



Treasury Chambers, Parliament Street, SW1P 3AG

Mark Addison Esq
10 Downing Street
LONDON
SW1

| May 1985

cc Min Walk

Dear Mark

ICI CASE

... Following my letter of 9 April, I enclose a further note from Inland Revenue on recent developments on the ICI case.

*Yours sincerely
Vivien Life*

VIVIEN LIFE



FROM: M A HILL

INLAND REVENUE
POLICY DIVISION
SOMERSET HOUSE

30 April 1985

FINANCIAL SECRETARY

① s.v. also for #10

ICI CASE

1. The purpose of this note is to report on developments on the ICI case since my note of 4 April. It focusses in particular on whether or not either side is likely to appeal against the High Court decision.

2. You will recall that, though the original judgment was delivered in January, the Judge did not give his decision on whether ICI was then entitled to any relief by way of declaration until 3 April. The transcript of that decision became available last week. Having now had an opportunity to study this transcript in the light of our Solicitor's advice, we see no reason to depart from our preliminary view on the appeal issue (as indicated in my note of 4 April). In other words we still think:

a. it would not be worth the Government taking the initiative to appeal against the original judgment and subsequent decision on declarations;

and b. If, however, ICI were themselves to appeal, the Government would probably wish to cross-appeal, by way of serving a respondent's notice.

cc Chancellor of the Exchequer
Chief Secretary
Sir Peter Middleton
Mr Cassell
Mr Robson
Mr Lord
Mr Evans IDT
Mr Ricks (Treasury Sol)

Sir Lawrence Airey
Mr Green
Mr Rogers
Mr Pitts
Mr Painter
Mr Cleave
Mr Elliss
Mrs Hubbard PS/IR
Miss Hill
Mr J P O Lewis

3. Should the Government want to take the initiative to appeal, they would of course need to do so within the normal 28 day period - ie by 1 May. But further study of the single declaration which was granted, and of the transcript of this hearing, has confirmed our preliminary assessment that there is nothing there which should cause the Government/Revenue much - if any - difficulty in practice. Our informal contacts with the oil companies potentially affected by this declaration suggest that they too share this view, and are now fairly relaxed about the case as a whole.


4. Admittedly some of the points in the original judgment which went against us may be open to challenge. But none of these are points on which anything of practical significance hinges. Moreover if the Government/Revenue took the initiative to appeal on these points, it could be seen as tantamount to admitting that they had "lost" the original case. Against this background, the heavy expenditure of official resources necessarily involved would seem to outweigh any benefits to be gained from the Government initiating an appeal.

5. The situation would be rather different if ICI themselves appealed. (Whilst we have no firm indications of what ICI propose to do, the whispers that have reached us in recent days suggest they probably will appeal.) In this event the Government would be bound to commit official resources to the issue. It would then seem self-defeating not to take the opportunity to reargue at least some of the points on which the Judge found against us in his judgment, particularly as failure to do so could equally be interpreted as a (retrospective) admission of defeat. However a final decision on this issue cannot sensibly be made in advance of seeing the precise terms of any notice of appeal ICI themselves serve in this case.

6. Assuming the Government/Revenue wished in effect

to cross-appeal, two options would be open. We could simply serve a notice of appeal like ICI, or we could serve a "respondent's notice". Our legal advisers tell us that, in terms of the arguments we are permitted to advance, there is nothing to be gained from serving a notice of appeal which cannot likewise be gained from serving a respondent's notice. The only practical difference lies in the time limits which would apply. An appeal would have to be lodged within the general 28 day time limit, whereas the Government would have a further 21 days from the date of ICI's own appeal in which to serve a respondent's notice. As it would clearly be beneficial for the Government to have the maximum time possible to set out its case to best advantage, we would propose - if the need arises - to go down the respondent's notice route.

7. In view of their earlier interest, you may wish to tell the No.10 Press Office of these latest developments in the ICI case.


M A HILL

Econ Pol. - Budget #14.

17 MAY 1955

