



WITH
THE COMPLIMENTS OF THE
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SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS

Crown Agents : Tribunal of Inquiry

I believe that we should give serious consideration to the possibility of disbanding the Tribunal of Inquiry into the Crown Agents affair. You may have seen from an article in The Observer of 20th May that the inquiry is likely to be going to drag on for well over another year. Some of those concerned in it are already talking privately of the possibility of its continuing into 1981. The cost of the inquiry is likely to be substantial: not less than £2½ million to £3 million, and the longer it goes on, the more it will cost. There now seems to be very little public interest in the affair. I am disposed to think that the costs which continue to be incurred outweigh any public benefit that is now likely to result from the Tribunal's report.

2. Before considering the modalities of disbandment, we must obviously decide whether the purpose for which the Tribunal was set up still needs to be pursued. The object was to discover to what extent there were lapses from accepted standards. Are we content to let matters rest and to contemplate no disciplinary or other similar action? It may be that nothing beyond the public exposure of lapses would have been possible in any case. While the effect of that might be salutary, it is questionable whether it would be cost-effective. I think that it is for you and other Ministers with a more direct concern for the departments involved in the affair to express a view on this.

3. We should have also to make an assessment of the political difficulties and consequences of bringing the inquiry to a halt now. In Opposition we welcomed the motion for the establishment of the tribunal in the House of Commons, and the present Attorney General said that a 1921 Act Tribunal was on the whole to be preferred to the

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then Government's proposal for a committee of inquiry sitting in private, though in the House of Lords the present Lord Chancellor questioned the need for a further inquiry. If we decided to bring the Tribunal to an end now, we should have to account for our change of mind, no doubt against criticism from the Opposition that we were conniving in a "cover-up".

4. If we decided to stop the inquiry, we should still need to take account of the position of those whose reputations have already been called into question, and who could claim that they had been denied the opportunity to clear themselves if the Tribunal was dissolved without a report. They would not be in so favourable a position as defendants in a criminal trial where, if the proceedings are abandoned, acquittal follows automatically. This is a matter we should have to discuss with the Tribunal. One possibility might be to try to secure that the proceedings were wound up by common consent, with all the parties receiving their costs on the recommendation of the tribunal. I should be ready to make some informal soundings of the Tribunal about this, if we decided to bring its work to an end.

5. As to the mechanics of dissolution, the tribunal is not established directly by statute, or in pursuance of a duty imposed by statute. All that the Tribunals of Inquiry (Evidence) Act 1921 does is to confer on it powers which it would not otherwise have. I am advised that, as a matter of law, the tribunal could be dissolved simply by an executive act, without legislation or any other form of Parliamentary approval.

6. Although the approval of Parliament is not required as a matter of law, we should have to consider whether it might be advisable for us to seek the endorsement by both Houses of a proposal to dissolve the tribunal. That would avoid the appearance of simply overriding the decision of a previous

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Parliament; on the other hand, it might well provoke more controversy, and more vociferous resistance from the official Opposition, than if we simply acted on our own responsibility. It would be easier to assess the advantages and disadvantages after consulting the Tribunal, when we were able to judge how far the Tribunal itself, and others directly concerned, were likely to agree to its being dissolved.

7. I am sending copies of this minute to the Prime Minister, the Lord Chancellor, the Chancellor of the Exchequer, the Lord President, the Chancellor of the Duchy of Lancaster and the Attorney General, and I should be grateful for your view and theirs as to whether we should contemplate the abandonment of the Tribunal and of its objectives. I am also sending copies to the Treasury Solicitor and Sir John Hunt.

W.S.

11th June 1979

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