims of public interest immunity in UK Courts. If this litigation were before the English courts, we would be able to claim public interest immunity for these documents. However, the nature of the issues raised in the litigation is such that the English Judge would almost inevitably ask to see the documents and, having seen them, would reach the conclusion that the issues could not be fairly tried without both parties having access to them and that, accordingly, the balance of public interest lay in favour of production. In such circumstances the Crown would probably indicate that, whilst the claim for public interest immunity was not formally waived, it was not pressed and, if the court were of the view that the documents should be produced in the public interest, the Crown would not seek to persuade the court otherwise. The result would, therefore, be that the Crown would in effect be consenting to the production of the documents. The difference in procedure notwithstanding, disclosure of the 30 pages referred to above in the US court would not, therefore, prejudice our approach in English litigation.

14. Departure from our practice in the English courts could create difficulties for our relationship with Select Committees. Here we would have to rely on the argument that Parliamentary Committees are well aware that the circumstances of a court hearing are distinct from the ground-rules governing Committee enquiries. Committees, in the past, have not sought to appeal to events in courts to extend their rights.

15. On balance, therefore, I am satisfied that disclosure of these documents would be helpful to the case against AA and would not create any unmanageable precedents at home. I propose, therefore, that we accept the advice of the American lawyers, with which the Treasury Solicitor agrees, and disclose these papers now.

16. This small batch of documents are all dated June/July 1978 and, hence, belong to the previous Government. In these circumstances I suggest that Lord Mason who was then Secretary of State for Northern Ireland should, as a courtesy, be informed that the documents are to be disclosed.

17. Different issues arise in respect of papers held by the Revenue and PAC ((f) & (g) above). The Revenue will not disclose documents concerning a taxpayer without the taxpayer's consent. It is hoped that the American court will, by analogy with similar provisions in the United States, uphold this position. It is possible that the PAC will not be regarded as part of the Government and not therefore within the discovery obligation. Our American lawyers advise that departmental papers prepared in connection with the PAC inquiry (roughly 30,000 pages) should be withheld and a claim for legal professional privilege made in respect of them. They warn that this may not be sustainable but I propose that we accept their advice to withhold these papers for the time being.

18. When we have released all non-privileged documents we will serve a list of documents for which privilege is claimed. It will then be open to AA to challenge this claim and they will certainly do so in relation to the remaining documents for which "executive privilege" is claimed. Any such disputes will be resolved by the Judge. American lawyers have advised that there is a "better than evens" prospect of sustaining the executive privilege which will be claimed. The prospects of success improve with the level of policy making and are best for Cabinet papers. It must, however, be recognised that it is difficult to predict the outcome with

certainty in respect of every document which we hope to withhold. There must therefore be some risk that the Judge will ask to see some or all of the documents and order some of them to be produced.

Implications for the case of non-disclosure of documents which the Court orders to be disclosed

19. If we do not comply with an order to disclose documents the Court could impose sanctions - in an extreme case by dismissing the action or, failing that, by directing the jury to presume facts against us. Whilst the Government will have to consider the consequences of refusal to produce documents at the time it is ordered, there must be considerable doubt as to whether it will be able both to refuse to produce documents to AA and to fight the case to a successful conclusion and more doubt still if we were to refuse to produce them to the Judge. If the case were dismissed the prejudice to the Crown might not end there; AA have begun third party proceedings against the government nominee directors of the De Lorean company (behind whom the Crown stands) and these proceedings might continue to trial or (very expensive) settlement.

Affidavits

20. The claim for executive privilege in respect of the 3000 pages must be supported by certificates (or affidavits) made on behalf of Government. American lawyers have advised that the permanent head of each department holding papers should sign the certificates. If the claim for privilege is challenged, AA may seek to cross-examine the signatories but, if so, it would almost certainly be in private and in London and would be limited to the content of the certificates.

Depositions

21. AA have said in documents to the Court and in press comments that they intend to seek depositions from a number of persons including Ministers and former Ministers. However, it is generally

agreed by both our legal advisers and among officials that there may be an element of posturing in these threats and, before considering the question of depositions further, I suggest we wait to see whether they arise.

Conclusion

22. To sum up, our legal advisers have released to AA large volumes of documents for which no claim of privilege could properly have been made. Their advice, which I propose to accept, subject to your agreement and the views of colleagues, in respect of other papers is as follows:-

i. We should withhold all papers held by Departments relating to PAC matters and a claim of legal professional privilege should be made in respect of them.

ii. We should withhold all Cabinet papers, exchanges between Ministers outside Cabinet (a and b in paragraph 9) and some submissions to Ministers and correspondence between officials which reveal pre-decision policy discussion (included in c, d and e). For all these a claim of executive privilege should be made.

iii. We should withhold other papers in categories c, d and e for which public interest immunity would be claimed in English litigation. A claim for executive privilege should be made.

iv. We should now disclose the remaining papers in categories c, d and e, which do not reveal pre-decision policy discussion.

v. We should also disclose a small number of documents (about 12 amounting to 30 pages) consisting of correspondence between officials and advice to Ministers which explain the original funding decision and which are fundamental to

the case, despite the fact that executive privilege could be claimed for them. In addition we should advise the relevant minister from the previous Administration of this disclosure.

23. It is certain that AA will challenge the claims for some or all documents withheld. It may be that the Judge will ask to see the relevant documents or may order their disclosure. In either event, I will consult colleagues again before further decisions are taken.

24. I am copying this minute to Geoffrey Howe, Nigel Lawson, Douglas Hurd, John Major, Peter Walker, Norman Fowler, Nicholas Ridley, John Belstead, Chris Patten, Patrick Mayhew, and to Sir Robin Butler and the Treasury Solicitor.

P.B.

PB

NORTHERN IRELAND OFFICE
26 OCTOBER 1989

ANNEX A

"EXECUTIVE PRIVILEGE" IN THE AMERICAN COURTS

1. "Executive privilege" is similar to "public interest immunity" in English jurisdiction but is not identical. A useful definition of the documents protected is found in a case in the American courts in 1966 when the privilege was said to apply to inter- and intra-Governmental agency memoranda "reflecting advisory opinions, recommendations and deliberations comprising part of a process by which Governmental decisions and policies are formulated". In a later case the rationale for the privilege is said to be that "effective and efficient Governmental decision making requires a free flow of ideas among Government officials and ... inhibitions will result if officials know that their communications may be revealed to outsiders".

2. Purely factual material is not protected even if it is contained in deliberative memoranda and privilege does not extend to communications written after a decision has been made which are designed to explain the decision; in fact Americans often refer to the privilege as the "pre-decisional privilege".

3. Part of a document may be privileged and part not. In the present case substantial numbers of documents have been copied to the Defendants - but only after irrelevant or privileged material has been removed.

4. Even if the court determines that a document is one which properly comes within a privilege claim it may still order production if on balance it considers that the protection to be

afforded to the decision-making process is outweighed by the interest of the party seeking the document and the need for accurate judicial fact-finding. The main factors to be considered will be the desirability of preserving privilege, the relevance of the evidence, the availability of other evidence, and the importance of the litigation.

ANNEX B

WIDER IMPLICATIONS OF DISCLOSING PAPERS

1. The Cabinet Office "Memorandum of Guidance to Officials appearing before Select Committees" says that advice given to Ministers, which is given in confidence, should not be disclosed to Departmental Select Committees. Requests for disclosure of particular documents or information are dealt with on a case by case basis. To date, no Cabinet or Cabinet Committee papers have been released, and at first sight that release of such documents to an American Court would create an unhelpful precedent in future dealings with Select Committees.

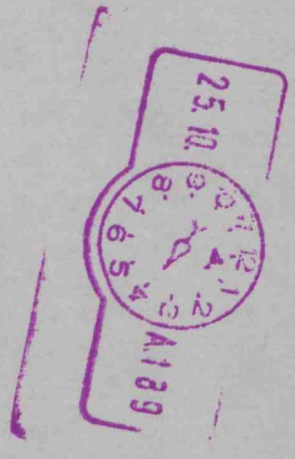
2. However, from time to time, Ministers have decided that circumstances justified the disclosure to Committees of material which reveals official advice to Ministers. This has been done after consideration of the content of the document and on the basis that no precedent was being set for the release of similar documents in the future. It is also worth noting that reports of the Parliamentary Commissioner have on occasion revealed advice to Ministers, although the relevance of this to the present issue is limited by the fact that there is a special provision in the Parliamentary Commissioner Act 1967 which prevents the Government from claiming executive privilege for documents to which the Parliamentary Commissioner has access for the purpose of his enquiries.

3. A pragmatic decision to release selected documents to an American Court is therefore unlikely to create a difficult precedent, although it is always possible that a Committee will argue that the Government ought to be ready to give its own Parliament at least as much information as it is ready to produce to a foreign court. Disclosure of selected documents could best be

justified if executive privilege were claimed for all documents or parts of documents for which PII would have been claimed in English litigation, whether or not a decision is subsequently made to made to release such documents on the order of the court. In the event, there should be no insuperable difficulty in explaining the basis on which documents have been released should the matter be raised in future by a Select Committee.

4. In addition, however, Parliamentary Committees will be well aware that the circumstances of a court hearing, and the power of the court to require disclosure, are quite distinct from the ground-rules governing Committee enquiries. Committees are not in the habit of appealing to events in court in order to strengthen their powers or extend their rights, which depend ultimately on the majority decision of Parliament.

IRELAND: De Lorean Sports Car Project A 2.



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CF

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P. Grey Esq.,
10 Downing Street,
London,
SW1A 2AA

Please quote L85/552/AT

Your reference

Date 16 October, 1989

LA

Dear Paul

ARTHUR ANDERSEN

Thank you for your letter of 11 October and its enclosures which have been most helpful.

Yours sincerely,

Andrew

ANDREW TUREK

IRELAND : De Lorean, PTC

CONFIDENTIAL

File

PM

C:\WPDOCS\ECONOMIC

ARTHUR

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

11 October 1989

Dear Andrew,

ARTHUR ANDERSEN

Thank you for your letter of 10 October to Andrew Turnbull. With apologies for the earlier oversight, I now enclose copies of the missing papers on the same conditions as set out in the earlier correspondence.

Yours sincerely,

Paul Gray

PAUL GRAY

Andrew Turek, Esq.,
Treasury Solicitor's Department.

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3416

Cf PPS

Andrew Turnbull Esq.,
10 Downing Street,
London, W1.

Please quote L85/552/AT

Your reference

Date 10 October, 1989

Dear Mr Turnbull,

ARTHUR ANDERSEN

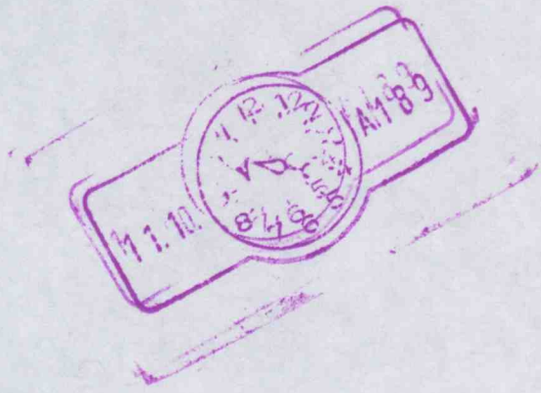
The American lawyers point out that in document C, the minute to the Prime Minister by "Tessa" on behalf of Mr Gow to the Prime Minister there appear the words "herewith the Legal Secretary's reply, plus enclosure".

That was not included, and if it is available I would be grateful for a copy on the same terms as before.

Yours sincerely,

Andrew Turek

ANDREW TUREK



11.10. 1989

CONFIDENTIAL

dla

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

27 September 1989

Dear Mr Turek,

DE LOREAN: ACTION AGAINST ARTHUR ANDERSON IN NEW YORK

You telephoned me to say that the three documents which I sent you attached to my letter of 18 January had been destroyed by the American lawyers advising the Government and to ask that replacements should be supplied.

I attach copies of

Document A: Mr Pattison's minute of 28 October 1981 to Mr Winterton.

Document B: Mr Winterton's letter of 25 November 1982 to Mr Ian Gow.

Document C: Briefing for the Prime Minister's meeting with Mr Winterton.

I also attach a copy of Nigel Wicks' letter of 13 June 1986. The conditions set out in that letter should continue to be observed. Please could you return these documents when they have been inspected.

Please could you also ensure that the American lawyers give proper assurances that the documents were in fact destroyed.

Yours sincerely,
Andrew Turnbull

ANDREW TURNBULL

Andrew Turek, Esq.
Office of the Treasury Solicitor

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Andrew Turnbull Esq.,
10 Downing Street,
LONDON,
SW1A 2AA

Please quote L85/552/AT

Your reference

Date 19 January,1989

Dear Mr Turnbull,

ARTHUR ANDERSEN

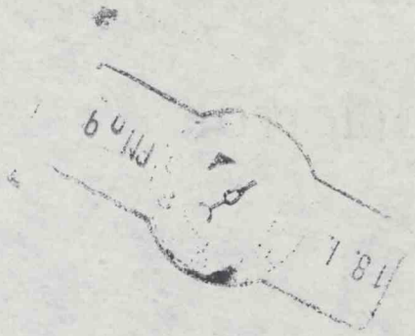
Thank you for your letter of 18 January and its attachments.

I confirm that we spoke earlier today and we agreed that I could give MrSidorski a copy of those attachments, subject to the obligation of confidentiality which he owes us in his professional capacity, for the purpose of advising on whether or not any privilege attaches to them. I will make that copy myself and instruct him to make no further copies whatsoever.

I will let you know in due course what advice the firm gives.

Yours sincerely,

ANDREW TUREK



IRELAND : de Lorcan Pt 2

CONFIDENTIAL

File
JD3 A80

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

18 January, 1989.

DE LOREAN: ACTION AGAINST ARTHUR ANDERSEN IN NEW YORK

You wrote to me on 30 December to say that your office had no longer retained copies of the three documents which you advise need to be shown to the American lawyers advising the Government. I attach copies of them together with a copy of Nigel Wicks' letter of 13 June, 1986. The conditions set out in that letter should continue to be observed. Please could you return these documents when they have been inspected.

Andrew Turnbull

Andrew Turek, Esq.,
Office of the Treasury Solicitor.

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Andrew Turnbull Esq.,
10 Downing Street,
LONDON,
SW1A 2AA

Please quote L85/552/AT

Your reference

Date 30 December 1988

Dear Mr Turnbull,

DE LOREAN: ACTION AGAINST ARTHUR ANDERSEN IN NEW YORK

Thank you for your ~~letter~~ flap of 23 December.

I am perfectly happy for the American lawyers to have access to the documents here, but I am puzzled by the reference to the documents having been sent here in June 1986.

I have discussed this with Patricia Carroll who told me that she saw the papers later that year at Number Ten, so Gerald Hosker must have sent them back at some point. The best thing might be to send them here again.

I am on leave next week, but the matter is growing in urgency and you may wish to contact me at home; I shall be there much of the time and my number is 01-458-6988.

Yours sincerely,

ANDREW TUREK

Note.

Spoke to Turek on number given. Told him that AJLW's letter of 13 June 1986 attached copies of the documents concerned. MrTurek was at first concerned that these had been originals. He will check to see if copies have still been returned. If not he will check to see if the copies have been returned by T/Sol and come back to me on 9/1.

AT
3/1

Originals in Political Office.

AT, 6/1

IRELAND: De Lorea
Pg 2.



CONFIDENTIAL

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

23 December 1988

DE LOREAN: ACTION AGAINST ARTHUR ANDERSEN IN NEW YORK

Thank you for your letter of 21 December to Nigel Wicks from whom I have now taken over. You advise that we now need to show the papers in question to the American lawyers advising the Government. I understand that in the case of the Cabinet papers this was done in order to develop a case for a claim of executive privilege: the No.10 papers should be shown to the lawyers on the same basis. If they were to advise in favour of releasing the papers, this would have to be considered separately by Ministers.

We discussed the manner in which this would be done. I said I would prefer not to give the American lawyers access to No.10 and that it would be better if they inspected the documents on Treasury Solicitor's premises. Nigel Wicks sent the relevant papers to Gerald Hosker on 13 June 1986.

I am copying this letter to Trevor Woolley (Cabinet Office).

ANDREW TURNBULL

Andrew Turek, Esq.,
Treasury Solicitor's Department.

CONFIDENTIAL

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28 Broadway London SW1H 9JS

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Fax No. 01-222 6006

PP's
Please

Nigel L.Wicks Esq.,
10 Downing Street,
London,
SW1

Please quote L85/552/AT

Your reference

Date 21 December 1988

Dear Mr Wicks,

DE LOREAN: ACTION AGAINST ARTHUR ANDERSEN IN NEW YORK

I have taken over conduct of these proceedings from Patricia Carroll.

Earlier this year as you will no doubt remember you allowed Miss Carroll to inspect at Number Ten which may become the subject of a claim for discovery by Arthur Andersen and for privilege by the Crown.

The point has now come at which it is necessary for our American lawyers to inspect the documents; they are making a series of visits to the U.K. for purposes of discovery and inspection and will next be here sometime in January.

I appreciate that this is an unusual request; it may help you to know that Sir Robin Butler has already allowed them to inspect the relevant Cabinet minutes.

I would be grateful if you could give me a ring to discuss this.

Yours sincerely,

Andrew Turek

ANDREW TUREK

Mary Rose

IRLANDA: De Lorean FTR



COMMERCIAL IN CONFIDENCE
CONFIDENTIAL
From: THE PRIVATE SECRETARY

(2)

c.c. Mr Ingham

OID

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

Charles Powell Esq
PS/Prime Minister
10 Dowing Street
LONDON
SW1

Prime Minister

COS 5/3.

5. March 1987

Dear Charles.

You may recall that last December, John Z De Lorean was acquitted in a Federal Grand Jury Trial in the United States of various racketeering, mail and tax fraud charges. Those charges arose from the diversion of private American tax shelter funds paid (with British Government money) to a Panamanian company in Geneva in 1978 on foot of arrangements agreed by De Lorean, the late Colin Chapman and Mr Fred Bushell (formerly of Lotus Cars) for development of the De Lorean car. Mr De Lorean's attorneys secured the controversial acquittal by convincing most of the US jury that the cash received by Mr De Lorean was not stolen but was a legitimate loan backed by Mr Chapman.

In London, the Joint Receivers of the bankrupt Belfast company are pursuing a High Court action against Lotus Cars, the estate of Colin Chapman and Mr Bushell for recovery and damages. Recently, Counsel to the Joint Receivers advised them that joining Mr De Lorean as a defendant in the action would improve the prospect of a beneficial outcome. The writ against him would allege that he conspired in the 1978 arrangements which defrauded the Belfast company and acted in breach of his fiduciary duty to the company. The action against De Lorean would thus be quite separate and different from the charges of which he was acquitted in the US.

The Treasury Solicitors Department has noted that whereas the inclusion of De Lorean as a defendant could possibly lengthen the proceedings and he might be capable of a great deal of mischief making, these are not in themselves reasons not to proceed against him. It is also recognised that at some point we could see a request from Mr De Lorean's lawyers for an immunity from arrest or immunity from prosecution to enable him to visit London freely to prepare his defence and give evidence. However, the Secretary of State's view is that we cannot consider this matter hypothetically although it may have to be dealt with, in the light of the circumstances prevailing at the time, if and when a request is made.

The Secretary of State concluded that there were no grounds on which he should seek to dissuade the Joint Receiver from proceeding against De Lorean. Further, a successful outcome in the action would underline the Government's determined committment to see all possible action taken to investigate and recover in cases where the public purse has been defrauded. Consequently, the Joint Receivers have been advised to proceed if they wish and we understand a revised statement of claim has now been served on the other defendants (naming Mr De Lorean as a fourth defendant). It is expected that the Writ will be served on De Lorean within the next few weeks. This action may attract some publicity and De Lorean can be expected to seek and exploit media interest. This office will be ready to deal with any questions which might arise or to refer enquiries, as appropriate, to the Joint Receivers and their legal advisers.

I am sending a copy of this letter to the private secretaries to the Lord President, the Foreign Secretary, the Chancellor of the Exchequer, the Home Secretary, the Secretary of State for Trade and Industry, the Legal Secretary to the Attorney General and the Private Secretary to Sir Robert Amrstrong.

Yours sincerely,

David Watkins.

D J WATKINS

JLD


05. III.
PM 87

CONFIDENTIAL

Lite

SL3ARI

10 DOWNING STREET

From the Principal Private Secretary

8 July 1986

DE LOREAN

I am sorry that I have not replied before now to your letter of 10 June about the disclosure of three documents connected with the De Lorean episode to officials in your department.

I have discussed this with Gerald Hosker, Deputy Treasury Solicitor, and he is sending the summary of his advice to your officials concerned with the Arthur Anderson litigation. The upshot of his advice, which I accepted, was that Mrs. Carroll from the Treasury Solicitor's Department and Mrs. Newman from the Northern Ireland Office could inspect the documents for the purpose of preparing the Department of Economic Development's reply on the limitation point which has arisen in the litigation.

I have suggested to the Treasury Solicitor's Department that Mrs. Carroll should telephone the Duty Clerk here (on 930-4433) to arrange a time in which she and Mrs. Newman could inspect the relevant papers.

N L WICKS

Neil Ward, Esq.,
Northern Ireland Office

CONFIDENTIAL

CONFIDENTIAL

MJ(25)

10 DOWNING STREET

From the Principal Private Secretary

20 June 1986

DE LOREAN: ACTION AGAINST ARTHUR ANDERSON & CO ("AA")

Thank you for your letter of today's date, which I have read with great care. If I might say, I am glad that I consulted you!

I am entirely content to proceed as you propose. Could I suggest that Patricia Carroll should telephone the Duty Clerk here (on 930-4433) to arrange a time in which she and Mrs Newman could inspect the relevant papers for the purpose of preparing the DED reply on the limitation points. Certainly, you can let officials in the DED have a summary of the advice given in your letter.

N.L. Wicks

G.S. Hosker, Esq.,
Treasury Solicitor's Office.

CONFIDENTIAL

DUTY CLERK

Could you please note that Patricia Carroll from the Treasury Solicitor's Office will telephone you to arrange for an appointment to come to No 10 to inspect the documents at flag A, B and C below. Patricia Carroll will be accompanied by Mrs. Newman from the Department of Economic Development in Northern Ireland. When you are telephoned, could you please arrange a time for the two ladies to come here (they can come on separate occasions if that is more convenient for them) and let them have the documents for inspection (but not taking away) in the Waiting Room or some other convenient place.

N.L.W

N. L. WICKS
20 June 1986

CAJ58

PRIME MINISTER

I enclose a letter from the D.P.P. setting out the background to the police investigation into De Lorean.

I would only add that there were very urgent reasons for a rapid decision. The rumours were causing the banks to consider removing their lines of credit to the Company and there was an immediate risk of collapse.

M.H.

2. XII. 82

COVERING CONFIDENTIAL

Original to I. Gow

J. Nursaw
LEGAL SECRETARY

LAW OFFICERS' DEPARTMENT
ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

3 December 1982

I Gow Esq MP
Parliamentary Private Secretary
10 Downing Street
LONDON S W 1

Dear Mr. Gow,

You wrote to the Attorney General on 26 November about the request from Mr Nicholas Winterton MP for an interview with the Prime Minister at which he could discuss his concern about certain aspects of the De Lorean story. The Attorney General is in court every day at the moment and has not been able to write to you but he has prepared the enclosed minute for the Prime Minister and has asked me to send with it the note prepared by the Director of Public Prosecutions. My purpose in writing is simply to give details of some of the persons named in that note. I am named in paragraph 2. In paragraph 4 there is a reference to Ken Dowling who is now the Deputy Director of Public Prosecutions. In paragraph 6 there is a reference to Sir Barry Shaw, the Director of Public Prosecutions for Northern Ireland.

Yours sincerely,

James Nursaw

CONFIDENTIAL

Attorney General

DE LOREAN

1. You asked for a note to assist you in briefing the Prime Minister, as requested in Mr Gow's letter of 26th November.

SEQUENCE OF EVENTS

2. This matter first came to my attention on Friday 2nd October, 1981, when Jim Nursaw telephoned me with the Solicitor-General's request that I should consider whether there were grounds for police investigation. I spoke to Mr Winterton on the telephone, and arranged for a Metropolitan Police Officer (Detective Chief Superintendent George) to travel to Cheshire next day to see Mr Winterton. I can confirm that, as noted in the No. 10 note dated 28th October 1981, I was concerned at the extent to which Mr Winterton was expressing his views about de Lorean, at a stage at which there was nothing to support them.

3. On Saturday 3rd October I received a number of telephone calls at home, to the effect that the Press had the story of Mr Winterton's allegations. These included a call from Philip Woodfield, Permanent Secretary NIO. I spoke on the telephone to Mr Winterton and subsequently to D.C.S. George in Cheshire to warn them of this. Mr George told me that Mr Winterton had been on the telephone to members of the Press while he (George) was at his home.

4. On Monday 5 October Mr George and his colleague (Detective Inspector Hefford) delivered to me the documents they had received from Mr Winterton. I arranged a conference for later in the day to allow time for Ken Dowling and me to study the papers. At this conference we asked the police to interview Miss Gibson (who had originally handed the papers to Mr Winterton) that evening and to report back next day.

5. On Tuesday 6 October, I held a conference with the police and subsequently spoke to you on the telephone. We agreed that the police should go to New York as soon as possible to interview Mr Haddad, the vice-president of the De Lorean organisation, who was alleged to be the originator of some of the complaints against De Lorean. On the same day, the Solicitor-General issued a statement (copy attached).

6. On Wednesday 7th October, you held a conference with myself and Dowling, Barry Shaw, Ewart Bell, (Northern Ireland Civil Service) and Commander Gillert (Metropolitan Police). I explained the present position of the police investigation and Ewart Bell described the effect of the publicity concerning De Lorean on the Northern Ireland economy. It was agreed that the current police enquiries in New York should continue with maximum urgency, and the investigating officer should keep Mr Gillert informed of progress. You told the Northern Ireland representatives that you hoped to issue a statement clarifying the position by Friday 9 October.

7. Because of difficulties over interviews in New York, it was not possible for the police to report back by the weekend, but they returned to London in time for a conference with you at 11 a.m. on Monday 12th October. As well as the police officers, and myself and Dowling, Barry Shaw was present. The police reported orally, and produced copies of the statements they had taken. It was agreed that no evidence had emerged that any criminal offence had been committed within the jurisdiction of the English courts, and that the New Scotland Yard could not usefully take their enquiries any further. We agreed a Press statement (copy attached) which was issued that day.

MR WINTERTON'S COMPLAINT

8. It appears from page 2 of Mr Winterton's notes that his principal complaint, so far as we are concerned, is that we prevented the police from completing their enquiries. In fact, by the time the police reported to us on 12th October, they had interviewed (as well as Mr Winterton) Miss Gibson, a lawyer called Clarence Jones, (who also produced some documents), Haddad, (who was accompanied by his Attorney Sorkin) and Knepper, another employee of the De Lorean Organisation. They had also had a number of telephone conversations with Haddad and Sorkin. None of these persons had produced any firm evidence of any breach of the criminal law by De Lorean. Most of the allegations, and in particular the Haddad Memo of 26 December 1980 which was the basis of much of the interviewing, were expressions of disquiet over the way in which De Lorean had been able to persuade HMG to provide him with financial support in Northern Ireland and the effect which the publicity over this, including a possible Parlimentary enquiry, would have on the De Lorean organisation as a whole. When this was reported to us on the morning of 12th October, we decided that there was so little prospect of obtaining evidence to justify prosecution in this country that we should not ask the police to continue their enquiries. We also had in mind the representations we had received from the NIO about the effect of the investigation on the De Lorean enterprise there.

9. The only proper purpose of the police investigation could be the collection of evidence for criminal proceedings in this country. Insofar as they had unearthed allegations of activities which, while not amounting to criminal offences committed within our jurisdiction, did suggest that not all was well with the De Lorean activities, the proper course was for us to ensure that HMG were aware of this. This was achieved by including NIO representatives at our meetings. Any follow-up of that line was not a matter for the prosecuting authorities.

PRIVATE EYE

10. In addition to the points raised by Mr Winterton, there is a suggestion that Haddad had learned in advance from De Lorean what the police wished to interview him about. This may or may not have been correct. Certainly, Haddad, who had originally managed to avoid a interview with the police officers, subsequently apologised and explained that "he had received a telephone call from John De Lorean instructing him to meet us (the officers) with the De Lorean lawyers at the company offices". Haddad added that he understood that Mr Adam Butler (Minister of State) had telephoned De Lorean stating that he (Haddad) was refusing to see the police.

T.C.H
29.11.82

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn 3291

STATEMENT BY SOLICITOR GENERAL

Sir Ian Percival, QC MP has today issued the following statement:-

Referring to the de Laurean matter the Solicitor General said "I think it very important that a few facts be corrected and that the truth of the matter should receive the widest possible consideration.

It has been repeatedly stated in the last two days that: "The Prime Minister has ordered an investigation of the Company's affairs", or words to that effect. No part of that is correct. On the contrary the truth of the matter is very different from the impression conveyed by that and other reports.

When the Prime Minister was informed of the allegations, she asked that the Law Officers should consider on her behalf what action if any should be taken. After considering what little was then known, I asked the D.P.P. to arrange for a police officer to meet Mr. Winterton to receive from him details of the allegations being made, and of the evidence said to support them - all in complete confidence.

Had it not been for others going public that course would have combined the advantages of ensuring proper consideration of the evidence, if any, whilst avoiding the very danger which has now arisen of people assuming that something must be wrong because enquiries were being made - a danger made very much greater by the use of such words as I have quoted.

I wish therefore to make it absolutely clear that neither the Prime Minister nor anyone else has "ordered an investigation of the Company's affairs" or anything remotely like it. What I requested and authorised was no more than the sort of routine steps which are taken over and over again, indeed must be taken when allegations of the type now being bandied about are made.

The purpose of such steps in such cases is to see whether there is or is not anything to be followed up. It hardly needs

SOLICITOR GENERAL

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

saying that it would be highly irresponsible for anyone to leap to any conclusions - especially when by so doing they could put men's jobs at risk."

6th October, 1981

No.3/81

STATEMENT BY DIRECTOR OF PUBLIC PROSECUTIONS

On Friday 2nd October, the Director of Public Prosecutions was asked to consider whether there were grounds for a police investigation into certain allegations concerning the DeLorean Motor Company and its President, Mr. John DeLorean. The Director then requested officers of the Metropolitan Police to conduct a preliminary enquiry and to report to him. These officers have now interviewed and obtained certain documents from Mr. Nicholas Winterton, M.P. and have also interviewed Miss Marian Gibson, a former employee of the Company, and have conducted certain enquiries in the United States of America. They have reported to the Director on the result of these enquiries.

The Director is satisfied that no evidence has emerged to support any of the allegations of criminal conduct on the part of Mr. DeLorean or the Company. He has consulted the Attorney General and they are agreed that there are no grounds for continuing the Police investigation.

Accordingly, on the advice of the Director, the Metropolitan Police are closing their enquiries. Should any evidence of a criminal offence subsequently come to the attention of the Director, he would give it consideration.

Noon, Monday, 12th October, 1981.

SUNDAY - 11 OCT 1981

Walker, the Agriculture Mini-

TELEGRAPH

De Lorean statement tomorrow

By CHRISTOPHER HOUSE

SIR MICHAEL HAVERS, the Attorney-General, will issue a statement tomorrow on allegations of financial irregularities within the De Lorean sports car company in Northern Ireland. It is expected to say that so far the allegations appear to be unfounded.

The statement follows a week of routine inquiries by Detective Chief Superintendent John George and Detective Chief Inspector John Hefford, of Scotland Yard's Serious Crimes Squad.

A detailed report has already been prepared for the Government and includes a copy of an alleged inter-office memorandum from Mr Williams Haddad, communications director of De Lorean to Mr John De Lorean, 52, the company's founder and a former General Motors executive.

The memorandum, written on Boxing Day last year mentions the alleged financial irregularities but is not signed or initialled.

It was given to Mr Nicholas Winterton, Conservative MP for Macclesfield, by Miss Marion Gibson, a former secretary in the New York office of the De Lorean Motor Company.

The two detectives interviewed Mr Haddad in New York on Friday for three hours. After the interview Mr Irah Lee Sorkin, Mr Haddad's lawyer who sat in on the questioning, said: "I can confirm that my client was in fact the author of the memo."

However, when Mr De Lorean arrived in Britain on Friday he denounced the inter-office memo as a forgery. He said that the allegations were untrue and he would be taking legal action.

The De Lorean furore—P24
Opinion—P21

...orean in ... were intended to refer to Colin Chapman, anything ...

TELEGRAPH

CONFIDENTIAL

file DSG

10 DOWNING STREET

From the Principal Private Secretary

13 June 1986

Dear Gerald,

DE LOREAN

I should be glad if one of your people could confirm that they see no legal or other difficulty in how I propose to reply to the attached letter of 10 June from Neil Ward, Private Secretary to the Secretary of State for Northern Ireland. He asks to be sent "on a personal basis", copies of three documents from No. 10 files relating to certain discussions with Mr. Nicholas Winterton MP in 1981 and 1982 concerning De Lorean.

I want to be helpful to the Northern Ireland Office, but the documents are all of some sensitivity and their release from No.10 has necessarily to be treated with some caution. In any event, I would want assurance from recipients of the documents that -

(i) they would not, without permission from No.10, be put to any use which could lead to the Prime Minister, any official, or former official from No.10 being summoned to give evidence before courts.

(ii) the documents would be kept within the closest "need to know" circle with the Department and not disclosed to anyone outside the Government service.

Turning to the three documents, copies of which are attached, and which I have marked A, B and C:

Document A: Mr. Pattison's minute, 28 October 1981 to Mr. Whitmore
This minute of Pattison, one of the Private Secretaries here, is of some sensitivity in that it concerns the initiation of Police enquiries into the De Lorean affair. It refers to contacts direct between the DPP and Pattison. Because of these potentially sensitive matters, I am reluctant to send a copy of the document to the Northern Ireland Office. But I can see no reason why a copy should not be sent to the Law Officers Department.

Document B: Mr. Winterton's letter, 25 November 1982 to Mr. Ian Gow
This was a letter sent by one Member of Parliament to another Member of Parliament who was the Prime Minister's

CONFIDENTIAL

Parliamentary Private Secretary though it is fairly clear that it was meant for the Prime Minister's eyes. I see from a manuscript comment on the notes attached to the letter that a copy of the notes was sent to the Northern Ireland Office on 17 December 1982. If they cannot find their copy of these notes, I will send them a replacement. I do not think that it would be right to send them a copy of the private letter, though I am willing to convey its gist to the Department. It is not of much consequence.

Document C: Briefing for the Prime Minister's meeting with Mr. Winterton

This briefing comprises a covering note for the Prime Minister from Ian Gow, the then Parliamentary Private Secretary, Document B, and a letter from the then Legal Secretary covering a hand-written note from the Attorney which the DPP had submitted to him. Only the latter is of any substance. I would be prepared to send copies of these documents, except for Document B, to the Attorney's office (who would of course have them all already except the covering note from Ian Gow).

I should be glad if one of your people could let me know if they see any legal or other problems with this course of action.

Yours ever,

Nigel Wicks

N. L. Wicks

Gerald Hosker, Esq.,
Treasury Solicitor's Office.

CONFIDENTIAL

FLAG A

Ireland

ORIGINAL HELD BY POLITICAL OFFICE

MR. WHITMORE

cc. Mr. Colver

De Lorean

Ian Gow asks for a note of our involvement, following Mr. Winterton's conversation with him.

Mr. Winterton wrote to Ian Gow early in the week beginning 28 September. On the afternoon of Thursday 1 October, he spoke to me on the telephone in Ian's absence in Australia. He said that he had written to Mr. Gow warning of a possible commercial scandal, but that he had since learned that the story was liable to break publicly in the very near future. I believe he said "before the weekend". He spelt out to me the company involved and the nature of some of the allegations. He asked that the matter should be brought to the Prime Minister's attention. I undertook to come back to him as soon as possible.

I spoke to you in Australia before leaving the office that evening. Our secure line was not functioning, so I told you in guarded terms that new allegations had come to hand about some commercial business in Northern Ireland, and I told you who I proposed to consult.

Early on Friday 2 October, I consulted one senior official, and he and I then spoke to Sir Brian Cubbon at the Home Office. The unanimous view was that the Law Officers should be informed of the allegations, so that they could take whatever action they considered appropriate.

I therefore spoke to Jim Nursaw, Legal Secretary, around lunch-time on 2 October, and asked if he could arrange for the DPP to institute whatever enquiries seemed necessary. Around the same time, I told Mr. Winterton that, after arranging for the Prime Minister to be informed of the allegations, I was referring the matter to the Law Officers, who would arrange for someone to see Mr. Winterton.

/ In the course

CONFIDENTIAL

In the course of the afternoon, the DPP made arrangements to send a police officer to see Mr. Winterton over the weekend, so that the documentary evidence he held could be collected. I also spoke to the Solicitor General during the afternoon, on whose authority the DPP had been brought in. (Our contacts with the DPP were, of course, entirely informal, since he cannot take instructions from Ministers other than Law Officers.)

The DPP spoke to me at the end of the day, after he had got in touch with Mr. Winterton. For what it is worth, I might record that the DPP said that he was alarmed at the extent of Mr. Winterton's indiscretion over the telephone. All our activity on the matter had been carried out with maximum possible discretion, and the DPP clearly believed that this was essential at that stage of events.

In the course of 2 October, I telegraphed you in Melbourne, outlining what had happened and what steps we were taking to arrange for the allegations to be investigated rapidly.

I was on duty over the weekend, but I did not pick up these events until quite late on Saturday, when I was in touch with the Northern Ireland Office on other business. In the meantime, I understand that the Duty Press Officer, Mr. Colver, had had a telephone enquiry from Gordon Leak of the News of the World. This was around midday, and at that stage Leak did not name Mr. Winterton. This led the Press Office to take the matter up direct with the party in Australia. As a result of these contacts, you and the NIO Permanent Secretary agreed a Press line as follows:

> "The Government has recently been informed of allegations of financial irregularities in the De Lorean company and insofar as these may relate to the company's operations in the UK the police are making inquiries."

The Press Office were also equipped with a further line, to be used only if asked about Mr. Winterton's involvement. They could then confirm that he conveyed his allegations to the Prime Minister:

/ the Solicitor General

that the Solicitor General was consulted, and that he asked the DPP to institute an enquiry.

Initially, the Press Office used the line not mentioning Mr. Winterton. But further calls from the News of the World and the Observer included questions about Mr. Winterton's role, at which point the Press Office started to use the formula describing Mr. Winterton's role.

As I recall it, Mr. Winterton allowed himself to be interviewed for television starting with the lunchtime news bulletins on Sunday. The News of the World had, as you know, decided on legal advice not to run its story, but the Observer carried a brief piece about enquiries.

There were two further statements the following week. The NIO issued one to play down the extent of the enquiry, in order to reassure commercial creditors. The Solicitor General issued one to make it clear that he had ordered the police enquiry, after the allegations referred to by the Prime Minister.

In effect, our direct involvement ceased after the weekend. Throughout that period, we done done our best to keep matters private. Once it became clear that the Press had picked up the story, we at no stage volunteered comments, but equally we made sure that we could respond in a factually accurate way to specific questions put to us. (It appeared to us at the time that the questions were probably arising because Mr. Winterton had already been talking to the Press, but there was some suggestion that some of Miss Gibson's material might have appeared in a New York evening paper on the afternoon of Friday 2 October.)

MAP

28 October 1981

FLAG B

ORIGINAL HELD BY POLITICAL OFFICE

25th November 19

Dear Ian.

These are shorthand notes
prepared for me by my solicitor who
has all my papers on De Lorean and
they basically deal with my personal
involvement and not matters relating to
the national interest which can be expanded
upon when I meet the Prime Minister
next week. I give you notice that I shall
require my solicitor, Richard Sykes, to be

present at the meeting which I have with
Margaret Thatcher. These note should
read in conjunction with the article in Pa
Eye which I gave to you yesterday even
(Ed Dirkcsey)
My Home Telephone No is 02602-285
my secretary in Macclesfield 0625-2272
my office in H of C 219-4402 and it
my intention to return to London after
weekend during Monday afternoon 29/11/8

Yours ever

Lucilles

ORIGINAL FILED ~~OFF~~
BY POLITICAL OFFICE

Prime Minister

NICHOLAS WINTERTON - DE LOREAN

1. Herewith copy of his letter to me, plus enclosures, of 25th of last month, which you have seen already.

2. You will remember that I sent a copy of Nicholas's letter, plus enclosures, to the Attorney General.

3. Herewith the Legal Secretary's reply, plus enclosure.

4. I have since spoken to the Attorney General. We both think that he ought to be present when you see Nicholas Winterton.

5. May I now please arrange for Nicholas to see you, with the Attorney General coming to see you 10 minutes before Nicholas arrives?

9.12.82

pp IAN GOW

cc. Robin Butler

FLAG C

Copied NIO 17/12

NOTES BY NICHOLAS WINTERTON

As soon as Marion Gibson showed me documents to back up her allegations about De Lorean, I wrote to Ian Gow. That was on the 23rd September 1981. On the 2nd October the Solicitor General spoke to me and I repeated Miss Gibson's allegations.

On the 4th October, 1981, Number 10 put out a statement to the effect that the P.M. had asked the Attorney-General to get the Police to look into the matter. My name was not mentioned by Number 10 but it was mentioned by Marion Gibson to journalists. The Press and Media descended on me en masse at my home.

On the 5th October at my home I gave an interview to the BBC and ITN. I attach a transcript of what I said to the BBC. I said much the same to ITN. In effect I repeated Marion Gibson's allegations, which were:-

1. De Lorean had not invested what he had claimed to have invested.

2. Mysterious payments had been made into a foreign bank account in connection with the design of the car.

3. Money had been spent on projects which had nothing to do with the car.

4. The proposed Public Issue in New York would enrich

De Lorean at the expense of the British taxpayer.

Police Officers from Scotland Yard arrived in New York on Wednesday, 7th October. They had one interview with Bill Haddad, formerly of De Lorean Motors, and a further appointment was made for Tuesday, 13th October. But on Saturday, 10th October they were instructed by the D.P.P. to suspend their investigations. Why?

Also on Saturday, 10th October the Attorney-General let it be known to the Press that on the following Monday, 12th October, a statement was going to be made clearing De Lorean. An article to this effect appeared in The Sunday Telegraph of the 11th October.

A statement was issued by the D.P.P. on Monday, 12th October acquitting De Lorean of any criminal offence. This resulted in the issue of Writs against me on the following day by De Lorean himself, his American Company and the British Company. De Lorean announced at a Press Conference in Belfast that he was claiming damages against me of $250,000,000

The Police and the Attorney-General having failed to find any evidence against De Lorean, I instructed my lawyers to make their own enquiries. At my considerable expense they went to New York, and very quickly found evidence (some of it on public files) which satisfied them that the four allegations made by Marion Gibson were entirely true. They also spoke to people in Detroit who supplied further evidence, again on public files, of De Lorean's murky past.

I hoped that eventually H.M.G. would realise what had been happening. I thought in particular that the appointment of the Receivers would result in a disclosure of De Lorean's misdoings, but it resulted merely in the continuance of the libel actions against me by among others the Receivers themselves on behalf of the Northern Irish Company, and, I suspect at the expense of H.M.G.

I had hoped that when the Receivers completed their report into the affairs of De Lorean Motor Cars Limited it would be published. Instead it was handed to the Police in Ulster a few days before the Public Accounts Committee was due to make its enquiries. For a reason I do not understand the P.A.C. is now to sit in camera. I am driven to the conclusion that the purpose of my reporting Marion Gibson's allegations to 10 Downing Street, which was to ensure that they were properly investigated, was frustrated. All it achieved for me was a lot of publicity which resulted in an expensive and worrying law suit against me personally. It is of little comfort for me to know that everything I said on the 5th October can be proved to be true in spite of the silence, of (1) the Police, (2) the Receivers and (3) the Public Accounts Committee.

Meanwhile the libel actions against me continue in spite of the efforts of my lawyers to force their discontinuance.

WORDS COMPLAINED OF BY DE LOREAN
AGAINST MR. N. WINTERTON

B.B.C.

Mr. Winterton "They /Marion Gibson's allegations/ relate firstly to the investment that is supposed to have been made by Mr. De Lorean and his Company in De Lorean Motor Cars Limited of Dunmurry, Northern Ireland. The figure that was supposed to have been invested by him was four million and I am led to believe the allegation is that has been given to me, that only seven hundred and fifty thousand dollars has been invested in fact, so clearly that is quite a big shortfall and the British Taxpayer has handed up something like £80 million to this Company. Secondly there is concern about payments that have been made to an individual involved with the design of the car and the placing of those sums in a foreign bank account and also the spending of certain sums of money which have no relevance in fact to the motor car company and a final complication which I think is very serious is of course the issue, the Public Rights Issue which at the moment is postponed in the United States relating to this Company, the launch of a Rights Issue by the De Lorean Company which could well prejudice the British Government and the British Taxpayers stake in the Northern Ireland Company."

Hull trawlers in deep waters

CONCERN has been mounting for some time within the Ministry of Defence about a serious security breach relating to the construction of the Type 23 Frigate, on which feasibility studies were carried out in 1981.

Those taking part in this study were the MoD, British Shipbuilders Yarrow, and shipbuilders Vosper Thorny-croft in Portsmouth. The MoD at that stage had made available for the study secret staffing reports and other classified material *with the usual items excluded for security reasons*. This early assessment was worked on further earlier this year by MoD staff and carried a high classification.

Meanwhile independently of this study a consortium of naval architects and designers had developed a new hull known as Osprey. The Osprey design has been vigorously promoted in defence circles by Mr David Giles, a man in his fifties who did his National Service as a naval officer. Previously a project manager at British Aerospace, he now spends his time pushing the Osprey design.

Giles has been active in defence circles on behalf of his consortium for at least seven years and sought to have the Osprey hull replace the Leeds-type of patrol vessel, but without success so far. This Osprey design has been used in Denmark where patrol vessels have been built – two others going to Burma. In this venture, Osprey have teamed up with the large northern Danish ship-builders and repairers, Frederiks-havn Vaerft.

In the period of 1979/80, Giles sought to persuade the MoD that the Osprey designed hull could be graded up – to between 2,000 to 4,000 tons. This claim was followed by some extensive lobbying in Conservative Party circles and the press. But all along the MoD, whilst acknowledging that Osprey was a marginally cheaper hull, maintained that its overall costs were much greater than the already accepted design. But such was the impact of Giles' lobbying technique that he managed to arrange for himself and his consortium to be shown around the Chatham docks earlier this year. Included in this party was Mr Niels Bach of Frederikshavn Vaerft.

It was clear from this inspection that the consortium were looking into the commercial possibilities of Chatham, due to be shut down, for warship building on a private basis.

Shortly after this, copies of the secret staffing report were made available to Giles and his associates, from within the Ministry of Defence. It is believed that no-one at that time had security clearance to receive these documents, although Giles may have subsequently obtained it.

It has been alleged that these documents were made available to Giles with the knowledge of the Under Secretary for Defence and MP for Chertsey and Walton, Mr Geoffrey Pattie.

One firm result of this leak was that Giles and his consortium was able to return to the MoD and make a firm proposal about the feasibility of the alleged Osprey design to the Secretary of Defence, John Nott, in May of this year. What has horrified MoD officials is that



SILKIN: "Threats to security in the MoD"

Giles had got hold of this material in the first place and had used it against the department that had unwittingly supplied it.

This story came to the attention of the Opposition spokesman on Defence, John Silkin, about three months ago. He told the *Eye* "When this matter was first drawn to my attention some months ago I passed my information on to the First Sea Lord, Sir Henry Leach. Since then I have heard nothing."

Sources within the Ministry of Defence have estimated that over a prolonged period they have spent about £½ million in answering correspondence and attending meetings dealing with Mr Giles's promotion.

But the most worrying thing about this commercial intrusion into the MoD is the security breach. As John Silkin put it: "On the information provided to me, there is cause for concern. There may be grave threats to security and the commercial integrity of the Ministry of Defence."

100 Years Ago

The De Lorean memorandum

ONE ASPECT of the De Lorean scandal which has passed unnoticed is the curious affair of the Scotland Yard "investigation" in October last year. This cleared De Lorean and so allowed him to unleash a battery of writs against his critics, thereby helping him to stifle criticism until the company's financial problems surfaced.

The police investigation was announced following the disclosures made to Conservative MP Nicholas Winterton by De Lorean's former deputy administrator Marion Gibson, and subsequently published by the *Daily Mirror* on October 5. The allegations of financial irregularities in particular focussed on the celebrated "gold faucets" memo written by De Lorean vice president, Bill Haddad, in December 1980, which raised questions about spending by De Lorean and his executives.

The Director of Public Prosecutions, Sir "Tony" Hetherington, was asked by Sir Ian Percival, the Solicitor General, to initiate a police inquiry into the allegations. On October 12, the DPP announced that no evidence of criminal conduct had emerged.

Officially cleared, De Lorean promptly proceeded, via Lord Goodman, to sue Winterton, Gibson, the *Daily Mirror* and Independent Television News. These cases were still active at the time John De Lorean, the suitcase of cocaine and the FBI all met up in the Sheraton Hotel, Los Angeles.

From the beginning, the police investigation was handled in a haphazard way. It was given to two detectives from the Yard's CI department, Det. Chief Inspector John George and Det. Inspector John Hefford. (CI is the Yard's all-purpose crime department. It usually handles nothing more financial than robberies.)

The approach taken by the Yard detectives did not impress those they interviewed in the United States. The Haddad memo was seen correctly as crucial. In the beginning De Lorean denounced it as "a forgery". It therefore became essential to ascertain the truth of both the document and its contents. For that Bill Haddad was vital.

George and Hefford went to New York to interview Haddad whom they saw on October 9. Before that meeting an unusual and disturbing event had already taken place. Haddad was told by De Lorean what the police wanted to talk to him about, and he formed the distinct impression that De Lorean knew in considerable detail what evidence had been given to the police.

During the interview, Haddad maintained the authenticity of the memo and that it had been delivered to De Lorean's office. It was arranged with the two officers that there should be a further meeting in four days' time to discuss certain further matters. D.C.I. George subsequently indicated to Haddad's lawyer that the inquiry was not closed and that they would be back in touch.

The second meeting never took place. Instead, the two Scotland Yard detectives returned to London. Haddad never heard from the Yard again. This did not totally surprise him. For he formed the opinion during that one and only meeting that this was an exercise of going through the motions. An "everything alright" report was what was wanted from the police. A similar impression was gained by Marion Gibson.

The very day before the Yard men had arranged to meet Haddad for a second discussion it was announced by the DPP that the investigation had been concluded – satisfactorily for John De Lorean.

Haddad's concerns were increased when it was reported – after his interview with the police – that De Lorean was quoting the result of Scotland Yard's unpublished investigations as being that the memo was undelivered – from which he concluded that it was "fabricated".

When his lawyer raised this with the Yard, a letter was written on behalf of the Assistant Commissioner (Crime) Gilbert Kelland, acknowledging Haddad's version of events and concluding with the curious statement that the police "acknowledges your concern at any possible leakage of information to John De Lorean".

That there had been such a leakage seemed certain. Haddad's former boss knew just too much about what Marion Gibson had told Nicholas Winterton and Winterton had told the police. This included awareness of documents that were never published. Then there was De Lorean's surprisingly well-informed position on what the police were going to ask.

Just how John De Lorean came to know all this is a matter of speculation. However, one possible explanation may lie in the Government's wish not to have a scandal over De Lorean at that time if it could be avoided. No doubt choice of Lord Goodman as his lawyer was also helpful.

In any event, the Government got exactly what it wanted. De Lorean was whitewashed – until the skeletons started piling out of the cupboard a few months later. Interestingly enough, even now there is no wish to reopen that oh-so-brief police investigation, despite the ample evidence of abuse of taxpayers funds that has emerged. Instead that is to be left to the Commons' Public Accounts Committee.

Meanwhile, it is to be hoped that Lord Goodman's firm, Goodman Derrick, and his eminent counsel, Lord Rawlinson, have assured their fees for undertaking John De Lorean's now somewhat redundant libel actions. If not, they could have a long wait. Perhaps 72 years.

CONFIDENTIAL

From: THE PRIVATE SECRETARY

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

CF
Could I see
here [illegible]
Pl also ask [illegible]
NIO
X

Mr. Wicks
One of you I think.
MEH 11/6

Mark Addison Esq
10 Downing Street
LONDON
SW1

10th June 1986

'X' Requested
11/6

Dear Mark,

DELOREAN

We spoke by telephone recently about three internal No 10 documents and agreed I would write to you about our request for sight of them. The documents are:

A - Mr Pattison's minute, 28 October 1981 to Mr Whitmore at Flap

B - Mr Winterton's letter, 25 November 1982 to Mr Ian Gow

C - Briefing for the Prime Minister's meeting with Mr Winterton. (dated 29.11.82)

We understand the briefing was compiled on advice supplied by the DPP's office rather than NIO. We have a copy of the note of the meeting.

The background to our request is as follows. In February 1985, the Department of Economic Development (DED) in Northern Ireland, initiated a legal action in the United States against the Auditors, Arthur Andersen & Co (AA). The claim is for damages in respect of AA's failure to adequately investigate and report on, certain matters which would have alerted the Government to the possibility of fraud in the DeLorean Companies. As part of their Defense AA argue that DED's Action is time-barred because the Government failed to ensure a proper investigation of the allegations referred to the Prime Minister by Nicholas Winterton, MP, in 1981. In support of this argument AA have lodged an Affidavit by Mr Winterton in the US Courts. A copy is enclosed. X

There are certain aspects of the Affidavit which appear somewhat inconsistent with other contemporary accounts. In particular, there is doubt whether the Memorandum dated 16 September 1981 (annexed as an Exhibit to the Affidavit) was in fact part of those papers referred by Mr Winterton to the Metropolitan Police.

CONFIDENTIAL

Officials here are researching these aspects with officials in the Attorney-General's Office, the DPP's staff and the police.

The Attorney-General's staff have identified the documents referred to above as important background material without which it will be difficult for this office to deal adequately or properly with the Winterton Affidavit. Officials here have agreed with Stephen Wooler of the Attorney General's staff that we should approach you directly to ask whether a set of the documents can be made available to us on a personal basis. The official in NIO dealing with these matters is Mrs Pamela Newman. She would need to discuss the papers with Miss Patricia Carroll of the Treasury Solicitor's Office who is dealing with the case against AA. We would of course be willing to restrict access in whatever way you thought necessary.

I hope you will be able to assist with this matter.

Yours Sincerely

Neil Ward

N D WARD

Enc

ji

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WINTERTON AFFIDAVIT
20 MAR. 1986.

26 MAR 1986

DEPARTMENT OF ECONOMIC DEVELOPMENT,

Plaintiff,

-against-

ARTHUR ANDERSEN & CO. (U.S.A.), ARTHUR ANDERSEN & CO. (Republic of Ireland) and ARTHUR ANDERSEN & CO. (United Kingdom),

Defendants.

85 Civ. 1292 (CES)

AFFIDAVIT OF NICHOLAS RAYMOND WINTERTON

ENGLAND)
: ss.:
CITY OF LONDON)

NICHOLAS RAYMOND WINTERTON, being duly sworn, deposes and says:

1. I am the duly elected member of the United Kingdom Parliament for the constituency of Macclesfield. I am personally knowledgeable of the facts set forth herein.

2. In the first half of September, 1981, I was asked by one of my constituents (whose name is not relevant to this Affidavit) to meet one Marian Gibson ("Miss Gibson"), a secretary within the De Lorean Motor Company ("DMC") organisation, who had at one time been Mr. John Z. De Lorean's secretary. I was told by my constituent that Miss Gibson was

concerned about events that were taking place at DMC and at De Lorean Motor Cars Limited ("DMCL") and the impact that those events might have upon the United Kingdom ~~government~~.

3. An appointment was therefore made for me to meet Miss Gibson, at my constituent's house on Saturday, 12th September. That meeting took place and I talked with Miss Gibson in general terms for approximately 1½ hours. She outlined her role at DMC and her relationships with Mr. De Lorean and Mr. Kimmerly, also a director of DMC. She explained her fear that Mr. De Lorean was only out to make money, and that this might be achieved at the expense of the British government.

4. I explained that I could not do anything solely on the basis of conversation, and that I would need documentary evidence. As a result, we arranged a further meeting. That meeting took place also at my constituent's house on Friday, 18th September, 1981. Miss Gibson had brought with her two files, each of which was two to three inches thick. I went through these files with her and took copies of a number of the more pertinent documents. Even on the basis of this brief perusal, I believed that the papers revealed a matter which ought to be looked into. I told Miss Gibson that I thought that the appropriate course was to report the matter to the Prime Minister at Downing Street.

5. Accordingly I wrote a letter dated 23rd September, 1981 to Mr. Ian Gow, the parliamentary private secretary to the Prime Minister. An acknowledgment was sent to me on 30th September, 1981 by Miss Tessa Jardine Pattison. True copies of

these letters are now produced and shown to me marked "NRW 1". The matter was not taken further at that stage.

6. During the following week, I learned that the matters to which Miss Gibson had referred might be reported in the press and, in particular, an English Sunday newspaper, the News of the World.

7. Therefore, on Thursday, 1st October, 1981, I telephoned the Prime Minister's private office. I spoke to a Mr. Michael Pattison and warned him that a number of aspects of the affairs of DMC and DMCL were about to become the subject of adverse press comment. I made it clear that I had access to copies of documents which were highly relevant to the matters which were about to be referred. He thanked me for the warning but did not tell me what steps he proposed to take.

8. On the following day, the Solicitor General, Sir Ian Percival, tried to speak to me at home. He spoke instead to my wife, and left a message for me to telephone back, which I did at 6.00 p.m. I told Sir Ian Percival all that I had been told by Miss Gibson and again made it clear that I could provide documents which substantiated Miss Gibson's concerns. I was informed by Mr. Percival that the Director of Public Prosecutions would be investigating the matter.

9. On Friday, 2nd October, 1981, Sir Thomas Hetherington, who held the office of Director of Public Prosecutions telephoned me twice. I was out on the first

occasion. On the second occasion, he said that he was instructing police officers to visit me. I was given the name of Detective Chief Superintendent John George.

10. On the following Saturday, 3rd October, 1981, I collected Miss Gibson's files from my constituent's house and brought them back to my home. I was then visited by the police at about 2.20 p.m. I repeated to Detective Superintendent George the allegations which I had been told of. In the course of the meeting, I took Detective Superintendent George through the relevant parts of the files, identifying particular documents. At the end of the meeting, the police officers departed, taking with them the files which Miss Gibson provided.

11. On Sunday, 4th October, Downing Street put out a statement to the effect that the Prime Minister had asked the Attorney General to arrange for the police to investigate the matter. Thereafter, the matter proceeded through investigation by the police and the Attorney General.

12. I did not keep copies of all the documents in the files and therefore I cannot identify precisely all of the documents which were provided to the police (and which had been proffered to the Government). However, I am absolutely certain that the files did include two memoranda to John De Lorean from Bill Haddad - one was dated 26th December, 1980, the other was dated 16th September, 1981. In those memoranda there are

eferences to allegations concerning

- "the Lotus situation"
- Colin Chapman
- "hidden Swiss accounts to avoid taxes"
- "GPD as a Panamanian Company, of small size, operating out of Switzerland"

Copies of those memoranda were retained by me and true copies are now produced and shown to me marked "NRW 2". (The manuscript markings on these copies were made after the events described in this Affidavit took place).

13. Within a week or ten days of 4th September it was announced that the police investigations had not found evidence to support any criminal charges and that the investigation set in train by the Prime Minister would not be pursued further. At the time I found it unbelievable that the police could have made any serious attempts to investigate what were obviously complex matters. I later learned that the police had been recalled from New York before they were able to meet Mr. William Haddad, the author of the two memoranda, referred to in paragraph 12 although a meeting had been arranged.

14. It was after the announcement that the police investigations had been terminated that Mr. De Lorean and his

two companies served me with two Writs for libel in respect of interviews I had given to the BBC and Independent Television News during which I called for the government to investigate the alleged misuse of funds. In addition to my normal duties I spent a considerable time, as did my lawyers, in defending these actions and we received no assistance whatsoever from the government or government departments.

15. During this time the true position about Mr. De Lorean began to emerge. The press were attacking him more freely.

16. At the end of December 1982 I asked for and obtained a meeting with the Prime Minister at which I hoped I would be allowed to bring my solicitor to inform them of matters which had been discovered during the Defence of my action. I was not allowed to bring my solicitor but a meeting was arranged at 10 Downing Street for the 15th December 1982 where I met the Prime Minister, Mrs Margaret Thatcher, Sir Michael Havers (the Attorney General) and Mr. Ian Gow who was then the Prime Minister's Private Secretary. A member of her personal office staff was also present but I do not recollect his name.

So far as I was concerned the purpose of the meeting was to try and persuade the government to make public all relevant matters relating to the government's and its predecessors involvement in the De Lorean Motor Company and

to admit that the doubts which I had raised about the enterprise were fully justified. The meeting lasted about 45 minutes. I went over the history of my involvement in the matter but I received no satisfactory answers to any of the questions which I asked. Nor am I aware of any official action taken as a result of the meeting.

Nicholas N. Winterton

NICHOLAS WINTERTON, M.P.

Sworn to before me this
20th day of March 1986

Notary Public, LONDON
My commission expires with life.

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United Kingdom of Great Britain and Northern Ireland
Pays: Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

This public document/Le présent acte public

2. has been signed by / a été signé par N R R Smith

3. acting in the capacity of / agissant en qualité de Notary Public

4. bears the seal/stamp of / est revêtu du sceau/timbre de the said Notary Public

Certified/Attesté

5. at London/à Londres

6. the/le 21 March 1986

7. by Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs/ par le Secrétaire d'Etat Principal de Sa Majesté aux Affaires Etrangères et du Commonwealth.

8. Number/sous No E 069850

9. Stamp: / timbre:



FOREIGN AND COMMONWEALTH OFFICE
DIEU ET MON DROIT
LONDON

10. Signature:

A Prova

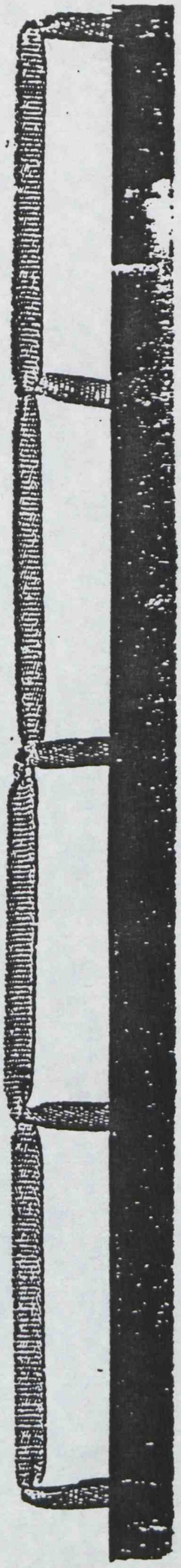
A. P[illegible]

For the Secretary of State Pour le Secrétaire d'Etat

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEPARTMENT OF ECONOMIC DEVELOPMENT, Plaintiff,	:	
-against-	:	
ARTHUR ANDERSEN & CO. (U.S.A.),	:	85 Civ. 1292 (CES)
ARTHUR ANDERSEN & CO. (Republic of Ireland)	:	
and	:	
ARTHUR ANDERSEN & CO. (United Kingdom),	:	

AFFIDAVIT OF
NICHOLAS RAYMOND WINTERTON



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

DEPARTMENT OF ECONOMIC DEVELOPMENT, Plaintiff,	:	85 Civ. 1292 (CES)
-against-	:	
ARTHUR ANDERSEN & CO. (U.S.A.), ARTHUR ANDERSEN & CO. (Republic of Ireland) and ARTHUR ANDERSEN & CO. (United Kingdom), Defendants.	:	AFFIDAVIT OF NICHOLAS RAYMOND WINTERTON

This is the exhibit marked "NRW1" referred to in the Affidavit of NICHOLAS RAYMOND WINTERTON

Sworn to before me this

20th day of March 1986

Notary Public, London

23rd September 1981 NRW/cmh

Ian Gow Esq MP
Parliamentary Private Secretary
10 Downing Street
LONDON SW1

I am writing to you rather than the Prime Minister as I seek both your advice and assistance.

I am afraid at this stage I cannot be specific, but information has come to me which leads me to believe that the British Government is being misled and deceived, and the taxpayers' money misused in a substantial project with which the British Government has been involved for some little while. I personally have photocopies of certain papers which make very interesting reading, and which substantiate the view which I have expressed. There are many further papers, and I can lay my hand on originals in every case to verify my fears. The problem is that I cannot refer this matter to the Secretary of State concerned because, of course, it would be handled by his officials, and enquiries would be made, and I say with some regret that there are moles within Government Departments and the perpetrators of the fraud and deception would inevitably be advised that enquiries were in hand. I believe only the intervention of the Fraud Squad or another similar body upon the authority of the Prime Minister could adequately investigate the matter.

Would it be possible to see you or the Prime Minister at some time in the not too distant future so that I can discuss this matter personally, and reveal as many of the facts as I have at present.

10 DOWNING STREET

30th September 1981

Dear Mr. Winterton,

As Mr Gow is away in Australia, I am writing to acknowledge your letter of 23rd September. I will, of course, make sure that he sees it as soon as he returns.

I should point out that this will not be until Friday, 9th October, and that the Party Conference begins the following week, so it may not be possible to arrange a meeting with the Prime Minister or with Mr Gow until after the Conference. However, I am sure that Mr Gow will be in touch with you as soon as possible.

Yours sincerely,

Tessa Jardine Paterson

Miss Tessa Jardine Paterson
Political Office

Nicholas Winterton Esq MP

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United Kingdom of Great Britain and Northern Ireland
Pays: Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

This public document/Le présent acte public

2. has been signed by
a été signé par ..... N R R. Smith .....

3. acting in the capacity of
agissant en qualité de ..... Notary Public .....

4. bears the seal/stamp of
est revêtu du sceau/timbre de ..... the said Notary Public

Certified/Attesté

5. at London/à Londres

6. the/le .. 21 March 1986 .....

7. by Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs/
par le Secrétaire d'Etat Principal de Sa Majesté aux Affaires Etrangères et du Commonwealth.

8. Number/sous N° E 069852

9. Stamp:
timbre:

FOREIGN AND COMMONWEALTH OFFICE
DIEU ET MON DROIT
LONDON

10. Signature:

A. PROVAN

.....

For the Secretary of State/Pour le Secrétaire d'Etat

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

DEPARTMENT OF ECONOMIC DEVELOPMENT,	:	
Plaintiff,	:	85 Civ. 1292 (CES)
-against-	:	
ARTHUR ANDERSEN & CO. (U.S.A.),	:	
ARTHUR ANDERSEN & CO. (Republic of	:	AFFIDAVIT OF
Ireland) and ARTHUR ANDERSEN & CO.	:	NICHOLAS RAYMOND
(United Kingdom),	:	WINTERTON
Defendants.	:	

This is the exhibit marked "NRW2" referred to in the Affidavit of NICHOLAS RAYMOND WINTERTON

Sworn to before me this

20th day of March 1986

Notary Public, London.

DMC

INTER-OFFICE MEMO

Date December 26, 1980

To John De Lorean

From Bill Haddad

Subject

I continue to be concerned about our efforts to set up a scenario under which the British relinquish their share of equity in the program. I just don't think it will work. And, if it does work, it will only follow a storm of public protest which will reach from London to Detroit to Washington.

Perhaps I don't understand the reason for the push at this time. I don't see how it can help our cash flow problem. So I assume the action is taken in conjunction with our plans for a public offering. If that is the case, while it may enhance the DMC equity position and, consequently, what people are willing to pay for the stock, the public outcry may reduce the attractiveness of the offering and even require the postponement of the offering. However, as you will see below, that is not my only concern.

I wasn't there at the time, but for the purpose of this memo, let's assume our position is legally correct.

I know you believe the power of the logic and the facts, presented to the British in a closed room, will create the

51

conditions for them to relinquish their equity position. However, I don't believe that any action of this magnitude can be decided below the ministerial level, the Whitehall level, and that, of necessity, given the British system, will produce, I am convinced, a violent Parliamentary outcry and a mandatory Parliamentary inquiry. Given the Fleet Street nature of the British media, and the cynical attitude towards private enterprise (and De Lorean in particular) exhibited by the BBC, I think you and the company will be painted in the blackest of terms.

I am also worried about what a Parliamentary inquiry will uncover about our expenditures on both sides of the ocean. There are the "official" complaints which can be sensationalized even though Arthur Andersen, SEC, et al, will give a clean bill of health. The Strycker picture is a highly personal one of John Z. De Lorean milking the company for his private profit. Some of the discredited Strycker charges can be succulent journalistic morsels for the Fleet Street crowd neverly overly concerned about separating accusation from fact.

As you know, I am also troubled by some of the Bennington actions regarding the house and some of the expenditures which appear to have been "fuzzed" (like a 10,000 pound expenditure at Harrod's gold facets, etc.). I recently learned, for example, that we may have hidden some of the capital expenses of the house in expenses for the project. In short, the books were altered. Silly, because the house can be justified.

52

Memorandum to JZD

The Lotus situation troubles me too. I know everyone approved it, but, no matter the hero status of Colin Chapman, hidden Swiss accounts to avoid British taxes may be viewed differently in the media than in the courts or in the higher circles of sophisticated government bent on getting something done quickly and efficiently.

There is also the problem of moving so quickly. I understand from my University contacts that it is fairly well known that the architects made a small fortune on us (so did Lotus!) They may have deserved it, but what are the small items which made up this fortune? Did we monitor closely enough? Why wasn't JZD there to oversee everything? Was he, as Strycker charges, pursuing other interests?

If we were in production, and the British could taste the recovery of their money, the contrast between these items and the general state of their economy would not be so dramatic. After all, any of the higher expenses will cost us as well as them, and we, in the end, are not only repaying their investment, but with a divident in people off the dole and 2000 new jobs in one of the most unpopular areas of the world (their goal in providing us the money). Perhaps, due to the offering, we were legally required to take this unpleasant action. I know the counter-arguments.

The story which could emerge, however, is that De Lorean (it is your name on the door), who got £ 60,000,000 of British taxpayers money is so greedy that he wants to take more and deprive the British of their rightful equity.

(53.

No matter your legal briefs, the accurate comments of those present at the time, that is the story which could emerge: The 1890 American robber baron image, enhanced by Fleet Street's love of the spectacular. And the British are on record, as you know from the recent Belfast interviews, as stating they owe us no more money.

That's not what really worries me down deep.

We are not now a target of the IRA because we have "good will" on our side. On my last trip to England I met with one of the producers of the BBS show where you were surprised with questions which they had promised not to ask. The producer said he tried to halt this line of questioning during the show, but the presenter kept pushing. However, he did say that never in his experience did any show produce such a negative response from the audience. He was literally flooded with angry letters complaining that the presenter was harrassing a man who only wanted to do good for Ulster. You are a hero in Ulster, untouchable by the IRA or any of the more loosely organized terrorist groups.

If that attitude changes, and they paint you black, and it sticks for even a short period of time, and evokes a local response, the IRA could put us on the list. They won't go for the factory, they will go for you. In Belfast or, just as easily, and more dramatically, here in New York.

Those are the stakes. That is what worries me.

I just want these views factored into any decision you make.

As I said, I don't know the rationale or the urgency, but I do worry about the potential consequences if we continue down this road.

And don't shoot the messenger; just review, carefully, the message.

(55)

DMC

INTER-OFFICE MEMO

Date September 16, 1981

To Tom Kimmerly

From Bill Haddad

Subject

I talked to Shaun Harte on Monday and he, basically, confirmed the limited information you already had on the Lotus article, but, at that time, he had not located a copy of the story.

I asked him where "GPD" would have appeared in our reports and if that name was used in the article. He said it was but Daly had made great efforts not to use the name of the company in his reports. So it evidently must come from another source. I only saw one reference to GPD, in a footnote in an early draft of the S-1 (attached).

This a.m.,I talked to Shaun's secretary and she had a copy of the article which is entitled "When Will Lotus Bloom", and it appeared about two Sundays ago. She is typing it up and sending it to us on the thermofax.

In short, it makes these points:

(1) Mentions GPD as a Panamanian Company, of small size, operating out of Switzerland.

(2) Talks to Chapman who makes two basic points: (A) GPD was not his idea (as you suspected) and there were no dealings between Lotus and GPD; (B) All will be revealed when his financials are presented shortly.

(3) The article questions what happened between 1978 when the deal was consummated and today, when it is due to be reported, and says, in conclusion, that the paper is waiting with interest in the financial report.

I distinctly remember that the Financial Times carefully analyzed the last Lotus financial from the viewpoint that De Lorean's business kept them alive and what would happen when we were no longer there...some of that article seemed stimulated by Lotus itself during the period when we were pulling loose from them (at least that was my opinion at the time).

(7)

(continued)

If someone starts fooling around in the Watergate fashion, you could potentially have more trouble from the post-GPD situation than from the situation itself.

I think it is imperative that we draft an answer to questions on this subject and after review, have it ready to be issued. If Chapman is saying he had not recommended this procedure, and says that Lotus has no dealings with GPD (which, as Shaun points out, may technically be accurate), it puts DMC on the defensive. We should determine where the answer should be made, here or there, if it comes up again.

In Belfast, GPD is a "hush-hush" subject and I did not learn about it until my last trip when it surfaced in connection with some questions being put to us and I doubt that DMCL will want to answer those questions. Shaun tells me that there is a GPD NIDA file on your meetings at the Bank of England, etc.

If the story appeared two weeks ago, and we have had no other newspaper inquiries, and there is no follow-up story in other papers, this may be a one-day story. The Sunday Telegraph, however, did request from Speilvogel the 10-K and when Mike called them to let them know it was on the way, the Editor he talked to indicated that a story was in the works but there was no estimated publication time.

Bill Haddad

BH/ns

cc: John Z. De Lorean

72

CONFIDENTIAL

MR. WHITMORE

cc. Mr. Colver

De Lorean

Ian Gow asks for a note of our involvement, following Mr. Winterton's conversation with him.

Mr. Winterton wrote to Ian Gow early in the week beginning 28 September. On the afternoon of Thursday 1 October, he spoke to me on the telephone in Ian's absence in Australia. He said that he had written to Mr. Gow warning of a possible commercial scandal, but that he had since learned that the story was liable to break publicly in the very near future. I believe he said "before the weekend". He spelt out to me the company involved and the nature of some of the allegations. He asked that the matter should be brought to the Prime Minister's attention. I undertook to come back to him as soon as possible.

I spoke to you in Australia before leaving the office that evening. Our secure line was not functioning, so I told you in guarded terms that new allegations had come to hand about some commercial business in Northern Ireland, and I told you who I proposed to consult.

Early on Friday 2 October, I consulted one senior official, and he and I then spoke to Sir Brian Cubbon at the Home Office. The unanimous view was that the Law Officers should be informed of the allegations, so that they could take whatever action they considered appropriate.

I therefore spoke to Jim Nursaw, Legal Secretary, around lunch-time on 2 October, and asked if he could arrange for the DPP to institute whatever enquiries seemed necessary. Around the same time, I told Mr. Winterton that, after arranging for the Prime Minister to be informed of the allegations, I was referring the matter to the Law Officers, who would arrange for someone to see Mr. Winterton.

/ In the course

CONFIDENTIAL

In the course of the afternoon, the DPP made arrangements to send a police officer to see Mr. Winterton over the weekend, so that the documentary evidence he held could be collected. I also spoke to the Solicitor General during the afternoon, on whose authority the DPP had been brought in. (Our contacts with the DPP were, of course, entirely informal, since he cannot take instructions from Ministers other than Law Officers.)

The DPP spoke to me at the end of the day, after he had got in touch with Mr. Winterton. For what it is worth, I might record that the DPP said that he was alarmed at the extent of Mr. Winterton's indiscretion over the telephone. All our activity on the matter had been carried out with maximum possible discretion, and the DPP clearly believed that this was essential at that stage of events.

In the course of 2 October, I telegraphed you in Melbourne, outlining what had happened and what steps we were taking to arrange for the allegations to be investigated rapidly.

I was on duty over the weekend, but I did not pick up these events until quite late on Saturday, when I was in touch with the Northern Ireland Office on other business. In the meantime, I understand that the Duty Press Officer, Mr. Colver, had had a telephone enquiry from Gordon Leak of the News of the World. This was around midday, and at that stage Leak did not name Mr. Winterton. This led the Press Office to take the matter up direct with the party in Australia. As a result of these contacts, you and the NIO Permanent Secretary agreed a Press line as follows:

> "The Government has recently been informed of allegations of financial irregularities in the De Lorean company and insofar as these may relate to the company's operations in the UK the police are making inquiries."

The Press Office were also equipped with a further line, to be used only if asked about Mr. Winterton's involvement. They could then confirm that he conveyed his allegations to the Prime Minister:

/ the Solicitor General

that the Solicitor General was consulted, and that he asked the DPP to institute an enquiry.

Initially, the Press Office used the line not mentioning Mr. Winterton. But further calls from the News of the World and the Observer included questions about Mr. Winterton's role, at which point the Press Office started to use the formula describing Mr. Winterton's role.

As I recall it, Mr. Winterton allowed himself to be interviewed for television starting with the lunchtime news bulletins on Sunday. The News of the World had, as you know, decided on legal advice not to run its story, but the Observer carried a brief piece about enquiries.

There were two further statements the following week. The NIO issued one to play down the extent of the enquiry, in order to reassure commercial creditors. The Solicitor General issued one to make it clear that he had ordered the police enquiry, after the allegations referred to by the Prime Minister.

In effect, our direct involvement ceased after the weekend. Throughout that period, we done done our best to keep matters private. Once it became clear that the Press had picked up the story, we at no stage volunteered comments, but equally we made sure that we could respond in a factually accurate way to specific questions put to us. (It appeared to us at the time that the questions were probably arising because Mr. Winterton had already been talking to the Press, but there was some suggestion that some of Miss Gibson's material might have appeared in a New York evening paper on the afternoon of Friday 2 October.)

MAP

28 October 1981

25th November

Dear Ian.

These are shortland notes
prepared for me by my solicitor who
has all my papers on De Lorean and
they basically deal with my personal
involvement and not matters relating to
the national interest which can be expanded
upon when I next the Prime Minister
next week. I give you notice that I shall
require my solicitor, Richard Sykes, to be

present at the meeting which I have with
Margaret Thatcher. These note should
read in conjunction with the article in the
Eye which I gave to you yesterday even
(Ex Directory)
My Home Telephone No is 02602-285
my secretary in Macclesfield 0625-2272
my office in Hof C 219-4402 cell
my intention to return to London after
weekend during Monday afternoon 29/11/

Yours ever

Lucius

Copied NIO
17/12

NOTES BY NICHOLAS WINTERTON

As soon as Marion Gibson showed me documents to back up her allegations about De Lorean, I wrote to Ian Gow. That was on the 23rd September 1981. On the 2nd October the Solicitor General spoke to me and I repeated Miss Gibson's allegations.

On the 4th October, 1981, Number 10 put out a statement to the effect that the P.M. had asked the Attorney-General to get the Police to look into the matter. My name was not mentioned by Number 10 but it was mentioned by Marion Gibson to journalists. The Press and Media descended on me en masse at my home.

On the 5th October at my home I gave an interview to the BBC and ITN. I attach a transcript of what I said to the BBC. I said much the same to ITN. In effect I repeated Marion Gibson's allegations, which were:-

1. De Lorean had not invested what he had claimed to have invested.

2. Mysterious payments had been made into a foreign bank account in connection with the design of the car.

3. Money had been spent on projects which had nothing to do with the car.

4. The proposed Public Issue in New York would enrich

De Lorean at the expense of the British taxpayer.

Police Officers from Scotland Yard arrived in New York on Wednesday, 7th October. They had one interview with Bill Haddad, formerly of De Lorean Motors, and a further appointment was made for Tuesday, 13th October. But on Saturday, 10th October they were instructed by the D.P.P. to suspend their investigations. Why?

Also on Saturday, 10th October the Attorney-General let it be known to the Press that on the following Monday, 12th October, a statement was going to be made clearing De Lorean. An article to this effect appeared in The Sunday Telegraph of the 11th October.

A statement was issued by the D.P.P. on Monday, 12th October acquitting De Lorean of any criminal offence. This resulted in the issue of Writs against me on the following day by De Lorean himself, his American Company and the British Company. De Lorean announced at a Press Conference in Belfast that he was claiming damages against me of $250,000,000

The Police and the Attorney-General having failed to find any evidence against De Lorean, I instructed my lawyers to make their own enquiries. At my considerable expense they went to New York, and very quickly found evidence (some of it on public files) which satisfied them that the four allegations made by Marion Gibson were entirely true. They also spoke to people in Detroit who supplied further evidence, again on public files, of De Lorean's murky past.

I hoped that eventually H.M.G. would realise what had been happening. I thought in particular that the appointment of the Receivers would result in a disclosure of De Lorean's misdoings, but it resulted merely in the continuance of the libel actions against me by among others the Receivers themselves on behalf of the Northern Irish Company, and, I suspect at the expense of H.M.G.

I had hoped that when the Receivers completed their report into the affairs of De Lorean Motor Cars Limited it would be published. Instead it was handed to the Police in Ulster a few days before the Public Accounts Committee was due to make its enquiries. For a reason I do not understand the P.A.C. is now to sit in camera. I am driven to the conclusion that the purpose of my reporting Marion Gibson's allegations to 10 Downing Street, which was to ensure that they were properly investigated, was frustrated. All it achieved for me was a lot of publicity which resulted in an expensive and worrying law suit against me personally. It is of little comfort for me to know that everything I said on the 5th October can be proved to be true in spite of the silence, of (1) the Police, (2) the Receivers and (3) the Public Accounts Committee.

Meanwhile the libel actions against me continue in spite of the efforts of my lawyers to force their discontinuance.

WORDS COMPLAINED OF BY DE LOREAN
AGAINST MR. N. WINTERTON

B.B.C.

Mr. Winterton "They /Marion Gibson's allegations/ relate firstly to the investment that is supposed to have been made by Mr. De Lorean and his Company in De Lorean Motor Cars Limited of Dunmurry, Northern Ireland. The figure that was supposed to have been invested by him was four million and I am led to believe the allegation is that has been given to me, that only seven hundred and fifty thousand dollars has been invested in fact, so clearly that is quite a big shortfall and the British Taxpayer has handed up something like £80 million to this Company. Secondly there is concern about payments that have been made to an individual involved with the design of the car and the placing of those sums in a foreign bank account and also the spending of certain sums of money which have no relevance in fact to the motor car company and a final complication which I think is very serious is of course the issue, the Public Rights Issue which at the moment is postponed in the United States relating to this Company, the launch of a Rights Issue by the De Lorean Company which could well prejudice the British Government and the British Taxpayers stake in the Northern Ireland Company."

Security

Hull trawlers in deep waters

CONCERN has been mounting for some time within the Ministry of Defence about a serious security breach relating to the construction of the Type 23 Frigate, on which feasibility studies were carried out in 1981.

Those taking part in this study were the MoD, British Shipbuilders Yarrow, and shipbuilders Vosper Thorny-croft in Portsmouth. The MoD at that stage had made available for the study secret staffing reports and other classified material *with the usual items excluded for security reasons*. This early assessment was worked on further earlier this year by MoD staff and carried a high classification.

Meanwhile independently of this study a consortium of naval architects and designers had developed a new hull known as Osprey. The Osprey design has been vigorously promoted in defence circles by Mr David Giles, a man in his fifties who did his National Service as a naval officer. Previously a project manager at British Aerospace, he now spends his time pushing the Osprey design.

Giles has been active in defence circles on behalf of his consortium for at least seven years and sought to have the Osprey hull replace the Leeds-type of patrol vessel, but without success so far. This Osprey design has been used in Denmark where patrol vessels have been built – two others going to Burma. In this venture, Osprey have teamed up with the large northern Danish ship-builders and repairers, Frederiks-havn Vaerft.

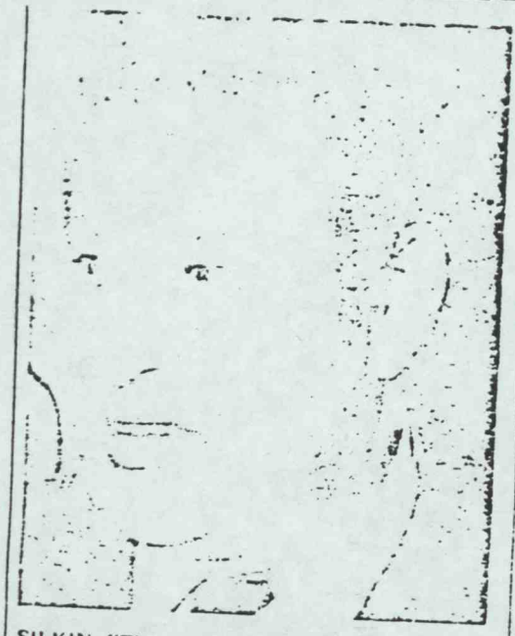
In the period of 1979/80, Giles sought to persuade the MoD that the Osprey designed hull could be graded up – to between 2,000 to 4,000 tons. This claim was followed by some extensive lobbying in Conservative Party circles and the press. But all along the MoD, whilst acknowledging that Osprey was a marginally cheaper hull, maintained that its overall costs were much greater than the already accepted design. But such was the impact of Giles' lobbying technique that he managed to arrange for himself and his consortium to be shown around the Chatham docks earlier this year. Included in this party was Mr Niels Bach of Frederikshavn Vaerft.

It was clear from this inspection that the consortium were looking into the commercial possibilities of Chatham, due to be shut down, for warship building on a private basis.

Shortly after this, copies of the secret staffing report were made available to Giles and his associates, from within the Ministry of Defence. It is believed that no-one at that time had security clearance to receive these documents, although Giles may have subsequently obtained it.

It has been alleged that these documents were made available to Giles with the knowledge of the Under Secretary for Defence and MP for Chertsey and Walton, Mr Geoffrey Pattie.

One firm result of this leak was that Giles and his consortium was able to return to the MoD and make a firm proposal about the feasibility of the alleged Osprey design to the Secretary of Defence, John Nott, in May of this year. What has horrified MoD officials is that



SILKIN: "Threats to security in the MoD"

Giles had got hold of this material in the first place and had used it against the department that had unwittingly supplied it.

This story came to the attention of the Opposition spokesman on Defence, John Silkin, about three months ago. He told the *Eye* "When this matter was first drawn to my attention some months ago I passed my information on to the First Sea Lord, Sir Henry Leach. Since then I have heard nothing."

Sources within the Ministry of Defence have estimated that over a prolonged period they have spent about £½ million in answering correspondence and attending meetings dealing with Mr Giles's promotion.

But the most worrying thing about this commercial intrusion into the MoD is the security breach. As John Silkin put it: "On the information provided to me, there is cause for concern. There may be grave threats to security and the commercial integrity of the Ministry of Defence."

100 Years Ago

The De Lorean memorandum

ONE ASPECT of the De Lorean scandal which has passed unnoticed is the curious affair of the Scotland Yard "investigation" in October last year. This cleared De Lorean and so allowed him to unleash a battery of writs against his critics, thereby helping him to stifle criticism until the company's financial problems surfaced.

The police investigation was announced following the disclosures made to Conservative MP Nicholas Winterton by De Lorean's former deputy administrator Marion Gibson, and subsequently published by the *Daily Mirror* on October 5. The allegations of financial irregularities in particular focussed on the celebrated "gold faucets" memo written by De Lorean vice president, Bill Haddad, in December 1980, which raised questions about spending by De Lorean and his executives.

The Director of Public Prosecutions, Sir "Tony" Hetherington, was asked by Sir Ian Percival, the Solicitor General, to initiate a police inquiry into the allegations. On October 12, the DPP announced that no evidence of criminal conduct had emerged.

Officially cleared, De Lorean promptly proceeded, via Lord Goodman, to sue Winterton, Gibson, the *Daily Mirror* and Independent Television News. These cases were still active at the time John De Lorean, the unit [illegible] of cocaine and the FBI all met up in the Sheraton Hotel, Los Angeles.

From the beginning the police investigation was handled in a haphazard way. It was given to two detectives from the Yard's C1 department, Det. Chief Inspector John George and Det. Inspector John Hefford. (C1 is the Yard's all-purpose crime department. It usually handles nothing more financial than robberies.)

The approach taken by the Yard detectives did not impress those they interviewed in the United States. The Haddad memo was seen correctly as crucial. In the beginning De Lorean denounced it as "a forgery". It therefore became essential to ascertain the truth of both the document and its contents. For that Bill Haddad was vital.

George and Hefford went to New York to interview Haddad whom they saw on October 9. Before that meeting an unusual and disturbing event had already taken place. Haddad was told by De Lorean what the police wanted to talk to him about, and he formed the distinct impression that De Lorean knew in considerable detail what evidence had been given to the police.

During the interview, Haddad maintained the authenticity of the memo and that it had been delivered to De Lorean's office. It was arranged with the two officers that there should be a further meeting in four days' time to discuss certain further matters. D.C.I. George subsequently indicated to Haddad's lawyer that the inquiry was not closed and that they would be back in touch.

The second meeting never took place. Instead, the two Scotland Yard detectives returned to London. Haddad never heard from the Yard again. This did not totally surprise him. For he formed the opinion during that one and only meeting that this was an exercise of going through the motions. An "everything alright" report was what was wanted from the police. A similar impression was gained by Marion Gibson.

The very day before the Yard men had arranged to meet Haddad for a second discussion it was announced by the DPP that the investigation had been concluded – satisfactorily for John De Lorean.

Haddad's concerns were increased when it was reported – after his interview with the police – that De Lorean was quoting the result of Scotland Yard's unpublished investigations as being that the memo was undelivered – from which he concluded that it was "fabricated".

When his lawyer raised this with the Yard, a letter was written on behalf of the Assistant Commissioner (Crime) Gilbert Kelland, acknowledging Haddad's version of events and concluding with the curious statement that the police "acknowledges your concern at any possible leakage of information to John De Lorean".

That there had been such a leakage seemed certain. Haddad's former boss knew just too much about what Marion Gibson had told Nicholas Winterton and Winterton had told the police. This included awareness of documents that were never published. Then there was De Lorean's surprisingly well-informed position on what the police were going to ask.

Just how John De Lorean came to know all this is a matter of speculation. However, one possible explanation may lie in the Government's wish not to have a scandal over De Lorean at that time if it could be avoided. No doubt choice of Lord Goodman as his lawyer was also helpful.

In any event, the Government got exactly what it wanted. De Lorean was whitewashed – until the skeletons started piling out of the cupboard a few months later. Interestingly enough, even now there is no wish to reopen that oh-so-brief police investigation, despite the ample evidence of abuse of taxpayers funds that has emerged. Instead that is to be left to the Commons' Public Accounts Committee.

Meanwhile, it is to be hoped that Lord Goodman's firm, Goodman Derrick, and his eminent counsel, Lord Rawlinson, have assured their fees for undertaking John De Lorean's now somewhat redundant libel actions. If not, they could have a long wait. Perhaps 72 years.

Prime Minister

NICHOLAS WINTERTON - DE LOREAN

1. Herewith copy of his letter to me, plus enclosures, of 25th of last month, which you have seen already.

2. You will remember that I sent a copy of Nicholas's letter, plus enclosures, to the Attorney General.

3. Herewith the Legal Secretary's reply, plus enclosure.

4. I have since spoken to the Attorney General. We both think that he ought to be present when you see Nicholas Winterton.

5. May I now please arrange for Nicholas to see you, with the Attorney General coming to see you 10 minutes before Nicholas arrives?

9.12.82

pp IAN GOW

cc. Robin Butler

COVERING CONFIDENTIAL

J. Nursaw
LEGAL SECRETARY

LAW OFFICERS' DEPARTMENT
ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

3 December 1982

I Gow Esq MP
Parliamentary Private Secretary
10 Downing Street
LONDON S W 1

Dear Mr. Gow,

You wrote to the Attorney General on 26 November about the request from Mr Nicholas Winterton MP for an interview with the Prime Minister at which he could discuss his concern about certain aspects of the De Lorean story. The Attorney General is in court every day at the moment and has not been able to write to you but he has prepared the enclosed minute for the Prime Minister and has asked me to send with it the note prepared by the Director of Public Prosecutions. My purpose in writing is simply to give details of some of the persons named in that note. I am named in paragraph 2. In paragraph 4 there is a reference to Ken Dowling who is now the Deputy Director of Public Prosecutions. In paragraph 6 there is a reference to Sir Barry Shaw, the Director of Public Prosecutions for Northern Ireland.

Yours sincerely,

James Nursaw

ATTORNEY GENERAL

PRIME MINISTER

I enclose a letter from the D.P.P. setting out the background to the police investigation into De Lorean.

I would only add that there were very urgent reasons for a rapid decision. The receivers were causing the banks to consider removing their lines of credit to the Company and there was an immediate risk of collapse.

M.H.

2.XII.82

CONFIDENTIAL

Attorney General

DE LOREAN

1. You asked for a note to assist you in briefing the Prime Minister, as requested in Mr Gow's letter of 26th November.

SEQUENCE OF EVENTS

2. This matter first came to my attention on Friday 2nd October, 1981, when Jim Nursaw telephoned me with the Solicitor-General's request that I should consider whether there were grounds for police investigation. I spoke to Mr Winterton on the telephone, and arranged for a Metropolitan Police Officer (Detective Chief Superintendent George) to travel to Cheshire next day to see Mr Winterton. I can confirm that, as noted in the No. 10 note dated 28th October 1981, I was concerned at the extent to which Mr Winterton was expressing his views about de Lorean, at a stage at which there was nothing to support them.

3. On Saturday 3rd October I received a number of telephone calls at home, to the effect that the Press had the story of Mr Winterton's allegations. These included a call from Philip Woodfield, Permanent Secretary NIO. I spoke on the telephone to Mr Winterton and subsequently to D.C.S. George in Cheshire to warn them of this. Mr George told me that Mr Winterton had been on the telephone to members of the Press while he (George) was at his home.

4. On Monday 5 October Mr George and his colleague (Detective Inspector Hefford) delivered to me the documents they had received from Mr Winterton. I arranged a conference for later in the day to allow time for Ken Dowling and me to study the papers. At this conference we asked the police to interview Miss Gibson (who had originally handed the papers to Mr Winterton) that evening and to report back next day.

5. On Tuesday 6 October, I held a conference with the police and subsequently spoke to you on the telephone. We agreed that the police should go to New York as soon as possible to interview Mr Haddad, the vice-president of the De Lorean organisation, who was alleged to be the originator of some of the complaints against De Lorean. On the same day, the Solicitor-General issued a statement (copy attached).

6. On Wednesday 7th October, you held a conference with myself and Dowling, Barry Shaw, Ewart Bell, (Northern Ireland Civil Service) and Commander Gillert (Metropolitan Police). I explained the present position of the police investigation and Ewart Bell described the effect of the publicity concerning De Lorean on the Northern Ireland economy. It was agreed that the current police enquiries in New York should continue with maximum urgency, and the investigating officer should keep Mr Gillert informed of progress. You told the Northern Ireland representatives that you hoped to issue a statement clarifying the position by Friday 9 October.

7. Because of difficulties over interviews in New York, it was not possible for the police to report back by the weekend, but they returned to London in time for a conference with you at 11 a.m. on Monday 12th October. As well as the police officers, and myself and Dowling, Barry Shaw was present. The police reported orally, and produced copies of the statements they had taken. It was agreed that no evidence had emerged that any criminal offence had been committed within the jurisdiction of the English courts, and that the New Scotland Yard could not usefully take their enquiries any further. We agreed a Press statement (copy attached) which was issued that day.

MR WINTERTON'S COMPLAINT

8. It appears from page 2 of Mr Winterton's notes that his principal complaint, so far as we are concerned, is that we prevented the police from completing their enquiries. In fact, by the time the police reported to us on 12th October, they had interviewed (as well as Mr Winterton) Miss Gibson, a lawyer called Clarence Jones, (who also produced some documents), Haddad, (who was accompanied by his Attorney Sorkin) and Knepper, another employee of the De Lorean Organisation. They had also had a number of telephone conversations with Haddad and Sorkin. None of these persons had produced any firm evidence of any breach of the criminal law by De Lorean. Most of the allegations, and in particular the Haddad Memo of 26 December 1980 which was the basis of much of the interviewing, were expressions of disquiet over the way in which De Lorean had been able to persuade HMG to provide him with financial support in Northern Ireland and the effect which the publicity over this, including a possible Parlimentary enquiry, would have on the De Lorean organisation as a whole. When this was reported to us on the morning of 12th October, we decided that there was so little prospect of obtaining evidence to justify prosecution in this country that we should not ask the police to continue their enquiries. We also had in mind the representations we had received from the NIO about the effect of the investigation on the De Lorean enterprise there.

9. The only proper purpose of the police investigation could be the collection of evidence for criminal proceedings in this country. Insofar as they had unearthed allegations of activities which, while not amounting to criminal offences committed within our jurisdiction, did suggest that not all was well with the De Lorean activities, the proper course was for us to ensure that HMG were aware of this. This was achieved by including NIO representatives at our meetings. Any follow-up of that line was not a matter for the prosecuting authorities.

PRIVATE EYE

10. In addition to the points raised by Mr Winterton, there is a suggestion that Haddad had learned in advance from De Lorean what the police wished to interview him about. This may or may not have been correct. Certainly, Haddad, who had originally managed to avoid a interview with the police officers, subsequently apologised and explained that "he had received a telephone call from John De Lorean instructing him to meet us (the officers) with the De Lorean lawyers at the company offices". Haddad added that he understood that Mr Adam Butler (Minister of State) had telephoned De Lorean stating that he (Haddad) was refusing to see the police.

T.C.H
29.11.82

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn 3291

STATEMENT BY SOLICITOR GENERAL

Sir Ian Percival, QC MP has today issued the following statement:-

Referring to the de Laurean matter the Solicitor General said "I think it very important that a few facts be corrected and that the truth of the matter should receive the widest possible consideration.

It has been repeatedly stated in the last two days that: "The Prime Minister has ordered an investigation of the Company's affairs", or words to that effect. No part of that is correct. On the contrary the truth of the matter is very different from the impression conveyed by that and other reports.

When the Prime Minister was informed of the allegations, she asked that the Law Officers should consider on her behalf what action if any should be taken. After considering what little was then known, I asked the D.P.P. to arrange for a police officer to meet Mr. Winterton to receive from him details of the allegations being made, and of the evidence said to support them - all in complete confidence.

Had it not been for others going public that course would have combined the advantages of ensuring proper consideration of the evidence, if any, whilst avoiding the very danger which has now arisen of people assuming that something must be wrong because enquiries were being made - a danger made very much greater by the use of such words as I have quoted.

I wish therefore to make it absolutely clear that neither the Prime Minister nor anyone else has "ordered an investigation of the Company's affairs" or anything remotely like it. What I requested and authorised was no more than the sort of routine steps which are taken over and over again, indeed must be taken when allegations of the type now being bandied about are made.

The purpose of such steps in such cases is to see whether there is or is not anything to be followed up. It hardly needs

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

saying that it would be highly irresponsible for anyone to leap to any conclusions - especially when by so doing they could put men's jobs at risk."

6th October, 1981

No.3/81

STATEMENT BY DIRECTOR OF PUBLIC PROSECUTIONS

On Friday 2nd October, the Director of Public Prosecutions was asked to consider whether there were grounds for a police investigation into certain allegations concerning the DeLorean Motor Company and its President, Mr. John DeLorean. The Director then requested officers of the Metropolitan Police to conduct a preliminary enquiry and to report to him. These officers have now interviewed and obtained certain documents from Mr. Nicholas Winterton, M.P. and have also interviewed Miss Marian Gibson, a former employee of the Company, and have conducted certain enquiries in the United States of America. They have reported to the Director on the result of these enquiries.

The Director is satisfied that no evidence has emerged to support any of the allegations of criminal conduct on the part of Mr. DeLorean or the Company. He has consulted the Attorney General and they are agreed that there are no grounds for continuing the Police investigation.

Accordingly, on the advice of the Director, the Metropolitan Police are closing their enquiries. Should any evidence of a criminal offence subsequently come to the attention of the Director, he would give it consideration.

Noon, Monday, 12th October, 1981.

SUNDAY - 11 OCT 1981

TELEGRAPH

De Lorean statement tomorrow

By CHRISTOPHER HOUSE

SIR MICHAEL HAVERS, the Attorney-General, will issue a statement tomorrow on allegations of financial irregularities within the De Lorean sports car company in Northern Ireland. It is expected to say that so far the allegations appear to be unfounded.

The statement follows a week of routine inquiries by Detective Chief Superintendent John George and Detective Chief Inspector John Hefford, of Scotland Yard's Serious Crimes Squad.

A detailed report has already been prepared for the Government and includes a copy of an alleged inter-office memorandum from Mr Williams Haddad, communications director of De Lorean to Mr John De Lorean, 52, the company's founder and a former General Motors executive.

The memorandum, written on Boxing Day last year mentions the alleged financial irregularities but is not signed or initialled.

It was given to Mr Nicholas Winterton, Conservative MP for Macclesfield, by Miss Marion Gibson, a former secretary in the New York office of the De Lorean Motor Company.

The two detectives interviewed Mr Haddad in New York on Friday for three hours. After the interview Mr Irah Lee Sorkin, Mr Haddad's lawyer who sat in on the questioning, said: "I can confirm that my client was in fact the author of the memo."

However, when Mr De Lorean arrived in Britain on Friday he denounced the inter-office memo as a forgery. He said that the allegations were untrue and he would be taking legal action.

The De Lorean furore—P24
Opinion—P21

Walker the Agriculture Mini[illegible] were intended to refer to Colin Chapman, [illegible]

TELEGRAPH

CONFIDENTIAL

From: THE PRIVATE SECRETARY

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

Mr. Wicks
One of your letters.
MEET 11/6

Mark Addison Esq
10 Downing Street
LONDON
SW1

10th June 1986

'X' Requested 10/6

Dear Mark,

DELOREAN

We spoke by telephone recently about three internal No 10 documents and agreed I would write to you about our request for sight of them. The documents are:

- Mr Pattison's minute, 28 October 1981 to Mr Whitmore at Flap
- Mr Winterton's letter, 25 November 1982 to Mr Ian Gow
- Briefing for the Prime Minister's meeting with Mr Winterton. (dated 23.11.82)

We understand the briefing was compiled on advice supplied by the DPP's office rather than NIO. We have a copy of the note of the meeting.

The background to our request is as follows. In February 1985, the Department of Economic Development (DED) in Northern Ireland, initiated a legal action in the United States against the Auditors, Arthur Andersen & Co (AA). The claim is for damages in respect of AA's failure to adequately investigate and report on, certain matters which would have alerted the Government to the possibility of fraud in the DeLorean Companies. As part of their Defense AA argue that DED's Action is time-barred because the Government failed to ensure a proper investigation of the allegations referred to the Prime Minister by Nicholas Winterton, MP, in 1981. In support of this argument AA have lodged an Affidavit by Mr Winterton in the US Courts. A copy is enclosed. X

Not

There are certain aspects of the Affidavit which appear somewhat inconsistent with other contemporary accounts. In particular, there is doubt whether the Memorandum dated 16 September 1981 (annexed as an Exhibit to the Affidavit) was in fact part of those papers referred by Mr Winterton to the Metropolitan Police.

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Officials here are researching these aspects with officials in the Attorney-General's Office, the DPP's staff and the police.

The Attorney-General's staff have identified the documents referred to above as important background material without which it will be difficult for this office to deal adequately or properly with the Winterton Affidavit. Officials here have agreed with Stephen Wooler of the Attorney General's staff that we should approach you directly to ask whether a set of the documents can be made available to us on a personal basis. The official in NIO dealing with these matters is Mrs Pamela Newman. She would need to discuss the papers with Miss Patricia Carroll of the Treasury Solicitor's Office who is dealing with the case against AA. We would of course be willing to restrict access in whatever way you thought necessary.

I hope you will be able to assist with this matter.

Yours Sincerely

Neil Ward

N D WARD

Enc

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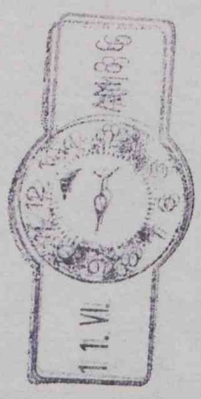
IRELAND — De Lorean July '80.



WINTERTON AFFIDAVIT
20 MAR. 1986.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

26 MAR 1986

----------X

DEPARTMENT OF ECONOMIC DEVELOPMENT,

Plaintiff,

-against-

ARTHUR ANDERSEN & CO. (U.S.A.), ARTHUR ANDERSEN & CO. (Republic of Ireland) and ARTHUR ANDERSEN & CO. (United Kingdom),

Defendants.

85 Civ. 1292 (CES)

AFFIDAVIT OF NICHOLAS RAYMOND WINTERTON

----------X

ENGLAND)
: ss.:
CITY OF LONDON)

NICHOLAS RAYMOND WINTERTON, being duly sworn, deposes and says:

1. I am the duly elected member of the United Kingdom Parliament for the constituency of Macclesfield. I am personally knowledgeable of the facts set forth herein.

2. In the first half of September, 1981, I was asked by one of my constituents (whose name is not relevant to this Affidavit) to meet one Marian Gibson ("Miss Gibson"), a secretary within the De Lorean Motor Company ("DMC") organisation, who had at one time been Mr. John Z. De Lorean's secretary. I was told by my constituent that Miss Gibson was

concerned about events that were taking place at DMC and at De Lorean Motor Cars Limited ("DMCL") and the impact that those events might have upon the United Kingdom ~~Government~~.

3. An appointment was therefore made for me to meet Miss Gibson, at my constituent's house on Saturday, 12th September. That meeting took place and I talked with Miss Gibson in general terms for approximately 1½ hours. She outlined her role at DMC and her relationships with Mr. De Lorean and Mr. Kimmerly, also a director of DMC. She explained her fear that Mr. De Lorean was only out to make money, and that this might be achieved at the expense of the British government.

4. I explained that I could not do anything solely on the basis of conversation, and that I would need documentary evidence. As a result, we arranged a further meeting. That meeting took place also at my constituent's house on Friday, 18th September, 1981. Miss Gibson had brought with her two files, each of which was two to three inches thick. I went through these files with her and took copies of a number of the more pertinent documents. Even on the basis of this brief perusal, I believed that the papers revealed a matter which ought to be looked into. I told Miss Gibson that I thought that the appropriate course was to report the matter to the Prime Minister at Downing Street.

5. Accordingly I wrote a letter dated 23rd September, 1981 to Mr. Ian Gow, the parliamentary private secretary to the Prime Minister. An acknowledgment was sent to me on 30th September, 1981 by Miss Tessa Jardine Pattison. True copies of

these letters are now produced and shown to me marked "NRW 1". The matter was not taken further at that stage.

6. During the following week, I learned that the matters to which Miss Gibson had referred might be reported in the press and, in particular, an English Sunday newspaper, the News of the World.

7. Therefore, on Thursday, 1st October, 1981, I telephoned the Prime Minister's private office. I spoke to a Mr. Michael Pattison and warned him that a number of aspects of the affairs of DMC and DMCL were about to become the subject of adverse press comment. I made it clear that I had access to copies of documents which were highly relevant to the matters which were about to be referred. He thanked me for the warning but did not tell me what steps he proposed to take.

8. On the following day, the Solicitor General, Sir Ian Percival, tried to speak to me at home. He spoke instead to my wife, and left a message for me to telephone back, which I did at 6.00 p.m. I told Sir Ian Percival all that I had been told by Miss Gibson and again made it clear that I could provide documents which substantiated Miss Gibson's concerns. I was informed by Mr. Percival that the Director of Public Prosecutions would be investigating the matter.

9. On Friday, 2nd October, 1981, Sir Thomas Hetherington, who held the office of Director of Public Prosecutions telephoned me twice. I was out on the first

occasion. On the second occasion, he said that he was instructing police officers to visit me. I was given the name of Detective Chief Superintendent John George.

10. On the following Saturday, 3rd October, 1981, I collected Miss Gibson's files from my constituent's house and brought them back to my home. I was then visited by the police at about 2.20 p.m. I repeated to Detective Superintendent George the allegations which I had been told of. In the course of the meeting, I took Detective Superintendent George through the relevant parts of the files, identifying particular documents. At the end of the meeting, the police officers departed, taking with them the files which Miss Gibson provided.

11. On Sunday, 4th October, Downing Street put out a statement to the effect that the Prime Minister had asked the Attorney General to arrange for the police to investigate the matter. Thereafter, the matter proceeded through investigation by the police and the Attorney General.

12. I did not keep copies of all the documents in the files and therefore I cannot identify precisely all of the documents which were provided to the police (and which had been proffered to the Government). However, I am absolutely certain that the files did include two memoranda to John De Lorean from Bill Haddad - one was dated 26th December, 1980, the other was dated 16th September, 1981. In those memoranda there are

references to allegations concerning

- "the Lotus situation"
- Colin Chapman
- "hidden Swiss accounts to avoid taxes"
- "GPD as a Panamanian Company, of small size, operating out of Switzerland"

Copies of those memoranda were retained by me and true copies are now produced and shown to me marked "NRW 2". (The manuscript markings on these copies were made after the events described in this Affidavit took place).

13. Within a week or ten days of 4th September it was announced that the police investigations had not found evidence to support any criminal charges and that the investigation set in train by the Prime Minister would not be pursued further. At the time I found it unbelievable that the police could have made any serious attempts to investigate what were obviously complex matters. I later learned that the police had been recalled from New York before they were able to meet Mr. William Haddad, the author of the two memoranda, referred to in paragraph 12 although a meeting had been arranged.

14. It was after the announcement that the police investigations had been terminated that Mr. De Lorean and his

two companies served me with two Writs for libel in respect of interviews I had given to the BBC and Independent Television News during which I called for the government to investigate the alleged misuse of funds. In addition to my normal duties I spent a considerable time, as did my lawyers, in defending these actions and we received no assistance whatsoever from the government or government departments.

15. During this time the true position about Mr. De Lorean began to emerge. The press were attacking him more freely.

16. At the end of December 1982 I asked for and obtained a meeting with the Prime Minister at which I hoped I would be allowed to bring my solicitor to inform them of matters which had been discovered during the Defence of my action. I was not allowed to bring my solicitor but a meeting was arranged at 10 Downing Street for the 15th December 1982 where I met the Prime Minister, Mrs Margaret Thatcher, Sir Michael Havers (the Attorney General) and Mr. Ian Gow who was then the Prime Minister's Private Secretary. A member of her personal office staff was also present but I do not recollect his name.

So far as I was concerned the purpose of the meeting was to try and persuade the government to make public all relevant matters relating to the government's and its predecessors involvement in the De Lorean Motor Company and

to admit that the doubts which I had raised about the enterprise were fully justified. The meeting lasted about 45 minutes. I went over the history of my involvement in the matter but I received no satisfactory answers to any of the questions which I asked. Nor am I aware of any official action taken as a result of the meeting.

Nicholas N. Winterton

NICHOLAS WINTERTON, M.P.

Sworn to before me this

20th day of March 1986

Notary Public, LONDON

My commission expires with life.

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United Kingdom of Great Britain and Northern Ireland
   Pays: Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

   This public document/Le présent acte public

2. has been signed by / a été signé par N. R. R. Smith

3. acting in the capacity of / agissant en qualité de Notary Public

4. bears the seal/stamp of / est revêtu du sceau/timbre de the said Notary Public

Certified/Attesté

5. at London/à Londres

6. the/le 21 March 1986

7. by Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs/ par le Secrétaire d'Etat Principal de Sa Majesté aux Affaires Etrangères et du Commonwealth.

8. Number/sous No E 069850

9. Stamp: / timbre:

FOREIGN AND COMMONWEALTH OFFICE
DIEU ET MON DROIT
LONDON

10. Signature:

A. Prova

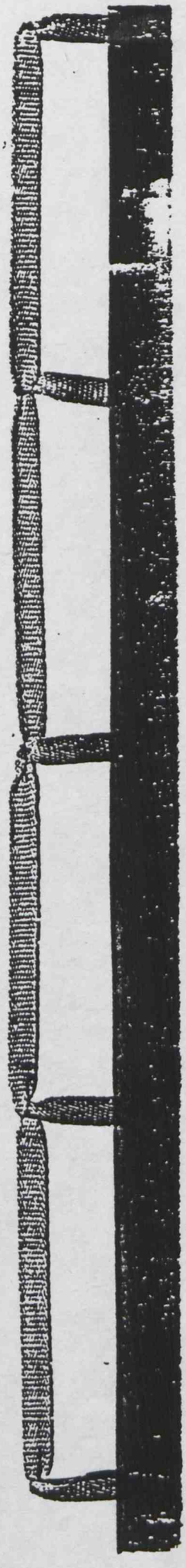
A. PROVA

For the Secretary of State/Pour le Secrétaire d'Etat

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEPARTMENT OF ECONOMIC DEVELOPMENT, Plaintiff,	:	
-against-	:	
ARTHUR ANDERSEN & CO. (U.S.A.),	:	85 Civ. 1292 (CES)
ARTHUR ANDERSEN & CO. (Republic of Ireland)	:	
and	:	
ARTHUR ANDERSEN & CO. (United Kingdom),	:	

AFFIDAVIT OF
NICHOLAS RAYMOND WINTERTON



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

DEPARTMENT OF ECONOMIC DEVELOPMENT, Plaintiff,	:	85 Civ. 1292 (CES)
-against-	:	
ARTHUR ANDERSEN & CO. (U.S.A.), ARTHUR ANDERSEN & CO. (Republic of Ireland) and ARTHUR ANDERSEN & CO. (United Kingdom), Defendants.	:	AFFIDAVIT OF NICHOLAS RAYMOND WINTERTON

This is the exhibit marked "NRW1" referred to in the Affidavit of NICHOLAS RAYMOND WINTERTON

Sworn to before me this

20th day of March 1986

Notary Public, London

23rd September 1981 NRW/cmh

Ian Gow Esq MP
Parliamentary Private Secretary
10 Downing Street
LONDON SW1

I am writing to you rather than the Prime Minister as I seek both your advice and assistance.

I am afraid at this stage I cannot be specific, but information has come to me which leads me to believe that the British Government is being misled and deceived, and the taxpayers' money misused in a substantial project with which the British Government has been involved for some little while. I personally have photocopies of certain papers which make very interesting reading, and which substantiate the view which I have expressed. There are many further papers, and I can lay my hand on originals in every case to verify my fears. The problem is that I cannot refer this matter to the Secretary of State concerned because, of course, it would be handled by his officials, and enquiries would be made, and I say with some regret that there are moles within Government Departments and the perpetrators of the fraud and deception would inevitably be advised that enquiries were in hand. I believe only the intervention of the Fraud Squad or another similar body upon the authority of the Prime Minister could adequately investigate the matter.

Would it be possible to see you or the Prime Minister at some time in the not too distant future so that I can discuss this matter personally, and reveal as many of the facts as I have at present.

10 DOWNING STREET

30th September 1981

Dear Mr. Winterton,

As Mr Gow is away in Australia, I am writing to acknowledge your letter of 23rd September. I will, of course, make sure that he sees it as soon as he returns.

I should point out that this will not be until Friday, 9th October, and that the Party Conference begins the following week, so it may not be possible to arrange a meeting with the Prime Minister or with Mr Gow until after the Conference. However, I am sure that Mr Gow will be in touch with you as soon as possible.

Yours sincerely,

Tessa Jardine Paterson

Miss Tessa Jardine Paterson
Political Office

Nicholas Winterton Esq MP

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United Kingdom of Great Britain and Northern Ireland
Pays: Royaume-Uni de Grande-Bretagne et d'Irlande du Nord

This public document/Le présent acte public

2. has been signed by
a été signé par ..... N R R. Smith .....

3. acting in the capacity of
agissant en qualité de ..... Notary Public .....

4. bears the seal/stamp of
est revêtu du sceau/timbre de ..... the said Notary Public

Certified/Attesté

5. at London/à Londres

6. the/le .. 21 March 1986 .....

7. by Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs/
par le Secrétaire d'Etat Principal de Sa Majesté aux Affaires Etrangères et du Commonwealth.

8. Number/sous N° E 069852

9. Stamp:
timbre:

FOREIGN AND COMMONWEALTH OFFICE
DIEU ET MON DROIT
LONDON

10. Signature:

A. PROVAN

..... *For the Secretary of State/Pour le Secrétaire d'Etat*

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

DEPARTMENT OF ECONOMIC DEVELOPMENT, Plaintiff,	:	85 Civ. 1292 (CES)
-against-	:	
ARTHUR ANDERSEN & CO. (U.S.A.), ARTHUR ANDERSEN & CO. (Republic of Ireland) and ARTHUR ANDERSEN & CO. (United Kingdom), Defendants.	:	AFFIDAVIT OF NICHOLAS RAYMOND WINTERTON

This is the exhibit marked "NRW2" referred to in the Affidavit of NICHOLAS RAYMOND WINTERTON

Sworn to before me this

20th day of March 1986

Notary Public, London.

DMC

INTER-OFFICE MEMO

Date December 26, 1980

To John De Lorean

From Bill Haddad

Subject ---

I continue to be concerned about our efforts to set up a scenario under which the British relinquish their share of equity in the program. I just don't think it will work. And, if it does work, it will only follow a storm of public protest which will reach from London to Detroit to Washington.

Perhaps I don't understand the reason for the push at this time. I don't see how it can help our cash flow problem. So I assume the action is taken in conjunction with our plans for a public offering. If that is the case, while it may enhance the DMC equity position and, consequently, what people are willing to pay for the stock, the public outcry may reduce the attractiveness of the offering and even require the postponement of the offering. However, as you will see below, that is not my only concern.

I wasn't there at the time, but for the purpose of this memo, let's assume our position is legally correct.

I know you believe the power of the logic and the facts, presented to the British in a closed room, will create the

(51

conditions for them to relinquish their equity position. However, I don't believe that any action of this magnitude can be decided below the ministerial level, the Whitehall level, and that, of necessity, given the British system, will produce, I am convinced, a violent Parliamentary outcry and a mandatory Parliamentary inquiry. Given the Fleet Street nature of the British media, and the cynical attitude towards private enterprise (and De Lorean in particular) exhibited by the BBC, I think you and the company will be painted in the blackest of terms.

I am also worried about what a Parliamentary inquiry will uncover about our expenditures on both sides of the ocean. There are the "official" complaints which can be sensationalized even though Arthur Andersen, SEC, et al, will give a clean bill of health. The Strycker picture is a highly personal one of John Z. De Lorean milking the company for his private profit. Some of the discredited Strycker charges can be succulent journalistic morsels for the Fleet Street crowd neverly overly concerned about separating accusation from fact.

As you know, I am also troubled by some of the Bennington actions regarding the house and some of the expenditures which appear to have been "fuzzed" (like a 10,000 pound expenditure at Harrod's gold facets, etc.). I recently learned, for example, that we may have hidden some of the capital expenses of the house in expenses for the project. In short, the books were altered. Silly, because the house can be justified.

52

Memorandum to JZD

The Lotus situation troubles me too. I know everyone approved it, but, no matter the hero status of Colin Chapman, hidden Swiss accounts to avoid British taxes may be viewed differently in the media than in the courts or in the higher circles of sophisticated government bent on getting something done quickly and efficiently.

There is also the problem of moving so quickly. I understand from my University contacts that it is fairly well known that the architects made a small fortune on us (so did Lotus!) They may have deserved it, but what are the small items which made up this fortune? Did we monitor closely enough? Why wasn't JZD there to oversee everything? Was he, as Stryker charges, pursuing other interests?

If we were in production, and the British could taste the recovery of their money, the contrast between these items and the general state of their economy would not be so dramatic. After all, any of the higher expenses will cost us as well as them, and we, in the end, are not only repaying their investment, but with a divident in people off the dole and 2000 new jobs in one of the most unpopular areas of the world (their goal in providing us the money). Perhaps, due to the offering, we were legally required to take this unpleasant action. I know the counter-arguments.

The story which could emerge, however, is that De Lorean (it is your name on the door), who got £ 60,000,000 of British taxpayers money is so greedy that he wants to take more and deprive the British of their rightful equity.

(53.

No matter your legal briefs, the accurate comments of those present at the time, that is the story which could emerge: The 1890 American robber baron image, enhanced by Fleet Street's love of the spectacular. And the British are on record, as you know from the recent Belfast interviews, as stating they owe us no more money.

That's not what really worries me down deep.

We are not now a target of the IRA because we have "good will" on our side. On my last trip to England I met with one of the producers of the BBS show where you were surprised with questions which they had promised not to ask. The producer said he tried to halt this line of questioning during the show, but the presenter kept pushing. However, he did say that never in his experience did any show produce such a negative response from the audience. He was literally flooded with angry letters complaining that the presenter was harrassing a man who only wanted to do good for Ulster. You are a hero in Ulster, untouchable by the IRA or any of the more loosely organized terrorist groups.

If that attitude changes, and they paint you black, and it sticks for even a short period of time, and evokes a local response, the IRA could put us on the list. They won't go for the factory, they will go for you. In Belfast or, just as easily, and more dramatically, here in New York.

Those are the stakes. That is what worries me.

I just want these views factored into any decision you make.

As I said, I don't know the rationale or the urgency, but I do worry about the potential consequences if we continue down this road.

And don't shoot the messenger, just review, carefully, the message.

(55

DMC

INTER-OFFICE MEMO

Date September 16, 1981

To Tom Kimmerly

From Bill Haddad

Subject

I talked to Shaun Harte on Monday and he, basically, confirmed the limited information you already had on the Lotus article, but, at that time, he had not located a copy of the story.

I asked him where "GPD" would have appeared in our reports and if that name was used in the article. He said it was but Daly had made great efforts not to use the name of the company in his reports. So it evidently must come from another source. I only saw one reference to GPD, in a footnote in an early draft of the S-1 (attached).

This a.m., I talked to Shaun's secretary and she had a copy of the article which is entitled "When Will Lotus Bloom", and it appeared about two Sundays ago. She is typing it up and sending it to us on the thermofax.

In short, it makes these points:

(1) Mentions GPD as a Panamanian Company, of small size, operating out of Switzerland.

(2) Talks to Chapman who makes two basic points: (A) GPD was not his idea (as you suspected) and there were no dealings between Lotus and GPD; (B) All will be revealed when his financials are presented shortly.

(3) The article questions what happened between 1978 when the deal was consummated and today, when it is due to be reported, and says, in conclusion, that the paper is waiting with interest in the financial report.

I distinctly remember that the Financial Times carefully analyzed the last Lotus financial from the viewpoint that De Lorean's business kept them alive and what would happen when we were no longer there...some of that article seemed stimulated by Lotus itself during the period when we were pulling loose from them (at least that was my opinion at the time).

(7)

(continued)

If someone starts fooling around in the Watergate fashion, you could potentially have more trouble from the post-GPD situation than from the situation itself.

I think it is imperative that we draft an answer to questions on this subject and after review, have it ready to be issued. If Chapman is saying he had not recommended this procedure, and says that Lotus has no dealings with GPD (which, as Shaun points out, may technically be accurate), it puts DMC on the defensive. We should determine where the answer should be made, here or there, if it comes up again.

In Belfast, GPD is a "hush-hush" subject and I did not learn about it until my last trip when it surfaced in connection with some questions being put to us and I doubt that DMCL will want to answer those questions. Shaun tells me that there is a GPD NIDA file on your meetings at the Bank of England, etc.

If the story appeared two weeks ago, and we have had no other newspaper inquiries, and there is no follow-up story in other papers, this may be a one-day story. The Sunday Telegraph, however, did request from Speilvogel the 10-K and when Mike called them to let them know it was on the way, the Editor he talked to indicated that a story was in the works but there was no estimated publication time.

Bill Haddad

BH/ns

cc: John Z. De Lorean

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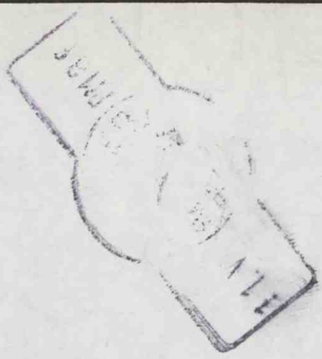


CONFIDENTIAL

Queen Anne's Chambers
28 Broadway London SW1H 9JS

Telephones DIRECT LINE 01-~~273~~ 210 3049
SWITCHBOARD 01-273 3000

Telex 917564 GTN 273

Our reference

Your reference

20th June 1986

NLW seen

N L Wicks Esq
Principal Private Secretary
10 Downing Street
London SW1

Dear Nigel,

DE LOREAN : ACTION AGAINST ARTHUR ANDERSEN & CO ("AA")

Thank you for your letter of 13th June, together with enclosures. I am sorry for the delay in answering but the points which you have raised involve important issues and this reply is inevitably rather lengthy: the key advice is given in paragraph 10.

2. I note that you have been asked to supply "on a personal basis" copies of documents from No 10 files relating to discussions with Mr Nicholas Winterton MP in 1981 and 1982. Although it was the filing of the Winterton affidavit which prompted the Northern Ireland Office to request these documents, I should explain that it is in no way intended that the documents (or the information contained in them) should be used at this stage to answer the Winterton affidavit.

3. The request from the Northern Ireland Office to you raises the whole subject of discovery in the litigation. As you know, proceedings have been instituted in the USA (in the name of the Department of Economic Development in Northern Ireland ("the DED")) and in England. After careful consideration, it was decided that the USA would be the most appropriate forum but proceedings were also issued in England and are being kept alive in case we encounter jurisdictional difficulties in the New York Court. The defendants contend that the appropriate forum for the action is in England.

4. On 23rd January 1985, Andrew Leithead and Patricia Carroll of this office met Mrs Newman of the Northern Ireland Office, John Caldwell, and other representatives of the Department of Economic Development, John Wright, a

lawyer in the Department of Finance and Personnel in Belfast and representatives of our American lawyers (Messrs Alexander & Green) to discuss the question of whether or not proceedings should be instituted and, if so, what the most appropriate forum would be. At that meeting, Andrew Leithead made it plain to those present that there would be no possibility of withholding documents on the grounds that their production would be injurious to the public interest ("public interest immunity") if the DED were to sue in New York. In the UK, public interest immunity can be claimed for the appropriate classes of documents within the very highest level of Government. I attach a letter dated 23rd January 1985 from Andrew Leithead to Mrs Newman in which he made the point about public interest immunity and the possibility of a wide ranging "fishing expedition" type of American discovery which could require production of an extremely broad spectrum of UK Government documents. I also attach a further letter dated 6th February from Andrew Leithead to Mrs Newman and to John Wright of the Department of Finance and Personnel in which he discussed again the subject of discovery and advised that a search be made, before the institution of proceedings in the USA, to ensure that there were no documents in existence that HMG would not wish to disclose, if required to do so.

5. At the beginning of February 1985, Ministers were consulted by the DED (or, more properly, the Industrial Development Board in Northern Ireland), and by the Northern Ireland Office about the filing of a complaint against AA in the appropriate court in the USA and agreed that a complaint should be filed and served.

6. We have received clear advice from Messrs Alexander & Green that the American court is highly unlikely to limit any order for discovery to the papers of the DED alone but that it is likely that the Northern Ireland Office's files would be subject to discovery on the argument that the British Government in the broad sense will be the ultimate beneficiary of any recovery from Arthur Andersen and that the whole Government, not merely a Department thereof, is the true plaintiff in this action.

7. Although American discovery requirements are much wider than we have here, the American courts do recognise the concept of executive privilege and this gives grounds for hoping that we can prevent the disclosure of many of the confidential documents circulating in the highest levels of HMG on the

De Lorean affair. No doubt there will be a prolonged dispute in court on the issue. We have received a detailed memorandum on this subject from our American lawyers which I can supply to you if required. The nub of their advice is that there are plenty of arguments that can be deployed to resist the disclosure but we cannot be absolutely sure that every confidential document will be protected.

8. Under Order 24, Rule 3, of the Rules of the Supreme Court here, a party to English proceedings must prepare a list of those documents which are or have been in his custody, possession or power and relating to any question in the cause. In this context, it is the duty of the solicitor to prepare the list and in the case of a solicitor acting for a Government Department, he is obliged to make all necessary enquiries to find out where any such documents are in any Government Department. This is because of the principle that the Crown is one and indivisible. However, claims can always be made for legal professional privilege, eg for the Attorney General's minute to the Prime Minister dated the 2nd December 1982 with its attachment and his Legal Secretary's letter to Mr Gow dated 3rd December, all of which are part of Annex C to your letter to me. In addition, there can be claims for public interest immunity which would normally cover, among other things, police reports made to the Director of Public Prosecutions and any comments made by him in connection with any criminal investigations.

9. If there were a request for discovery in England, which is not relevant at present, then clearly this Department would need to have the original documents which are referred to in your letter and any others associated therewith, in order to see whether they related to the matters in dispute in the proceedings. If they did, they would have to be produced on discovery subject to any necessary claims for privilege on the basis referred to in the preceeding paragraph. Nevertheless, may I hasten to say that we are not dealing with discovery in the English proceedings at this time and, in any event, it is doubtful whether the papers with which you are concerned relate to matters which would be in dispute in England anyway. Our limitation period is six years from the discovery of fraud and not two or three years, as in the United States and the material which you have is only relevant in the context of either of the shorter times.

10. Having explained the legal background of discovery, let me deal with the practical considerations arising from the request which is contained in Neil Ward's letter to you of 10th June. Under US law, as you may know, the plaintiff's lawyers are vulnerable to discovery in the United States.

In this case the Treasury Solicitor fulfills that role. For that reason, I am returning your enclosures with this letter which will itself be legally professionally privileged both here and in the US where it is "an attorney work product"! The other important consideration is that US discovery may, unlike the position in England, not extend to all UK Government papers. Therefore, my advice is that you should retain the papers which Neil Ward seeks so that Patricia Carroll from this office and Mrs Newman from the Northern Ireland Office may inspect them for the purpose of preparing the DED reply on the limitation point.

11. There is another matter which I ought to mention. From their past conduct, it is clear that AA's lawyers will seek (if permitted by their clients) to make as much mischief as they can. They have already suggested that a variety of senior figures in HMG, including the Prime Minister and the Attorney General, will be material witnesses in the litigation. Since the Prime Minister is outside the jurisdiction of the USA, there is no question of her being subpoenaed by the American court. However, AA may seek to persuade the American court to write a Letter of Request to the High Court in London asking it to order the Prime Minister to give evidence before a High Court Examiner in London. We would resist such an application arguing that, even if the Prime Minister could give material evidence (which is doubtful in this case), such evidence would only relate to meetings that she attended and it could equally well be given by one of the officials who was also present at them. The American courts are supposed to pay high regard to the concept of comity and it is to be hoped that they would not wish to trouble or embarrass the head of a foreign government unnecessarily.

12. Of course, AA may not wish to incur further opprobrium and may discourage their lawyers from pursuing the point. Further, the likelihood is that if these problems arise at all, it will be several months hence.

13. As the Treasury Solicitor's Department has a close working relationship with officials in the Northern Ireland Office and the DED in connection with the AA litigation, it would be helpful if you would agree that a summary of the advice given to you in this letter may be disclosed to them.

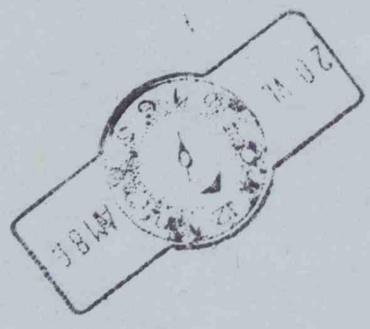
Yours sincerely
Gerald Hosker

G A Hosker

IRELAND.

DELEGATE

PT 2



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Mrs P.M. Newman
Northern Ireland Office
Whitehall
London SW1

Please quote

Your reference

Date 23 January 1985

Dear Pam,

RE: DE LOREAN
POSSIBLE CLAIM AGAINST ARTHUR ANDERSEN & CO

Following our meeting this morning with Mr Schade, John Wright, Patricia Carroll and I have had a discussion with the Treasury Solicitor, Mr. Bailey as to the objections that should be put forward to the Northern Ireland Department of Economic Development (D.E.D) (a Department of the Crown) bringing proceedings as plaintiff in the United States against Arthur Andersen & Co.

Our unanimous view is as follows:-

(a) In both Northern Ireland and England the Limitation Period for an action in negligence is 6 years. In New York it is 3 years. A 3 year limitation period would, prima facie, rule out claiming for all the D.E.D.'s losses except for the expense of honouring guarantees given to third parties who loaned money to De Lorean. Mr Schade said that to go back 6 years in New York one would have to prov that Arthur Andersen were fraudulent or that there were special reasons for extending the period of loss backwards. We feel bound to say that, although American concepts of fraud may be less rigorous in their standards of proof than those of the United Kingdom, it is bound to be a major obstacle to overcome and, in spite of what Mr Schade said, it is likely that there would be serious uncertainty as to the limitation position until a very late stage in the proceedings. In the U.K. there would be no need to allege fraud at all; the 6 year limitation period being sufficient to encompass the great bulk of D.E.D.'s losses.

(b) There would be no possibility of claiming public interest immunity (P.I.I.) for documents if the D.E.D. was a party to proceedings in New York. In the U.K., P.I.I. could be claimed for documents within*the very highest level of government) and although the U.K. laws may overrule such claim it would only do so in respect of the minimum number of documents whose production was absolutely essentia if justice is to be done.

*the appropriate classes (including documents within

Further if proceedings were brought in the United States and Arthur Andersen claimed contributory negligence or other failures on the part of the D.E.D., we could be faced with the usual wide ranging, "fishing expedition" type of American discovery order, which could require production of an extremely wide range of U.K. Government documents of peripheral relevance probably of a nature that no Government would be willing to produce. In U.K. proceedings discovery is limited to those documents which are directly relevant to the issues in the proceedings.

(c) Under the usual rules as to Conflict of Laws, the natural forum for the dispute would be the High Court in Northern Ireland. DMCL was a Northern Irish company, the loans and grants were made there, the factory was there and Northern Irish law is the proper law. Mr Bailey shares my view that it would be very surprising and difficult to justify publicly if the Crown chose in such circumstances to sue in a foreign court. Our view might differ if there were substantial legal or financial advantages in suing in the United States but in the present state of knowledge such advantages as exist appear to be outweighed by the disadvantages.

(d) If proceedings were brought in the United States, D.E.D.'s interest would not be identical to those of the Trustee in Bankruptcy of D.M.C. indeed there would be conflicts of interest between the two parties. In view of this I doubt whether D.E.D. should instruct Mr Schade's firm to act in proceedings on its behalf. This is something that you should raise, in as tactful a manner as possible with Mr Schade.

Yours sincerely,

Andrew Leithead
for the Treasury Solicitor

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Our reference

Your reference

Mrs Pam Newman
and Mr John Wright
Northern Ireland Office
Old Admiralty Building
Whitehall
London SW1

6th February 1985

Dear Pam and John,

RE: DE LOREAN.CLAIM AGAINST ARTHUR ANDERSEN

This letter is a reply to Pam's letter of 1st February and to John's letter of 4th February. I have read the enclosures to such letters with great interest, particularly Mr Schade's telex of 30th January.

From the papers that I have seen so far I believe that the liquidators of DMCL should be encouraged to commence proceedings against AA in London and Belfast as soon as possible. It should be noted that their claim would be in contract whereas the D.E.D.'s claim is in tort.

It is clear that a decision will have to be made soon on whether D.E.D. should commence proceedings in New York. I find many of the arguments put forward by Mr Schade and Mr Caldwell in favour of this course very persuasive. In my letter of 23rd January I set out the main objections to proceedings in New York. In order to reach a conclusion we should see if we can clear away some of the problems.

Discovery

It is necessray to reach a political decision on the question of confidentiality of documents. If the D.E.D. proceeds in New York it would have to comply with American practices relating to discovery of documents. The Secretary of State should be advised that such practices mean that two of the protections upon which the Crown is accustomed to rely in British litigation will not be available. The first of these are the strict British rules as to relevance and immunity. British Courts will not compel production of confidential documents unless discovery is necessary "either for disposing fairly of the cause or matter or for saving costs". [Order 24 Rule 8 of the Rules of the Supreme Court.] As far as sheer quantity is concerned this is the most important protection. The Treasury Solicitor has, in many cases, prevented the disclosure of documents that Client Departments have wished to keep confidential by claiming successfully that the production of such documents was not necessary for the fair disposal of the cause. American practice is to have much wider ranging orders for discovery which compel production of documents remotely relevant to the issues

and permit "fishing expeditions" for documents which might be used to embarrass the opposition. Mr Schade's advice indicates that the D.E.D. might not be entirely without protection from such discovery requirements although the position appears rather uncertain.

The second protection is the principle of public interest immunity mentioned in my letter of 23rd January. This would not be available to the Crown as a party to proceedings in America.

Of course the D.E.D. could refuse to disclose documents that it felt were embarrassing and the Courts in England or Northern Ireland could not compel disclosure of such documents following an American Letter of Request. However such refusal would probably lead to D.E.D.'s action in New York being dismissed. I imagine that such an event might cause acute political embarrassment.

In these circumstances the prudent advice seems to be :-

(a) If there are any documents (including those of Cabinet level) relating to any aspect of the De Lorean affair, in the possession of the Crown, the disclosure of which would cause such embarrassment that HMG would prefer to abandon the claim against A.A. rather than have them disclosed, it would be better not to proceed in America at all, since American discovery procedures involve a high risk that an order will be made for production of such documents.

(b) The same consideration would only apply to British proceedings if the embarrassing documents were really relevant to the dispute with A.A. If the documents were of a high level disclosure might only be ordered if necessary for justice to be done in the case.

(c) Your Department should search to see whether embarrassing documents exist. Ultimately a decision on this matter is one of policy.

Forum

In spite of what Mr Schade says, I still think that the natural forum for the claims both by the D.E.D. and the liquidators of DMCL is the High Court in Belfast. However I am sufficiently impressed by many of Mr Schade's arguments to advise that if D.E.D. chose to proceed in New York, it would be unlikely to be criticsed for choosing an artificial forum in the hope of obtaining higher damages. This is not to say that damage would necessarily be higher in the USA. It may still be regarded as surprising if the Crown decided to sue in a foreign jurisdiction rather than its own Courts when they cearly have jurisdiction but the choice is again a matter of political decision. I should add that I am not aware of any other cases where such a decision has been taken.

Limitation

In view of the huge sums involved we should be very cautious about this aspect of the matter. As I understand it, most of the D.E.D.'s

claims against A.A. would be statute-barred in New York if the action is brought in negligence. Consequently you would need to prove fraud against A.A. in order to come within the longer limitation period.

From what I have seen so far there would appear to be no realistic prospect of showing that A.A. were fraudulent according to British concepts of fraud. Mr Schade advises that there is a good chance of showing that AA were fraudulent according to American concepts. You will be well aware of the implications of a Department of the Crown alleging fraud against a major and celebrated firm of accountants but this is a question of policy.

However, in spite of Mr Schade's optimism, I do not feel that the D.E.D. should risk all on the American proceedings. As I explained at our meeting, the trouble with limitation defences is that one never knows until judgment whether or not they are going to succeed. You will recall that Mr Schade and I had a discussion on this subject. He ventured a solution which is sometimes put forward in British cases, namely that there could be a trial of the limitation question as a preliminary point. I thought that I had persuaded him that the American Judge would take the same line as is often taken here, namely that a preliminary point on limitation could not be tried because the issues (particularly issues of fraud) could only be tried as part of the main trial.

If you decide to concentrate on the New York proceedings there is bound to be a major risk that A.A.'s limitation defence will succeed - and indeed succeed at a very late stage.

In Britain we have no need to prove fraud - only negligence. In view of this we should try to keep the British actions going, parallel with the New York actions, as an insurance policy against a failure to prove (American) fraud. While this would entail some expense, we could save costs by making use of the work done in the course of the American proceedings. In any event the sums involved in the claim are so huge as to render the legal costs minor in comparison.

From the wording of his telex of 30th January to Mr Caldwell it would appear that the course that I have suggested would find favour with Mr Schade.

A.A. as a Single Firm

From his telex of 28th January, Mr Schade appears to be concerned that A.A. USA is a separate legal entity from A.A.-London and A.A.-Belfast. All the correspondence that I have seen shows that the various members of A.A. treated each other as part of the same firm. Their headed notepaper confirms this impression. Their entry in the Accountants List gives their address as "1, Surrey Street, London WC2R 2PS and at Aberdeen, Belfast, Brimingham, Bristol, Edinburgh, Glasgow, Gloucester, Leeds, Liverpool, Manchester, Worcester and at Jackson, United States of America". In order to be sure of the point, if I have to serve the writ issued in London, I would not only serve it at 1, Surrey Street but would obtain the leave of the Court to serve it out of the jurisdiction on A.A. in Belfast, Dublin and the U.S.A. (probably at A.A.'s main office there). If by their appearance or defences A.A. alleged they were and are a number of separate firms, I could amend the proceedings, without prejudice to our contention that A.A. are a

single firm. The writ would still be affective for Limitation purposes as issued on 24th January 1985.

Costs and Representation

As D.E.D. will be financing a substantial proportion of the Trustee's action in New York there would be clear economic benefits if D.E.D. and the liquidators of DMCL instructed the same firm of lawyers there and made use of their knowledge and expertise on the subject of proving that A.A. were negligent. My only caveat is that mentioned in my letter of 23rd January namely that there may be conflicts of interest between the three parties, particularly if there were settlement negotiations. In England such a situation is easily dealt with my employing separate solicitors to advise on points where conflicts occur. I expect that this could be done in America on terms that Mr Schade's firm were still in the saddle as far as the main task of proving negligence against A.A. was concerned.

Clearly if any settlement was in prospect A.A. would insist on settling the London and Belfast actions at the same time.

Conclusion

Subject to what I have said above, there are clear benefits to be obtained by going ahead with proceedings in America but it is essential that the British actions be kept alive and that a Statement of Claim is served in November or December upon A.A.

I hope that I have dealt with the points raised in your two letters and their enclosures. Miss Carroll and I are available for a meeting this week at short notice except tomorrow (Thursday).

Yours sincerely,

A.L.

Andrew Leithead
Assistant Treasury Solicitor

PART 1 ends:-

NIO to DTI 21.1.86

PART 2 begins:-

NIO to MEA 10.6.86


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