

Prime Minister

Thatcher

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I have asked the Offices of Lord Cockfield and the Attorney General for a draft reply.

cc to

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15/3

British Caledonian

Caledonian House
Crawley West Sussex
RH10 2XA England

Telephone: Gatwick (0293) 27890
Cables: Scotair Gatwick Telex: 87161

Sir Adam Thomson, C.B.E.
Chairman

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15th March, 1983.

The Rt. Hon. Margaret Thatcher, MP,
Prime Minister,
10 Downing Street,
London SW1.

The A-G spoke to me
this evening (Wed.) re
intent to interfere
to - no. 1133. m.f.

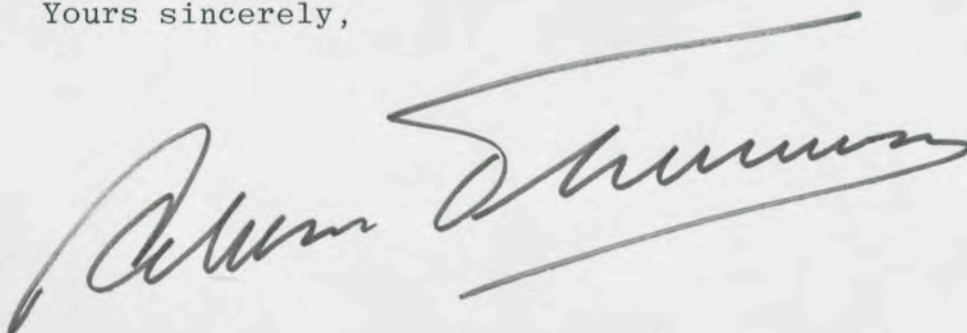
Dear Prime Minister,

1. I am writing to you personally because B.CAL's continued existence and vital aspects of Britain's sovereignty are threatened by the recent anti-trust actions in the United States arising out of the Laker collapse. I am convinced that firm Government action in this country can do much to avert these threats but only if immediate and effective action is taken.
2. I will try to summarise the current position.
 - (a) Last November U.S. lawyers acting for Laker, and financed entirely by contingency fees, brought a huge anti-trust action against B.CAL and other airlines, alleging a conspiracy to drive Laker out of business and claiming one thousand million dollars in treble damages.
 - (b) The U.S. complaint alleges that the airlines conspired to agree to artificially low prices to injure Laker and to sabotage the financial negotiations designed to rescue it early in 1982.
 - (c) B.CAL utterly repudiates these allegations. It conspired with no-one, indeed it did not even fly any Laker U.S. route. But, most important for present purposes, its fares were approved by the Civil Aviation Authority within the framework of the Bermuda II Agreement: and in any event the fare levels of the scheduled airlines in competition with Laker were fully supported at the time by the Civil Aviation Authority and the Department of Trade. The financial negotiations for the rescue of Laker were conducted under the auspices of the Bank of England, and failed because the key lenders were not prepared to provide the open-ended guarantees which were required by the Civil Aviation Authority in the light of the sharp deterioration in Laker's financial position.

.../...

- (d) However well founded B.CAL's defence, the civil action in the United States constitutes a great threat, because to defend it will require a vast expenditure of man hours and money - given Laker's sweeping extra-territorial discovery demands. Under the U.S. system B.CAL's costs cannot be recovered even if it is wholly successful. Since the case likely will be fought before a jury, there is always the chance, in addition, of an unfavourable result on the merits.
3. The most important recent development is that the Department of Justice has announced that it is to institute a Grand Jury investigation into these very same matters. This, if it goes ahead, will be a criminal investigation of the actions of British airlines conducted outside the United States and in relation to matters in which they were acting with the full approval of the British Government. It is not easy to imagine a more flagrant breach of British sovereignty. Moreover, a criminal proceeding or continuance of the civil action could also spark ruinous contingent fee treble damage suits by airline passengers.
4. What can be done? There are two areas in which the British Government can take effective action:-
- (a) With regard to the Grand Jury investigation, officials of the Department of Trade have worked hard to have the matter placed in suspense pending further discussions in Washington this week. These diplomatic efforts are designed to persuade the U.S. authorities to halt the investigation insofar as it relates to British airlines. But if these negotiations fail and the investigation goes forward, it will be extremely difficult to stop it, even if the U.S. President intervenes. It is, therefore, absolutely essential for the highest levels of Government to be ready to intervene with the U.S. President if the negotiations in Washington this week are not successful.
- (b) So far as the civil proceedings are concerned, B.CAL is applying to the English Court for an injunction to restrain Laker Airways and its Liquidator, which are subject to its jurisdiction, from continuing with the U.S. action. Midland Bank has already succeeded in obtaining a similar order to prevent it being joined, but the application has many novel aspects, has been condemned by the Judge in the U.S. action, and cannot be guaranteed to succeed. In the similar case a few years ago involving Westinghouse, the Attorney General intervened to support the position of RTZ, and B.CAL has asked the Department of Trade to invite the Attorney General to express HMG's interest in this matter and its position on the violation of British sovereignty to the English Court. I hope that you can support the intervention of the Attorney General in the current proceedings.

Yours sincerely,





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cc. FO

10 DOWNING STREET

From the Private Secretary

15 March, 1983

I enclose a copy of a letter the Prime Minister has received from Sir Adam Thomson, Chairman of British Caledonian.

I should be grateful if you could let me have a draft reply for the Prime Minister's signature by Friday, 25 March.

I am sending a copy of this letter and its enclosure to Henry Steel, (Law Officers' Department).

J. Whitlock, Esq.,
Department of Trade

J.W.F.E. RICKETT

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10 DOWNING STREET

From the Private Secretary

15 March, 1983

I am writing on behalf of the Prime Minister to thank you for your letter of 15 March. This is receiving attention and a reply will be sent to you as soon as possible.

W. F. S. RICHET

Sir Adam Thomson, CBE.,