

Ref. A08918

MR WHITMORE

Falkland Islands Review

I went to see Mr Heath at 12.15 pm today.

2. I explained that the Prime Minister would be announcing the decision to set up a Committee of Privy Counsellors under the chairmanship of Lord Franks and its terms of references in a Written Answer this afternoon, and that she would follow that up with other details about the Committee when she opened a short debate on Thursday afternoon.

3. I said that the Prime Minister had asked me to come and see him about the terms upon which documents of his administration might be made available to the Committee. It had always been her intention to write to him and to other Prime Ministers, seeking their agreement to this, subject to the appropriate safeguards. I then gave him the draft letter to read.

4. Mr Heath read the draft, and then handed it back to me, saying that that fully safeguarded the constitutional position so far as he was concerned.

5. He said that Dr Owen had told him that the Prime Minister had told him (Dr Owen) that I had advised the Prime Minister that "she could do what she liked" with the papers of former administrations. Mr Heath did not believe that I could have given such advice, but thought that I ought to be aware that it was being said, and not only to him.

6. A rather similar impression of what Dr Owen thought the Prime Minister had said was conveyed in the Press reports last Sunday. If the Prime Minister has no objection, I should rather like to put the record straight on that, by writing
--- a letter to Dr Owen on the lines of the draft attached.

7. I have also spoken to Sir Harold Wilson (on the telephone, in Liverpool) and to Mr Callaghan. Both are content with what is proposed.


8. The way is therefore clear for the Prime Minister's other three letters to issue.

REA

ROBERT ARMSTRONG

6 July 1982

1.
Prime Minister
Continue the Privy Council
Armstrong the letter to Dr
Owen → proposed?
TMI
6/7/82


1157

DRAFT LETTER FROM SIR ROBERT ARMSTRONG TO
THE RT HON DAVID OWEN, MP

The reports in last Sunday's papers about what you had said about the conventions governing access to documents of previous administrations suggest that it may be useful for me to write to you, with the Prime Minister's agreement, to set out what I understand to be the position.

The official papers of previous administrations, as of the current administration, are the property of the Crown. Thus the grant of access to them for any one not entitled in an official capacity to see them requires the agreement of the Government of the day, until they are released as public records.

There are certain long-standing conventions covering these matters:

- (1) Ministers in a previous administration are allowed to see, but not to retain, copies of official documents which they saw as members of that administration.
- (2) Documents of Ministers of an earlier administration are not disclosed to Ministers in the current administration, if that is formed by a different political party, or by Ministers in any other previous administration.

Any exception to this convention requires the consent of the Prime Minister of the earlier administration in question (or, if he is not available, the current leader of the party concerned).

- (3) Within the closed period prescribed by the Public Records Acts, there is no publication of Cabinet and Cabinet Committee documents in whole or in part. During this period



Cabinet and Cabinet Committee documents and cognate papers of the inner workings of Government are not disclosed in court proceedings. By the same token they are not made available to public inquiries.

Cabinet and Cabinet Committee documents have on occasion been made available to Committees of Privy Counsellors, subject to appropriate safeguards and to the agreement of the Prime Minister in the administration concerned.

- (4) If it is proposed to grant access to documents of previous administrations not yet released as public records to any one not entitled to see them (eg to a bona fide historian), the agreement of the Prime Minister in the administration concerned should be sought.