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5 September 1985

JMB AND ANSBACHER

There is for the record one point worth mentioning in relation to my letter to you of yesterday: the board of Ansbacher took the view that it would be in the company's best interests to let the matter rest rather than to reopen past history. They made no specific reference to a Companies Act inquiry.

I am sending a copy of this letter to Henry Steel in the Attorney General's office.

(DAVID NORGROVE)

Mrs Rachel Lomax,
HM Treasury.

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10 DOWNING STREET

4 September 1985

From the Private Secretary

JMB AND ANSBACHER

The Prime Minister today discussed with the Chancellor and Attorney General the Chancellor's paper which you sent to me with your letter of 3 September.

The Prime Minister expressed concern and surprise at the apparent assumption that the police were unlikely to secure enough evidence for a prosecution of employees or ex-employees of JMB. The Chancellor said that the difficulties being experienced by the police in investigating the affair and the time they were taking showed the problems. The Office of the Director of Public Prosecutions and the Governor of the Bank of England also were doubtful about the possibility of prosecutions. The Governor's view carried weight both because of the knowledge the Bank had gained about JMB's affairs and also because if there were to be a prospect of a prosecution, the need for a Companies Act inquiry - which the Bank strongly opposed - would be undermined. These judgments might be wrong and if so that would be good news. However, the judgment about the need for an inquiry had to be made on the basis of the most realistic possible assessment of the prospects. The Chancellor further noted that a Companies Act inquiry into a bank was not unprecedented. Though the circumstances were not entirely similar, an inquiry had been carried out into London and County Securities in the mid-1970s.

In response to the Prime Minister, the Chancellor and Attorney General explained that the police investigation now in train was preliminary and the Fraud Investigation Group had not yet been called in. The preliminary investigation was needed in order to show evidence of crime. If this could be shown the Fraud Investigation Group would then be called in.

The Prime Minister expressed doubt about the proposal for a Companies Act inquiry on several counts. The process itself had weaknesses. The Government would in effect be saying that if those responsible could not be convicted in court, they should be convicted in the court of public opinion by a process in which they could incriminate themselves and in which they could not protect themselves under the libel laws. More generally, the report of the

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inspectors would implicitly or explicitly criticise the way the Bank had exercised its supervisory responsibilities and this would in turn reflect on the Treasury and on the Government. The Prime Minister urged strongly the need for a move to a completely reformed system of supervision which would be above reproach and seen to work. The scandals in the City were doing immense damage to its reputation.

The Prime Minister accepted that the Price Waterhouse report on JMB could not be published. Furthermore the realisation that the police seemed unlikely to find grounds for prosecution and that their investigations would take a long time to come to final conclusions were new circumstances. The Prime Minister accepted on these grounds the Chancellor's proposal, with which the Attorney General had agreed, for an inquiry into JMB under Section 432 of the Companies Act. The Chancellor should consult the Secretary of State for Trade and Industry. A meeting with the Governor would also be needed. In the meanwhile the Attorney General could continue with preparations for the inquiry. The inspectors should be urged to work with great urgency towards an interim report and they should be allowed all the resources - including people - necessary to achieve this. (In this context it was noted that the choice of accountancy firms which could provide an inspector was limited by the way in which many of them shared insurers. This warranted study, in conjunction with DTI).

In a brief discussion of Ansbacher, the Chancellor said that the Board of the Company were opposed to a Companies Act inquiry on the grounds that those responsible had now left the Company and that the need now was for Ansbacher to rebuild its reputation. The police themselves did not wish to investigate what had taken place unless there were a complaint. The Governor of the Bank of England was not prepared to initiate a complaint, though he would be prepared to co-operate with an inquiry (if that were the Government's decision) within any limits set by the Banking Act. In these circumstances a Companies Act inquiry should be carried out under the terms of Section 447. When a report had been received, the Secretary of State for Trade and Industry would be able to decide whether it warranted police involvement.

The Prime Minister agreed that the intention to mount an inquiry into the Ansbacher affair under Section 447 should now be discussed with the Secretary of State for Trade and Industry by the Chancellor. It would also need to be discussed with the Governor.

I am sending a copy of this letter to Henry Steel (Attorney General's Office).

DAVID NORRGROVE

Mrs Rachel Lomax,
H. M. Treasury