



10 DOWNING STREET

*From the Private Secretary*

MR. HATFIELD  
CABINET OFFICE

BF

Crown Agents Tribunal

I attach a copy of a letter which Robin Butler has received from Sir Claude Hayes.

This is Sir Claude Hayes' assessment of the Crown Agents Tribunal, which he offers on the assumption that the Prime Minister will be making a statement about the Report of the Crown Agents Tribunal. Sir Claude's remarks are on familiar lines: the responsibility for Crown Agents' losses lies in the Government departments who ignored his reiterated requests for the appointment of an experienced banker inside the Crown Agents, and formed a kind of conspiracy against him. The Bank of England /allegedly is similarly criticised, and the Tribunal itself for its/biased treatment of Hayes on the one hand and all the other people concerned on the other.

I am not sure that Robin Butler will wish to reply in any detail to the letter. However, I would be grateful for your advice.

M. C. SCHOLAR

27 September 1982

SS

PRINKHAM  
CHIDDINGSTONE HOATH  
EDENBRIDGE  
KENT TN8 7DN

23 September 1982

Dear Robin,

Congratulations on your  
appointment - all my predictions  
are in vain.

Yours,

Claude



PRINKHAM  
CHIDDINGSTONE HOATH  
EDENBRIDGE  
KENT TN8 7DN

23 September 1982.

*Dear Patric,*

I suppose that the Prime Minister will need to make a statement about the Report of the Crown Agents Tribunal and that it is being examined to that end.

I should not like her to make one in good faith on the basis that the Report fairly reflects the evidence, and be embarrassed afterwards when it is shown that it does not do so and amounts to a cover-up of the civil service. It was to expose any government cover-up that the Commons voted for a statutory Tribunal instead of another departmental committee.

The Report is a cover-up of the Ministry (Overseas Development). Broadly it portrays the Ministry as open and above reproach and only seeking information, while it heavily criticises the Head of the Crown Agents (me) for an attitude of belligerent hostility towards the Ministry. It was not like that -- the Dr. Jekyll of thirty years does not become Mr. Hyde overnight in real life. Ministry officials were far from open and had their own ulterior motives for refusing the Crown Agents the help they needed.

I cannot be seen to say this objectively, but I am almost alone in being able to point to the selective nature and method of the Report since I am familiar with all the huge mass of documents and sat through nearly the Tribunal's sittings. It is not apparent in the Report itself that much documentary evidence of lapsed official standards has been passed over, nor on the other hand that the Tribunal's personal criticisms

PRINKHAM  
CHIDDINGSTONE HOATH  
EDENBRIDGE  
KENT

2

of me are largely hearsay and were not put to me. I believe that an impartial person with no instinct to protect civil servants, who studied the Report in conjunction with all the evidence, might well come to the opposite conclusion : that the Ministry itself brought about the situation in which the Crown Agents had to be bailed out by the Government. The difficulty is that the evidence is a mass of trivialities, though I have notes on it which could help to find the relevant ones.

I enclose an essay in higher journalism which indicates what concerns me, as much in the cause of honest government as in my own defence. No. 10 has no time for all this, but para 4 on Part V of the Report is a good example of mild reprimand to the Ministry aimed off, in contrast with overkill of me and absence of comment that the Ministry spent four years doing nothing. While it may not always be easy for a Tribunal to identify "lapses from accepted standards", there seems to be consistent maladministration here.

Several people who knew the Crown Agents at the time might find it hard to swallow the Report; Nigel Fisher, Peter Hordern, Arthur Bottomley, Lord Shackleton, and others.

Yours sincerely,  
Claude Hayes



## REPORT OF THE TRIBUNAL ON THE CROWN AGENTS

1. One reason why the House of Commons voted for a statutory Tribunal in December 1977 was the suspicion that the Fay Committee of 1975-77 had not exposed government corruption or inefficiency. The important question for Parliament and public now is whether there was a "cover-up" and if so whether the Tribunal has exposed it. The Tribunal found no corruption in general. On efficiency, it criticises the Ministry of Overseas Development, the Treasury, the Bank of England, and the Crown Agents in varying degrees for the situation in which the Crown Agents had to be supported by £85m from public funds in 1975. The first three are criticised essentially as institutions; the criticisms of the Crown Agents, as regards management, are personal ones of Hayes as if he were the Minister's official. There is no indication that he represented a commercial body dependant on its earnings whose sole raison d'être was the overseas governments for whom it worked.
2. What went wrong is simple and obvious: the Crown Agents' banking section made commercial loans on their own account without proper security and without the reserves to meet serious default. The Director of Finance, Challis, is censured for this. The Chairman, Hayes, who was solely responsible for the Crown Agents, is also criticised for failing to control this activity personally. He wanted an experienced banker in his management to supervise Challis; the Tribunal did not think that this would have made any difference. The Tribunal held hearings for four years, had 30,000 documents, and wrote a Report of 525 pages. Clearly it had to compress greatly and select what to report about. The question is whether its criticisms are fair as between Ministry/Treasury/Bank and Hayes. A careful reading of the Report in the light of the evidence (not referred to in the Report) suggests a light hand on the first three and a heavy hand on Hayes; it also shows that the character criticisms in the Report are all of Hayes and not of any officials whose actions and minuting in the documents are not at all objective.
3. One criticism of Hayes is that he was aloof from the day-to-day work of banking, and did not find out what was going on or regard it as his job to become involved in day-to-day business, etc. (31.05) Hayes was the sole chief executive of a world-wide business with 1800 staff in ten countries, <sup>about</sup> ~~more~~ 20 main activities some of great value (one had assets of £100m, investment funds were £1000m, supply covered orders of 100,000 a year worth £100m, etc.) and a working staff; there was no support between him and the working heads of these services. He spent three or four months each year travelling to principals' countries. He had to delegate and could not himself control banking (less than 1% of the staff) or any other activity. None of this is made clear in the Report. The only way he could control banking was to have an expert colleague to do it.
4. The main contrast between the treatment of Whitehall and that of the Crown Agents by the Tribunal is in Part V. This devotes 14 pages to listing the many requests which Hayes made to the Ministry from 1971 to 1974 for an experienced City Man and the pretexts which the Ministry continually made for rejecting or ignoring them. Yet Hayes is censured (21.44) for failing to ensure financial control with no-one to do it, while the Ministry is not criticised for failing to appoint someone to do it. The Tribunal says "We do not criticise the Ministry" (21.45) apparently on the grounds that Hayes's requests were "confused and inconsistent". Hayes's requests were consistently for a City-experienced colleague -- any official would have recognised that in dealing with an obdurate Ministry he had to dress up the same proposal in different clothing. The Tribunal even says that the appointment of an experienced banker to the Crown Agents in 1971-72 would not have prevented or reduced the losses in 1974 (21.41). If this is really so, then it hardly follows that Hayes should be blamed for failing to prevent them himself; and it is to be wondered at that the Treasury in 1974 insisted on a banker as Hayes's successor and he in turn appointed two more, with the Minister's approval. The effect ~~is~~ of this statement by the Tribunal is to remove criticism from the Ministry/Treasury/Bank for not meeting requests for a



City Man, and indeed for not insisting on such an appointment on their own initiative, given the known nature of the banking business (every transaction was known to the Bank). If, as the Tribunal presumes, the Crown Agents had always been responsible to the Government, then the Government had a duty to ensure that they were appropriately staffed. The Tribunal does not seem to contemplate this.

5. The Tribunal criticises Hayes for failing to make arrangements to control the Finance Department after Challis's departure in October 1973 (21.42) He had been asking for the City Man for over two years; he had asked the Bank to nominate one to the Minister; he had absorbed the post of Director of Finance into the new corporate financial structure which the Minister had accepted, on the advice of the Treasury and Bank who accepted that it was dependant on professional bankers. Hayes told the Ministry at the time that the appointment was now very urgent. There was no-one in the Crown Agents who could oversee the two heads of banking and investment, as the Ministry well knew. Hayes could not make an appointment at this level himself since it would require a bigger salary than his own -- only the Minister could make or approve it. The Tribunal does not indicate what "arrangements" it thought Hayes could have made. But the effect of this criticism is to remove any blame from Whitehall and the Bank for what went wrong afterwards.

6. The Tribunal further condemns Hayes's failure to replace Challis in October 1973 as a lapse from accepted standards (21.44) The Tribunal seems to have accepted without question a statement by two Ministry officials that they thought that Hayes could make any appointment he liked at any salary he chose (21.03) This was not put to Hayes, but to anyone with government experience it is absurd. Whatever the constitutional niceties, no senior officer in the public sector would act in defiance of the Minister, and in fact the Permanent Secretary had told Hayes that if he tried to get someone even temporarily the Minister would see that no-one would accept appointment. It is as if the Commissioner of Police appointed a financial controller at a higher salary than his own when the Home Secretary had refused to authorise the post. The Tribunal's criticism however has the effect of removing blame from the Ministry and Bank for brushing aside Hayes's requests for someone suitable. The documents now reveal that both Ministry and Bank and Treasury were deliberately holding up until Hayes's successor could be selected and consulted, regardless of the results (the time was October 1973 to April 1974, the thick of the financial crisis). They did not tell Hayes this, and it was a year before his successor took office. The Tribunal makes no criticism of this; it wasted a crucial year.

7. The Tribunal goes on to say that the Minister's refusal to meet Hayes's requests for what it calls "assistance" was no excuse for failure to exercise proper control (which again exculpates the Ministry) and that Hayes should have restricted the own account business if he could not control it himself. It seems a strange doctrine that officials can kill the profitable activities of an associated body which alone keep it viable by not allowing it to recruit necessary staff; stranger still since the Stevenson Committee of 1972 had accepted the activity but strongly advised professional management ("governance") and the Minister had announced in the House his acceptance of its report. But again the criticism of Hayes for not restricting the own account activity removes the need to criticise the Ministry and Treasury for not providing "governance" of it.

8. "After the Stevenson Committee reported, the Ministry should have realised that the discussions were not getting anywhere and should have intervened decisively ..." (31.13) The Minister had set up the Committee and was solely responsible for dealing with its report -- it was not a matter of "intervening". For eight months it held meetings with Whitehall and the Bank, all getting nowhere, behind the Crown Agents' back so that the Crown Agents were faced with a wall of silence. The Ministry never sat down with them then or later to work out a policy on the Stevenson report. Its first meeting with them



after eight months was without agenda, a free-for-all with junior officials from Trade, Civil Service Department, Treasury, and Bank at which no proposals were tabled and no conclusions reached. It was accepted that the ideas in the Stevenson Report were unworkable, but the Ministry put no constitutional proposal to the Crown Agents; the solution, incorporation of the banking and investment business under a Crown Agents' Holding Company with a Board appointed by the Minister, which was at once welcomed by the Treasury and the Bank, was worked out and put forward by the Crown Agents themselves when the Ministry had given up. None of this is made clear by the Tribunal, yet Hayes is criticised for rejecting constitutional change and for not being open with the Ministry. (31.05)

9. The Tribunal criticises Hayes for "seeming to harbour the suspicion that Ministry Officials wanted to run the Crown Agents themselves" (19.10) This is one of very many shadings of words in relation to Hayes's evidence. He did have this suspicion, and so did all the Crown Agents' staff, and with reason. "the evidence we have heard does not support this suspicion" (31.05). The evidence is in Hayes's Statement, which was not challenged before the Tribunal, and showed that a Ministry official had taken away one of the Crown Agents' profitable functions in 1966-67, to the lasting resentment of the whole Crown Agents' Office. The Ministry's attempt to transfer this official to be Deputy Crown Agent were seen as furthering this process; and Ministry documents have minuting by officials jibbing at the proposed incorporation of finance business on the grounds that it would upset all their plans. There are later minutes of officials' agreement to appoint one of themselves as new Chairman of the Crown Agents and another as Deputy, ex-officio; this would be absorption of the Crown Agents into the Ministry. Hayes as a former Ministry official also knew the motive for this manoeuvring by some of his former colleagues: protection against being abolished and subsumed by the Foreign and Commonwealth Office, by having wide executive activities other than aid. The absence of reference to this source of friction between Ministry and Crown Agents leaves it open to the Tribunal to censure Hayes for suspicions implied to be baseless, when it was clear that they were well founded.

10. The Bank had <sup>no</sup> direct financial interest in any restriction on or prevention of the Crown Agents' own account banking, but it had such an interest in their banking business for principals. It would stand to get much of this business which the Crown Agents had done for many years, and which was greatly increasing, if the Crown Agents had to stop trading for lack of the reserves which the own account business was meant to create. This factor might have been relevant to the Tribunal's consideration of the Bank's deliberate failure to find or suggest a professional banker for the Crown Agents, but though well documented in the Bank's papers it was not put before the Tribunal.

11. The Tribunal's main criticism of the Ministry is that it did not insist on knowing what the Crown Agents were doing (31.13) Hayes undertook to report what the Minister asked for -- significant new ventures or extensions of existing ones. Apart from a few slips he or his colleagues did report these, but Ministry officials were always complaining that whatever appeared in the press, whatever its significance, had not been reported to them. It was not practicable for the Crown Agents, with a very slim staff, to report daily business; and it is clear that the Ministry did nothing with the reports they got. The Ministry's failure is surely much more fundamental than failing to get information: failure to get down to the Stevenson Report with the Crown Agents; failure to work out a constitutional solution to the Crown Agents riddle; failure to allow Hayes to have a City colleague (he even named a very distinguished one but this was ignored); failure to take any step to appoint the governing Board including financial experts which Ministry and Crown Agents both wanted. The Report greatly underplays these failures to act, while stressing the failure to ask which implies more blame to the Crown Agents.

9 months later



12. The Tribunal in dealing with the Ministry confines any criticisms to the Minister and Permanent Secretary. (19.51) This may place the final responsibility where it should be, but it does not relieve middle officials of responsibility for what they did or failed to do. It was these officials whose motives prevented a cordial relationship between the Crown Agents and the Ministry, and whose minuting now provides the evidence for their attitudes. They kept the Crown Agents at arms' length all the time ("we don't owe Hayes any explanation"); they refused to show the Crown Agents the legal opinion they said they had on HMG liability for the Crown Agents, when not even their Permanent Secretary and still less the Treasury believed in any such legal liability; ~~they also~~ wrote minutes to persuade the Minister that the Stevenson Committee had not recommended what it had, that the Crown Agents' own account banking should continue, and failing to remind him that he had announced his acceptance of this in the House; ~~they also~~ filled their files with personal comments on Hayes which, while these may indicate their attitude, should not be tolerated in any public Department. By ruling out any reference to the actions of these officials the Tribunal leaves a better impression of the Ministry than the facts justify.

13. The Tribunal refers to the Bank warning the Treasury and the Treasury warning the Ministry in 1969-70 that some of the Crown Agents' banking was imprudent (14.56,58) but does not criticise either for not warning the head of the Crown Agents, or suggest that they had any obligation to do so. Yet the Ministry and Treasury officials concerned knew that Hayes was not aware of these occasional transactions. They were friends and former colleagues of his, but nobody whispered in his ear; Hayes's evidence was that he knew that every Crown Agents' transaction was known to the Bank and he took it ~~for~~ granted that anything worthy of concern would be brought to his notice one way or another. But the Bank told the Tribunal that they doubted whether they should have warned Hayes, although they were the Crown Agents' bankers; and the Treasury told the Tribunal that it would have been improper to tip Hayes off (as if etiquette were more important than £85m). Nor did Exchequer & Audit warn Hayes about their doubts (23.24) as if auditors paid by an organisation had no duty of care.

14. The Tribunal criticises Hayes for "continuing to dispute the view that the Government had ultimate ~~liability~~ financial responsibility for the Crown Agents" (15.32) The Tribunal's a priori opinion was that any contingent Crown Agents' liability would have to be met by the Exchequer as a matter of law (14.22) and the proceedings were conducted on this basis. The documents show that neither the Ministry, nor the Treasury, nor the Crown Agents over many years had this view. The Crown Agents were convinced that they were "on their own" since their colonial principals became independent, and this was driven into their soul by the enforced dismissal of over 200 staff in 1961, without help from HMG, when their earnings were not enough to pay them. The Minister was advised by the Permanent Secretary in 1970 that the Government had no responsibility for the Crown Agents; and a long legal study by Treasury officials at the same time concluded that there was no Exchequer liability for them. It can hardly be a criticism of Hayes, with his Ministry and Treasury background, if he shared this opinion, and if he required more than a Ministry official's ~~say~~ say-so to reverse it, with enormous consequences. He did not dispute the view by denying HMG liability. What he did, when Ministry officials said they had legal advice that there was such a liability, was to ask to see it so that the Crown Agents and their own legal advisers could consider it. He asked many times over the next three years but was never shown it; the evidence now shows that the Ministry never had written or authoritative advice on the matter. No criticism is made by the Tribunal of the Ministry's reliance on oral advice from a junior legal official on this fundamental issue, nor for failing to be open with the Crown Agents and having it put in a joint submission to the Law Officers as Hayes asked. Nor is any criticism made of the Treasury for failing to have its own legal opinion on a matter which could and did present a huge bill to the Exchequer. A formal Opinion of HMG liability would have removed the need for the own account business and prevented the whole affair.



15. Hayes is criticised for not being in touch with the situation or finding out whether the Crown Agents were solvent in the months after the Stern crisis in early April 1974. He was not asked about this period. His evidence would have been that after the Treasury meeting of 13 May 1974 he was told by the Ministry to lie low while the Government took charge, and was not told what the Government were doing. Any question of getting outside accountants to assess the position was not for him to consider, though the Tribunal made much of the failure to do so. In fact nothing was being done. "Dame Judith Hart regarded the Crown Agents as her top priority" (20.25) She became Minister on 1 March 1974 when the banking crisis was bursting. She at once cancelled the new constitutional structure of incorporation of banking and investment which the previous Minister had approved six months before and which was being implemented. She announced the appointment of seven Crown Agents and direct control by the Ministry in July, an hour after Dissolution. While this period of five months does not compare with the four years of inaction under the previous Minister, it took place during the worst of the financial crisis, and any action by the Crown Agents was inhibited; the new administration did not take up office until October.

16. The crucial matter from October 1973 until mid-1974, when Challis had left the Crown Agents, they had no-one to control their banking, and the national crisis demanded a firm expert hand to minimise damage and prevent good money being thrown after bad, was Hayes's request to the Governor of the Bank for help in finding an experienced banker whom the Minister could appoint as chief of the new banking company being set up. Hayes also asked the Ministry to support this request. No reply was received from the Bank and no help from the Ministry; meanwhile the Crown Agents were getting more exposed day by day as events got worse. The Tribunal contents itself by saying that it "would have expected" the Bank to tell Hayes that it was deliberately not seeking a banker (21.47). The Tribunal comments that Hayes took no steps himself to find one (21.31), disregarding the fact that he had no entry to the City banking world, and the fact that he had no power to make an appointment himself even if he could find someone.

17. The reason why the Crown Agents had such difficulty over an experienced banker in their top management was that the Chairman's status and salary (Deputy Secretary) were too low in City terms -- and indeed for the greatly increased business and responsibilities which had developed since the principals became independent countries. Hayes's predecessor had made a reasoned case for upgrading the post in 1968. Hayes pursued it in 1969-71, orally with the Ministry, in order to bring in a City Man between himself and Challis, there being no gap for a Deputy Chairman or expert in the existing structure, which had been laid down under the Colonial Office in 1940. He never had a reply from the Ministry, but the documents now show that the Civil Service Department was consulted three or four times, did not examine the Crown Agents' responsibilities or give the Ministry a reasoned reply, but simply repeated that the existing level was adequate. This was held to be binding by the Ministry, although the Crown Agents did not use public funds. In 1973-74 Hayes said that he would be glad to have a City Man at a salary above his own, but the Ministry would not contemplate this either. In 1974 the Head of the Civil Service when faced with the banking crisis said that the Chairman ought to be at Permanent Secretary level and supported by financially experienced colleagues, but it was still a year before this was implemented with Hayes's successor. If the Ministry and Civil Service Department had sat down with the Crown Agents and examined their functions, not only financial but procurement, engineering, philatelic, armaments, etc., there might have been a proper structure years before the banking went wrong. The Tribunal refused to examine the part played by the Civil Service Department on the grounds that it was "too remote".



18. The Tribunal says that witnesses were sent a letter well in advance listing any questions which might result in criticisms of their conduct (1.09); that "each witness was given a fair opportunity to deal with adverse evidence and adverse comments" (1.12); and that it makes no criticism of any witness unless it was certain that the essence of possible criticism was made adequately clear to him before he completed his evidence (1.13). This practice was not observed with the Tribunal's own character criticisms of Hayes or ~~xxx~~ other witnesses' personal comments on him, however ill-conceived which he did not have any opportunity to deal with; his own evidence was very strictly confined to the formal allegations made against him in writing, which did not embody such subjective comments. Yet these comments, made in unsworn evidence to the Fay Committee, are given currency by the Tribunal in a context which did not leave it open to Hayes to question them, or to suggest other witnesses not themselves concerned with the Tribunal's enquiry. For example the Tribunal states Hayes's "unapproachability" as a fact (31.05) and therefore criticises him for not being told what was being done behind his back in the City; it derives from remarks to the Fay Committee, not on oath and not tested by that Committee, by three Crown Agents middle-level officers who did not normally report to the Chairman, but had a duty to report to their superiors and did not do so. The Tribunal says that Hayes had no capacity for readily establishing good relations with his staff, again with the implication that if he had he would have been told what half-a-dozen people in the banking department were carefully concealing from all the rest of the Office; the Tribunal had no evidence on Hayes's staff management or his relations with the 1800 Crown Agents' officers, and other witnesses would have told a different story. The Tribunal says that Hayes resisted attempts to impose new constitutional arrangements on the Crown Agents (31.05); if this had been put to him as an allegation he would have explained that the Ministry never put any constitutional plan to the Crown Agents, that there is no evidence of one in the documents, and that the solution finally welcomed by the Bank and Treasury and ungratefully adopted by the Minister was worked out by the Crown Agents themselves in discussions with their legal advisers and the Bank. The Tribunal even expresses its surprise that Hayes was considered suitable to be appointed Chairman of the Crown Agents in the first place (which is not within its terms of reference); whether or not the Tribunal was in a position to judge the decision fourteen years earlier of the Permanent Secretary of the Ministry and the Head of the Civil Service, both of whom had known Hayes officially for many years, it can have made this judgement only in relation to the Crown Agents' business of which it had some knowledge, and this was one of twenty main activities occupying a handful of staff and not concerning their primary responsibilities towards their overseas principals. The personal and character comments in the Report are confined to Hayes. Yet the documents contain ample evidence of hostile attitudes towards Hayes and the Crown Agents on the part of Ministry officials, and one or two in the Treasury, some of them scurrilous; the Tribunal has not taken note of these. There are no such personal comments on Ministry officials in the Crown Agents' files. By excluding consideration of officials below Permanent Secretary and ignoring their official ~~minuting~~ the Tribunal has given the impression that their activities and attitudes were implicitly justified and above reproach, in stark contrast to the Tribunal's subjective assessment of Hayes which is not evident in the documents.

19. There are many other minor indications in the Report of an attitude towards Hayes very different from that towards Ministers and officials. It often understates the Crown Agents' intentions or appears to reflect on them, by the use of words implying more than is said. An example is (23.55) "(The Treasury asked for but were) denied a sight of the Crown Agents' evidence" to the Stevenson Committee; the Crown Agents did indeed object to their written evidence being passed to Government Departments but no reverse traffic, but told the Treasury that it could have any information it wanted about the Crown Agents by asking for it separately (which it did not do). Another example is (21.39) "Hayes rejected completely the opportunities offered him by the



Ministry for administrative support"; this, apart from ignoring his need for financial support, brushes over the fact that the support offered was the transfer to the Crown Agents of the Ministry official who had incurred the anger and suspicion of senior Crown Agents' staff by removing one of their functions when they could least afford to lose it, to be put over their heads — something that no head of an organisation could accept in the interests of good management and staff loyalty. A third example (25.24) is "Hayes's views (on giving evidence to a Select Committee) affected the Crown Agents' response to the Committee's requests for information" with the implication that he withheld facts from the Committee, and in particular that he refrained from volunteering the opinion that the Minister's Answer to a Question in the House some weeks earlier had been wrong. What Hayes had said to his officers was that replies to a Parliamentary Committee should be concise, precise, and complete, but that information outside the scope of questions should not be volunteered; an experienced civil servant would recognise this as "standing orders", and would know that it is by no means simple for someone outside the Minister's staff to tell a Select Committee that he had given an incorrect Answer to the House even if this were clearly so (in this case it was not). There are other examples of words implying more than they say in relation to Hayes, though not to others.

20. The Tribunal could not quote the evidence on which it relied in its report, still less that which it apparently rejected. That justice has been done has to be taken for granted; it cannot be seen to be done unless the report is checked by someone with a knowledge of the events of the time, of the personalities, and of the huge mass of documents and transcripts. There are many factors whose inter-relationship turns on the characters of those concerned, on which the Tribunal had no evidence: a small Crown Agents group concealing from everyone its "comfort letters" and panic lending, a small group of officials never frank with the Crown Agents and with ulterior motives, Government departments and Bank deciding not to warn Hayes of misdeeds which they knew or suspected. But the failings were not merely those of not seeking more information or of government machinery for co-ordinating Ministries; they were failings to understand and accept what the Crown Agents needed in a post-colonial world, and to set about seeing that they got it. They were the failing of complete inaction for years, and no amount of criticism of the Crown Agents offsets this. The Tribunal's mild reprimands of the Ministry and strong condemnation of Hayes for not doing what he had no experience to do (control the banking himself) or power to do (appoint a City Man himself) suggest that the real failings within the public service have not been identified. Is it a balanced report which makes many subjective criticisms of one witness without taking or testing evidence for them, while passing over in silence written evidence showing less than proper actions and motives on the part of officials dealing with him? Is it just that the Tribunal personalises every Crown Agents' action in Hayes, when there is much evidence that he was meticulous in consulting his "Board" of senior colleagues and never went against them? Is it really likely that an experienced banker in the Crown Agents' management in 1971 or 1972 would not have stopped the banking section from making bad loans in 1973-74? This statement by the Tribunal was not made while it was sitting, but it seems eminently a question for the Tribunal's own expert banking witness, a former Chief General Manager of a clearing bank; but the effect of it is to absolve the Government from blame for not seeing the Crown Agents properly staffed. Would someone with experience of commercial management expect Hayes to check for himself the transactions of a section three or four levels below him? All this is not to say that the Crown Agents were not grievously at fault, and Hayes with them; but it does say that not enough direct responsibility is clearly placed on particular Ministers and officials for doing nothing. Sir Andrew Cohen would have solved the whole issue within three months of the Stevenson Report of March 1972.