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PRIME MINISTER

STANSTED PLANNING INQUIRY

I have seen Patrick Jenkin's minute to you of 6 January and your Private Secretary's letter recording your preliminary reaction.

2. There is a recent precedent for the procedure Patrick Jenkin is proposing. Arthur Cockfield, when Secretary of State for Trade, felt that it would be wrong for him to be personally involved in the decision about the take-over of Anderson Strathclyde by Charter Consolidated, since he held shares in the bidding company. Parliament was, therefore, told that the decision would be taken by his Minister of State. That decision was subsequently challenged inter alia on grounds of improper delegation. However, the challenge failed because in law the decision was that of the Secretary of State.

3. When Patrick Jenkin's officials referred his proposed PQ and Answer to this office we checked with Junior Treasury Counsel, who appeared in the Anderson Strathclyde case, that its wording would not cause him any problems if he had to defend the Stansted decision. The penultimate sentence of the draft Answer sent to you was inserted at his suggestion.

4. Where a Minister - or indeed an official - takes a decision in a quasi-judicial capacity I think it is important to avoid any appearance of bias. Indeed, in certain circumstances, the court may quash a decision where there is a reasonable suspicion of bias. My feeling is that in this case the risk of challenge on grounds of improper delegation would be less than the risk of challenge for breach

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2

of the rules of natural justice and that, on balance, it would be advisable for Patrick Jenkin to distance himself personally from the Stansted decision.

5. I am copying this minute to Patrick Jenkin, Nicholas Ridley and Robert Armstrong.

*M.H.*

11 January 1984

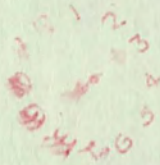
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