

CONFIDENTIAL

1.

*This will be in for the 2
provide a factual document
and the UK to put
evidence*

Prime Minister.

*This could end in a major row
between the Government and the Select Committee.*

Ref. A02660

MR. WHITMORE

*I think it would therefore be a good idea for
you to have a word with your colleagues before Mr
Ibbs replies to the Clerk. Agree? *MB**

You will remember that some months ago the Clerk to the Select *20 July*
Committee on Energy wrote to Mr. Ibbs to ask him to make available to the
Select Committee the CPRS Report to Ministers on the future of the two AGR
stations at Heysham II and Torness. With the Prime Minister's concurrence,
Mr. Ibbs refused the request, on the ground that the work which the CPRS had
done in this field was in the nature of advice given to Ministers by officials on
policy issues, which is not made available to the House or its Select
Committees. It was necessary also to have regard to the fact that, in
preparing this advice, the CPRS had had the benefit of information supplied in
strict confidence by the commercial concerns involved, which should not be
passed on to the Select Committee.

2. The Chairman of the Select Committee, Mr. Ian Lloyd, then wrote to
the Prime Minister on 26th June requesting a copy of the CPRS Report. In her
reply of 9th July the Prime Minister said that she could not comply with the
request, on the ground that advice given to Ministers by officials on policy issues
is not made available to the House or its Select Committees save in the most
exceptional circumstances.

3. The Clerk to the Committee has now written to Mr. Ibbs (copy attached)
requesting that he and those members of the CPRS who contributed to the Report
should appear before the Select Committee on Monday 28th July at 4.30 pm to
give oral evidence on the subject. The Clerk has also repeated the request that
the Report should be made available to the Committee, if necessary in
confidence, before the CPRS witnesses appear.

4. The new request is thus a direct challenge from the Committee to the
Prime Minister's decision that the Report should not be made available, with the
added complication that this time the Committee is asking for the attendance of
CPRS members. We thus have the makings of a first-class row with the Select
Committee, and we need to consider carefully what the response should be.

CONFIDENTIAL

CONFIDENTIAL

However I do not think there can be any question of releasing the CPRS document in question to the Select Committee. Though it is true that the Government told the House of Commons that it would be their general practice "to make as much information as possible available, including background papers and analytical studies relevant to major policy decisions", it is also laid down in the Memorandum of Guidance to Ministers circulated by the Prime Minister on 8th July (C(P)(80) 2) that there should be no departure from the existing rule that the advice of the Law Officers to the Government and the advice of officials to Ministers, including legal advice, should not be disclosed to Select Committees. It is also made clear that officials are advised not to indicate to Select Committees the advice that they or other officials have given to Ministers.

5. In instructing the Clerk to the Committee to send his latest letter, the Select Committee have gone out on a limb, and it will not be easy to persuade them off it. I would myself judge that the time has not yet come to indicate any readiness to compromise. My view would therefore be that Mr. Ibbs should send a polite but firm reply on the lines of the draft attached; and that at the same time attempts should be made, perhaps through the Chairman of the Liaison Committee, to persuade the Chairman of the Select Committee to come off it. That would presumably be done by the Chancellor of the Duchy of Lancaster or, perhaps, the Chief Whip.

6. If there has to be some sort of compromise, I think that there are two possibilities:

- (a) The Secretary of State for Energy could be offered as a witness to speak to the issues involved in the matter.
- (b) The CPRS could offer to provide the Committee with a factual note on the AGRs, which would present salient facts without disclosing commercially confidential material or judgments which might point to the advice which the CPRS gave to Ministers, and without drawing conclusions. The result would no doubt be a pretty thin document. It would, however, provide a much safer basis for any oral evidence which the CPRS might be called upon to give; and the offer of such a paper could put any hearing off until the autumn.

CONFIDENTIAL

CONFIDENTIAL



✓ 14

7. The Prime Minister may wish to discuss this with the colleagues principally concerned.

8. I am sending copies of this minute, together with copies of the draft reply and of the relevant earlier correspondence, to the Private Secretaries to the Home Secretary, the Lord President, the Chancellor of the Duchy of Lancaster, the Secretary of State for Energy and the Chief Whip.

RAA

ROBERT ARMSTRONG

18th July, 1980

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DRAFT LETTER FROM MR. J.R. IBBS TO
D.W.N. DOIG, ESQ., CLERK TO THE SELECT
COMMITTEE ON ENERGY, COMMITTEE OFFICE,
HOUSE OF COMMONS

Thank you for your letter of 15th July.

For the reasons which were given in my earlier letter to you and in the Prime Minister's letter of 9th July to the Chairman of the Committee, I am afraid that I am unable to comply with the Committee's request for a copy of the advice given by the CPRS to Ministers on the matter in question.

Were my colleagues and I to give oral evidence to the Committee on this subject, we should be unable to answer questions on the advice which we had given to Ministers or to disclose to the Committee information supplied to us in confidence by commercial companies. In the circumstances I have to suggest, with great respect, that no useful purpose will be served by our attending to give oral evidence to the Committee on 28th July.