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PRIME MINISTER

Somewhat equivocal advice from ~~the~~ CDL – but the report itself will not go to the Select Committee, at least as a first step.

MS

Chancellor of the Duchy of Lancaster

PRIVY COUNCIL OFFICE
WHITEHALL LONDON SW1A 2AT

27 February 1980

Dear Paul.

DISCLOSURE OF STAFF INSPECTION REPORT TO THE DES SELECT COMMITTEE

You wrote to me on 20 February about a request made by the Select Committee on the Department of Education and Science for a report on a staff inspection of the University Grants Committee.

I agree that Mark Carlisle should respond to this particular request by offering to provide a self-contained memorandum which describes the nature of the exercise, its scope and the action that his department propose to take as a result of the exercise.

In making this suggestion to the Committee, DES would no doubt give some indication, on the lines suggested in your letter, of the reasons for which they did not think a staff inspection report should be disclosed in full to the Committee. I doubt, however, whether it would be wise to found on this particular example any general approach to the Liaison Committee about the confidentiality of management documents. In the first place, this particular report, as you say in your letter, will be made available to the staff side. Second, it does not follow that making a document available to a Select Committee necessarily means that it will be published. It would be possible to provide the document but ask, by means of the side-lining procedure, that it should not be published. You will remember that I referred to this procedure in my speech on behalf of the Government during the debate on the Procedure Committee Report last June. I attach for ease of reference a copy of the relevant column of Hansard.

Nigel Lawson (attached) dislikes this idea very much – the CDL is being too generous.

I am not suggesting that Mark Carlisle should take the initiative in offering the document on that basis, but I think he may need to consider doing so if the Select Committee return to the matter.

I am copying this letter to him and to the other recipients of yours.

Yours ever

Geoffrey Howe

MT

Paul Channon Esq, MP
Minister of State
Civil Service Department

[Mr. St. John-Stevas.]

out in these areas. I hope that that is precisely the sort of work that will be done, taken up and continued where appropriate by the proposed new Select Committee on Education, Science and Arts.

I pay tribute to the excellent work done by all these Committees over the years. I am confident that their work can be carried forward under the new structure and that those hon. Members, like the hon. Gentleman, who have served on Committees with such distinction will be able to make an equal contribution as members of the new Committees. Where work is left unfinished, means will be found to ensure that it will be carried to a conclusion.

I must make it clear that the Government's view is that the existing subject Committees cannot continue in parallel with a new structure of departmentally related Committees without creating unacceptable confusion, duplication of effort and unnecessary cost. The abolition of the existing Committees must be a necessary corollary to the acceptance of the new structure.

Even with the abolition of the old Committees, we must not underestimate the effort that the new structure will involve. That is why the Government are proposing a closer restriction than the Procedure Committee had in mind on the powers of Select Committees to appoint investigative Sub-Committees.

Our motion provides for the appointment of a joint Sub-Committee on the nationalised industries. We recognise that the Select Committees on Foreign Affairs, Home Affairs and the Treasury and Civil Service all have a wide field to cover. They may find it convenient to appoint Sub-Committees to deal with particular subjects, such as overseas development and race relations and immigration, or with the Civil Service Department. But, of course, the Committees themselves will decide the allocation of their resources. We propose that the powers to appoint Sub-Committees of the Foreign Affairs, the Home Affairs and the Treasury and Civil Service Committees should be limited to a single Sub-Committee of each Committee rather than two.

The objective of the new Committee structure will be to strengthen the accountability of Ministers to the House for the discharge of their responsibilities. Each Committee will be able to examine the whole range of activity for which its Minister or Ministers have direct responsibility. The Government also accept the Procedure Committee's view that the Committees must be able to look at the activities of some public bodies that exercise authority of their own and over which Ministers do not have the same direct authority as they have over their own Departments. The test in every case will be whether there is a significant degree of ministerial responsibility for the body concerned.

Mr. Eric S. Heffer (Liverpool, Walton): Does that mean that the Committees established will be able to call not only the civil servants but Ministers without their being able to avoid appearing before the Committee for interrogation and discussion?

Mr. St. John-Stevas: The responsibility of the Committees and their capacity to call Ministers, civil servants, and members of those bodies are not mutually exclusive. It will be within the scope of the Committees to call before them members of these bodies.

I come to the question of powers. The Procedure Committee recommended that Select Committees should be empowered to order the attendance of Ministers to give evidence, and to order the production of papers and records by Ministers. In the event of a refusal by a Minister to produce papers and records, the Committee should be empowered to claim precedence over public business for a debate on a motion for an address or for an order for the return of papers, unless time is provided by the Government by the sixth day after the first appearance of the motion.

I have two comments to make. First, the power to order any Members of the House to attend before a Select Committee, be he a Minister or not, is a power that constitutionally strictly belongs to the House and not to a Committee. Secondly, the Procedure Committee itself concedes that formal powers on these matters have had to be exercised only on rare occasions.

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There are some specific criticisms of the Select Committee's proposals in this regard. First, it is not appropriate for a Select Committee to order about Members of the House. A Minister must be free to decline if he is not the Minister responsible for the matter that is to be discussed, or if it is clear that he will not be able to answer questions put to him.

Secondly, we do not consider that a Select Committee should be entitled to claim automatic precedence for a debate on a failure to produce information unless the matter has been shown to be one that is of general concern to the House as a whole.

More generally, however, we are concerned here with matters that will be essentially questions of judgment. Inevitably there will be occasions when Ministers will have to decide that it would not be in the public interest to answer certain questions or to disclose information. There are conventions governing these matters that the House has accepted over a long period and that the Government will respect. They are dealt with in the Procedure Committee's report, and the Committee for the most part was satisfied with them.

The Government will make available to Select Committees as much information as possible, including confidential information for which, of course, protection may have to be sought by means of the sidelining procedure. There may also from time to time be issues on which a Minister does not feel able to give a Select Committee as much information as it would like. But on these occasions Ministers will explain the reasons for which information has to be withheld. There need be no fear that departmental Ministers will refuse to attend Committees to answer questions about their Departments or that they will not make every effort to ensure that the fullest possible information is made available to them.

I give the House the pledge on the part of the Government that every Minister from the most senior Cabinet Minister to the most junior Under-Secretary will do all in his or her power to co-operate with the new system of Committees and to make it a success. I believe that declaration of intent to be a better guarantee than formal provisions laid down in Standing Orders.

Mr. Eldon Griffiths (Bury St. Edmunds): Is my right hon. Friend saying that an undertaking given from the Dispatch Box by, dare I say, a finite Minister on behalf of a Government who I wish to go on for ever but who may not is of equal value to a provision enshrined in legislation or the procedures of this House? I cannot believe that an affirmation from the Dispatch Box resembles even remotely the authority of a decision of this House.

Mr. George Cunningham (Islington, South and Finsbury): That is why the right hon. Gentleman is doing it.

Mr. St. John-Stevas: That remark is not worthy of the hon. Member for Islington, South and Finsbury (Mr. Cunningham). I am saying that in these matters the practice of the House and the attitude of the Government are as important as and possibly more important than any formal guarantee. I might add to my hon. Friend the Member for Bury St. Edmunds (Mr. Griffiths) that, finite or infinite, temporal or eternal, it is the intention of this Government during their period of office to co-operate with these Committees. I believe that if a practice of that kind is established it will endure beyond the limited life of a Government.

If a Committee found itself in difficulty and if that difficulty became a matter of serious concern to the House as a whole, it would be the Government's wish that the House should have an early opportunity to debate it on the Floor, and I am sure that the Minister concerned would welcome that opportunity as a means of explaining his position and of seeking the co-operation of the House in resolving the difficulty and avoiding its recurrence. That again is a pledge that goes further than any pledge given on this matter from this Dispatch Box.

I throw in for good measure that if experience shows that more formal powers are needed for Committees to enforce their wishes—if the worst fears of my hon. Friend the Member for Bury St. Edmunds are fulfilled—the question of additional powers can be considered at that stage. But we do not consider that the case has so far been established.