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LONRHO V SHELL AND BP ARBITRATION

You will remember that in January I signed a certificate claiming public interest immunity for some of the Bingham documents supplied by BP and Shell. You agreed that this was the right course. Subsequently, the certificate was upheld in the High Court and (on appeal by Lonrho) unanimously in the Court of Appeal and the House of Lords.

On 8 September, Lonrho issued a subpoena requesting Sir Thomas Bingham to attend the arbitration proceedings to give evidence in person, no doubt in the hope of getting by that route evidence of the kind for which we successfully claimed public interest immunity. It would be inconsistent with that claim for us now to acquiesce in Sir T Bingham being called to give evidence on the same matters; I am advised that there are sound legal grounds for resisting the subpoena; and, with the concurrence of the Attorney General, I have decided that we should resist the subpoena. Action had to be taken quickly, and Treasury Solicitors have therefore taken out a summons to set aside the subpoena.

The summons fixes a hearing for 22 September. It will be ~~be~~ before a Judge in Chambers and will take place in private. It is unlikely that the Judge will consider the issues raised to be sufficiently important as a matter of law for his ruling to be given in open court; but an appeal, if one were to be made, would be heard in public. This would provide a further opportunity for press or

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Parliamentary criticism, but I am encouraged by the earlier proceedings on public interest immunity to think that we should find ourselves on firm ground in defending an important principle.

I am copying this minute to the Attorney General, the Leader of the House of Commons and the Secretary of State for Energy.

I.H.G.

22 September 1980

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