

PRIME MINISTER

ROSKILL

The Home Secretary would like to announce before the recess the conclusions reached on the Roskill Report.

*see Boys Smith to Mac Naughton 22/7/86*  
The draft answer below is in line with the conclusions reached by H Committee. However, paragraph 6 is compelled to say that no conclusion has been reached on the question of a unified organisation responsible for the investigation and prosecution of fraud. As you know, Ministers have decided in favour of a Serious Fraud Office. The difficulty is that it has not yet proved possible to reach agreement with the police.

The Home Secretary wants to go ahead with the statement even though there is this major gap. The Lord President's view is that if this is what the Home Secretary wants to do then he should be allowed to do it. The Chancellor and the Chief Secretary, however, feel that the response will look very thin if there is no conclusion on the unified organisation, particularly when set alongside the Government's rejection of the recommendation for a fraud tribunal for serious offences. I understand that Mr. Channon and the Attorney General share this concern, though we have not received their letters.

The Chancellor and the Chief Secretary privately also fear that if the announcement is made on Friday, the Home Secretary will lose interest in pushing the police towards agreement on the Serious Fraud Office.

Do you want the statement to go ahead or delay until the autumn?

DAVID NORGROVE  
23 July 1986

JALAYW

*DNL*

*This really is an interim report. - the first point is a non-point and some of the other have been announced previously. I think it is this - but if we have to wait to announce these*

*Conclusions, let them go ahead now*

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HOME OFFICE  
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22 July 1986

Dear Joan

ROSKILL

The Home Secretary is grateful for the responses received so far to his letter of 17 July about Roskill. He is more sanguine than some of his colleagues about the likelihood that a Serious Fraud Office could work satisfactorily with the police on the basis he proposed. As he said in his letter, the police response to the SFO concept is positive in tone, and they are ready to co-operate fully with the new office. But he understands the misgivings expressed by the Attorney General and others, and would like to reflect on them further.

In the meantime, he is very anxious that Parliament should receive an account of the Government's overall response to Roskill before the Recess. It is now seven months since the report was published, and, even with no firm conclusion yet on the SFO, the response is substantial. I enclose a revised draft of the proposed Parliamentary reply, giving much less prominence to the question of unified arrangements for investigation and prosecution. The Home Secretary very much hopes colleagues will be ready to agree to an announcement on these lines on Friday. I should be grateful if comments (by telephone if more convenient) could reach me by noon on 24 July.

Copies of this letter and its enclosure go to the Private Secretaries to the other members of H, to the Secretary of State for Trade & Industry, to the Attorney General, and to Michael Stark (Cabinet Office)

Yours ever  
William Fitzell

for S W BOYS SMITH

Miss Joan MacNaughton

**OR.**

ROSKILL REPORT: ARRANGED QUESTION

To ask the Secretary of State for the Home Department what conclusions have been reached on the Report of the Fraud Trials Committee.

**DRAFT REPLY**

The Report of the Fraud Trials Committee chaired by Lord Roskill was published in January. Since then we have been considering it actively, with the benefit of debates in both Houses, and comments on the White Paper on Criminal Justice. We have decided to take action on a wide range of the Report's recommendations, and shall be bringing before the House proposals to that end in the forthcoming Criminal Justice Bill.

2. First, we propose to remove the restrictions imposed by recent case law on the use of the charge of conspiracy to defraud. The Roskill Report identified these as a source of concern, because in some cases they prevented the prosecution of the charges which most fully reflected the seriousness of the fraud and carried adequate maximum penalties. I therefore referred the matter to the Criminal Law Revision Committee for urgent advice. Their report, which will be published shortly, recommends the restoration of the full ambit of the common law charge, and I propose to accept that recommendation.

3. Second, in line with recommendations of the Roskill Report, we shall be proposing changes in the law to make it easier for a wide range of documents to be admitted in evidence, and to provide for a procedure under which evidence can be taken from witnesses resident abroad. These changes will apply in all criminal proceedings, not just fraud.

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4. Third, we shall streamline court procedures in fraud cases. We accept the Roskill Committee's argument that in cases where serious or complex charges of fraud are pending, there are good grounds for the Crown Court becoming seized of the matter as early as possible. We shall therefore be coming forward with a procedure under which, as Roskill recommended, the prosecutor would be able to issue a certificate transferring such cases to the Crown Court without the need for committal proceedings. The defendant would have the right to apply to a Crown Court judge for discharge on the ground that there was no case to answer. We shall also propose that in suitable fraud cases the judge should be able to order that there should be preparatory hearings, at which the matters agreed and those at issue could be identified and clarified before the jury was called in. These hearings would take broadly the form envisaged by the Committee. To help in clarifying the issues, the defendant would be obliged to disclose in outline the nature of his case, but to prevent the disclosed outline from becoming the focus of the trial it would be made available only to the prosecutor and the judge, as was suggested in a note of dissent to the report.

5. Fourth, as I announced in reply to a Private Notice Question from the rt hon Member for Manchester Gorton on 9 July, we accept the Committee's recommendation that peremptory challenge of jurors should be abolished.

6. Finally, as I indicated during the debate on 13 February, we have accepted the Committee's recommendation that the need for a unified organisation responsible for the investigation and prosecution of fraud should be examined. The study by the Chief Secretary has not yet been completed, but we shall announce our conclusions as soon as possible.

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7. The readier admissibility of documents, including charts and other visual aids, and the institution of preparatory hearings at which the issues can be clarified and simplified should do much to tackle the difficulties which jurors sometimes encounter in understanding the evidence in complex fraud cases. I have not closed my mind to the idea of a special tribunal to replace the jury in such cases, and share the concern which led the Committee to recommend change on these lines. But I should prefer to let the other measures designed to ease the task of the juror take their course before contemplating so radical a change.

8. In this and other respects we shall want to evaluate very carefully the effects of the changes made in the light of the Roskill report. But I am not persuaded that the creation of a new body outside Government with a continuing advisory role would bring benefits which would justify its costs. We therefore do not propose to pursue the Committee's idea of a standing Fraud Commission.

9. If unchecked, fraud can do great damage not only to its victims but to confidence in our commercial and financial institutions. The Roskill Committee performed a considerable service in highlighting weaknesses in the investigation and prosecution of fraud, and the arrangements for bringing cases to trial. Many of its recommendations were directed at practitioners outside Government, and bore on professional attitudes and practices. But our acceptance of the great majority of those which do fall to Government, and our commitment to legislation, are evidence of our determination to take stern action against fraud.