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10 DOWNING STREET

From the Principal Private Secretary

30 June 1982

See John,

FALKLAND ISLANDS INQUIRY

The Prime Minister and the Home Secretary met Dr David Owen in the Prime Minister's room in the House of Commons yesterday afternoon to discuss the Falkland Islands inquiry about which she had written to him on 21 June.

The Prime Minister thanked Dr Owen for his letter of 28 June. She had seen Mr Foot and Mr Healey the previous Friday. She had originally had in mind a committee of inquiry of three members, since it was likely that a small group would work more quickly than a larger one. But Mr Foot had argued strongly for two Labour representatives, and that meant that there would have to be two Conservative members too. He also thought that the Labour members should be active politicians, and he would want at least one of them to be a Member of the House of Commons and, possibly, to come from his front bench. This put her in some difficulty, since she plainly could not appoint a Minister to the committee and the field of Conservative ex-Cabinet Ministers in the Commons was narrow. She also saw some advantage in having the House of Lords represented on the committee. If there were to be two Conservative members and two Labour members - and she now accepted that there would have to be -, it would be all the more necessary for the chairman to be and to be seen publicly to be politically independent. One possibility was to appoint a judge as chairman, but there were strong arguments against involving a member of the judiciary in a matter which was not only non-justiciable but also highly political. She thought that the best choice by far would be Lord Franks. He was neither Conservative nor Labour but took the Liberal whip. She understood that he was still fit, even though he was now seventy-seven. He had a very wide range of appropriate experience and had the necessary public standing. Mr Foot would be happy with Lord Franks as chairman.

The Prime Minister went on to say that she had raised in her letter the possibility of including an historian in the membership of the committee, and one name she had had in mind was that of Lord Dacre. Mr Healey had suggested Professor Michael Howard. Finally, the role of Civil Servants in the events leading to the Argentinian invasion of the Falkland Islands had come under fire and was something which the inquiry would have

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to investigate. For this reason she believed that there would be advantage in having a retired Civil Servant on the committee, and she was minded to appoint Sir Patrick Nairne in this capacity. He had the right background, although he had not been directly associated with the Falkland Islands for many years. He was completely acceptable to Mr Foot and Mr Healey, who had welcomed the suggestion that he should be a member of the committee.

Dr Owen said that the SDP agreed with the Government that the inquiry should deal not just with the period immediately before the Argentinian invasion but should also go back in time, though it was important that this should not delay the completion of the review. Above all, it was essential that the inquiry should be seen to be an independent one. The membership of the committee would plainly be an important factor in establishing the independence of the inquiry. He was very happy with the suggestion that the chairman should be Lord Franks. Moreover, he accepted that since Lord Franks was a declared Liberal, there could not be, in addition, an SDP representative on the committee. He had already told Mr David Steel that if he had an outstanding Liberal candidate to serve on the inquiry, he would not press for an SDP representative. They had discussed the possibility of suggesting the name of Mr Jo Grimond, but they were concerned that he had never served in government, and when they had raised the matter with Mr Grimond himself, he had volunteered precisely the same objection to his appointment. Other possible names were Mr William Rodgers and Lord Mayhew. Mr Rodgers had a particularly suitable background for the task but he might not be able to spare enough time. If it proved impossible to appoint Lord Franks as chairman, he hoped that further thought would be given to the inclusion of Mr Rodgers or another SDP representative as a member of the committee. As regards the Prime Minister's suggestion that there should be an ex-Civil Servant on the committee, he thought that this was a good idea and he was very content that Sir Patrick Nairne should be approached. He was inclined to think that a committee made up of Lord Franks, Sir Patrick Nairne, two Conservative members and two Labour members would be enough and he doubted whether there was any need to add an historian.

Dr Owen said that the only other question he wished to raise was how the inquiry should be established. The SDP believed that the public would see it as a national, independent inquiry if it was set up by the House of Commons rather than by the Government. Ministers must recognise that the committee would be investigating the actions of the present and previous governments, and it would look better if they were not seen to be appointing a body which was going to look into their own conduct. There were precedents for Parliament establishing inquiries of this kind: one example was the investigation into the Dardanelles campaign which had been established by an Act of Parliament. He acknowledged that an inquiry set up by Parliament would give rise to problems over access to intelligence and other sensitive material and over the possible inclusion in the report of the inquiry of passages dealing with such matters. He accepted that the Government could

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not relinquish control in this area, but he did not think that they would need to do so if the inquiry took the form of a committee of Privy Counsellors set up by resolution of the House of Commons. He did not see any difficulty in getting such a resolution through the House, provided the Prime Minister had obtained in her consultations with the leaders of the opposition parties their broad agreement to what the Government was proposing to do. If she proceeded in this way, it would be seen to be in accord with her desire to make the inquiry as independent and as open as possible and it would help to reduce the effectiveness of criticisms which the left wing of the Labour Party were likely to level against the review.

The Prime Minister said that she regarded it as essential that the committee should have access to all the papers that it wished to see. This applied as much to the papers of past governments as to those of the present administration, and she would be in touch not only with Mr Foot but also with Sir Harold Wilson, Mr Heath and Mr Callaghan about this. A central feature of the committee's work would be to consider what intelligence about Argentinian plans and capabilities was available and she did not believe that the committee would be able to discharge its remit in this area as fully as was desirable if it had been set up by Parliament and not by the Government. She repeated that she wanted the committee to be able to see all the papers and to question all the witnesses it thought necessary. It was also likely that there would be parts of the committee's report which it would not be in the interests of national security to publish. Only the Government could be the judge of what needed to be omitted. But on this point she proposed to proceed as she had done with the recent report from the Security Commission and to seek the agreement of the chairman of the committee to the omission of passages that could be damaging to security. The Government could not forgo this responsibility, but this would not in any way impair the independence of the committee since its members would have had access to all the information they wanted and they would know what the Government was deleting from their report.

The Home Secretary said that there were other objections to setting up the committee by a resolution of both Houses. Such a resolution would be debatable, and this would give the House of Commons an opportunity to try to anticipate the work of the inquiry. There would also be a risk that individual members of the committee would come under attack in the course of the debate, and this might undermine the inquiry before it had even begun.

Dr Owen said that the resolution need not include the names of members of the committee. They could be announced later. But he saw the difficulties in the way of proceeding as he had suggested and he was not pressing his proposal. He hoped, nonetheless, that the Prime Minister would think further about it.

The Prime Minister agreed to do so. She was, however, clear that however the committee was set up, it had to report to her

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and not to the House. As regards the membership of the committee, if Lord Franks was unable to take the chair, she might wish to return to the idea of appointing a judge. She would also in that event give further consideration to the possibility of having an SDP member. She agreed that an historian was not essential to the inquiry. She had not yet approached any of the people who had been mentioned as possible members of the committee. She wanted to conclude her consultations with the opposition parties first.

I am sending copies of this letter to Michael Collon (Lord Chancellor's Office), Brian Fall (Foreign and Commonwealth Office), David Omand (Ministry of Defence), David Heyhoe (Lord President's Office), Jim Buckley (Lord Privy Seal's Office), Keith Long (Chancellor of the Duchy of Lancaster's Office), Jim Nursaw (Law Officers' Department), Murdo Maclean (Chief Whip's Office) and David Wright (Cabinet Office).

Yours,

Miss Whitman.

John Halliday Esq.,
Home Office.

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