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JP

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

CROWN AGENTS TRIBUNAL

The Prime Minister considered over the weekend your minute of 16 April to Mr. Whitmore about the Crown Agents Tribunal. The Prime Minister was grateful for this guide to the Tribunal's report. She has commented that she is very concerned that those who are criticised in the report will have no means of defending themselves. The Prime Minister describes this as "guilt by accusation". She looks forward to receiving the further briefing promised in your minute.

JP

MCS

19 April 1982

(2)

I am very concerned
that these people will
have no means of defending
themselves. It really

Prime Minister
The promised summary. In addition to
Judith Hart & Lord Holderness, 3 former
Permanent Secretaries at the ODA, 2 former
Treasury Permanent Secretaries, and the Deputy
Governor at the Bank are among those
criticised.

Ref. A08126

MR WHITMORE

is guilty by
association.

Crown Agents Tribunal

MLS 16/4

In my minute of 2nd April, I said that the Crown Agents Tribunal was due to submit its report to the Home Secretary during the first week in April.

2. The report has now been delivered and 15 numbered copies have been distributed to the Ministers and senior officials who need to see it. The Home Secretary announced in a written PQ on 8th April that he had received the report and that arrangements were being made for it to be published.

3. As the report is so long - about 1100 pages of typescript contained in 3 loose-leaf files - the following information may be helpful to the Prime Minister in her preliminary reading.

4. The Tribunal was appointed on 1st March 1978 having been set up, under the Tribunals of Enquiry (Evidence) Act 1921, to investigate certain aspects of the conduct of the Crown Agents between 1967 and 1974. Its terms of reference were to enquire:

'To what extent there were lapses from accepted standards of commercial or professional conduct or of public administration in relation to the operations of the Crown Agents as financiers on own account in the years 1967-1974 described in the Report of the Committee of Enquiry on the Crown Agents (HC 48 of 1977).'

5. The main issues investigated were:

a. the way in which the Crown Agents came to operate as financiers on own account;



- b. the major transactions which led to the ultimate losses;
- c. internal control over the own account activities;
- d. the financial crisis in 1974; and
- e. the part played by Government Departments and the Bank of England in supervising the Crown Agents' activities and considering their future status and accountability.

6. There are 10 parts to the Report and a guide can be found in paragraph 1.30. Part I is basically a discussion of the history which led to the setting up of the Tribunal; how they interpreted their terms of reference; and the way they carried out their tasks. Part X contains their conclusions and some general comments on the findings on specific issues. But each of the other 8 parts deals with the history of a particular subject or group of subjects and summaries of these are given in paragraph 1.30.

7. As I indicated in my minute of 2nd April, we shall provide briefing for the Prime Minister's initial statement nearer the date of publication when we have studied the report more fully. I am afraid that it will inevitably be seen as a serious criticism of the capacity of the Departments and bodies concerned. There is also much in the report which will cause personal unhappiness, since the Tribunal have found that some of the witnesses lapsed from accepted standards of conduct and that others deserved criticism. These include two former Ministers, Lord Holderness and Dame Judith Hart. Most of those concerned have now retired, but some of them are bound to feel aggrieved, especially if, as seems likely, the press gives adverse publicity to named individuals, and to be angrily critical of a process which gives them no right of self-defence or justification. At the back of Volume III there is an index to individuals mentioned in the report with references to the paragraphs containing criticisms or findings of lapses. For ease of reference the Secretary of the Tribunal has also provided us - but for internal use only - with a separate list of those criticised: a copy of this is attached.

RIA

ROBERT ARMSTRONG

16th April 1982

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(for internal use only)

LAPSES AND CRITICISMS

CROWN AGENTS

SIR CLAUDE HAYES

Serious Lapses

- Expansion of own account activities in 1969 and 1970 - 4.107 - 4.109.
- Involvement in Australian venture - 6.67.
- Involvement in E & C - 7.74.
- Inadequate control over own account activities - 13.80.
- Inadequate reporting to Ministry - 19.16.
- Inadequate control during financial crisis - 20.105.

Lapses

- Failure to replace Mr. Challis or make adequate alternative arrangements - 21.44.
- Inadequate concern about accounts - 23.132

Criticisms

- Approval of initial investment in SIS - 9.27.
- Opposition to constitutional change - 19.20.
- Insufficient care over wording of circular to principals about procurement suspense account - 26.25.

MR. CHALLIS

Serious Lapses

- Expansion of own account activities in 1969 and 1970 - 4.110.
- Involvement in Australian venture - 6.65.
- Involvement in E & C including use of comfort letters - 7.73.
- Involvement in Stern Group - 11.80
- Ineffective control of lending from November 1968 - 12.67
- Inadequate reporting to Senior Crown Agent and Crown Agents and FMI Boards - 13.80.
- Failure to disclose Finvest and comfort letters to E & AD and failure to speed action on 1971 and 1972 accounts - 23.131
- Exchange control offences - 24.86.

Lapses

- Impropriety over Manchester Central Station and Westinghouse sites - 7.73.
- Acceptance of loan from Mr. Finley - 9.09
- Impropriety of FNFC, secret underwriting commission - 10.17.
- Impropriety of Weiss Peck and Greer transaction - 24.87.
- Failure to report on or return expensive gift from Mr. Stern - 27.15.

Criticisms

- Role in start and growth of own account activities up to October 1968 - 4.105.
- Inadequate control over acquisition of UK property - 8.12.
- Approval of initial investment in SIS - 9.25
- Inadequate control of lending up to October 1968 - 12.63.
- Failure to report Australian investment to Bank under voluntary restraint programme - 24.90.
- Inadequate action over Mr. Wheatley's gambling - 29.19.

SIR STEPHEN LUKE

Lapse

Start of own account activities - 4.101

MR. MORRIS

Criticism

Insufficient control over wording of circular to principals about procurement suspense account - 26.25

MR. BARLEY

Criticisms

Start of own account activities and failure to keep Senior Crown Agent properly informed - 4.104

Inadequate control of lending before November 1968 - 12.63.

MR. NEWMAN

Lapse

Failure to inform principals adequately about procurement suspense account - 26.24

MR. SHUTER

Serious lapse

Exchange control offences - 24.88

MR. CLARK

Serious lapse

Inadequate control of lending between November 1968 and February 1972 - 12.64

Criticism

Inadequate action over Mr. Wheatley's gambling - 29.19

MR. HEWINS

Serious lapses

Involvement in Stern Group - 11.78

Inadequate control of lending from March 1972 - 12.65

Inadequate control during financial crisis in 1974, including failure to keep Senior Crown Agent properly informed - 20.104

Exchange control offences - 24.89

Criticisms

Concealment of comfort letters - 7.66

Inadequate action over Mr. Wheatley's gambling - 29.19

MR. OSGOBY

Lapse

Circumstances of and reporting on renewal of loans to Stern companies in connection with sale of site in Epsom - 11.79

Criticisms

Inadequate control of lending from March 1972 - 12.66

Inadequate action over Mr. Wheatley's gambling - 29.19

MR. WHEATLEY

Corruption

Acceptance of Anchor loans - 9.81

Serious lapse

Disregard of lending rules and imprudent lending - 12.53

Criticism

Acceptance of use of car provided by SIS - 9.96

MR. DORRINGTON

Lapse

Carelessness in release of security - 12.55

CROWN AGENTS ASSOCIATES

MR. FINLEY

Corruption

Loans to Mr. Wheatley in 1974 - 9.81

MR. DAVIDSON

Serious Lapse

Acceptance and renewal of Anchor loans - 9.81.

Lapse

Silence over inability to take up SIS rights issue - 9.85.

Criticism

Provision of car for Mr. Wheatley by SIS - 9.96.

MR. MATTHEWS

Lapse

Impropriety of FNFC secret underwriting commission and failure to disclose it - 10.17.

MR. STERN

Lapse

Impropriety of gifts - 27.13

DAVIES, ARNOLD & COOPER

MR. DAVIS

Lapse

Inadequate advice on loan to DAC - 30.22.

Criticism

Acting for both sides - 30.35.

MR. MARCUS

Lapse

Impropriety over attempted registration of charges on eleven properties and Trafalgar site - 30.66.

Criticism

Failure to notice and report to Crown Agents on increase in shortfall in security for loan to Murrayfield - 30.44.

MR. CROSSICK

Lapse

Impropriety over attempted registration of charges on eleven properties and Trafalgar site - 30.67.

MINISTERS AND MINISTRY OFFICIALS

LORD HOLDERNESS

Lapse

Overall performance during period July 1972 to February 1974 - 19.47.

DAME JUDITH HART

Criticism

Failure to ask right questions about Crown Agents after 13 May 1974 - 20.115

SIR GEOFFREY WILSON

Lapse

Failure to obtain adequate picture of Crown Agents' own account activities, and misconceived advice to Minister in December 1970 - 19.26.

SIR MICHAEL WALKER

Lapse

Overall performance during period July 1972 to October 1973 - 19.49.

SIR RICHARD KING

Lapses

Inadequate supervision of evidence to Stevenson Committee - 19.32.

Failure to investigate Crown Agents' financial position after 13 May 1974 - 20.116.

Criticism

Failure to bring constitutional discussions to a conclusion between November 1973 and February 1974 - 19.50.

MR. SMITH

Criticism

Inadequate evidence to Stevenson Committee - 19.33

MR. PEARSON

Lapse

Failure to recommend investigation into Crown Agents' finances after 13 May 1974 - 20.117.

TREASURY OFFICIALS

SIR DEREK MITCHELL

Criticism

Failure to appreciate need for investigation of Crown Agents' finances after 13 May 1974 and to ensure that one was undertaken - 20.125

SIR DOUGLAS HENLEY

Criticism

Failure to formulate Treasury views and put these to Stevenson Committee - 19.57

MR. BARRATT

Criticism

Failure to appreciate need for investigation of Crown Agents' finances after 13 May 1974 and to ensure that one was undertaken - 20.126

MRS. BOOTHROYD

Lapse

Overall performance from July 1972 onwards - 19.61 and 20.123

BANK OF ENGLAND

SIR JASPER HOLLON

Lapse

Failure to warn Treasury promptly after 9 April 1974 of threat to Crown Agents' survival - 20.129

Criticisms

Inadequate supervision of Bank's evidence to Stevenson Committee - 19.74.

Failure to advise Government to obtain information necessary to determine whether Crown Agents could meet Bank's requirements for banking business - 19.82

Encouragement of support lending by Crown Agents in late summer 1974 without ensuring Government was aware of it - 20.133

MR. FFORDE

Criticisms

Inadequate supervision of Bank's evidence to Stevenson Committee - 19.74.

Failure to advise Government to obtain information necessary to determine whether Crown Agents could meet Bank's requirements for banking business - 19.82

MR. PAGE

Lapse

Inadequate evidence to Stevenson Committee - 19.73

Criticism

Failure to advise Government to obtain information necessary to determine whether Crown Agents could meet Bank's requirements for banking business - 19.82

E & AD OFFICIALS

MR. BURCH
MR. FRANCIS

Criticism

Failure to make proper enquiries about Australian commitments - 23.58