



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

H. STEEL, CMG OBE
LEGAL SECRETARY

19/12/85

See David

pl

Fraud

Herewith, to back up list 1
see join for our the plan:-

- (a) Copy of the S-G's Report to
the Rudgeon;
- (b) Background notes for ATT's
use;
- (c) the Note of the S-G's Case
Conference on "Hoyds".

I confirm that the DPP received
the Hoyds transcript on 16 December.
Further notes on the current
position re. Hoyds & on the
point concerning JMB which
I join

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ONTARIO

you mentioned will follow
a.s.o.p. — but possibly
not today.

Yours ever,
Henry

PARLIAMENTARY QUESTION

FOR WRITTEN ANSWER

Thursday of 19 December 1985

QUESTION

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MR NICHOLAS BUDGEN: To ask Mr Attorney General, whether he is yet in a position to make any announcement about the resources available to the Director of Public Prosecutions for fraud investigation work.

MEMBER'S CONSTITUENCY: WOLVERHAMPTON S.W. (CONSERVATIVE)

ANSWER

The Attorney General: -

As I told the House on 2 December, the work load of the Fraud Investigating Group in the Department of the Director of Public Prosecutions, and indeed of other Divisions of that Department which handle fraud cases, had substantially increased in recent times and the resources previously available had come under serious strain and were being reviewed. As a result of that review, My Right Honourable and Learned Friend has asked, and the Treasury has now agreed, that the Director should be given authority to recruit 9 additional professional officers to enable the Fraud Divisions to be adequately staffed. There will also, ~~of course,~~ be corresponding increases in non-professional support staff. The situation will be kept under review and My Right Honourable and Learned Friend will not hesitate to seek further staff for the Director if that is shown to be necessary.

V Pms
19/12

DPP RESOURCES FOR FRAUD WORK

The Solicitor General will be announcing today, in a written reply to a question from Mr Nicholas Budgen (attached), that the DPP has now been given authority to increase his staff engaged on fraud work by nine professional officers and ^{corresponding} extra support staff. The background and details are as follows:-

EXISTING STAFF

15 professional officers (i.e. lawyers) deployed in 3 divisions. 2 divisions cover FIG cases and other major frauds and the third deals with all other fraud cases (in particular, corruption in central and local government).

20 non professional staff serve all three divisions

AGREED INCREASE

This will take the form of an increase in the headquarters complement of the DPP (i.e. over and above what was originally proposed in consequences of the establishment of the Crown Prosecution Service) to permit the three fraud divisions to be enlarged.

There will be 9 additional professional officers deployed so as to give two extra to each of the FIG divisions and five extra to the other fraud division. This represents an increase of 60 per cent.

Support staff are to be increased by six (four EOs and 2COs), an increase of 30 per cent.

TERMS OF APPOINTMENT

Because of the difficulty of recruiting lawyers of the right quality for permanent employment in the Civil Service, it has been agreed that, to the extent necessary, the additional professional officers can be recruited on short-term contracts at salaries of almost £20,000. It is thought that this should be sufficiently attractive to members of the Bar of the right quality. It is also hoped that some of the major firms of city solicitors may be willing to second some of their staff.

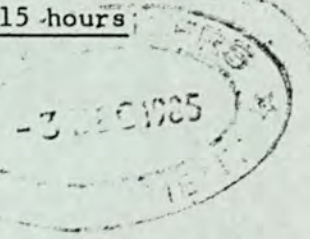
ACCOUNTANTS

The above details do not relate to accountants. From 1 February 1985, two accountants have been seconded to the DPP from the DTI and DTI will shortly second three Examiners (who are not accountants but are experienced in investigating companies in liquidation). In addition the DPP uses the services of major accountant firms and retired accountants. ~~For the moment~~ This is thought to be sufficient for present purposes but the employment of whole time accountants has proved very successful and they are now being used to the fullest extent possible. The DPP may therefore have to ask for authority to employ more accountants on his staff in the near future.

M. Woole

Note of a conference held at the RCJ, Attorney General's Chambers on Wednesday, 27 November 1985, between 1630 and 1815 hours

Present: Solicitor-General; N Lyall and S Woole
E M Hill QC; T Langdale and G Boal
Ch Supt Squires; Supt Nove and Supt Todd
DD; AD F/A; AHG & Miss Wake



MH drew the SG's attention to a 6 page Note prepared following conference held on 26 November.

MH said that there was total agreement that there should be no prosecution which is based simpliciter upon the reinsurance contracts. Criticisms can be made of the orders and contracts but it is our view that they provide insufficient basis for an allegation of crime, especially Minet. Allegations of crime must be all fraud related; this is really a "hunt the money" exercise.

MH continued that we have got to consider whether we should adduce evidence to demonstrate that the reinsurance contracts were unusual, ie to attack their terms. We cannot decide at the moment which way we will go.

SG said the reinsurance contracts have been examined closely by Lloyd's in their disciplinary investigations but took it that the mere fact that they were made will not sustain a prosecution for fraud.

MH said the contracts were "shams". Sham reinsurances were a feature of the Lloyd's market in the 1970's. They were vehicles for tax evasion, avoidance, premium income relief etc.

MH said there are problems re charges, ie conspiracy to defraud and conspiracy to steal, and had in mind decisions in Ayres, Hollinshead etc. There are other problem areas, ie extradition. Basically we must for the moment concern ourselves with the technical problem of conspiracy to defraud and extradition proceedings. In relation to Minet there came a stage (between 1970 -1975) when having got monies overseas by means of a reinsurance contract they started milking the funds. We can attack them with conspiracy to defraud and steal. The pattern of behaviour in the Howden case is different, but the same sort of approach re offences can be used. One sadness of the case is that the agreement to purchase the BdR antedates the 1980 Companies Act (re insider dealing).

MH said the same analogies apply but are not so simple in Howden.

JW added that we went into this in detail but he was always concerned that if we cannot prove the reinsurance contracts were fraudulent we would be "out of court". We have always agreed that the practice in Lloyd's of reinsuring to their own reinsurer was extensive and one cannot really complain that these people, Minet and Howden directors, were reinsuring to their own companies. Once we get to the stage that they have got the scheme in place, although the means of getting the money from the names may be lawful, it is the taking of the money later which is unlawful; if we can prove that then we are getting somewhere.

MH referred to canvassing the possibility that the alternative to a criminal prosecution is a revenue prosecution.

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MH said the present view seems to be that the Revenue, if faced with the choice, would prefer to compound and settle than to institute proceedings. However, we do not believe that that would be their attitude if Cameron-Webb and Dixon came back to this country. The Director and Deputy Director have made it clear that if they pursue that particular policy they must not do anything that would preclude our launching a prosecution. They have proposed a timetable (in a letter dated 13 November) for their own investigation, starting with a series of interviews from 1 December and concluding sometime in February, with various people in the PCW Minet and Howden Groups.

In the PCW Group the first four are Hardman, Oldworth, Newman and Davies.

SG queried whether they would "louse up" our chances of a prosecution.

MH said we should ask them not to touch Hardman, Oldworth and Newman and Benbassat, Zilkha, Grob, Page etc. Also amongst their prospective interviews in Howden is Todd. Todd is somebody we want to see because he is so central to some of the evidence that took place in Howden. It is hoped to turn and use him.

MH continued that we are ultimately faced with the question whether we say to the Revenue "you lay off now until we are ready, or you lay off the following people until we are ready".

SG said we are not in a position to instruct them.

JW said we should just try and persuade them. There is a fairly fiery chairman of the Inland Revenue who has made it perfectly clear that they are anxious to get on themselves and they would do so, paying attention to our problems.

SG was anxious to determine how we should deal with this.

MH said we must look at the whole business of Geneva.

MH continued that notwithstanding their general view that we believe the IR would rather compound than prosecute, except for Cameron-Webb, Dixon and Harrison.

Cameron-Webb is in Florida but may be going to Costa Rica

Dixon is in Costa Rica

Grob in Switzerland

Page, Comery, Carpenter, Hart and Posgate in UK

Oldworth and Wallrock in UK

Newman in Holland

We have no treaty with Costa Rica.

We cannot extradite from the USA for any conspiracy unless contained in some special Act covered by our Extradition Act.

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Grob: believed to have joint British and Swiss nationality (it is believed Swiss will not extradite their own nationals).

Page: believed to be terminally ill, but has been so for 3 years.

Comery: is an international entrepreneur.

Carpenter: is ill (heart bypass operation).

Oldworth: supposed to be ill.

Wallrock: is in Hong Kong.

MH discussed our ability to extradite. We cannot extradite for Revenue offences though that may not exclude our ability to extradite for criminal offences which have a Revenue element.

The obvious substantive offence is theft. If we can establish a guilty, fraudulent time, getting the money out is a theft. The difficulty with that approach is what event amounts to the theft, is it the movement of money out?

MH said there are other possible offences which could be committed here, although they are ultimately related to goods abroad. We have considered S.24 of the Theft Act 1968 (re handling stolen goods) ie, brown envelopes in the Minet case.

MH said the crucial problem in both cases is to open up Geneva. By opening up Geneva we may also open up Panama and Bermuda etc.

MH said that our initial attempt to open up Geneva was a Commission Rogatoire sent in 1982 which asked for bank accounts in relation to a number of the Minet companies or trusts. It did not have a direct bearing on Howden. We got back a number of copy accounts from the BdR. These copy accounts had a number of deletions. We can see the dates of which we have accounts running. The problem is to prove them in any UK proceedings which will require witnesses. The obvious witnesses are Benbassat and Zilkha. Benbassat was managing director of BdR. Their contact with the people particularly on the Howden side, but also once the non-sterling route in the Minet side was set up in 1978, was quite substantial. Benbassat gave evidence in the Lloyd's enquiry.

The big Commission Rogatoire sent last year was handled by Herr Bolliger and was given to a Geneva Magistrate called Harari. Harari faced with this enormous Com Rog decided a simpler solution to this problem was to release them to come over here and be seen by our officers. The Swiss indicated that they would be given immunities for banking secrecy and prosecution but not against 3rd party proceedings. Benbassat and Zilkha's lawyers have said they will come but will not be able to help us much more. We should pursue the exercise with Benbassat and Zilkha and try and get them over here.

MH thought that B and Z's value to us is not necessarily as witnesses but as providers of information which would enable us to "unlock" Geneva. Even if they are "playing around" we had better get them on record as soon as possible.

It was suggested that faced with the possibility that they may refuse to come under the pretence that they could not be given immunities from third parties, we must ask the Swiss to carry out the Com Rog and make them come. We may have problems as the Swiss Magistrate may wish to turn the Com Rog into a criminal examination.

MH said three other people have been interviewed within the BdR who ought to be in a position to help us. They are Stoyanovich, Coyle and Zufferey.

Stoyanovich and Coyle were clerks in the BdR and handled most of the paper which was generated and Stoyanovich kept a file which she handed to Dixon in c 1973. She is in a position to provide a good deal of information. Zufferey was the manager of BdR. A further Com Rog re these three was sent off today.

MH said there was a complication as a new Geneva Magistrate has been appointed and we do not know what his attitude will be to immunities and releases.

JW thought it just possible that if we say to the Swiss you do the Com Rog they will allow the investigation to be done by the police; obtaining statements from them and then using these statements to be averred in the formal hearing of the Com Rog. We should get our police to liaise with their police. This will be the more satisfactory way if we have to use the Swiss Com Rog route. He likened situation to Swiss request of us; police take statement from bank official who can then go before the magistrate and confirm.

MH said it was very important to get hold of, and be able to use as a witness, Shearer from Deloitte's.

SG asked RW how she got on when she visited Switzerland.

RW replied that she had talked to Herr Bolliger, who had had a letter addressed to the Swiss Magistrate, from solicitors acting for Benbassat and Zilkha, saying that they were willing to come but it would not be much use as they did not know much about the Hart Rollovers etc.

SG asked JW about the interrogation of witnesses before the Swiss Magistrate.

JW said the Magistrate would lift the banking secrecy; the police officer would take a statement; witnesses would be brought before the Magistrate who would check their written statements with them. If we can persuade the Swiss to do this it would be very valuable to us. If we can do this in this country why not in Switzerland?

SG asked what the procedure would be.

JW said we still expect them to come over here but if they do not appear soon we will have to go to Switzerland and put this proposition to them.

SG asked if this would apply to Stoyanovitch and Coyle as well. JW said "yes".

MH said the value of that is again two-fold. One is information, because one of the difficulties is that there is a mass of information in this case which we can not use, even for the purposes of evidentially interviewing major suspects because we do not have the documents. The other advantage on the information basis would be that it would enable us to supplement what we can get out of Shearer, using him as our principal witness in the case.

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Shearer/Deloittes

The history of this is that prior to the Alexander and Alexander takeover of Howden an audit, or an internal report, was prepared by Arthur Youngs for Howden. When A & A took over in 1982 they asked Deloittes to do a fair value report. When Deloittes went in they were led by Shearer. They then did a raid on Billiter Street (which is the office of Howden Group) and took possession of a vast quantity of documents. Shearer led a raid on the BdR and got hold of all the internal accounts. He then prepared an interim report. We need Shearer and the Deloitte's interim report which has attached to it documents seized. Shearer has picked his way through, particularly from the Howden point of view, all the accounts and records and has traced movements of monies. He was acting for Deloittes, instructed by A & A, in contemplation of civil proceedings by A & A against Arthur Youngs. Shearer is only too happy to help. Denton Hall & Burgin (solicitors for A & A in proceedings against Arthur Youngs) are stopping Shearer and Deloittes from giving us the information and this is a problem which we have to solve. Shearer has been a witness from 1982 - 1984 in the Lloyd's enquiry and DTI investigation and proceedings in Gibraltar.

DHB have asid to the Commissioner of Police that they would not be prepared to release Shearer and the report for fear of breaching "work product" privilege and required certain undertakings as to confidentiality. The Director was not prepared to do this. The report is something which we could not obtain under S.9 of PACE because it would be covered by legal privilege.

MH said whether they have actually waived work product privilege in relation to Shearer's evidence, none of us think it is appropriate to have an argument with DHB at the moment. A letter was drafted to go to an American law firm over here but we have since heard from the firm that there would be a conflict of interest if they acted for us. MH is now trying to contact an ex-pupil of his (Tony Davis) who is with an American firm, who have offices in this country, called Lawrence Graham. In order to get expeditious advice we may have to fly him over here or MH could go there.

The complication is that whatever DHB may be saying to us, they have given to the Revenue Shearer's report under S.20 of the Taxes Management Act. Contact has been made with Lionel Alexander at the Revenue and it transpires that they have had this report since February 1983. Lionel Alexander has said that we can have the report but we have doubts about whether he is entitled to give it to us. We are going to go back to DHB and ask them again to give us the report. He said we should say to DHB that they are talking nonsense about "work product" privilege and if they did it for the Revenue then they should do it for us. Shearer has actually exercised search powers in the BdR and has got all the documentation; he is also willing to help.

Shearer is very important to us because even if we cannot have Benbassat, Zilkha, Coyle, Stoyanovich and Zufferey if we have Shearer as a witness and can prove documents we can actually open up Geneva.

MH said we will pursue Shearer and this will be done in conjunction with the third Commission Rogatoire.

MH said that some witnesses have been seen ie, Mrs Watts in Jersey, who has provided some information; Sampson, who has proved to be dishonest, and Cassidy who has virtually had a nervous breakdown.

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MH then showed the Solicitor General Supt Nove's chart.

SG asked confirmation that we have been denied the transcript of the Lloyd's disciplinary hearing. MH said "Yes".

~~MH~~^{SG} said Michael Howard is very anxious that Lloyd's should produce everything possible.

SG said have we asked the Chairman.

JW said we have not, but that Bill Beckett had blocked our having the transcripts.

SG said more pressure should be brought to bear on Lloyd's.

MH said they are relying on defence privilege as it was a private hearing.

JW said he would prefer to go to Ian Hay Davidson, rather than the Chairman.

NL asked if anybody had explored the soundness of the argument of defence privilege.

MH said that however important Shearer may be, our principal targets with regard to Minet and Howden are Cameron-Webb and Dixon. Dixon, we believe, is in Costa Rica. Cameron-Webb may go there. If they are in Costa Rica we have no extradition treaty. If Cameron-Webb stays in the USA we have to get him out and exhaust his ability to go through appellate procedures. Grob is a Swiss National and is in Switzerland. It is believed the Swiss will not extradite a Swiss National so, although we hope we have found a way of obtaining the evidence, there may be other reasons which will prevent us from launching any prosecution or the complete prosecution.

MH described the problems relating to promises of confidentiality given to witnesses by the DTI and Lloyd's Inspectors. He said we are having another go at the DTI and Linda Skinner at Lloyd's to make sure we have got everything that was written or said to the witnesses.

JW said that since moving over to Head Office he was very impressed by the progress in the last few months. If we do open up Geneva then the speed of the investigation will become very much faster. He thought that it is possible, now that we know what DHB did for the Revenue, that they should do the same for us. His problem has always been that, with the Attorney General's Guidelines on Disclosure, once we get into a prosecution we will be duty bound to let the defence have the Shearer Report. If we had given the undertakings we would be in a terrible dilemma.

If the undertakings only extend to the investigation and we must not make discovery of the Report outside the investigators, Director and Counsel, then we can disclose. The Revenue, making use of the Taxes Act, makes all the difference to DHB and they are able to say they were forced to do it.

NL asked MH re "work product" privilege, how long he anticipated it would take to get the necessary advice from America.

MH said he did not think it would be too great a problem; he had other enquiries with an American academic and should get an answer this week.

NL asked if there was any indication of overall time scale.

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JW replied that we are in so many hands which is very frustrating. Our big Com Rog has been in Geneva for nearly a year. If the new Magistrate is determined to do everything by the book, it may take much longer.

SG commented that the great thing was that Shearer wanted to help, which should speed things up.

MH said we would be trying to talk to DHB next week.

Supt Squires said that the overall view was that we have reached the stage where there were so many problems and felt they were marking time.

SG sympathised with police and commended them on their high quality work.

SG asked how the American line would develop.

MH said he was loath to send correspondence over to the States and JW agreed that this would be very costly time-wise.

JW asked NL to please have a word with his source in the City to see if he could get the transcripts.

Conference closed at 1815 hours

