



HL

10 DOWNING STREET

*From the Principal Private Secretary*

SIR ROBERT ARMSTRONG

Report of the Crown Agents Tribunal

Thank you for your minute of 15 December A082/0536. The Prime Minister agrees that a statement should not be volunteered but that it should be used if Lord Vaizey gets his debate in the House of Lords or if a request for a statement comes up in some other way.

FEB

16 December 1982

CONFIDENTIAL

88

Prime Minister

Ref. A082/0536

MR BUTLER

Yes not

Agree to let sleeping  
dogs lie (unless Lord Vaizey gets a debate  
or someone puts down a question), rather  
than volunteer a statement of the  
lines attached to this minute?

Report of the Crown Agents Tribunal

FERB

15.12.

--- The Report of the Tribunal of Inquiry on the Crown Agents was published in May this year; publication was announced to the House by the Prime Minister in a Written Parliamentary Answer (text attached).

2. As the Prime Minister will recall, the Report had some severe things to say about both the organisations and some of the individuals involved in the disastrous losses made by the Crown Agents, in particular through their secondary banking activities. Criticisms were expressed about two former Ministers, Dame Judith Hart and Lord Holderness, and a number of senior civil servants and Bank of England staff.

3. The Report attracted some Press attention at the time of publication, but - no doubt partly at least because of the South Atlantic operations - interest in it quickly died down, and there have been only two Questions asked in Parliament about it, both on the subject of what disciplinary action has been taken against those criticised in the Report. A member of the House of Lords, Lord Vaizey, has recently given notice of a motion to call attention to the Report; there may, therefore, be a Debate in the Lords, but this depends on Lord Vaizey naming a day and succeeding in a ballot, and is not yet definite.

4. Meanwhile, a number of those criticised in the Report have complained to their Departments about what they felt to be shortcomings of natural justice in the Tribunal's proceedings, while Sir Claude Hayes, Chairman of the Crown Agents at the relevant time and severely criticised in the Report, continues to feel that he was made the scapegoat for many errors at least shared by others. The Salmon Commission itself, however, accepted that the risks of hurt and injustice to persons involved in an inquiry are inherent in and cannot be eliminated from any procedure which is effective



for arriving at the truth. The Commission's safeguards were advanced as a means of reducing not eliminating those risks. Whilst recognising that the proceedings of the Crown Agents Tribunal have left some of those involved with a feeling of grievance, we do not believe that this can be ascribed to any procedure of the Tribunal which might have been improved upon without an impracticable degree of elaboration. It is for this reason that the Home Secretary is satisfied that the Tribunal's recommendation that there should be no further legislation to introduce statutory safeguards for witnesses should be accepted.

5. There seem to be three possible courses for the Government to take:-

- i. to do nothing further, on the grounds that there is little public or Parliamentary interest in the Report;
- ii. to make a further Parliamentary statement, either oral or (more probably) written, aimed at drawing a line under the Report and setting out the Government's general conclusions about the need for and the proceedings of Tribunals of this kind;
- iii. to provide Government time for a debate.

6. There seems to be little pressure for a debate in the Commons, and no real reason why the Government should wish to make time for one, especially as a debate in the Lords is a possibility. A debate could be difficult to handle, if those criticised in the Report feel that their views must be placed on record. Most of those criticised would no doubt prefer no further publicity.

7. The case for some further action is partly that it may seem to be not entirely satisfactory to leave the Report hanging in the air, and partly to get on the record a Government statement about Tribunals of Inquiry and their procedures. The best way of doing this would seem to be an arranged Written Parliamentary Question and Answer, aimed to draw a line under the Report. A draft of such a statement is annexed. Its terms have been agreed with the Departments concerned (Treasury, Home Office and ODA) and the Home Secretary would be content with the line proposed.



It remains very much a matter of judgement whether it is better to leave things where they are by doing nothing, or to seek to draw a line under the Report by a statement on these lines with the inevitable risk that this would resuscitate interest in the Report. The Home Office would like to get on record a statement about the procedures of Tribunals of Inquiry, and therefore favour a statement. The Overseas Development Administration would on the whole like to see a tidy line drawn under the affair, and would like a statement if it had that effect. The Treasury would prefer to make no statement, and let sleeping dogs lie.

8. I see no call or need to volunteer a statement, and I believe that a statement would not be the end of the matter but would generate further questions. I would therefore recommend doing nothing at this stage. If a question is put down, or if Lord Vaizey gets his debate in the House of Lords, the draft statement can then be used, either as a written answer or as material for a speech by a Government spokesman in the House of Lords.

9. I am sending copies of this minute to the Private Secretaries to the Home Secretary, the Foreign and Commonwealth Secretary, the Chancellor of the Exchequer, the Lord President, the Lord Privy Seal and the Attorney General.

ROBERT ARMSTRONG

15th December 1982



DRAFT

CROWN AGENTS TRIBUNAL  
[For Written Answer]

..... To ask the Prime Minister, whether she will make a further statement on the Report of the Tribunal of Inquiry on the Crown Agents.

PRIME MINISTER

The Government has now completed its study of the Tribunal's findings, to which I referred in my Answer [to the Hon Member] on 26th May.

2. The organisations concerned have reviewed the comments in the Report relating to them, to see whether any further steps beyond those that have already been taken are needed.

3. In the case of the Crown Agents themselves, the constitution and role of the Agents and their relationship with Government have been, since the events which formed the subject of the Tribunal's Report, defined and regulated by the Crown Agents Act 1979 under which the Crown Agents were incorporated with effect from 1st January 1980. In 1975, at the direction of the then Minister of Overseas Development, the Crown Agents started to disengage from their own-account activities in property and secondary banking, and since then they have confined themselves to performing successfully their traditional role of providing services to and in respect of overseas Governments and administrations, particularly in



the developing world. The 1979 Act endowed the Crown Agents with the recognised legal status of a statutory corporation, thus ending the uncertainty and the legal difficulties which surrounded their previous status as an unincorporated Crown body. The Act also set up a separate Crown Agents Holding and Realisation Board with responsibility for holding and realising the assets and discharging the liabilities which arose from the own-account activities. The Board has successfully disposed of the previous Crown Agents property holdings in Australia and some further holdings elsewhere. As a result it has been able to repay £17m to the Consolidated Fund to date after discharging the liabilities arising from the original investment.

4. As to accountability and control, the 1979 Act requires the Crown Agents to comply with any requirements relating to the accounts notified by the Secretary of State, with the approval of the Treasury, and he is required to lay the accounts before Parliament. The Secretary of State, with the approval of the Treasury, has set a financial target for the Crown Agents which they are expected to achieve by 1984. Internal control procedures within the Crown Agents have been overhauled and improved. In the light of all these significant changes, the Government is satisfied, after studying the findings of the Tribunal, that no amendments to the 1979 Act or any further measures at the present time are necessary.



5. The Government has also considered the criticisms made in the Report of the operation and procedure of Departments and of the Bank of England. These criticisms were prompted by the Crown Agents case, but are relevant to the Government's relationship with other organisations which might involve a significant risk to public funds. Since the events of 1967-74 the Departments concerned have taken steps to clarify responsibilities and tighten up procedures and have further reviewed them since the Tribunal reported. I understand that the Governor of the Bank of England has also taken action regarding the Tribunal's comments on the Bank's procedures. He had already completely overhauled its structure and organisation in 1980 and introduced further modifications earlier this year.

6. The Government has noted the comments made by the Tribunal and by others about the general question of the procedures to be adopted by Tribunals of Inquiry under the 1921 Act, and in particular the Tribunal's view that no legislation is needed in this connection. These procedures were the subject of recommendations made by the Royal Commission on Tribunals of Inquiry under the Chairmanship of the Rt Hon Lord Justice Salmon which reported in 1966 (Cmnd 3121). The recommendations were subsequently broadly endorsed in a Government White Paper in 1973 (Cmnd 5313). The implementation of a number of them would in fact have required legislation. The Government accepts the Crown Agents Tribunal's conclusions



on procedure, and accordingly considers that the proper safeguards for persons involved in inquiries - the need for which the Government recognises - can be adequately applied by Tribunals under the provisions of existing legislation, to which no amendment is therefore needed.

7. [I wish to repeat the Government's appreciation and gratitude to the members of the Tribunal for their Report.]