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PRIME MINISTER

Roskill Report

You are holding a further meeting tomorrow afternoon with the Ministers concerned (except the Lord Chancellor who is abroad) to discuss the proposals for handling the Roskill Report in the Home Secretary's minute of 6 January. The Governor of the Bank of England will also be present.

BACKGROUND

2. The Government's response to the Roskill report will be seen as a significant litmus test of their determination to tackle the scandal of fraud, and will be important in establishing the climate in which current regulatory proposals (particularly the Financial Services Bill) are discussed. The report makes 112 recommendations of varying degrees of controversiality and technical involvement. You will not want to attempt to reach decisions on all of them now. But you will want to ensure that clear and firm arrangements are put in hand for processing the report; that the exercise proceeds to a crisp timetable; and that the statement to be made next week is positive and constructive.

MAIN ISSUES

3. I suggest that tomorrow you concentrate attention on the following main issues:-

(i) Unified Organisation: Fraud Commission:

These are the two crucial recommendations in terms of long term structural arrangements. You will probably agree that the question of unified organisation needs to be handled within Government as a machinery of Government matter, and that the option - floated by the Home Secretary - of setting up a temporary Fraud Commission to do the job is neither



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desirable nor realistic. I recommend that you should accept the Home Secretary's recommendation that the task of examining the unified organisation proposal should be given to a Minister of State, who should report on it direct to you. An appropriate arrangement would be to give the task to the Minister of State, Privy Council Office. (If, however, the Chancellor of the Exchequer should strongly press for the job to be given to a Treasury Minister you will at least wish to consider that). It seems right, as the Home Secretary proposes, that the question of a Fraud Commission should be processed in the same way as the unified organisation. I therefore recommend that this, too, should be remitted to the chosen Minister of State.

The Home Secretary's minute is not quite right in claiming that Lord Roskill would put less weight on a Fraud Commission if a robust unified organisation were put in place. For this and other presentational reasons you may think that the statement should deal with the Commission recommendation more positively and energetically than does the present draft. On the other hand, the status and role of a possible Commission does raise genuine and important problems, not least whether such a body should be an active monitoring organisation, as Lord Roskill would have it, or something more akin to the security commission. It would, therefore, clearly be going too far at this stage to accept the Roskill recommendation as it stands.

(ii) Resources; Qualified Manpower:

The Roskill report stresses the need not just to put more resources into combatting fraud but to ensure that better quality lawyers and accountants are enlisted. The recommendation goes beyond central Government, since it is specifically directed at police fraud squads as well. As you discussed last week with Lord Roskill, what is essentially involved



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here is ways of getting into the public service - if only on temporary secondment - good quality professionals in specialities that command exceptionally high rates of pay in the private sector. These issues, too, are appropriate to be taken forward by Mr Luce, and that is what I recommend.

(iii) Recommendations on Criminal Law and Procedures, as it applies to Fraud;

These recommendations comprise two large groups. A number are in the Home Office's area and deal with such matters as Jury trial, Jury challenge and the admissibility of evidence. On the whole, this group of proposals is controversial and would require legislation. There is also a group of recommendations which fall within the Lord Chancellor's responsibilities on preparation for trial and influencing the conduct of the defence barristers through the arrangements for legal aid and costs. These recommendations are not generally so controversial and would not require legislation.

The (generally constructive) assessment attached to the Home Secretary's minute has been prepared by a group of officials chaired by the Home Office. Subject to any views that emerge at the meeting, it seems to me that since what is at issue here is basically to do with straight criminal law issues of a reasonably familiar nature, it would be sensible for the Home Office to continue to process them. It will of course, be necessary for the Home Office group to keep in close touch with Sir Peter Middleton's group (mainly of Permanent Secretaries) on fraud and related financial services issues. If there is any dispute over how this should be organised, we could hold the ring from the Cabinet Office. But it hardly seems necessary on this occasion.

You will wish to bear in mind, however, that the Lord Chancellor may have views about how the recommendations



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addressed to his Department should be handled. Since he will not be at the meeting, you may think that he should at least be given the opportunity to make his views known when he is back in the country next week. Subject to that, however, I think that it would be very much the best thing for all the criminal law and procedure points to be processed together in the same official group chaired by the Home Office.

(iv) Non-Jury Trial and Restricting peremptory challenges;

These are simply the two most vivid and controversial of the criminal law and procedure recommendations. The Home Secretary is probably right to give particular attention to them in his minute. His proposal that the proposal for non-jury trial should be handled with some care initially seems sensible. On peremptory challenge, the Home Secretary is in any event putting proposals to H Committee for a meeting in the week beginning 20 January. Those proposals have their root in anxieties that have arisen about certain recent non-fraud cases, particularly the Cyprus official secrets case. In the circumstances, it seems right that the subject should proceed as the Home Secretary proposes, ie with an urgent review of peremptory challenge in general.

(v) Timetable;

The Home Secretary proposes that Ministerial decisions will be needed in H Committee by Easter in respect of those recommendations that might be included in the Criminal Justice Bill for the next session. I strongly recommend that you should agree with the Home Secretary that H Committee is the right forum to process these matters, but you will wish to consider whether the Easter target date should be expanded into something rather more significant than appears from the Home Secretary's minute. What I would recommend is that the Home Secretary and Lord Chancellor should be invited



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to report to H Committee by Easter not just on the proposals that should be put into the Criminal Justice Bill, but also making proposals for a further substantive and comprehensive Government statement on Roskill to be made as soon as possible after Easter, which deals with the recommendations that do not involve legislation as well as the ones that do. These proposals would be based on the work done by the proposed Official Group chaired by the Home Office.

(vi) The Home Secretary's Statement

The draft statement may need some revision in the light of decisions on the points mentioned above. In particular:

Not including
the internal
arrangements
fully.

(a) it may be useful to announce the arrangements for processing the recommendations on unified organisation and the fraud commission; and

(b) it would be presentationally helpful, and add bite to the statement, if a further more detailed announcement were promised for very soon after Easter.

Otherwise, the Home Secretary's draft statement seems on the right lines so far as substance is concerned. You may, however, wish to invite the Home Secretary to look again at the drafting throughout, to see if it is possible to inject a greater note of urgency. I have mentioned the possibility of taking a more energetic line on the Fraud Commission in paragraph 4(i) above.

(vii) Handling;

The Home Secretary's minute and attachment covers the ground quite fully, and you will wish him to open the discussion by speaking to it. All the other Ministers present will have views, but you will particularly want to ask the Lord President if he agrees that H Committee is the appropriate



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forum for dealing with the matters that you are not reserving to yourself as machinery of Government points. You may wish to ask the Lord President to assume oversight, as Chairman of H, of ensuring that a full statement on the Roskill Report is worked up for presentation shortly after Easter.

CONCLUSIONS

4. You will wish to ensure that decisions are reached on:-

(i) arrangements for examining the proposals on unified organisation, a Fraud Commission and recruitment of qualified staff;

(ii) arrangements for officials to examine with urgency the recommendations on criminal law and procedure;

(iii) a specific timetable for the official group's findings to be processed through the appropriate Cabinet Committee (doubtless H Committee); and

(iv) the timing of the next announcement on the Roskill Report.

You will also wish to ensure that, in the light of the above decisions, the announcement proposed to be made next week is agreed on lines that are vigorous and constructive.

J B UNWIN

8 January 1986
Cabinet Office