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From the Private Secretary

MR STARK
CABINET OFFICE

DEFENCE COMMITTEE: WESTLAND PLC:
QUESTION AND ANSWER BRIEF

Your minute of 8 October asked for comments by today on the Q & A brief on the reply to the Defence Committee's report on Westland.

As many questions as possible should be answered by reference to the Prime Minister's statements, the Attorney General's statement, Sir Robert Armstrong's evidence or the Government's reply. It should be very much the exception to stray beyond that, and questions C1-C4 at least could be answered in this way. I have no objection to C5 and D1-D3.

I am copying this minute to Sir Clive Whitmore, Sir Brian Hayes, Mr. Saunders and Mr. Ingham.

CHARLES POWELL

9 October 1986

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Ref. A086/2836

MR WICKS

Defence Committee: Westland plc: Question and Answer Brief

Although it has been agreed that there should not be a press notice or press conference when the Government reply is published, there are bound to be questions from the press shortly afterwards. It will naturally fall to the Ministry of Defence to handle those questions that relate to defence issues as such. Most of those relating to the Government's handling of the matter will no doubt come to No 10, though the Department of Trade and Industry, Cabinet Office (MPO) and the Ministry of Defence may also be approached.

2. The Cabinet Office have had a first shot at drafting the Q and A brief, on non-defence issues, referred to in Sir Robert's minutes of 1 and 30 September, which might be used by various press offices in handling inquiries. The draft attached
--- falls essentially into four sections:

- With
NLW?
- a. those - the majority - which will be answered by reference to the Prime Minister's statements of 23 and 27 January or to Sir Robert's session of evidence before the Defence Committee;
 - b. those to which the answers will be contained in the Government reply;
 - c. those to which the MPO are unable to draft the reply; either a substantive reply, or a 'no-comment' reply, will need to be provided by those to whom this minute is circulated;



d. a few slightly more procedural questions, to which some sort of reply can be given.

3. The brief does not attempt to cover every single question which could arise under a. or b., since on many of them Bernard Ingham will need no briefing. The brief does, however, cover a few in these categories which appear to us to be open-ended statements in the Defence Committee Reports and which are unanswered in the earlier statements or in the Government's reply.

4. I shall be grateful if copy recipients would offer answers to questions in category c. that fall to their Departments and if they would suggest any more questions that they consider need to be covered.

5. In view of the proposed timing for publication of the reply, it would be helpful if comments on the brief and additional contributions could reach me by close of play on Thursday 9 October at the very latest, so that a final version can be circulated by the end of Friday.

6. I am copying this minute to the Private Secretaries to Sir Clive Whitmore and Sir Brian Hayes; to Michael Saunders (Law Officers' Department); and to Bernard Ingham.

M C STARK

8 October 1986



A: Answer by Reference to Earlier Statements

- A1 Did any No 10 official instigate the writing of the letter by the Solicitor General? Were they acting with the Prime Minister's authority?
- A2 Why did No 10 officials not tell the Prime Minister on 7 January what had transpired on 6 January? Mr Ingham, at least, must have realised what was going on? Was he just trying to distance the Prime Minister?
- A3 Why did the Department of Trade and Industry officials not just tell Sir John Cuckney about the Solicitor General's letter instead of the Press Association (paras 159-60 of Fourth Report), or use the press notice already prepared for issue at the Westland Press Conference (paras 181-2)?
- A4 Aside from the actual leaking of the letter, is it usual for civil servants to seek to discredit and counter a Minister in another Department, either with or without their own Minister's knowledge or authorisation?
- A5 Why did Sir Robert Armstrong not interview Mr Britten as soon as he realised that he had authorised the leak?

REPLY

As the Government's response makes clear, the Government does not propose to add to or qualify the full account already given in Parliamentary statements by the Prime Minister, answers to Questions by her and other Ministers, and the evidence which the Head of the Home Civil Service gave to the Defence Committee.



B: Answer by Reference to Government Reply

B1 Will officials be allowed to assist the Select Committee further in their inquiry? Are the five officials under any official constraint in this? Have any of them expressed a wish to take up the offer in paragraph 240?

REPLY

The Government's reply (Cmnd.) deals with these questions (paras 38-45). Not aware of any wish to take up the offer in para 240.

B2 Surely civil servants consider that the Head of the Home Civil Service is their ultimate superior?

REPLY

The reply sets out the role of the Head of the Home Civil Service in relation to officials at the Department of Trade and Industry, and in the Prime Minister's office. He is neither the direct nor the ultimate superior of civil servants in any Department other than the Cabinet Office. He has, however, certain disciplinary responsibilities in relation to Grades 1 and 2 throughout the Service. In relation to appeals on matters of conscience, the Head of the Home Civil Service has accepted that any home civil servant may appeal to him if they are unable to resolve their differences within their own Department. (Govt reply to TCSC, Cmnd 9841).

B3 In January and February, the Attorney General indicated that he knew there was no possibility of a prosecution (27 January, Col 357; 3 February, Col 14/15). In July, he said



that he was not aware of the full circumstances (24 July, Col 323/4). Why has the Attorney General's story changed? [Hansard extracts attached]

REPLY

There is no inconsistency in these statements, which are dealt with in the Government reply

B4 Is it really the case that there are no grounds for disciplining the civil servants concerned?

REPLY

The Government's reply deals with this matter.



C: Answer to be Provided

C1 Does not the Report show (para 144) that the Department of Trade and Industry officials were waiting and ready to leak the Solicitor General's letter even before they formally received it?

REPLY

This inference has no basis of fact.

C2 On what basis were the specific passages disclosed - the Defence Report says (para 162) they were calculated to do the maximum damage to Mr Heseltine's case and to his personal credibility?

REPLY

This inference has no basis of fact.

C3 Why were further disclosures made to the Press Association after the first one?

C4 Did Miss Bowe refuse to give evidence without immunity?

REPLY

Nothing to add to statements made by on behalf of Attorney General.

C5 Are the civil servants concerned still in the same posts? Will they soon be moved? Has this episode damaged their career prospects? On what basis has Mr Mogg been promoted.



REPLY

Yes, except for Mr Mogg.

No present plans

No.

Because he was the most suitable candidate for the vacancy to which he was appointed.



D: Lesser Points

D1 Will there be a debate on this report and reply?

REPLY

That is a matter for the Government's Business Managers to consider

D2 When will the instruction referred to in paragraph 45 be issued?

REPLY

The instruction is being sent to Permanent Secretaries in Departments. It will be up to them to make it known to those civil servants who will have dealings with Select Committees.

D3 What will the reaction of Select Committees be to this?

REPLY

That is for them to say. The Government hopes that Select Committees will understand and accept the basic principles of Ministerial accountability, which are very important - that it is Ministers and not civil servants who are accountable to Parliament, and that it is through Ministers that Select Committees work.

Law Act 1967 and was replaced by a new offence of impeding the apprehension or prosecution of an offender. I take the question to refer to a possible offence under section 4 of the Criminal Law Act 1967. There is no evidence to justify the prosecution of Mr. Salah Abdessalem Ben Rabha for such or any other offence.

Westland plc

Mr. Bell asked the Attorney-General if he will outline the grounds on which he based his statement to the Prime Minister that he was satisfied that the offer of immunity from prosecution to an individual in connection with the disclosure of official information relating to the Westland affair in no way interfered with the course of justice; and if he will make a statement.

Mr. Winnick asked the Attorney-General when the Solicitor-General was first informed that extracts from his letter to the then Secretary of State for Defence had been publicly disclosed; and how he was so informed.

The Attorney-General: Before I authorised the Head of the Civil Service to inform the person concerned that, provided that she gave a full and truthful account of what she knew about this matter, she would not be prosecuted, I satisfied myself, on the basis of what he was already able to report to me, that she was unwilling, unless given such an assurance, to provide the full and frank account of the facts which was essential if the inquiry was to be successful. I was also satisfied that there was in any event no possibility that proceedings would be instituted against her in respect of the part which she had played in this matter.

Mr. Bell asked the Attorney-General on what date the Director of Public Prosecutions was consulted about the possibility of instituting proceedings against any persons concerned in the disclosure of official information relating to the Westland affair; on what date senior Treasury counsel were consulted on the same question; and what was their specific role in the matter.

The Attorney-General: Both the Director of Public Prosecutions and senior Treasury counsel were consulted on 23 January. Their role was to advise me whether the facts of this case justified the institution of criminal proceedings against any person under section 2 of the Official Secrets Acts 1911. My consultation of them was in accordance with the usual practice in matters of this kind.

Mr. Bell asked the Attorney-General on what date and at what hour his right hon. and learned Friend the Solicitor-General first became aware that extracts from his letter of 6 January to the then Secretary of State for Defence, the right hon. Member for Henley (Mr. Heseltine) had been communicated to the Press Association; what was his source of information on this point; and if he will make a statement.

The Attorney-General: My hon. and learned Friend the Solicitor-General first learned of the disclosure at about 3 pm on 6 January as a result of my Department being asked to comment on it by representatives of the media shortly before that time.

Mr. Winnick asked the Attorney-General when he was first informed that extracts from the letter from the Solicitor-General to the then Secretary of State for

Defence, the right hon. Member for Henley (Mr. Heseltine) had been disclosed; and if he will make a statement.

The Attorney-General: I first learned of the disclosure when I heard reports on the radio at about 5 pm on 6 January.

Mr. Redmond asked the Attorney-General if he will publish in the *Official Report* the full text of (a) the letter dated 6 January from his right hon. and learned Friend the Solicitor-General to the then Secretary of State for Defence and (b) the further letter from the Solicitor-General to the then Secretary of State relating to Westland plc.

The Attorney-General: A copy of my hon. and learned Friend's letter of 6 January was placed in the Library of the House on 15 January. A copy of his further letter of 7 January has today been placed in the Library. I understand that a copy of the letter of 6 January from my right hon. Friend the then Secretary of State for Defence to which that further letter was a reply has also been placed in the Library.

Official Information (Disclosures)

Mr. Bell asked the Attorney-General what is his policy towards the offering to named individuals of immunity from prosecution in cases of inquiries into disclosure of official information; what conditions he requires to be fulfilled in such cases before granting his consent to the offering of immunity; and if he will make a statement.

The Attorney-General: My policy in this matter is to authorise an assurance being given to a witness that he will himself not be prosecuted only if I am satisfied that it is unlikely that he will otherwise be willing to give a full and truthful account of what he knows and that it is necessary, if the true facts are to be established or, as the case may be, if evidence is to be obtained which may permit proceedings to be instituted against others, that he should give that account. Such an assurance is always conditional upon his telling the truth.

It is often a relevant consideration that there is no prospect of criminal proceedings being instituted against him, whatever his own anxieties on that matter, or that there is no evidence against him upon which such proceedings could be founded other than what he himself may say.

EMPLOYMENT

Community Programme

Mr. Wainwright asked the Paymaster General how many vacancies currently available under the community programme are part-time; and what proportion this number represents of the total number of advertised vacancies under this scheme.

Mr. Alan Clark: There were about 17,000 unfilled part-time community programme vacancies on 6 December, which was about 77 per cent. of the total number of unfilled vacancies. Part-time jobs on the programme are defined as those involving work for less than 35 hours per week.

stated on numerous occasions that advice between Law Officers and members of the Cabinet is in forbidden territory.

The Attorney-General: I agree with my hon. Friend. It has been a long-standing convention that neither the fact nor the content of advice should be disclosed.

Mr. Alex Carlile: Bearing in mind that the Solicitor-General gave his advice on the usual confidential terms, will the Attorney-General tell us first, whether the prosecution of Mr. Bernard Ingham under section 2 of the Official Secrets Act has been considered, and secondly, why it has not been proceeded with?

The Attorney-General: As my right hon. Friend the Prime Minister said in her statement, after consultation with the Director of Public Prosecutions and senior Treasury counsel, I took the view that my guidelines would not be fulfilled by any prosecution.

Mr. Cash: Does my right hon. and learned Friend agree that the Opposition are following a line of disreputable questioning? Are they not pleading confidentiality when it suits them while taking the opposite view when that suits them?

The Attorney-General: I agree with my hon. Friend. It is to be regretted that the statement of my right hon. Friend the Prime Minister and her speech have not been accepted as they should have been.

Mr. John Morris: When the Attorney-General replied to the House in a written answer on 16 January that the internal inquiry into the leak was "still some considerable way from being completed"—[*Official Report*, 16 January 1986; Vol. 89, c. 614.] was he then aware that it was an inquiry into an official leak, and what legal advice was he then tendering? Was his Department consulted in any way on the proposed use of the Solicitor-General's letter? Are there precedents for Law Officers' letters being used as weapons for publicly chastising ministerial colleagues?

The Attorney-General: I consulted the Cabinet Secretary and expressed my view that it was essential that an inquiry into the leak should be set up. I did not know any more about the inquiry until I was informed of the results. I was informed first in summary form and then I was provided with the actual document on 22 January, the same day on which it was given to my right hon. Friend the Prime Minister. As for leaking, I have nothing to add to what has already been said. I agree entirely with what my hon. and learned Friend the Solicitor-General said in his letter of 7 January.

52. **Mr. Winnick** asked the Attorney-General if he will make a statement on the offer of immunity to a civil servant arising from the inquiry into the leak of the letter sent by the Solicitor-General to the then Secretary of State for Defence on the Westland affair.

The Attorney-General: I refer the hon. Member to what my right hon. Friend the Prime Minister said to the House with my agreement on 23 January, and to my three written answers to the hon. Member for Middlesborough (Mr. Bell) on 27 January.

Mr. Winnick: Why did the director of information in the Department of Trade and Industry require immunity from prosecution? Is it not clear that she was

understandably anxious not to be used as a scapegoat in this affair? Will the private secretaries who have been involved in the matter at No. 10 and the Department of Trade and Industry be given immunity, if they so require it, as a result of the latest developments? Does the Attorney-General accept that it is most unfortunate that the Solicitor-General was used in the first place by the Prime Minister in her war against the right hon. Member for Henley (Mr. Heseltine)?

The Attorney-General: There is no question of my hon. and learned Friend the Solicitor-General being used — [Interruption.] When his attention was drawn on Saturday by the then Secretary of State for Trade and Industry to the letter which had been published in full in *The Times* from the then Secretary of State for Defence, he telephoned the then Secretary of State for Defence and told him of his anxieties about the inaccuracies in the letter and wrote a letter, entirely of his own decision, on the Monday morning.

Mr. Winnick: Why was immunity given?

The Attorney-General: The answer to that question is the one which I have already given in a number of replies to the hon. Member for Middlesborough.

Mr. Spencer: Does my right hon. and learned Friend agree that it is a constitutional necessity that Law Officers' advice should be confidential?

The Attorney-General: That is a long-established convention and one which the House should think carefully about before seeking to change it.

Mr. Campbell-Savours: Did the Solicitor-General discuss his letter to the then Secretary of State for Defence with the Prime Minister on 6, 7, 8 or 9 January? Secondly, if the Solicitor-General is asked to give evidence to the Select Committee on Defence, will he be able to do so?

The Attorney-General: The answer to the first part of the hon. Gentleman's supplementary question is no. There was no such communication on any of those days. As for the second part of his supplementary question, I would need notice.

Sir John Biggs-Davison: Does my right hon. and learned Friend agree that the use by any Government of leaks by public servants is demoralising to the public service? May we be assured that the practice will now cease?

The Attorney-General: I cannot give that assurance, save on behalf of my own Department. I am happy to say that there have been no leaks from my Department since I have been in office. I agree with my hon. Friend that leaking of any sort is deplorable. I agree entirely with the phrase used by my hon. and learned Friend the Solicitor-General at the end of his letter of 7 January.

Mr. John Morris: Is it a fair summary to say that the Solicitor-General was being used by other Ministers, and the Attorney-General was hoodwinked in that he was not told the proper basis for the inquiry, the salient facts were known to the Prime Minister from the start, and in the bogus inquiry he was persuaded to grant immunity when he knew, or should have known, or should have been told, that there was no question of a prosecution and that it was an official leak?

The Attorney-General: There is no truth in the allegation that my hon. and learned Friend was being

When I was asked to grant immunity because the girl—the information officer—was refusing to give evidence unless she had immunity and her evidence was uniquely important in the pursuance of the inquiry, I was also told enough to make it clear to me that under no circumstances would I have prosecuted her in any event.

OVERSEAS DEVELOPMENT

Aid and Trade Provision

54. **Mr. Deakins** asked the Secretary of State for Foreign and Commonwealth Affairs to what extent the aid and trade provision in 1985-86 and 1986-87 is to be funded from sources outside his Department.

The Minister for Overseas Development (Mr. Timothy Raison): The aid and trade provision is a separate allocation of funds within the aid programme. It is not funded from any other source.

Mr. Deakins: Is it not inequitable that the Department of Trade and Industry, which gets most of the benefit from the ATP makes no contribution towards the total and rising cost of that provision? Will the Minister consider seriously for the future asking his colleagues in the Department of Trade and Industry for a contribution either in whole or in part?

Mr. Raison: The hon. Gentleman must understand that the funds for the ATP come from public expenditure funds as a whole. It is important to remember that the ATP provides both jobs and employment in Britain, and schemes of real developmental value in the Third world.

Mr. Forman: Will my right hon. Friend tell the House whether, if the ATP were to come from a different departmental budget, for example the Department of Trade and Industry budget, the scheme, which is admirable and needs to be expanded, might fall foul of GATT rules?

Mr. Raison: My hon. Friend is broadly right. The important point is that this is aid. It counts as, and is recorded as, aid, and is directed to developmental as well as commercial ends.

Mr. Beith: Is it not the case that the ATP has virtually trebled in size while provision for rural development has decreased? Is it not inevitable that such emphasis on the ATP will distort the priorities which the Minister's Department should have as its main concern?

Mr. Raison: The ATP has certainly increased in size over the years since it was started by the right hon. Member for Clydesdale (Dame J. Hart). However, we are now putting increasing emphasis on rural development, and I recently announced some valuable schemes.

Indonesia

55. **Mr. Tom Clarke** asked the Secretary of State for Foreign and Commonwealth Affairs what has been the level of overseas aid to Indonesia in each of the last five years.

Mr. Raison: Gross bilateral aid to Indonesia includes capital aid, technical co-operation, aid and trade provision and investment by the Commonwealth Development Corporation. In each of the years 1980 to 1984 aid amounted to £11.19 million, £15.35 million, £17.22 million, £12.36 million and £28.24 million, respectively.

Mr. Clarke: Notwithstanding those generous figures and the supply of arms from that country, Indonesia has continued its policy of suppression against its own people, those in East Timor, and refugees in Papua New Guinea. What protest will be made?

Mr. Raison: The Indonesian Government are well aware of our position—that we are against abuses of human rights, wherever they occur. However, the fact remains that Indonesia needs aid and can make good use of it.

Zambia

56. **Mr. Mc Crindle** asked the Secretary of State for Foreign and Commonwealth Affairs what steps he is taking to help the Zambian economy.

Mr. Raison: We have pledged more than £30 million to the Zambian Government since last summer. In June we agreed to provide £4 million in programme aid, and £10 million to be associated with the World Bank's special facility. In December we undertook to provide a further £8 million in programme aid, and £5 million in association with the special facility. We also agreed a special grant of more than £1.5 million to permit the clearance of arrears of payments on aid loans. In addition, I have agreed to provide £3.17 million for a continuation of the integrated rural development project.

Mr. McCrindle: In welcoming that package of measures, may I ask my right hon. Friend to update the House on the present state of negotiations between the IMF and the Zambian Government, and particularly on the degree of dependence of the Zambian economy on mining, because the fall in copper prices recently must clearly have had adverse effect?

Mr. Raison: I think it is well known that the major problem facing Zambia has been the fact that its economy in earlier years was heavily dependent on copper prices which, of course, have fallen in recent years. That has helped produce its substantial problems. Zambia is making good progress in its discussions with the IMF and I am glad to be able to support it.

Mr. Deakins: Does the Minister intend to help Zambian agriculture by making an appropriate contribution to the international fund for agricultural development?

Mr. Raison: I am glad to say that agreement has just been reached within IFAD. I have also just announced a new contribution to the integrated rural development programme in Zambia.

Mozambique

57. **Mr. Soames** asked the Secretary of State for Foreign and Commonwealth Affairs what further aid he proposes to make available to Mozambique.

Mr. Raison: As I told Mozambican Ministers on 28 January, I am making available to Mozambique additional capital aid of £6 million for developmental purposes and £1 million for emergency relief.

Mr. Soames: I note my right hon. Friend's answer. Will he tell the House what the remaining aid programme is being spent on in Mozambique?

24 July

EXTRACT FROM HANSARD.

DATE 28.7.86

COL 323-324

ATTORNEY-GENERAL

Westland plc

Sir Edward Gardner asked the Attorney-General if he will make a statement on those aspects of the fourth report from the Defence Committee on Westland plc., the Government's decision-making, which fall within his responsibilities.

The Attorney-General: The Select Committee state that if, when I authorised an offer of immunity from 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, I was able at that stage to say that under no circumstances would I have prosecuted the official concerned, I must have known, and must have learnt from the head of the Home Civil Service, that the disclosure had been authorised.

I wish to make it absolutely clear that at the time ~~then~~ I advised that an inquiry be instituted I did not know by whom the disclosure had been made or that it had been authorised by the then Secretary of State for Trade and Industry or at all.

At the time when I granted immunity to the official concerned, while I 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, I was not 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 part in the affair. It was clear that the testimony of the official in question would be vital to the inquiry, and I judged it right that possible impediment to full co-operation in the inquiry should be removed. I was and am satisfied that that in no way interfered with the course of justice: the facts as disclosed in the inquiry confirmed my judgment that there would have been no question of proceeding against the official concerned.

As the Select Committee recognises, I was not told of the direct involvement of the then Secretary of State for Trade and Industry until 22 January.

AEROSPACE Westland of PE 6.

