

Ref. A086/704

MR WICKS

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Defence Select Committee

I promised to submit further advice on how I should respond to the Defence Committee's questionnaire.

2. It is tempting to suggest that we should stand on the Prime Minister's statements and on the evidence I gave on 5 February, and argue that most of these supplementary and additional questions have even less than their original questions to do with the "defence implications of the Westland affair" and "the way in which defence interests are taken into account in the process of Government decision-taking". But that would no doubt be to play into the hands of Dr Gilbert and his allies on the Committee, and would lead to a row which would revive political and media interest in the whole affair, with newly-voiced suspicions of a conspiracy and cover-up.

3. On the other hand I should like to stick to two points:

a. my inquiry was conducted in confidence, and the report was submitted in confidence, and I intend to preserve that confidence;

b. I do not wish to name or identify individual officials, particularly (but not only) those who gave evidence to my inquiry in confidence, and whom it would place in "double jeopardy" to re-examine or re-expose.

4. On balance therefore I am inclined to answer the Committee's questions by means of a memorandum, which will answer them so far as I can do within the two constraints

described in pargraph 3, and on which I can stand in dealing  
--- with oral questions. I attach a draft of such a memorandum,  
which I am clearing with all concerned.

5. I am sending copies of this minute and the draft memorandum to the Private Secretaries to the Lord President, the Lord Privy Seal, the Secretary of State for Defence, the Secretary of State for Trade and Industry, the Attorney General and the Chief Whip.

REA

ROBERT ARMSTRONG

3 March 1986

Draft of 3 March 1986

SELECT COMMITTEE ON DEFENCE

Memorandum by Sir Robert Armstrong

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The Clerk to the Committee has sent me on 28 February a list of supplementary and additional questions which the Committee wish to put to me on 5 March 1986, arising out of the evidence I gave on 5 February 1986.

2. The Committee will be aware that the investigations which I made for the purposes of my inquiry were conducted in confidence, and that my report was submitted to the Prime Minister in confidence, and copied only to the Attorney General. The Committee will be further aware that I prefer not to name or identify individual officials on the public record, for reasons which I made clear to the Committee when I gave evidence on 5 February.

3. I should like to be as helpful as possible, subject to these considerations, in answering the questions in the list which the Clerk sent me on 28 February. As the Committee has asked for a good deal of detailed information, I think I can best respond by submitting this memorandum. In preparing the memorandum I have drawn not only on the findings of my inquiry and the evidence I received in the course of it but on other information and subsequent inquiries as necessary.

4. On the afternoon of 3 January 1986, a representative of Westland telephoned an official of the Department of Trade and Industry, to ask for the views of the Department on Mr Heseltine's letter of that day to Mr Horne; the company's representative said that Mr Heseltine's letter appeared to go further than the Prime Minister's letter of 1 January to Sir John Cuckney in describing the views of European Governments and companies, and that this placed them in some difficulty in relation to the documents being prepared to go to shareholders on 6 January. The Department of Trade and Industry said that the Prime Minister's letter of 1 January to Sir John Cuckney had been carefully drafted on the basis of

reports available to the Government about views of European Governments and companies, and that that Department knew of no new reports, though it was possible that the Ministry of Defence had received additional information or knew that such information was available.

5. Nothing was said during the course of those conversations about the need to have any correction to Mr Heseltine's letter in the public domain, but Sir John Cuckney told me subsequently, after I had completed my inquiry, that it had been useful to the board of Westland that the fact that it was thought that Mr Heseltine's letter of 3 January contained material inaccuracies became public knowledge before the company's press conference on 6 January.

6. The Solicitor General's preliminary and provisional view of Mr Heseltine's letter of 3 January was communicated to an official of the Prime Minister's office by an official of the Department of Trade and Industry during the evening of 4 January, probably about 7.00 pm. At that stage there was no question of anything being said to Westland plc about the Solicitor General's

preliminary view or the possibility that he might write to Mr Heseltine. Neither officials in the Prime Minister's office nor officials in the Department of Trade and Industry were aware that the Solicitor General had discussed Mr Heseltine's letter of 3 January with Mr Heseltine on the night of 4 January. [The only officials who knew that the Solicitor General was being asked to consider Mr Heseltine's letter were one official in the Prime Minister's office <sup>one official in the DTI</sup> and one official in the Law Officers' Department through whom the request was conveyed.

L As far as I am aware?

This needs insertion since a DTI official knew as is implied by the first sentence of the para.

✓ mb

7. The Prime Minister told the House of Commons in her statement on 23 January (col 454) of the considerations which were in the minds of officials in her office when they saw the copy of the Solicitor General's letter on 6 January.

8. There was no evidence from my inquiry which suggested that Mr Brittan consulted the Prime Minister, or sought her authority, before authorising the disclosure of the Solicitor General's letter, and on the basis of other information available to me as well as this I do not believe that he did. [There is no evidence that

either in the Prime Minister's office or in the Department of Trade and Industry or between the two there was on the morning of 6 January any discussion either of the possibility of the Solicitor General writing to Mr Heseltine or of what such a letter might say, before the copies of the Solicitor General's letter arrived.]

9. All the Department of Trade and Industry officials concerned first saw the Solicitor General's letter in the Secretary of State's Private Office at about 1.00 pm or shortly after on 6 January. Before the Private Secretary at the Department of Trade and Industry spoke to his Secretary of State, he tried to speak to the Prime Minister's office, to find out whether they had seen their copy of the Solicitor General's letter and what their reaction was. As the line was engaged, he spoke first to his Secretary of State. The Secretary of State made it clear that he was giving authority for the disclosure subject to the agreement of No 10; he has agreed that he did not use those words. It is impossible to say exactly when that call took place: somewhere between 1.15 and 1.30 pm (there is no significance in the apparent discrepancy between the Prime Minister's

This will need amendment to reflect that there was a telephone conversation between Charles and the Law Officers' Dept to tell Charles the letter was on its way. ✓  
mf

"about 1.30 pm" and my "quarter past one, twenty past one, something around that time"). The Prime Minister's office was consulted about the method of disclosure; they did not give instructions or advice, but they agreed that the only practicable way of getting the fact that the Solicitor General had written and the gist of what he had said in his letter into the public domain within the time constraint of the 4.00 pm deadline was the method that was eventually adopted. The evidence given to my inquiry does not suggest that any other method of disclosure was considered. As I told the Committee, some ~~(but not all)~~ of the officials concerned told me that they had had reservations about disclosing a letter from the Solicitor General, though the evidence to my inquiry does not suggest that anyone voiced these reservations at the time. The disclosure was made unattributably because it was thought preferable that it should not be attributed to the Department of Trade and Industry.

of gratuitous and  
will prompt  
questions "Who?"  
✓  
ms

10. It did not occur to anyone involved in the preparation of the DTI press statement issued on 6 January that that statement might be used as a vehicle for getting into the public domain the fact



Nigel - I can't  
remember anything  
or found anything  
re: [unclear] - please check  
with records.  
Smith Roberts -  
re: [unclear] -  
more accurate -  
The book is  
that when  
the [unclear] records  
which [unclear]  
re: [unclear] can't  
remember and  
must not  
give a  
specious  
summary.

This is better?

During the course  
of a meeting between  
the Prime Minister  
and senior members  
of her staff on  
7 January, at  
which a number  
of current items  
of business were  
discussed,

that it was thought that there might be material inaccuracies in Mr Heseltine's letter of 3 January. No official above Grade 3 (Under Secretary) was involved in the discussions about the disclosure, either in the Prime Minister's office or in the Department of Trade and Industry, and no one outside these two offices.

11. ~~It is not possible to say exactly who was present when the Prime Minister discussed the matter of the disclosure with her officials on 7 January, as the discussion was not recorded. The discussion took place in the course of an informal gathering; this was one of a considerable number of matters discussed, and it was discussed fairly briefly.~~ [The Prime Minister was told that there had been contacts between her office and the Department of Trade and Industry, but not in any detail. [I do not know that there was any further discussion on this matter with the Prime Minister before she authorised the institution of my inquiry: as I told the Committee, it was already clear that there was likely to be an inquiry.] I became aware of the details of the contacts when I took evidence. The Prime Minister first became aware of the details of those contacts when she

I did discuss it with you on 8 January - a note on our file refers - so omit this sentence.

omit  
omit  
omit

read my report. So far as I am aware, the Solicitor General first became aware of the circumstances of the disclosure [when he heard the Prime Minister's statement of 23 January] [when he saw the Attorney General's copy of my report on 22 January].

12. The request to me to consider whether an inquiry should be instituted came from the Attorney General. The Solicitor General made no separate request. There was never any doubt in my mind, or in the minds of the Prime Minister or the Attorney General, that I was to inquire into the circumstances in which extracts from the Solicitor General's letter of 6 January to Mr Heseltine came into the public domain. When I had completed my inquiries of officials I was able to complete a clear account of these circumstances, and did not consider that I should learn any more of significance by interviewing officials from any other Department. As I have told the Committee, I was ready to interview Mr Brittan but I did not think it right to do so without the Prime Minister's agreement. In the event I was present when the Prime Minister discussed the findings of my

report with Mr Brittan on 22 January. Nothing in that discussion caused me to change, or wish that I could have changed, my report.

13. As I have told the Committee, it is customary to seek the Prime Minister's agreement before Ministers are asked to give information to a leak inquiry. I could not say in what proportion of leak inquiries in the last ten years Ministers have been asked to give information, but it is a perfectly usual occurrence and there is no inhibition in seeking the Prime Minister's agreement when it is appropriate to ask Ministers to give information.

14. My provisional view is that there is nothing in these events which would lead me to amend my note of 25 February 1985 on the duties and responsibilities of civil servants in relation to Ministers, though I wish that time and circumstance had allowed for the reference to the Permanent Secretary at the Department of Trade and Industry which some officials would have liked to be able to make, before action was taken. But I shall consider the matter afresh in the light of your

Committee's report, and of the forthcoming report of the Select Committee on the Treasury and the Civil Service on their inquiry into the duties and responsibilities of civil servants in relation to Ministers.





10 DOWNING STREET

Nigel

message from RTA's office:

Defence Select Committee

Sir B. Hayes wrote to  
RTA 25/2 with  
draft letter to clerk  
of committee & 2  
memorandums.

RTA is content with  
this.

Julie

3.3.86

file

PRIME MINISTER

cc Mr Ingham  
Mr Powell  
Mr Flesher

DEFENCE SELECT COMMITTEE

I attach at Flag A a draft of the memorandum which Sir Robert Armstrong proposes to submit tomorrow evening to the Defence Select Committee in response to their questionnaire (at Flag B). The draft is now the subject of extensive clearance within Whitehall. At Flag C are further questions which the committee have submitted tonight.

Subject to the marginal comments on the draft (on which see more below), I think Robert's text is a useful way of handling the committee. It does, however, inevitably not deal with many of their questions. But it will be easier for him to fend them off if he has already submitted this piece of paper.

Could I particularly draw your attention to two points in paragraph 11 on page 7.

- (i) You will see there an alternative draft for the first two sentences concerning our discussion with you on 7 January, the day after the disclosure of the Solicitor General's letter. Our recollections are inevitably hazy, but we believe that the words suggested are an accurate description of what took place.
- (ii) The sentence in square brackets beginning "I do not know that ....." ought to be omitted. There is a note on the file which indicates that I had some discussion with you on 8 January about a leak inquiry. I had told you that during the day that Mr Brittan was not opposed to a leak inquiry; and I minuted you in the evening to say that:

"Later information is that Mr Brittan does not want a

leak inquiry. Robert is thinking of a way through on the lines we discussed and will advise."

I should be glad to know whether you have any comments on the draft, and especially my manuscript changes. The draft is likely to be revised further tomorrow in the light of recipients' comments.

N.L. Wicks

3 March 1986