



FILE  
with CAW

RM

~~N. [unclear] MAR 6/4~~  
~~N. [unclear]~~

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

to me.

W. [unclear] M  
G. [unclear] M  
D. [unclear] M  
[unclear]

CROWN AGENTS TRIBUNAL

I have shown the Prime Minister your minute A08001 of 2 April about the forthcoming report of the Crown Agents Tribunal.

She agrees that she should make a short statement on the lines of Annex A to your minute when the report is published. She is also content that the Home Secretary should announce the receipt of the report by a Written Answer as proposed in your minute.

Finally, the Prime Minister agrees that access to the report before publication should be strictly limited to those who need to know for the purpose of advising Ministers on the initial statement.

I am copying this minute to the Private Secretaries to the Home Secretary, Foreign and Commonwealth Secretary, Chancellor of the Exchequer, Chancellor of the Duchy of Lancaster, Attorney General and the Minister for Overseas Development.

G. A. WHITMORE

5 April, 1982

15

Prime Minister.

Ref. A08001

MR WHITMORE

1. This is going to be difficult.  
 Agree in principle that you should  
 make a short statement on the lines proposed below  
 when the report is published?

Content also that the Home Secretary should  
 announce receipt of the report by Winston Churchill as  
 proposed; and that access to the report before publication  
 should be strictly restricted as this  
 minute suggests? JHW 2.12.

The Tribunal set up by the last Government following the publication of the Fay Report on the financial collapse of the Crown Agents is due to submit its report to the Home Secretary during the first week in April. Informal indications suggest that it is likely to be highly critical of the Crown Agents, and fairly critical of Government Departments and their procedures, of the Exchequer and Audit Department and of the Bank of England. A considerable number of individuals will be named as the subjects of specific criticisms. The report will need very careful handling.

2. There are two issues which require immediate decision:-

- (i) whether the Government should announce that it has received the Tribunal's report when it has done so;
- (ii) who should be given access to the report prior to its publication.

3. On the first question an arranged PQ has been used on a number of occasions in the past to indicate that the Government has received a Tribunal's report and is arranging for it to be published. It would be sensible for a similar procedure to be followed on this occasion. The Press are constantly ringing up the Tribunal for news of progress, and there have been stories that the report was about to be submitted. It would be for the Home Secretary (to whom the report is submitted) to make the announcement. Something on the lines of the draft attached at Annex B might be appropriate.



4. An announcement on these lines will stimulate requests from interested individuals for access to the Report. At the same time as the announcement, therefore, it will be necessary for Departments to write to those concerned informing them of the terms on which the Government proposes to provide them with access to the report. This is discussed below.

5. The second question is more difficult. There is likely to be considerable parliamentary and public interest in the report. Given the sensitive nature of its comments, particularly in relation to individuals, we shall need to guard against leaks. I recommend therefore that until publication the number of copies of the report made should be very strictly limited, and access to them should be given only to those in central government who need to know its contents in order to advise Ministers on the nature of the initial Government statement and to the Ministers concerned themselves. It would be inappropriate to let individuals named in the report see it more in advance of publication than as proposed in paragraph 8 below. Similarly other interested organisations such as the Crown Agents and Bank of England should not receive copies prior to publication, unless it is necessary for them to do so in order to advise Ministers on the initial statement. We shall need to consider this further once the Report has been received. If the Prime Minister agrees I will arrange for a strictly limited circulation on this basis.

6. Once the Home Secretary has received the report there will be a period of about 6 weeks before it can be published. Given the considerable Parliamentary interest that is likely to arise I recommend that the Prime Minister should make an oral statement about the report, in the House, on the day of publication.

7. Given the nature and extent of the Tribunal's comments (it runs to over 1100 pages of typescript) it seems certain that it will not be possible to make a substantive statement at the time of publication of the report. Many of the issues raised are likely to be major ones which will require



extensive consultation, and the organisations and individuals criticised should be given an opportunity to offer the Government their views of the Tribunal's findings before any detailed comments are made. These views may well be critical of the way the Tribunal has handled the case. The initial statement will therefore need to be short and to avoid prejudicing the Government's final position. This suggests that the initial statement should be confined to saying that:

- a. the Government is grateful to the Tribunal;
- b. the report is being studied;
- c. the events considered by the report happened some years ago and many changes have taken place since then;
- d. the institutions and procedures examined will be looked at carefully in the light of the Tribunal's comments; the Government will consider whether the changes made have been adequate to meet the criticisms in the report, and whether and (if so) what further action may now be necessary;
- e. the Government intends to make a further statement on the report when it has had time to consider it.

An outline of such a statement is attached at Annex A; obviously this will need to be modified once we have had a chance to examine the report.

8. An initial statement on these lines is likely to attract a wide range of supplementary questions. We shall provide briefing nearer the time. It is to be hoped that they, and any initial Press statements, will permit the Government at the outset to establish some important facts which, while not appropriate to the initial statement, ought to be on the record. In particular we may need to make clear that those giving evidence to the Tribunal were granted immunity from prosecution - which effectively rules out any action against retired civil servants since a conviction is required before a pension can be forfeited. This may have a bearing on the decision that disciplinary action should be taken so long after the event against any people involved who are still serving, when the majority of those involved are now immune. That would be a matter to be covered in the Government's second and substantive statement.

9. We shall need to give the Lobby copies of the 'confidential final revise' of the Tribunal's report with any necessary briefing some hours before publication: we shall need to decide how long before. At about the same time, or shortly before, all individuals and organisations implicated in the report should be given copies of the final revise so that they are forewarned and can respond to any initial inquiries from the Press. This was done in the case of the report on the collapse of Vehicle and General Insurance Company Limited in 1972. Those former and serving civil servants who might be affected have already been reminded of the principles governing activities involving the use of official information, but it is likely that some, particularly those who are now retired, will wish to make personal statements about the Tribunal's comments as they affect themselves. I doubt if we can do more than remind them again nearer the time of the existing rules. The Treasury Solicitor has advised that the release of the report on this basis would have the protection at least of qualified privilege for the purposes of defamation and that the subsequent publication as a Parliamentary paper would remove any real possibility of proceedings being brought on these grounds. Furthermore the interval between release and publication would in practice be too short a period for anyone to be in a position to initiate legal proceedings on other grounds which might inhibit the publication of the report, even if they were advised that they had grounds for doing so. Nevertheless, in view of the large number of people concerned, there is a slight element of risk under this head, together with the possibility of criticism in Parliament for in effect publishing a Parliamentary paper before it was available to Members.

10. Although individuals will not be able to prevent publication if they feel that the Tribunal's criticisms have been unfair, some may wish to pursue the matter further. In this context the Treasury Solicitor has advised that, while those of his staff who acted for Departments during the course of the inquiry could appropriately assist Departments and individuals concerned by clarifying and explaining the relationship



of points in the report with the proceedings before the Tribunal, it would be inappropriate for them to advise individuals about any possible redress legal or otherwise which they might wish to consider. In the case of the two retired civil servants who employed outside solicitors before the Tribunal, it would be equitable to allow them to consult their solicitors on the same basis. Subject to this, I intend to advise Departments that they should not expect to be responsible for funding legal advice for individuals once the report has been published. If a Department, after considering a particular case, feels that there is a strong reason why it ought to support the individual, then the case can be looked at on its merits.

11. There are a number of other issues on which the Prime Minister will require advice if the question of disciplinary proceedings against civil servants still serving arises. It is not possible to offer advice on these until we have had an opportunity to study the report; but we shall do so in due course.

12. It will of course be necessary to look at all this again when the actual report is available: but at this stage I should be glad to have the Prime Minister's approval to proceed on the basis outlined in this minute and in particular for her agreement that there should be an arranged PQ and that access prior to publication should be strictly limited to those who need to know for the purposes of advising Ministers on the initial statement.

13. I am copying this to the Private Secretaries to the Home Secretary, the Foreign and Commonwealth Secretary, the Chancellor of the Exchequer, the Chancellor of the Duchy of Lancaster, the Attorney General and the Minister for Overseas Development.

REA

ROBERT ARMSTRONG

2 April 1982



## FIRST DRAFT - INITIAL STATEMENT

## THE PRIME MINISTER:

With permission, Mr Speaker, I should like to make a statement on the report of the Tribunal of Inquiry on the Crown Agents which has been published today.

The Tribunal was set up in 1978 by the previous Government under the Tribunal of Inquiry (Evidence) Act 1921 to inquire into the extent to which there were lapses from accepted standards of commercial or professional conduct or of public administration in relation to the operations of the Crown Agents in the years 1967-74.

The Tribunal has examined the issues very thoroughly and the Government would like to express its gratitude to the chairman of the Tribunal, Mr Justice Croom-Johnson, and his colleagues Lord Allen of Abbeydale and Sir William Slimmings for all the time and work they have put into examining these events.

The Tribunal's report is very long and detailed.  
[description/summary of the Report]

The Government is now studying the Tribunal's findings and will examine very carefully the criticisms made in the report. In particular, it will look closely at the institutions and procedures examined by the Tribunal to see to what extent the changes that have taken place since the events of 1967-74 meet the points made by the Tribunal and whether and (if so) what further action now needs to be taken.

The Government will make a further statement when it has had the opportunity to consider the Tribunal's findings more fully.



DRAFT QUESTION

To ask the Secretary of State for the Home Department when he expects to receive the Report of the Tribunal of Inquiry on the Crown Agents.

DRAFT ANSWER

HOME SECRETARY:

I have now received the Tribunal's Report and arrangements are being made for it to be published.