

cc Mr. Ingham
Mr. Powell
Mr. Flesher

PRIME MINISTER

Put in my words

THE REPORTS OF THE SELECT COMMITTEE ON DEFENCE ON WESTLAND

I agree generally with Sir Robert Armstrong's advice in his minute attached, subject to the one concern below. We can refine the language of the answers tomorrow and Thursday, but it would be helpful to know whether you are generally content with their form. I am doubtful whether Part V on the Select Committees and Ministerial Accountability is necessary. But Sir Robert Armstrong and the Chief Whip strongly think it is.

My concern, which I will discuss further with the Chief Whip and the Lord Privy Seal, is whether a Written Answer on the lines drafted will stimulate irresistible demands in Parliament for you to come to the floor of the House to repeat what is said. (This happened with Mr. Ridley recently with his water privatisation Written Answer which he had to repeat later that day as an Oral Statement.) I hope that any requests of this sort can be met on the lines that you made an Oral Statement in your Oral Answers earlier that afternoon. But we need to make sure.

Subject to this point,

(i) Are you content that we should inspire a Parliamentary Question on the lines of the draft at Annex A?

Put in my words

(ii) Have you any comments on the draft answers?

N.L.W.

We need a bit of work to reduce the draft-answers to the minimum words necessary - after we have seen what the reports say.

(N. L. WICKS)
22 July 1986



Ref. A086/2148

MR WICKS

The Reports of the Select Committee on Defence on Westland

Thank you for your minute of 22 July.

2. I have now discussed this matter further with the Chief Whip, the Permanent Secretary to the Department of Trade and Industry, and the Legal Secretary to the Law Officers.

3. As to the proposal that there should be Questions for Written Answer on Thursday 24 July, we were told that the Lord President took the view that, while the material in the Written Answer should be available for the Prime Minister's use when she was answering oral Questions, it would be preferable not to put down Questions for Written Answer. The Chief Whip and others at my discussion felt that, even though the Prime Minister might draw on the material in answer to oral Questions, it would be advantageous to have the material set out fully in Written Answers. These would be important as points of reference for the press and others, and would in the nature of things be likely to be rather fuller than anything that could be said in reply to oral Questions.

4. The Attorney General is perfectly content to reply himself directly through an arranged Parliamentary Question. His office will arrange for a Question to be put down accordingly. I suggest that that Question should be in the form:

"To ask the Attorney General, if he has yet received copies of the Reports of the Select Committee on Defence on Westland".



5. We considered at my meeting whether the Secretary of State for Trade and Industry should be advised to arrange a Question for Written Answer on 24 July, but we concluded that the position of his officials should be regarded as being covered by the Prime Minister's Answer: it would be disadvantageous to have a proliferation of answers, with people closely scrutinising them for differences of emphasis and so on.

6. We concluded that there was no advantage in having a parallel arranged Question for Written Answer put down for the Secretary of State for Defence. The immediate interest will not focus on the defence implications or on Ministry of Defence officials; and the report on the defence implications of the Westland affair will be a very long document.

7. The proposal is, therefore, that the Prime Minister's office should arrange for a Question to be put down to her, for Written Answer on Thursday 24 July. I attach at Annex A a draft of that Answer. At this stage I have retained the paragraphs about the Attorney General, so that the Prime Minister can see the form which it is proposed (subject to the views of the Attorney General) that they should take; but that would of course disappear from the text of the Prime Minister's Answer and be transferred to the Attorney General's.

8. There have been various drafting changes in the draft Written Answer, though it is basically on the lines of the draft attached to your minute of 21 July. My meeting took the view, however, that it would be useful to retain a final paragraph on Select Committees and Ministerial accountability: with a direct quotation from the relevant paragraphs of the response to the Treasury and Civil Service Committee. The Chief Whip strongly concurred in this view.



9. I attach at Annex B a first draft of a reply which the Prime Minister could use in the course of her oral Questions on Thursday 24 July, if a suitable opportunity arose.

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

RA

ROBERT ARMSTRONG

22 July 1986

Draft of 22 July

DRAFT QUESTION

To ask the Prime Minister, if she ^{has received the} ~~will make a~~ ~~statement on the~~ ^{the} reports from Select Committee on Defence on Westland plc. and if she will ~~make a statement~~.

DRAFT ANSWER

I. The leaks of the Select Committee's Reports

The Government will respond to the Committee's Reports in due course in the usual way; but in view of a number of references in the Report to particular individuals there are a number of points which should be answered immediately.

II. The Attorney General

2. The Select Committee state that if, when my Rt Hon and Learned Friend the Attorney General authorised an offer of immunity from

P.N.

Should we drop the side headings?

This section would go into the Attorney's answer, not this one.

prosecution to one of the officials concerned in the Head of the Home Civil Service's inquiry into the circumstances of the disclosure of the Solicitor General's letter of 6 January, he was able at that stage to say that under no circumstances would he have prosecuted the official concerned, he must have known, and could only have learnt from the Head of the Home Civil Service, that the disclosure had been authorised.

3. The conclusion does not follow from the premise. While he had reason to believe that the disclosure had been made by the official concerned, and that the official concerned had acted in complete good faith, neither he nor the Head of the Home Civil Service were at that time aware of the full circumstances. It was important that the inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and should provide those concerned with the opportunity of giving their accounts of their parts in the affair. It was clear that the testimony of the official in question would be vital to the inquiry, and my Rt Hon and Learned Friend

judged it right that that possible impediment to full co-operation in the inquiry should be removed. My Rt Hon and Learned Friend was and is satisfied that that in no way interfered with the course of justice: the facts as disclosed in the inquiry confirmed his judgment that there would have been no question of proceeding against the official concerned.

III. Should disciplinary action have been taken against civil servants?

4. The Select Committee say that they find extraordinary the fact that no disciplinary action was taken against any of the officials concerned in the disclosure of the Solicitor General's letter. [I have already expressed to the House, in my speech on 27 January, my regret at the manner in which the disclosure was made. As the Head of the Home Civil Service said in his evidence to the Select Committee, clearly things were done in this affair which would have been better done differently, and in that sense people made wrong judgments.] It was decided by those responsible, having regard to all the

The [] could be dropped. Do you wish to keep it?

circumstances, that the officials concerned had acted in good faith and that there were no grounds for disciplinary action. It was not my responsibility to take that decision, but I consider it to have been an entirely reasonable one. I have the fullest confidence in the officials concerned in my office and so does my Rt Hon Friend the Secretary of State for Trade and Industry in the officials concerned in his own Department.

IV. The Head of the Home Civil Service

5. The Committee suggest that this case may demonstrate one of the conflicts of interest which the Treasury and Civil Service Committee identified when they recommended that the posts of Secretary of the Cabinet and Head of the Home Civil Service should not be held by the same individual. On the question of combining the positions of Secretary of the Cabinet and Head of the Home Civil Service I have seen nothing in these Reports which lead me to wish to add to the Government's response to the

Seventh Report of the Treasury and Civil Service Committee, which is being presented today as Cmnd 9841.

6. The Committee suggest that in this case the Head of the Home Civil Service failed to give civil servants the lead for which they were entitled to look to him. Following discussions with my Rt Hon and Learned Friend the Attorney General, it was the Head of the Home Civil Service who proposed to me that there should be an inquiry. He conducted that inquiry himself, with the assistance of a colleague from the Cabinet Office (Management and Personnel Office), and reported fully to me and to my Rt Hon and Learned Friend the Attorney General on the disclosure and the circumstances in which it came to be made. Since it would have been unfair for the people concerned to be subjected to a second process of inquiry into the same events, he offered himself to give evidence to the Select Committee on Defence, and answered their questions fully and fairly at two sessions lasting altogether for nearly five hours. Far

from that being a failure of leadership, it demonstrated the exercise of leadership with a high degree of responsibility and integrity.

V. Select Committees and Ministerial accountability

7. The Select Committee's Report demonstrates the problems that arise when this type of inquiry extends beyond questions of departmental policy and execution into the performance and conduct of individuals. On this aspect of the matter I would refer to the House to paragraphs 13 and 14 of the Government's response to the Seventh Report of the Treasury and Civil Service Committee, which deals with the implications of Ministerial accountability to Parliament for relations between civil servants and Select Committees. Those paragraphs read as follows:

Accountability

13. The Government endorses the Committee's two basic propositions on accountability: that Ministers and not officials are responsible and accountable for policy; and that officials' advice to Ministers is and should remain confidential. Constitutionally, Ministers are responsible and accountable for all actions carried out by civil servants of their departments in pursuit of Government policies or in the discharge of responsibilities laid upon them by Parliament. The delegation of authority to managers at all levels, which is an important part of the Government's drive for more efficient and economic use of resources in the Civil Service, involves internal accountability within departments and does not conflict in any way with the external accountability of the Minister to Parliament. Any attempt to make civil servants directly accountable to Parliament, other than the strictly defined case of the Accounting Officer's responsibility, would be difficult to reconcile with Ministers' responsibility for their departments and civil servants' duty to their Ministers.

14. This has implications for the position of civil servants in relation to Select Committees generally and the Departmental Select Committees in particular. These Committees were established to examine the expenditure, administration and policy of government departments, and the conventions accepted as applying to the exercise of their powers are set out comprehensively in the First Report from the House of Commons Select Committee on Procedure (Session 1977-78, HC 588) and the memorandum to that Committee by the Clerk of the House. The report and the memorandum recognised that civil servants who give evidence to Select Committees do so on behalf of their Ministers; that there are certain matters on which they cannot answer questions (notably, as the Committee's own report states, on policy matters—which are for Ministers—and on advice given to Ministers); and that, as the Procedure Committee's report stated:

“it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its rights to secure information from the Executive at a level below that of the ministerial head of department concerned (normally a Cabinet Minister), since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House”;

and as the memorandum to the Procedure Committee by the Clerk of the House stated:

“it would certainly appear more in accordance with Ministerial accountability to the House that Ministers should accept responsibility for the conduct of their officials, and that the House should proceed against Ministers”.

It is not, in the Government's view, generally in accordance with those conventions, or with the underlying principles of ministerial accountability, that Select Committees should criticise individual civil servants who are, for the reasons already explained, unable to speak freely in their own defence.

PERSONAL AND CONFIDENTIAL

ANNEX B

Draft of 22 July

[To ask the Prime Minister, whether she has seen the Reports of the Select Committee on Defence on Westland.]

These Reports were published at 11.00 am this morning, while I was in a meeting of the Cabinet, and I have had no opportunity since then to study them in detail.

The Government will respond to the Reports in due course in the usual way. Since, however, there are comments on a number of individuals, there are certain points which I wish to make at once.

The Select Committee say that they find extraordinary the fact that no disciplinary action was taken against any of the officials concerned in the disclosure of the Solicitor General's letter. It has been made clear to the House that it was decided by those responsible, having regard to all the

PERSONAL AND CONFIDENTIAL

circumstances, that the officials concerned had acted in good faith and that there were no grounds for disciplinary action. It was not my responsibility to take that decision, but I consider it to be an entirely reasonable one. I have the fullest confidence in the officials concerned in my own office and so does my Rt Hon Friend the Secretary of State for Trade and Industry in the officials concerned in his Department. Since my Chief Press Secretary has been singled out for special attention in this matter, I should like to make clear my unreserved confidence in his skill and integrity.

The Committee also suggest that in this case the Head of the Home Civil Service failed to give civil servants the lead for which they were entitled to look to him. I think that that comment is totally unwarranted. Far from his role in the matter being a failure of leadership, it demonstrated the exercise of leadership with a high degree of responsibility and integrity. He has my and the Government's fullest confidence.



N.L.W

10 DOWNING STREET

Prime Minister

From the Principal Private Secretary

Lord Whitelaw is
firmly against having
a written answer.

SIR ROBERT ARMSTRONG

N.L.W
23.7

THE REPORTS OF THE SELECT COMMITTEE ON DEFENCE ON
WESTLAND

The Prime Minister saw overnight your minute of 22 July in which you suggested a draft question and answer, setting out the Government's initial response to the Select Committee's Reports on Westland.

The Prime Minister has not yet considered the drafting of the suggested answer in detail. But she has commented that there needs to be a lot of work done to reduce the draft answer to the minimum wording necessary.

This cannot be done until we have seen the Reports. But I have set out, in the attachments to this minute, possible drafts of what the Prime Minister might say in response both to an oral question and in any following written answer. You will see that the written question differs from the version suggested in the attachment to your minute of yesterday; this reflects the Prime Minister's own drafting.

Having read the revised written answer, I do wonder whether it is necessary because:-

- (i) there must be some risk that a written answer would stimulate strong demands in Parliament for the Prime Minister to come to the floor of the House to make an oral statement at ten o'clock. This clearly is to be avoided;
- (ii) the written text does not say much more than what is said in the oral answer;
- (iii) to the extent it does, it contradicts the reasoning given for an early initial response; i.e., this is required in view of the comments made on individuals in the Reports; and to the extent that the written answer goes beyond the reply on comments on individuals and gets into

substance (the role of Select Committees and the combination of positions of Secretary of the Cabinet and the Head of the Civil Service), the greater the risk identified in (i) above;

- (iv) it risks provoking the Select Committee Lobby in general, and the Defence Committee in particular, in defence of their right to present a Report covering conduct of Government matters and the behaviour of particular named civil servants. Clearly we want to avoid such provocation since it would simply cause the issue to run.

I am therefore somewhat doubtful whether we need a written answer, though I agree that it is helpful to have one tabled as a contingency.

I should be grateful for comments on the drafts attached. The Prime Minister may need to call a meeting.

I am sending a copy of this minute to the Private Secretaries to the Lord President, Lord Privy Seal, Secretary of State for Trade and Industry, the Chief Whip and to the Legal Secretary to the Attorney General.

N. L. WICKS

23 July 1986

(REVISED VERSION)

ORAL ANSWER

Question: Will my Rt. Hon. Friend say whether she has any comment on the reports of the Select Committee on Defence published this morning?

Reply: The Government ^{will} ~~would~~, of course, respond to these reports in due course. Since they make criticisms of a number of individuals, however, I should like to make two points straight away.

First, the House will already be aware that those responsible for discipline in the Civil Service - ~~not I~~ - have decided that there are no grounds for disciplinary action in this matter. My Rt. Hon. Friend the Secretary of State for Trade and Industry and I have total confidence in our officials referred to in the Report.

Second, I do not agree with the Committee's comments on the role of the Head of the Home Civil Service. He too has the Government's complete confidence.

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Second, I ^{do not agree with} ~~believe that~~ the Committee's comments on the role of the Head of the Home Civil Service ^{are} ~~are~~ totally unwarranted. He too has the Government's ~~fullest~~ confidence.

Complete.

WRITTEN ANSWER

To ask the Prime Minister, if she has received the reports of the Select Committee on Defence on Westlands plc; and if she will make a statement.

Draft reply:

As I said in the House this afternoon, the Government will respond to the Committee's reports in due course. But in view of references to particular individuals there are a number of points which should be answered immediately.

In relation to the Select Committee's references to disciplinary action, those responsible for Civil Service discipline decided, having regard to all the circumstances, that there were no grounds for disciplinary action. It was not my responsibility to take that decision, but I consider it to have been an entirely reasonable one. I have the fullest confidence in the officials concerned in my office and so does my Rt hon Friend the Secretary of State for Trade and Industry in the officials concerned in his own Department.

In relation to the Committee's comments on the Head of the Home Civil Service I believe their criticisms are totally unwarranted. It was the Head of the Home Civil Service who proposed to me there there should be an inquiry; he conducted it thoroughly and impartially; he offered himself to give evidence to the Select Committee on Defence; and he answered

their questions fully and fairly at two sessions, lasting altogether for nearly five hours. Far from that being a failure of leadership it demonstrated the exercise of leadership with a high degree of responsibility and integrity.

In relation to the Select Committee's comments on the question of combining the position of Secretary of the Cabinet and Head of the Home Civil Service, the Government's view is set out in its response to the Seventh Report of the Treasury and Civil Service Committee, which is being presented today as Command 9841.

The Select Committee's Report demonstrates the problems that arise when this type of inquiry extends beyond questions of departmental policy and execution into the performance and conduct of individuals. On this aspect of the matter I would refer the House to paragraphs 13 and 14 of the Government's response to the Seventh Report of the Treasury and Civil Service Committee, which deals with the implications of Ministerial accountability to Parliament for relations between civil servants and Select Committees. Those paragraphs read as follows:

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