

Prime Minister.

We make on the phone + memo for this right early on Mon. morning

Ref. A08893

MR WHITMORE

The draft statement covers the ground very fully and should make it abundantly clear that the inquiry will be totally independent and able to see any papers or witnesses it wants. Are you content with it?

Falkland Islands Review

I have had the letters to the former Prime Ministers typed for your signature. They are in the attached folder.

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I attach drafts of:

We have to be very diplomatic in the letter. I want to know what I would like to say. (Can't say anything to express the letter - what we want.)

- (i) A statement by the Prime Minister announcing the setting up of the Review.
- (ii) A letter for the Prime Minister to send to Sir Harold Wilson, Mr Heath and Mr Callaghan, seeking their agreement that the Committee of Privy Counsellors should be given access to relevant papers of their administrations.

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As to the draft statement, it seems to be likely to be advantageous that the Prime Minister should set out clearly, and as succinctly as possible, both the arrangements for ensuring that the Committee has access to all the relevant documents and people and at the same time that there are no disclosures which would prejudice national security or the conduct of international relations; and the arrangements under which the Committee will have access to the papers of previous administrations. These points add somewhat to the length of the statement; but it may save a good deal of trouble later if they are clearly on the record from the outset.

3. I have not dealt in the draft statement with the question of protection of individual witnesses. There is some apprehension about this in Whitehall, and the question may be raised when the Prime Minister makes her statement. I will provide material for supplementary questions on this. Briefly, I think we should take the position that the primary purpose of the Review is to examine institutions and systems, and to ascertain whether and where the machinery of Government failed to function effectively or where errors of judgments occurred. This is not an Inquiry of a kind which involves an attempt to assign responsibility and allocate blame to individual officials: if that were the purpose of the exercise, a different kind of Inquiry would be called for, and one which would take very much longer. Nor is this Inquiry to be expected to lead to matters which might be the subject of legal charges against officials, whether Ministers or civil servants.



It will, therefore, be proposed that individuals should be invited to give evidence on the assumption that individuals will not be named or blamed; but that, if as a result of its inquiries the Committee finds itself obliged to criticise an individual, it will give that individual details of the criticism which it proposes to make and give him or her an opportunity to make representations, orally or in writing, before incorporating the criticism in its report. At that stage the Committee would have to consider whether to allow the individual concerned to be legally represented.

4. As to the letter to former Prime Ministers, I have assumed that the same letter should be sent to all three, and that, if (as proposed) I deliver Mr Heath's letter, that will give me an opportunity to straighten him out where necessary. I should judge that the main reason for his outburst yesterday was the feeling that other people were being consulted and not himself. The constitutional point which he seems to have been concerned to protect was the convention that members of a current administration do not have access to the papers of a previous administration. As to the first point: the Prime Minister made clear in the House of Commons, as she had previously said to Dr Owen, <sup>that</sup> she intended to consult former Prime Ministers about the release to the Committee of papers of previous administrations. As to the second point, what is proposed does not imply any breach of the convention that papers of previous administrations are not shown to members of a current administration. The papers of previous administrations will be made available only to the members of the Committee of Privy Counsellors, and for their use only. I hope that the draft makes this sufficiently clear.

5. There is a good precedent for such arrangements of the kind now proposed. On 23 November 1955, the then Prime Minister announced the appointment of a Conference of Privy Counsellors to examine the security procedures applied in the public services in the wake of the Burgess and Maclean affair. The Conference consisted of three Ministers in the then Government and three front bench members of the Opposition, together with the Permanent Secretary to the Treasury (in the absence of the Secretary of the Cabinet). The members were Lord Salisbury, Lord President, Lord Kilmuir, Lord Chancellor, Mr Lloyd-George, the Home Secretary, Lord Jowitt, Mr Herbert Morrison and Mr G R Strauss, together with Sir Edward Bridges. The Inquiry needed to have access to the papers of previous



administrations. Some concern was expressed that this meant that members of the then Government seeing the papers of the previous Labour Governments. It was agreed between the Prime Minister and the Leader of the Opposition that the papers of previous administrations should be available to members of the Conference of Privy Counsellors on a personal basis for the purposes of that Inquiry. The report was not published, but the Prime Minister made a statement and published a White Paper on the Conference's findings.

RA

ROBERT ARMSTRONG

2 July 1982

I am circulating copies of the draft statement (without para. 12) to the Permanent Secretaries of the departments concerned, so as to collect their comments in time for a second draft on Monday which can take account of their comments as well as the Prime Minister's.

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## FALKLAND ISLANDS REVIEW

Draft Statement by the Prime Minister

With permission, Mr Speaker, I should like to make a statement on the proposed review of the events leading up to the Argentine invasion of the Falkland Islands on 2 April.

2. I have consulted the rt hon Gentlemen the Leader of the Opposition and Privy Counsellor Leaders of other Parties represented in the House, and I think that, without wishing to hold them to every detail of what I am about to propose, I can fairly say that I have reached broad agreement with them on the nature, scope and composition of the review.

3. As to the nature of the review, the overriding considerations are that it should be independent and authoritative and that it should have access to all relevant documents and persons. It will need to see <sup>not</sup> only the relevant departmental documents and officials but also Cabinet and Cabinet Committee memoranda and minutes and intelligence assessments and reports. This will include much highly sensitive information; and I want the inquiry to be such that all the relevant evidence can be made available to it without reservation.

4. In my judgement this can be achieved only by entrusting the review to a Committee of Privy Counsellors appointed by and reporting to the Government. In no other way can sensitive



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information be given the protection it requires. Only if it is given that protection can it be freely forthcoming to the review.

5. The independence of the inquiry will be ensured by its composition, which I will come to later.

6. A Committee of Privy Counsellors set up in this way does not have the formal powers to call for persons and papers that would be conferred upon a Tribunal of Inquiry set up under a Resolution of the two Houses of Parliament. I can assure the House, however, that there is no need for such powers in this instance. This is a review of the activities and performance of Government Departments, and the Departments and individuals concerned are under instructions to give the Committee every document and access to any person as may be required for it to carry out its task.

7. It will be the Government's desire and firm intention to present the Committee's report to Parliament in full, as it is submitted. At the same time information made available to the Committee whose disclosure would be prejudicial to national security or to the conduct of international relations will need to be protected. The Government will therefore suggest to the Committee that its object should be not to include any such information in its main report which is to be published, and that, if it needs to draw conclusions or make recommendations which entail the disclosure of such information, it should submit them to the Government in a confidential annex which will not be published.



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8. The Government must retain the right in the last resort to delete from the Committee's report before publication any material whose disclosure would be prejudicial to national security or to the conduct of international relations. I hope that the arrangements I have already described will make it unnecessary for the Government to do that. If it were to prove necessary, I can give the House categorical assurances that the Government would make no deletions save strictly on the grounds of protecting national security or the conduct of international relations; that the Chairman of the Committee would be consulted if any deletions had to be proposed; that Ministers would make no deletions other than those recommended to them on the grounds that I have specified; and that any recommendations for deletion would be considered individually and critically: we should not regard ourselves as bound to accept such recommendations automatically.

9. As to the scope of the inquiry, it will be primarily concerned with the events leading up to the Argentine invasion of the Falkland Islands on 2 April this year. But <sup>if</sup> these events are to be viewed rightly they have to be seen against the background and in the context of the history which led up to them, including the decisions and actions of successive Governments on the administration, development and defence of the Falkland Islands and the dependencies, and their relations with successive Argentine Governments, from the time when the Argentine claim to sovereignty was revived in 1965.



10. The terms of reference of the Committee of Privy Counsellors will therefore be as follows:

To review the way in which the Departments concerned have under successive Governments discharged their responsibilities in relation to the Falkland Islands and their dependencies, with particular reference to the period leading up to the Argentine invasion of the Falkland Islands, ~~with particular reference to the period leading up to the Argentine invasion of the Falkland Islands~~ on 2 April 1982; and to report.

Prime Minister.  
The words "... and their dependencies" are new. They were not, for example, in the terms of reference set out in your letter to the leaders of the Opposition parties. But I think they are necessary.

These terms of reference will enable the Committee to examine, at least as far back as 1965 and indeed further back if that seems necessary, and in as much detail as the Committee itself considers necessary, the historical background to recent events, the handling of issues relating to the Falkland Islands and their dependencies, and relations with successive Argentine Governments concerning the islands.

11. The review will thus cover decisions and events for which previous Administrations were responsible, and the Committee will need to have access to the relevant documents of those previous Administrations. I have consulted the right hon. Gentleman the Member for Hylton, my right hon. Friend the Member for Bexley Sidcup and the right hon. Gentleman the Member for Cardiff South East,



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and they have agreed that the Committee should have access to the relevant documents of the Administrations for which they were responsible, subject to the following conventions, which follow or are consistent with the precedents of what has been done in the past in such circumstances, namely that:

- (a) the documents will be made available to members of the Committee by virtue of their being Privy Counsellors and solely for the purposes of this review;
- (b) any member of a previous Administration who is invited to give evidence to the Committee will be able to exercise his normal right to see documents which he saw as a member of that Administration;
- (c) officials and former officials (including officers of the Diplomatic Service) invited to give evidence to the Committee will be able to see documents which they saw as advisers to Ministers on matters covered by the review;
- (d) documents of previous Administrations will not be disclosed to members of the present Administration or of other previous Administrations, or to any other persons not entitled to see them;



- (e) the documents given to the Committee, and any copies made of those documents for the personal use of members of the Committee, will be returned to the Departments from which they came as soon as they are no longer required for the purposes of the Committee's review;
- (f) while it is understood that the Committee may need to describe in their report the gist or purport of documents made available to them, so far as is consistent with the protection of national security and the conduct of international relations, documents which carry any security classification will not be reproduced in the Committee's report or otherwise published without the agreement of the Government, who will consult the former Prime Minister of the Administration concerned as to whether such agreement should be given.

12. As to the composition of the Committee, I am glad to be able to tell the House that its Chairman will be the Right Hon. the Lord Franks (~~OM, GCB, CBE~~). The members will be my Right and noble Friend ~~the~~ Lord Barber; the Right Hon, Noble and Learned Lord Elwyn-Jones; Sir Patrick Nairne ~~GCB~~; the Right Hon. Gentleman the Member for Leeds South; and my Right Hon and Noble Friend Lord Watkinson. The Queen has been graciously pleased to approve [I shall recommend to The Queen] that Sir Patrick Nairne be sworn a member of the Privy Council.



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13. I hope that the House will share my view that a Committee thus constituted gives us the best possible assurance that the review will be authoritative and balanced, and will be carried out with the utmost independence and integrity. It must be given the time it needs to carry out the review thoroughly. But this review needs to be completed as expeditiously as possible, and it is my hope and belief that it can be completed within six months.

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DRAFT LETTER TO:

The Rt. Hon. Sir Harold Wilson, KG, OBE, FRS, MP

The Rt. Hon Edward Heath, MBE, MP

The Rt. Hon. James Callaghan, MP

Falkland Islands Review

I have, as you know, been consulting the Leaders of Opposition parties in the House of Commons about the nature and scope of

*Chairmanship*  
*and Remembrance*  
*of the Falkland Islands*  
*of the period leading up to the invasion*  
*of the Falkland Islands*  
*which were not all relevant*  
*factors and elements in*  
*member's minds.*

the proposed review of the way in which Governments discharged their responsibilities in the period leading up to the Argentine

invasion of the Falkland Islands on 2 April 1982.

Following those consultations I shall shortly be making a statement to the House, announcing that the review is to be entrusted to a Committee of Privy Counsellors appointed by and reporting to the Government. This will enable the Committee to be given access to all the relevant documents, including Cabinet and Cabinet Committee papers and intelligence assessments and reports, while ensuring protection from disclosure for information which ought to be protected in order to avoid prejudice of national security or of the conduct of international relations.

Those whom I have consulted have accepted my view that the events of the period leading up to the Argentine invasion can be rightly viewed only against the background and in the context of the history which led up to them, including the decisions and actions of successive Governments on the administration, development



and defence of the Falkland Islands and the dependencies, and their relations with successive Argentinian Governments, from the time when the Argentine claim to sovereignty was revived in 1965. The review will thus cover the period(s) of your Administration(s), and the Committee will need to have access to the relevant official documents of the time. I hope that you will agree that the Committee should have access to any relevant documents of the Administration(s) for which you were responsible, subject to the following conventions, which follow or are consistent with the precedents of what has been done in the past in such circumstances, namely that:

- (a) the documents will be made available to members of the Committee by virtue of their being Privy Counsellors and solely for the purposes of this review;
- (b) any member of a previous Administration who is invited to give evidence to the Committee will be able to exercise his normal right to see documents which he saw as a member of that Administration;
- (c) officials and former officials (including officers of the Diplomatic Service) invited to give evidence to the Committee will be able to see documents which they saw as advisers to Ministers on matters covered by the review;
- (d) documents of previous Administrations will not be disclosed to members of the present Administration or of other previous Administrations, or to any other persons not entitled to see them;



- (e) the documents given to the Committee, and any copies made of those documents for the personal use of members of the Committee, will be returned to the Departments from which they came as soon as they are no longer required for the purposes of the Committee's review;
- (f) while it is understood that the Committee may need to describe in their report the gist or purport of documents made available to them, so far as is consistent with the protection of national security and the conduct of international relations, documents which carry any security classification will not be reproduced in the Committee's report or otherwise published without the agreement of the Government, who will consult the former Prime Minister of the Administration concerned as to whether such agreement should be given.

I am writing in similar terms to Harold Wilson and Ted Heath and Jim Callaghan.