

Ref: A08486



CONFIDENTIAL AND PERSONAL

MR. WHITMORE

KWJ  
2W

Falkland Islands Inquiry

As instructed in your minute of 13th May I have prepared and am circulating a memorandum as a basis for a discussion at an ad hoc meeting.

2. In preparing the memorandum I have taken account of some of the points made in the Attorney General's minute of 30th April; but I have not referred to that minute because it was not copied to anyone else than the Prime Minister. Moreover in a number of respects the consensus of views differs from that expressed by the Attorney General.

RTA

Robert Armstrong

20th May 1982

CONFIDENTIAL AND PERSONAL

Ref: A08485



Prime Minister.  
We are due to discuss  
this at a meeting to be held  
next Friday.

PRIME MINISTER

RM  
21.5.

Falkland Islands Inquiry

The Foreign and Commonwealth Secretary sent you a minute on 5th May, proposing that Ministers should take an early decision in principle on the form and composition of an inquiry into the events leading up to the Argentine invasion of the Falkland Islands. The Lord Chancellor, the Secretary of State for Defence and the Lord Privy Seal commented in subsequent minutes. You asked me to draw these comments together into a memorandum as a basis for discussion.

2. I attach such a memorandum herewith. I am sending copies of this minute and the memorandum to the Home Secretary, the Lord Chancellor, the Foreign and Commonwealth Secretary, the Secretary of State for Defence, the Lord President, the Attorney General and the Chief Whip, with whom I understand you propose in the first instance to discuss this subject.

RTA

Robert Armstrong

20th May 1982

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FALKLAND ISLANDS INQUIRY

Memorandum by the Secretary of the Cabinet

On 8 April 1982 the Prime Minister answered a Parliamentary Question by Mr. Grimond in the following terms:

"Q. 34 MR. GRIMOND asked the Prime Minister if she will order an inquiry into the conduct of the Foreign and Commonwealth Office in recent years and the sufficiency of the advice and information supplied to Ministers.

A. THE PRIME MINISTER: I do not think that so wide an inquiry would be appropriate. I believe, however, that there should be a review of the way in which the Government Departments concerned discharged their responsibilities in the period leading up to the Argentine invasion of the Falkland Islands. I am considering the form which this review might take, and I will make a statement to the House in due course."

(Hansard, Column 416, 8 April 1982)

2. This memorandum seeks to collate the views expressed by the Foreign and Commonwealth Secretary in his minute of 5 May, and by the Lord Chancellor, the Secretary of State for Defence and the Lord Privy Seal in their minutes commenting on the Foreign and Commonwealth Secretary's minute; and makes proposals as to how the review should be carried out, under six headings:-

- a. Timing
- b. Form of Inquiry
- c. Composition
- d. Terms of Reference
- e. Procedures for taking evidence
- f. Publication of findings

TIMING

3. There is general agreement that the inquiry must be quick and thorough if it is to satisfy Parliamentary and public opinion. This suggests that the team chosen should be a small team, consisting of people with sufficient spare time to devote a considerable amount of time to the inquiry over a relatively short period.

## FORM OF INQUIRY

4. The possibilities seem to be:-

i. Tribunal of Inquiry under the 1921 Act

There is no support for this. Any inquiry of that kind would be a long drawn out affair, with elaborate procedures for formal taking of evidence and for legal representation. There will be no need of the statutory powers to compel evidence, since all the evidence will come from the Government. The inquiry will have to be able to take evidence in private, because much of its material will be sensitive. A tribunal of inquiry might be inevitable, despite all its disadvantages, if the primary purpose of the inquiry was to sit in judgment on the conduct of individuals; but its function will be to consider possible failures of institutions and systems.

ii. Select Committee

There are insuperable objections on the grounds of the sensitivity of much of the evidence.

iii. Ad hoc Committee of Privy Counsellors

There is general agreement that a small Committee of Privy Counsellors would be the most appropriate form for the inquiry to take, and the general view is that it should consist of three people (two members in addition to the Chairman). It is generally agreed that the two members should be ex-Ministers, one Conservative, one Labour. The Chairman might be a judge, a retired senior civil servant, or a distinguished academic. Lords of Appeal in Ordinary and Lords Justices of Appeal are all members of the Privy Council. The Lord Chancellor has considerable reservations about including a judge in the committee, on the grounds that the political sensitivity of the inquiry could lead to embarrassment if a judge took part. There are only two retired senior civil servants not associated with the Foreign and Commonwealth Office who are Privy Counsellors: Lord Franks (now aged 77) and Lord Trend. Lord Trend, as Secretary of the Cabinet, had the responsibilities for security and intelligence matters associated with that post. A number of distinguished academics suggest themselves; but any of them would have to be appointed to the Privy Council.

## COMPOSITION

5. A number of names have been mentioned. The full list is as follows:

Former Conservative Ministers	Lord Carr Lord Jellicoe Sir Derek Walker-Smith Lord Windlesham
Former Labour Ministers	Lord Cledwyn of Penrhos Lord Shackleton Lord Shepherd Mr Sam Silkin
Senior Judges	Lord Bridge Lord Justice Griffiths
Senior Retired Law Lord	Lord Wilberforce
Distinguished Academics (None are Privy Counsellors, but any could be so appointed)	Lord Blake Professor Hedley Bull Lord Dacre of Glanton (Hugh Trevor-Roper) Professor S E Finer Professor Michael Howard Mr. Michael McCrum
Senior Retired Civil Servants	Lord Franks Lord Trend
Others	Lord Chalfont Lord Charteris of Amisfield Lord O'Brien of Lothbury Mr. Gordon Richardson

6. The inquiry would need a Secretary who might be a civil servant from one of the Departments not involved. It might also be usefully assisted by Mr D R Nicoll who has already completed a thorough investigation of the role of the intelligence community, including the Joint Intelligence Committee, into the affair.

## TERMS OF REFERENCE

7. It would be hard to improve on the words used by the Prime Minister on 8 April. Clearly the review should cover the performance of all the Departments and agencies of Government concerned, for which purpose it will need full access to all relevant documents, including highly classified intelligence material.

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8. The question also arises how far back in time the inquiry should delve in order to place the Government's reactions to events in their proper context. In so far as previous crises may have conditioned the present Government's response, it would seem essential that the inquiry should go back at least as far as the Shackleton incident and withdrawal of Ambassadors in 1976 and the naval deployments in November and December of the following year. The Foreign and Commonwealth Secretary believes that the terms of reference should not exclude examination of evidence well prior to that. It seems sensible to leave to the inquiry the decision how far and in what detail to go into the historical background, and to adopt terms of reference which leave it that freedom.

9. Accordingly I suggest:-

"To inquire into the way in which the Government Departments concerned discharged their responsibilities in the period leading up to the Argentine invasion of the Falkland Islands; and to report."

PROCEDURES FOR TAKING EVIDENCE


10. Given the sensitivity of much of the material, the evidence, both written and oral, will need to be taken in private. I suggest that it is neither necessary nor desirable to have inquisitorial procedures of a kind associated with a formal Tribunal, involving, as they would, the use of Counsel and legal representation.

PUBLICATION OF FINDINGS

11. The groundrules for publication should be made clear at the outset. The general view is that, in order to carry conviction with Parliament and public opinion, as much as possible of the inquiry's conclusions should be published. I suggest that the inquiry should be asked to prepare a report in a form which could be published, but to avoid including information in it whose publication would be detrimental to security or to international relations. This implies that, if the inquiry were to lead to conclusions or recommendations which could not be published, they would have to be submitted in a confidential and unpublished annex.

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12. I attach a draft of a statement which might be made by the Prime Minister, once the members of the inquiry had been identified and nominated.

 ROBERT ARMSTRONG

Cabinet Office

May 1982

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To ask the Prime Minister, whether she will now make a statement on the form, composition and terms of reference of an inquiry into the events leading up to the invasion of the Falkland Islands.

The Government has decided that this inquiry should be referred to a Committee of Privy Counsellors, who will be invited to report to me. I am glad to be able to tell the House that the following people have accepted my invitation to undertake this inquiry:

A	B	(Chairman)
C	D	
E	F	

The Queen has graciously approved my recommendation that  
A B should be sworn a member of the Privy Council.

The terms of reference of the inquiry will be:

"To inquire into the way in which the Government Departments concerned discharged their responsibilities in the period leading up to the Argentine invasion of the Falkland Islands; and to report."

These terms of reference will allow the Committee to look into the historical background to the events in question to whatever extent they consider appropriate for the purpose of preparing their findings.

The Government hopes that the Committee's inquiry will be both quick and thorough. Accordingly the Government Departments concerned will submit to the Committee with all reasonable speed all the evidence, written or oral, that they require. Much of the evidence will be classified and thus unsuitable for publication. The evidence will therefore have to be taken in private and to remain unpublished.

The Committee will be asked to prepare their report in a form in which it can be presented to Parliament and published. This will mean that they will not be able to include in it any material whose publication would be prejudicial to national security or international



relations. If any of their findings or conclusions are of such a nature as may require them not to be published on that account, such findings and conclusions will have to be submitted in a confidential and unpublished annex to the report.