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Mr Wicks

DEFENCE COMMITTEE

6 February 1986

*Please  
 Keep together  
 for the bag*

*Dear Sir Robert,*

I enclose one copy of the transcript of the evidence given by you in public to the Committee. I would be grateful if you would examine this and make in ink, in your own handwriting, such alterations as are -

- (i) restricted to the correction of inaccuracies in the printing or reporting of the evidence, or
- (ii) restricted to the correction of matters of fact which do not materially alter the general sense of any answer.

Minor alterations to the style or grammar of any answer should not be made.

You should not alter any questions, and if you wish to explain or give any additional information, you may either submit a footnote to your evidence at the appropriate point, or submit a memorandum.

I should be grateful further if you would return a corrected copy of the transcript to reach me by 11.00 am on Wednesday 12 February. If special circumstances make this impossible, please let me know, but if I do not hear from you to that effect, and do not receive the corrected transcript within the time indicated, the evidence will be published in its original form.

Although your evidence was taken in public, you should not make any public reference to this transcript without indicating clearly that it is an uncorrected document, and that the final form of its publication has not yet been approved by the Committee.

*Yours sincerely, Nicholas Wright*

Nicholas Wright  
Assistant

Sir Robert Armstrong GCB CVO  
 Secretary of the Cabinet and  
 Head of the Home Civil Service  
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HOUSE OF COMMONS

MINUTES OF PROCEEDINGS

TAKEN BEFORE THE

DEFENCE COMMITTEE

WEDNESDAY 5 FEBRUARY 1986

SIR ROBERT ARMSTRONG, KCB

Evidence heard in Public

Questions 1093 - 1349

MEMBERS' CORRECTIONS

Any Member of the Committee who wishes to correct the Questions addressed by him to a Witness is asked to send the correction to the Committee Clerk as soon as possible.

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WEDNESDAY 5 FEBRUARY 1986

Members present:

Sir Humphrey Atkins, in the Chair  
Mr Churchill  
Mr Dick Douglas  
Mr Bruce George  
Dr John Gilbert  
Mr Edward Leigh  
Mr Michael Marshall  
Mr Michael Mates  
Mr Keith Speed  
Mr Neil Thorne

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SIR ROBERT ARMSTRONG, KCB, Secretary of the Cabinet,  
called in and examined.

Chairman

1093. Sir Robert, good morning. Thank you for letting us know yesterday that you would be ready to give evidence to us and thank you for responding so quickly to our invitation. I hope you will be able to reply fully to our questions this morning. As you know, we have been investigating the defence implications of the future of Westland plc. In the course of this we have also been examining the decision-making process in this particular case, especially as this process affected defence interests. The matters which you investigated in your inquiry, therefore, have relevance to our investigation. I should say that we made it clear that our request to see the five named officials still stands: whether we wish to hear evidence from them will depend to a large extent on the evidence you give us this morning. We will rise this morning not later than 1 o'clock: if necessary, we will invite you to return to continue your evidence on another occasion. In any event, it is our practice to follow up in writing any detailed matters which arise in evidence. Now we will take as much of our evidence as possible in public this morning, but it is possible that matters might arise on which you wish to answer in private. If this is the case, you will let us know and we will then hear your reasons for

going into private session before considering whether we should do so. I would like to mention one other point before we begin. I am aware of comment about the extent to which the matters we are investigating fall within our orders of reference. Although it is a rule of the House that the interpretation of the order of reference in the Select Committee is a matter for that Committee, I should like to make it clear that we have kept in the closest touch with our sister Committees on Trade and Industry and Treasury and Civil Service and have shared our evidence with them in the way that the Standing Orders allow us to do. Indeed, Sir Robert, we have read with interest the evidence which you gave before the Treasury and Civil Service Sub-Committee on 27th November last about the duties and responsibilities of ministers and civil servants, and we may draw on that evidence so far as it affects this case this morning. Sir Robert, it seems to us to be the best way to proceed to ask you any questions we wish about the inquiry, how it was set up, how it was conducted and so forth, and we note particularly in your letter to us that you are going to answer our questions "consistently with the normal conditions of confidence under which the inquiry was conducted". I think, therefore, we should clear up matters of that sort before we come to your findings. Sir Robert, we were told by the Prime Minister in her statement in the House of Commons on 27th January that on 7th January the Attorney General sought your view as to whether it would be appropriate for the law officers to seek a formal inquiry. She went on to say that after discussion between him and you he made clear his view that there should be an inquiry and she went on to say that you minuted her formally on Friday, 10th January, seeking her authority for the institution of such an inquiry. It took apparently, Sir Robert, three days to decide whether there should be or not. Would you like to make any comment on that?

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(Sir Robert Armstrong) Thank you, Mr Chairman. No, I can confirm the sequence of events and dates which the Prime Minister gave in her speech in the House on 27th January. The Attorney General sought my view on 7th January and I had some conversation with him on 8th January. The 9th January was somewhat taken up with other matters because there was a meeting of the Cabinet that morning which included a rather dramatic occurrence and I did not have much chance to return to this matter during the course of that day. On 10th January I had another conversation with the Attorney General at which he made clear, as the Prime Minister said, his view that there should be an inquiry and I concurred in that view. I accordingly sent the Prime Minister a minute to that effect, which she saw over the weekend, and I learned on Monday morning that she had agreed the inquiry should go ahead.

Mr Douglas

1094. Being somewhat of an innocent in these matters, Sir Robert, was the background to this inquiry normal? Would you consider that a normal method of approach?

(Sir Robert Armstrong) In what respect?

1095. Well, here we have a "leak" of a document emanating from the law office and we take apparently seven days or more to institute an inquiry into a matter which is, or might be, or should be, considered very serious.

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(Sir Robert Armstrong) As I say, as far as I was concerned, the intervening period was in part taken up with [other matters, and] other pressing matters. It is perfectly normal for it to take two or three days, or even a little longer, to set an inquiry up. Usually, if I am asked whether an inquiry should be set up, I make some inquiries of other departments and satisfy myself that it is, as they say, something that involves a number of departments, and then

I have to seek, if I am in any doubt in the matter, the Prime Minister's agreement. I do not think there is anything exceptional about the fact that it was three days after I was approached when I put this to the Prime Minister.

1096. How many other departments did you have to consult?

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(Sir Robert Armstrong) Clearly ~~the~~ copies of the letter in question went to the Department of Trade and Industry, to the Ministry of Defence and to the Treasury.

1097. And the Foreign and Commonwealth Office?

(Sir Robert Armstrong) And the Foreign and Commonwealth Office, quite right.

1098. They would have replied expeditiously?

(Sir Robert Armstrong) I talked on the telephone and they were content that an inquiry should take place.

1099. No thought in your mind or anybody else's of involving the police?

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(Sir Robert Armstrong) I discussed this with the Attorney General and we concluded, in the first instance, as is perfectly normal, there should be an internal inquiry. The arrangement is a regular one, that if we start off with an internal inquiry and that looks as if it is going to reach a point where there may be a question of bringing a charge under the Official Secrets Act, then the matter is turned over to the police at that stage, but that is a perfectly normal drill.

Mr George: May I ask some questions on the mechanics of the inquiry? Was it a one-man inquiry?

Chairman: Excuse me, we are going to come to that point in a moment, Mr George. Can we have any questions on the period before the inquiry started, if you do not mind?

Mr Speed

1100. Sir Robert, on the 7th January when the Attorney General sought your view were you yourself at that time aware of any of the circumstances of the leak?

(Sir Robert Armstrong) I was aware that the Solicitor General's letter had come into the public domain. That was all I was aware of at that stage.

Chairman

1101. Coming to the inquiry itself, I think the Committee would be glad to have a few matters clarified if you can help us. Could you tell us, did this inquiry have set terms of reference? Can you tell us what they were if it did?

(Sir Robert Armstrong) It did not have set terms of reference but, if it had had such terms of reference, it would be to inquire into the circumstances under which the Solicitor General's letter of 6th January became public knowledge.

1102. I wonder if you could tell us how the inquiry was conducted. Was it done by you alone or were there other people there?

(Sir Robert Armstrong) I conducted the inquiry. I had with me a colleague from the Cabinet Office to assist me. I did not wish to conduct the interviews entirely on my own, though I led them, and the colleague was able to assist me to ensure that the account that I made of the matter was not just my own account but was an account which somebody else had - an account to which somebody else who had heard the interviews could endorse. Both he and I made notes of the interviews that we took. We wrote those notes up and the notes were subsequently cleared with the witnesses so as to ensure that they were content that the record was a correct account of what they had said.

1103. Those were the records of your inquiry, the notes made by you and your Cabinet officer?

(Sir Robert Armstrong) There is a single note which represents our record of the interviews that I conducted.

Dr Gilbert

1104. Did the interviewees have, or were they offered, any legal advisers with them, Sir Robert?

(Sir Robert Armstrong) They did not have legal advisers with them.

1105. Were they offered them?

(Sir Robert Armstrong) They did not ask for them.

1106. Were they offered them?

(Sir Robert Armstrong) No. This would be unusual in a leak - an inquiry of this kind, in fact, I think unprecedented.

1107. Were they offered any other assistance, representation, trade union representation with them?

(Sir Robert Armstrong) They asked if they could have their Permanent Secretary in the room with them and I agreed to that.

1108. All of them asked for that?

(Sir Robert Armstrong) They all asked for that - all the Department of Trade and Industry officials.

1109. What about the officials at No. 10?

(Sir Robert Armstrong) We saw them on their own.

1110. Could I ask at this stage how many people did you interview in the course of this inquiry, Sir Robert?

(Sir Robert Armstrong) Five.

1111. How many interviews did you conduct?

(Sir Robert Armstrong) I conducted one interview with each and I subsequently checked some points on the telephone.



1112. With those individuals?

(Sir Robert Armstrong) With the individuals.

1113. I see. Could you name the people you interviewed?

(Sir Robert Armstrong) I should prefer not to do that.

1114. Could you tell us this then: did you interview exclusively officials or did you also interview ministers?

(Sir Robert Armstrong) I told the Prime Minister in submitting the report that I had not interviewed any ministers, that I had interviewed only officials, I did not wish to interview ministers without her agreement, if she wished me to do so I was perfectly ready to do so.

1115. Did you suggest to her it might have been helpful to get a comprehensive report, for you to have interviewed Ministers?

(Sir Robert Armstrong) When I had submitted my report, she herself talked to the Secretary of State for Trade and Industry and I was present. That gave him an opportunity to make his own comments and observations on the findings.

1116. Did it never occur to you, in the course of your investigation, it might have been fruitful for you to have a discussion with the Minister, and that you might wish to seek the Prime Minister's consent to such a proceeding?

(Sir Robert Armstrong) I made it clear to the Prime Minister, I was prepared to do that if that was agreeable.

1117. At what stage did you say that to the Prime Minister?

(Sir Robert Armstrong) When I put my report in.

1118. Not until then?

(Sir Robert Armstrong) Not until then.

Chairman

1119. I think there is one other matter which we would like to ask you about in this connection, Sir Robert. There have been stories that some kind of immunity was granted to one of the people involved in this affair. Can you enlighten us about that?

(Sir Robert Armstrong) I think that the Prime Minister's statement on 23rd January made that quite clear, did it not? If the Committee would like me to supplement that in any way, of course, I will try to do so.

Dr Gilbert

1120. Can you give us the reference for that please?

(Sir Robert Armstrong) I think it was the last paragraph

in her statement of 23rd January. Hansard of that date, column 450 to 451.

Chairman

1121. Thank you. That was the only official you say to whom that applied?

(Sir Robert Armstrong) Yes.

1122. Can you tell the Committee if this is a normal proceeding?

(Sir Robert Armstrong) I have not heard of it done in a previous inquiry, but in this case I believed that I should be addressing the person who had actually passed the document, or passed the information rather, because no document was passed. It was evident that a truthful answer could be an incriminating answer and it seemed, therefore, likely to me that the person concerned might wish to know what the position would be in the event of a truthful answer being given. I did not wish to hold the process up by having, as it were, to go away again and seek the Attorney's authority, and I therefore discussed the matter with him on, as you might say, a contingency basis, having reason to believe that I should be asked what the position was. Sure enough, I was asked what the position was.

Mr Churchill

1123. The Attorney General, in reply to oral questions on 3rd February in Hansard, column 15, says, ~~apropos~~ this, "the information officer was refusing to give evidence unless she had immunity." Can you confirm that was the case?

(Sir Robert Armstrong) She did not use those words, she asked what her position would be, from which I certainly took it that if she believed that she might be incriminating herself in a way which would lead to prosecution, she might be

less willing to co-operate fully with my inquiry.

1124. Is there no obligation on officials to give evidence in such circumstances without the offer of immunity?

(Sir Robert Armstrong) I know of no obligation special to civil servants which would require them to incriminate themselves, which is different from that for other people.

1125. You mentioned earlier that it was unusual, if not unique, in your experience for immunity to be granted under such circumstances. Of course there have been several cases, have there not, security cases, when immunity has been granted to members of the Civil Service?

(Sir Robert Armstrong) I can think of only one case in which immunity was authorised and granted, and that was the case of Anthony Blunt. That is the only one which comes to my mind immediately.

1126. It is certainly not an automatic feature of such inquiries?

(Sir Robert Armstrong) Not an automatic feature of leak inquiries.

Dr Gilbert

1127. It is not the case then that you went to the Attorney and invited him to give you blanket authority to issue immunity?

(Sir Robert Armstrong) Certainly not, and I am sure he would not have given it to me if I had asked.

1128. You went just in respect to one individual?

(Sir Robert Armstrong) Yes.

1129. Coming back, if I might, to the interviews with these five officials, was anybody outside No. 10 or the DTI interviewed by you?

(Sir Robert Armstrong) No.

1130. Can you tell us how long the interviews lasted?

(Sir Robert Armstrong) Not without notice. I can tell you, but I have not got the figures in mind.

1131. Could you give us some feel of it? Ball-park figures? Ten minutes? An hour?

(Sir Robert Armstrong) Three-quarters to an hour each.

1132. Was there any significance to the sequence in which you arranged the interviews? Did you, for example, go to all the DTI officials first and subsequently to those in No. 10, or the other way around?

(Sir Robert Armstrong) I went first to the person who I had some reason to believe had passed the information, who was an official of the DTI, and having conducted that interview I then conducted interviews with other people in the DTI concerned, consecutively, as it were.

1133. "Other people in the DTI", so three in the DTI, in other words?

(Sir Robert Armstrong) As I said.

1134. Were any of the interviewees confronted with a record of what the other interviewees had said to you? Did they have any chance to comment on what other people had said to you?

(Sir Robert Armstrong) Yes.

1135. This was in the subsequent telephone calls?

(Sir Robert Armstrong) No, that was in the interviews that I conducted. I was able to ask questions in which I made it clear that I had had a certain account of matters from earlier witnesses, and I asked for the subsequent witnesses to confirm or correct that account.

1136. Indeed, but I am just a little puzzled on that point. You told us your first interview was with an official in the DTI, who you had reason to believe was the individual who had passed the information to the Press Association? Correct?

(Sir Robert Armstrong) Right.

1137. What chance did that individual have of commenting subsequently, if you did not have a further interview with that official, on the interviews given to you by the other officials with whom you spoke?

(Sir Robert Armstrong) I had a subsequent telephone conversation but that was the only such thing. I do not feel there was any miscarriage of justice in that.

1138. Could you give us some idea of how long that telephone conversation lasted?

(Sir Robert Armstrong) A few minutes, I cannot remember.

1139. To cover all the information that the other four witnesses had given?

(Sir Robert Armstrong) No, it was not necessary to do that.

1140. What was it necessary to do?

(Sir Robert Armstrong) There was one point on which I wanted to check. There was clearly no point in checking whether the records were in parallel were there were not differences to be reconciled.

1141. But the witnesses were giving you conflicting accounts of what happened, were they not? We were told of misunderstandings, so clearly they must have been giving you different accounts of what had happened?

(Sir Robert Armstrong) That was the point I checked on the telephone.

1142. Was there a misunderstanding, just put like that?

(Sir Robert Armstrong) No, I do not want to go into detail about this, because that would be a breach of confidence, but clearly I went further into the matter than that.

Mr George

1143. Was there some form of position paper presented to you prior to the commencement of your inquiries?

(Sir Robert Armstrong) No. What position paper would you be thinking of?

1144. I was thinking that you would not go blindly into an inquiry, perhaps you would seek information as a preparation for your inquiry?

(Sir Robert Armstrong) I certainly made some preliminary inquiries, but the outcome of those did not take the form of a position paper.

1145. Did you think your inquiry was able to get to the heart of the matter, if you were only able to interview five potential suspects?

(Sir Robert Armstrong) I believe that I know what happened, yes.

1146. You mean you believed you knew what happened before you started the inquiry?

(Sir Robert Armstrong) No. I believe as a result of the inquiry I know what happened. I do not believe I needed to conduct further inquiries of other people in order to know more of what happened.

1147. But as non-civil servants were clearly involved, would it not have been more appropriate at least for the sake of the outside world believing the inquiry was a reasonable one,

if more than civil servants were involved?

(Sir Robert Armstrong) Are you meaning Ministers?

1148. Ministers, yes, and the Prime Minister.

(Sir Robert Armstrong) My inquiry was confined to officials. As I say, there was a subsequent meeting between the Prime Minister and the Secretary of State for Trade and Industry at which I was present, where the findings were able to be gone over.

1149. May I ask why it is not possible to reveal the names of the people you interviewed?

(Sir Robert Armstrong) The process was conducted in confidence and I think it would be preferable not to give the names of those concerned.

1150. It might be preferable -----

(Sir Robert Armstrong) In their own interests.

1151. ----- but our Committee is conducting an inquiry, for which we are empowered by a large majority in Parliament so to do. We are not asking - at least, I am not - for a copy of the report, which I would like but I am not asking for it. Is it not within the public interest and within the scope of this Committee at least to find out who actually was interviewed?

(Sir Robert Armstrong) I am sure you know the officials I interviewed perfectly well, Mr George, without my naming them.

1152. Is it not possible to confirm that?

(Sir Robert Armstrong) I should prefer not to.

Dr Gilbert: I cannot imagine who the fifth one was, but I am working very hard on it.



Mr Marshall

1153. On this question of your background to the inquiry, I wonder if you could say whether you were influenced in your approach by your recent thinking on the question of civil servants' and Ministers' duties and responsibilities in relation to the memorandum which you submitted to the Treasury and Civil Service Committee? I do not want to get into the substance of that particular inquiry, but in paragraph 6 of your memorandum to it I think you draw what is seen at that time as a distinction between carrying out policies on behalf of the Ministers, which in some senses was seen as an up-dating, as I read it, of the implications of the Official Secrets Act - would you agree with that?

(Sir Robert Armstrong) May I refresh my memory of that paragraph before I reply to that question?

1154. Paragraph 6 on page 2. If I can just quote the particular passage which concerns me, for the benefit of the Committee: "A civil servant who felt that, because of personal moral convictions, he could not carry out a particular policy effectively would have a duty to consult a superior officer ..." et cetera, et cetera. The substance of that paragraph, as I read it, is large an amplification or up-date of the situation in which civil servants might have to take actions on behalf of Ministers with which they do not agree, in the terms I have just mentioned. Do you have it?

(Sir Robert Armstrong) Yes, I have it. I am sorry I was looking at the original memorandum and not the subsequent document which went to the Treasury and Civil Service Committee.

1155. On page 5 of that report, in the questions which were put to you in writing before you gave evidence to the Treasury

and Civil Service Sub-Committee, you are asked: "Are there circumstances when a Minister could require a civil servant to release information in a manner contrary to obligations under the Official Secrets Act and the memorandum?" To which you replied: "Section 2 of the Official Secrets Act 1911 does not prohibit the authorised release of information. Nothing in Section 2 or in the note of guidance prevents the release of information with the responsible Minister's authority." May I take it, that at the time of your inquiry your position was that you were taking those as effective guidelines?

(Sir Robert Armstrong) I am not, I am afraid, quite sure how this bears on it. The inquiry was to find out what happened.

1156. Indeed, the only guidance that I am able to trace affecting civil servants in the situation in which you were examining, appears to relate to matters of policy, carrying out matters of policy. What I am seeking to ask is whether in fact your inquiry raised the question of actions on the part of civil servants as opposed to carrying out matters of policy on behalf of Ministers. I can see a distinction in the background of your inquiry which took you outside the terms of what you had, I think, previously identified in evidence to the Treasury and Civil Service Committee as guidelines for civil servants acting on behalf of their Ministers?

(Sir Robert Armstrong) I do not think that the matters that were covered in my memorandum or in that evidence to the Treasury and Civil Service Committee were foremost in my mind in thinking about the background to the inquiry. I was concerned to find out what had happened. When I had found out what happened, then these other questions would, of course, arise, but it did not feature prominently in my mind as a background to the inquiry, no.

1157. But you were concerned there was a possible breach of the Official Secrets Act which had to be considered as your inquiry began, and that was the whole question of indemnity and so on?

(Sir Robert Armstrong) The question of breaches of the Official Secrets Act is more for the law officers or Director of Public Prosecutions than for me; I was concerned to find out the facts. When I had completed my inquiry and submitted my report to the Prime Minister, the report went also to the Attorney General and it was for him to take a decision in relation to the Official Secrets Act, and his view on that matter was reported in the Prime Minister's statement on 23rd January.

1158. Is it not the case that at the moment the guidance for civil servants appears to relate solely to carrying out policy on behalf of the Ministers, but does not relate to actions which they themselves might carry out on the instructions of Ministers? Is there not a problem on the present guidelines which does not cover actions as opposed to implementing policy?

(Sir Robert Armstrong) I think if you refer back to the original memorandum of 25th February, on which the evidence to the Treasury and Civil Service Committee was based, you would find that paragraphs 8 and 9 of that memorandum, and indeed paragraph 11, cover actions as well as policy matters.

1159. Yes, I recognise that, but would you not say there is a problem arising from this recent investigation which does suggest there perhaps is a need, particularly in sensitive areas such as defence, to give more tightly drawn background advice for civil servants?

(Sir Robert Armstrong) I should certainly like to think about that. I think that guidance given in the memorandum could in fact have been thought to have covered the situation there, but I think that comes, as it were, as a result of the inquiry rather than anything connected to the background to the inquiry.

Chairman: I think this is really more a matter for the Treasury and Civil Service Committee than us.

Mr Marshall: The precise point I am making, Chairman, is that on sensitive matters, such as defence, there are particular aspects for consideration, and that was the point I was putting to Sir Robert.

Mr Speed

1160. Could I ask you one thing, Sir Robert, to clear my mind on this question of the inquiry you were carrying out. As I understand it, after you completed the inquiry, when you saw the Prime Minister, it was then for consideration whether one had discussions with Ministers, but did you have the power as the head of the inquiry to have interviewed ministers yourself during the course of the inquiry?

(Sir Robert Armstrong) The normal rule with leak investigations, is that if the question arises of the investigator interviewing Ministers, the Prime Minister's authority is sought.

1161. The normal rule laid down by whom?

(Sir Robert Armstrong) By successive Prime Ministers.

1162. So it is a matter of precedent but not an actual rule? It is not the law of the land, it is custom?

(Sir Robert Armstrong) It is not the law of the land. It is the custom when you set up an inquiry of this kind,

if it appears necessary to interview Ministers, to ensure that the Prime Minister's agreement is sought before that is done.

1163. But you did not seek the Prime Minister's agreement before you completed the inquiry?

(Sir Robert Armstrong) I completed my inquiry to the stage of having interviewed all the officials I thought it necessary to interview. I then reported and said I was ready to interview Ministers, if she wished me to do so.

1164. You were ready, did you actually wish to interview Ministers?

(Sir Robert Armstrong) I was perfectly ready to do so.

1165. Obviously you were ready - you are ready at any time - did you actually ask the Prime Minister if you could interview Ministers?

(Sir Robert Armstrong) I did not ask her because I thought she might wish to discuss the matter with the Secretary of State herself, which she did, in my presence.

1166. But that did not then affect the report that you had done in any way at all?

(Sir Robert Armstrong) The Secretary of State was content and agreed with the findings I had reached.

1167. And the Prime Minister?

(Sir Robert Armstrong) And the Prime Minister.

Mr Douglas

1168. I wonder if you could clear up one or two technical points for me. You were taking evidence from these five officials, did you ask any of them to submit evidence to you on oath?

(Sir Robert Armstrong) No, it was not that kind of inquiry. That, I think, would have been unique in my experience of this kind of internal inquiry.

1169. These telephone calls that you were undertaking with some of the individuals, if not all of them. How were they recorded? Were they taped?

(Sir Robert Armstrong) No.

1170. Did you have notes of them?

(Sir Robert Armstrong) I made some notes. They were not sufficiently important, in my judgment, to make formal notes.

1171. Could I ask what happened to your notes, your background notes, on which your final report to the Prime Minister was based? What has happened to them?

(Sir Robert Armstrong) I have them.

1172. When the final report was made, when you had the final report and you submitted it to the Prime Minister, did the five individuals, or any of the individuals, get a copy of that report simultaneously?

(Sir Robert Armstrong) No.

Dr Gilbert

1173. Following on from Mr Marshall's questions, can I ask you whether you considered the leaking, selectively, of a letter from the Solicitor General to the Secretary of State for Defence an improper act?

(Sir Robert Armstrong) I think it would have been much better not to have disclosed the information in that way.

1174. Do you find difficulty in answering my question directly?

(Sir Robert Armstrong) There is a clear rule that one does not disclose the advice of the law officers, and therefore it was very regrettable that that was done. It should not have been done.

1175. Would you have expected the people you interviewed to regard the leaking of this letter as an improper act?

(Sir Robert Armstrong) I wished that they had that consideration in their minds. Some of them, I think, did; some of them, I think, did not.

1176. Did you ask them specifically?

(Sir Robert Armstrong) Yes.

1177. All of them?

(Sir Robert Armstrong) Yes.

1178. Bearing that in mind, did you ask them whether any of them consulted a superior officer either before or after the letter was leaked?

(Sir Robert Armstrong) Some of them certainly would have liked to do so, but the superior officer whom they wished to consult was out of London and not available to be consulted.

1179. I see. Could I ask, so we can clarify this, the senior officer or top senior officer at the Department of Trade and Industry would, of course, be the Permanent Secretary, if not somebody before?

(Sir Robert Armstrong) Correct.

1180. Who would the senior officer be for the press secretary to No. 10?

(Sir Robert Armstrong) He would discuss the matter principally with the Private Secretary at No. 10 or, failing that, he could come and talk to me.

1181. Who would he normally regard as his superior officer, in these terms?

(Sir Robert Armstrong) I think in terms of the memorandum of guidance, he would regard me, as the head of the Cabinet Office.

1182. Did he consult you?

(Sir Robert Armstrong) He did not consult me in this matter.



Mr Mates

1183. When you were conducting the inquiry which was specific to the leak, did you look or consider the background which had led to perhaps some of the feeling which was motivating departments? Did you look at, if I dare mention the word, Westlands for the first time this morning, did you consider the tensions that there had clearly been between the two departments of State and try to make an assessment from them or for yourself as to how this misunderstanding had come about?

(Sir Robert Armstrong) Yes, they were certainly part of the background to my inquiry and the fact those tensions existed was a matter to which I think all of those whom I interviewed drew my attention.

1184. Could you share your conclusions with us as to how the various tensions and the pressures that were being applied led civil servants to take what you describe as "regrettable action"? Do you believe that was a major part of it?

(Sir Robert Armstrong) I think that a much more important element in that was the time constraint which they were under on the day in question. I am not trying to avoid your question, Mr Mates, but by way of introduction to it I think it is right to say that all those concerned were very much seized of the fact that there was to be a press conference at 4 o'clock that afternoon at which the Chairman of Westlands was going to announce the revised proposal by the United Technologies Corporation/Fiat consortium. Everybody concerned was well aware that Sir John Cuckney had written to the Prime Minister on 30th December, that the Prime Minister had replied on 1st January and that Sir John Cuckney and the Board of Westlands were relying on that letter and that the letter which

the then Secretary of State for Defence sent on 30th January had materially differed from the Prime Minister's letter in one respect. They knew that some question had been raised about the Defence Secretary's letter. They were very much seized with the need to establish in people's minds before the press conference that there were some doubts in the air about the matter. I think that that time constraint was much the largest factor in what was not done as it should have been done. I think that a contributory factor was the long drawn out background, of which I am sure you have heard in previous evidence. A background in which the policy of the Government was that it was for the Company to decide what course was best to follow in the interests of the Company and of the shareholders and the employees and certainly by some it was felt that the even-handed approach that that implied was being more whole-heartedly sustained in some quarters than other's.

Chairman: I think it would be helpful to the Committee in a moment for us to ask you what happened? You told us you discovered what happened, I think before we inquire much further we would like to hear from you. I think Mr Douglas has one question left on the mechanics?

Mr Douglas

1185. Strictly speaking, Chairman, it is not the mechanics, it is following up your answer to Dr Gilbert in relation to your regretting what happened happening in terms of civil servants. In Annex A in this document of Minutes of House of Commons, page 8, paragraph 6 - I believe these are your words, Sir Robert - I quote: "...There is and must be a general duty upon every civil servant, serving or retired, not to disclose, in breach of that obligation, any document or information or detail about the

course of business, which has come his or her way in the course of duty as a civil servant. Whether such disclosure is done from political or personal motives, or for pecuniary gain, and quite apart from liability to prosecution under the Official Secrets Acts, the civil servant concerned forfeits the trust that is put in him or her as a servant of the Crown, and may well forfeit the right to continue in the service..." These are your words, Sir Robert, I take it that all the civil servants concerned you interviewed had a copy of this particular document?

(Sir Robert Armstrong) I cannot say, as to that, whether they had all seen it. I did not myself thrust it into their hands but it was widely circulated.

1186. You did not check on the basis of your inquiry into such disclosure whether or not the civil servants were of a higher rank and had read this document?

(Sir Robert Armstrong) I think this question really arises much later.

1187. It may very well, Sir Robert, I was hoping you would be willing to answer it now?

(Sir Robert Armstrong) I did not ask them whether they had read this document. I assumed all concerned had read it or were aware of their obligations.

Chairman

1188. You told us earlier that as a result of your inquiry you know what happened?

(Sir Robert Armstrong) I hope I said I think I know what happened?

1189. Very well. Can you tell the Committee what you think happened?

(Sir Robert Armstrong) Where does one start, I think I start on the morning of the 6th January when the Solicitor General came into his office and refreshed his memory of the documents which he had seen in connection with the earlier phases of the matter, in particular the Prime Minister's letter of 1st January, and decided that he would send a letter to the then Secretary of State for Defence saying he had seen the Secretary of State's letter of 3rd January to Mr Horne of Lloyds' Merchant Bank; on the basis of information available to him it appeared to contain material inaccuracies and advising he should write again to Mr Horne correcting those inaccuracies. That letter was signed at about a quarter past 11 that morning and it was sent to the Defence Secretary's office and copies were sent to other departments, other ministers including the Secretary of State for Trade and Industry. The letter came to the attention of the Secretary of State's private secretary at around 1 o'clock or shortly before ---

1190. Which Secretary of State?

(Sir Robert Armstrong) Trade and Industry. It will become clear to you why I am concentrating on that particular department. --- at 1 o'clock or shortly before, after the Secretary of State had left the office for a luncheon engagement. It happened that at the time when the letter came into the office the under secretary in charge of air division was in the private office, so that both of them saw the letter more or less together. Both of them saw the significance of the letter and the importance, if indeed there were inaccuracies, in the Defence Secretary's letter of 3rd January of getting that fact into the public domain as soon as possible and before the press conference which was due to be held at 4 o'clock. The private secretary thereupon rang the Secretary of State up on the telephone at his luncheon engagement and he put the matter

to him. The evidence which I received suggests he put it to him neutrally. He read the letter over to the Secretary of State and he said that the question we have to consider is whether the fact that the Secretary of State has written and the opinion he has expressed should come into the public domain and if so whether that should be in general or in specific terms. The Secretary of State responded that he thought it should go into the public domain and it should be done in specific terms but that Number 10, the Prime Minister's office should be consulted. I suppose by now it was, I do not know, quarter past 1, twenty past 1, something around about that time; it is impossible to say exact times but near enough. After that conversation there were two conversations with 10 Downing Street and it was in these conversations that the difference of understanding which has been referred to arose. I have naturally gone over the ground of these conversations carefully with all those concerned and the strange thing is that the accounts of the conversations largely coincide in terms of facts, you cannot expect precise similarities and wording when people are remembering what was said ten days or a fortnight later or whatever it was. What clearly differed was the way in which people concerned were looking, were viewing the matter, were viewing the conversations they were having. It was in that, that I think the problem of the difference arose. At any rate, I think what was clear at the end of the conversations was that the Prime Minister's office and the people to whom the DTI spoke accepted that the DTI should make the disclosure and agreed that in the time available the only way - practical way - of getting the matter into the public domain within the time constraint (the 4 o'clock deadline) was the method that was eventually adopted. I do not think there is any disagreement

on that point. Those conversations having taken place the Department of Trade and Industry considered that they had the authority of their Secretary of State and cover from Number 10 and, accordingly, the official concerned spoke to the Press Association and told the Press Association that the Solicitor General had written this letter and in summary what views were expressed in it. I suppose that must have been by now somewhere about 2 o'clock, I do not know exactly. I understand that it was on the tapes at 2.53, on the one lot of tapes at 2.53 and on another, what they call the club tapes, at half past three. So that the information was indeed in the public domain in good time before the press conference took place. The Company was told of the Solicitor General's letter before the conference took place but just in case there would be questions at the conference and then, as I understand it, they themselves saw the tape extracts before the conference began.

1191. Thank you, Sir Robert. I think one of the strangest features of this affair is that somebody authorised the disclosure to the press of a law officer's letter which even if it had not been marked private and confidential would have been an improper thing to do. Does your inquiry lead you to any conclusions as to who gave that authorisation?

(Sir Robert Armstrong) I am clear that the authority for the disclosure was given by the Secretary of State for Trade and Industry and I think it is clear from what has been said in the House of Commons that he did take the view that the fact that the Solicitor General had written as well as the opinion he expressed, should, as he put it, be brought into the public domain. How far he addressed his mind to the fact that this was the Solicitor General's letter and to the discourtesy or impropriety or unwisdom of it being disclosed from his department, I do not know.

1192. Are you satisfied, Sir Robert, that the then Secretary of State for Trade and Industry's statement in the House, which is, of course, what we have to go on, on the 27th January, where he said: "... I was given the authority for the disclosure of the Solicitor General's letter to be made..." are you satisfied that that authority included the precise nature of the way in which it was disclosed?

(Sir Robert Armstrong) Can I refresh my memory of what he said?

1193. Please, volume 671 of the Hansard of 27th January. Let me read it again for you: "... I made it clear to my officers at the Department of Trade and Industry that subject to the agreement of Number 10 I was given the authority for the disclosure of the Solicitor General's letter to be made...". I want to go back to the conditional clause in a moment but was it your view that the authority which he says he gave included the authority to make the disclosure in that particular way?

(Sir Robert Armstrong) Can I complete the paragraph please, Mr Chairman, after the sentence you read out Mr Brittan went on to say: "... I therefore accept full responsibility for the fact and the form of that disclosure."

1194. Yes?

(Sir Robert Armstrong) I am only speculating on the basis of the inquiry which I conducted.

1195. Of course.

(Sir Robert Armstrong) But I would judge that the Secretary of State knew and gave authority, as it were, knowingly for the fact that the Solicitor General had written and for it to be disclosed. I would doubt whether he was consulted about the precise method

by which it would be done.

1196. I see. Going back to that statement again, what the then Secretary of State for Trade and Industry says is that he was given the authority subject to the agreement of Number 10. When you told us a few moments ago about what happened you used the word "consultation", this statement indicates that his instructions were to obtain the agreement of Number 10. There is a slight difference.

(Sir Robert Armstrong) I do not think he used the words "subject to the agreement of" in the telephone conversation which took place on 6th January which is the relevant telephone conversation, I think he used words which were taken to mean that but I do not think as far as I can discover he did not use those exact words.

Dr Gilbert

1197. You did not ask him so you did not have his version of it?

(Sir Robert Armstrong) He would not contest what I heard from his officers, he did not contest what I heard from the officials.

1198. How do you know he did not contest it if you did not have a discussion?

(Sir Robert Armstrong) As I told the Committee I was present when he had the discussion with the Prime Minister on the evening of 22nd January.

Chairman

1199. Can I ask you just two more questions on this, if I heard you correctly you said that the Prime Minister's office accepted that the Department of Trade and Industry should disclose the contents of the letter, does that mean that the Department of Trade and Industry asked to be able to it or did they ask Number 10 to do it?



(Sir Robert Armstrong) They made it clear, as they were instructed, they asked whether Number 10 were going to do it or would do it, they made it clear it was their Secretary of State's preference. It was made clear to them Number 10 were not going to disclose it but as the conversation continued Number 10 made it clear, given they had their Secretary of State's authority to proceed, they accepted they were not objecting to the DTI agreement.

1200. One other thing you said, which I noted, it was that the Company was told separately of the Solicitor General's letter before the press conference that was to happen that afternoon did your inquiries disclosed how that was done?

(Sir Robert Armstrong) On the telephone.

1201. When and by whom?

(Sir Robert Armstrong) By officials of the DTI.

1202. Before the press conference?

(Sir Robert Armstrong) Before the press conference.

Mr Mates

1203. I do not think it is quite as much the manner of the disclosure whether it was the PA or a named journalist which worried people but what did your inquiries lead you to conclude about the most fundamental part of the Solicitor General's complaint in this latter letter which was the terms, in other words the selected pieces of the letter which were disclosed, did your inquiries lead you to discover how the conclusion was come to, that those bits which were in this misleading statement were the only ones disclosed to the PA?

(Sir Robert Armstrong) As far as I can judge this was done by telephone, therefore there was not a question of releasing the whole text. I think it was semi-verbatim but not absolutely verbatim, clearly some words were used which came from the letter.

This phrase "material inaccuracies" was clearly used in the telephone communication to the Press Association. I think the DTI officials concerned marked those bits which needed to be disclosed in order to comply with what their Secretary of State had said he wanted in the public domain; the fact the Solicitor General's letter had been written and the opinion he expressed.

1204. Do you believe there was any element in that, going back to the strength of feeling between the two departments which we were expressing a little earlier?

(Sir Robert Armstrong) No I think the relevant opinion --- I do not think there was any malice in the choice of what was said, I think it was simply chosen to get into the public domain the fact the Solicitor General advised, on the information available to him, there were material inaccuracies in the Defence Secretary's letter of 3rd January.

1205. You would agree, would you not, if the whole letter had gone out it would not have appeared as damaging as it did?

(Sir Robert Armstrong) I do not know the answer to that. I think it would still have appeared that the Solicitor General was suggesting that there were material inaccuracies in the letter of 3rd January, that would have been to some extent qualified by other matters in the letter but I think what the effect would have been, as far as I am concerned is a matter of pure speculation.

1206. When you began your inquiry had you seen the second letter from the Solicitor General?

(Sir Robert Armstrong) Yes by the time I started I had seen both the Defence Secretary's reply to the first letter and the Solicitor General's second letter.

1207. Did you think at the time it would have been helpful to

do the whole thing up and clear away the uncertainties if it had been released rather more quickly?

(Sir Robert Armstrong) I did not address my mind to that.

1208. You did not. It did not seem to you to be one way out of the problem?

(Sir Robert Armstrong) It did not seem to me to go to the centre of the matter with which I was inquiring which was the circumstance in which the Solicitor General's first letter had come to be disclosed.

1209. Finally, the imperative of putting this into the public domain before the press conference, were you satisfied that the press conference was that vital that it was imperative, in other words the judgment behind the decision was the correct one?

(Sir Robert Armstrong) I think for the purpose of my inquiry the important point was the fact that it was thought to be imperative and clearly that judgment was made and taken and accepted by all concerned as being a very important constraint on the actions that were taken; constraint in the sense it implied something to be done extremely quickly. I do not know that I am the right person to answer your second question, I have made some inquiries about it and I think the answer is yes it was if not essential very desirable, given that the Company were relying on the Prime Minister's letter of 1st January for the purpose of their dealings with both these consortia, it was important before they had a press conference at which the revised offer by one of them was to be announced that if there was any doubt about the point in the Secretary of State for Defence's letter of 3rd January, which had been made public, that fact

ought to be known. I think that was a perfectly valid consideration, the exact weight one should lay upon it. I do not know I am the right person to judge.

Chairman

1210. Sir Robert, how much did you address your mind to the issues prior to effecting the Solicitor General's letter prior to 6th January?

(Sir Robert Armstrong) In my opinion?

1211. Yes?

(Sir Robert Armstrong) I made some inquiry about the events over the previous weekend.

1212. Did you ascertain in any way who could anticipate it, Number 10 or any other department, which department could anticipate the Solicitor General writing the letter of 6th January?

(Sir Robert Armstrong) Could you phrase that question again?

1213. I do not want to mislead you or the Committee, or anyone else, but my impression is that the Department of Trade and Industry were not absolutely sure that the Solicitor General was going to write a letter but, on the other hand, Number 10 were highly sure, maybe 100 per cent sure, the Solicitor General was going to write the letter?

(Sir Robert Armstrong) My own inquiry would not support either of those conclusions in quite the way you have put them, and the second one at all. The Secretary of State for Trade and Industry and one or two officials were aware, because the Secretary of State for Trade and Industry had actually conveyed the message to the Solicitor General, that he was being asked to consider the letter of the 3rd January and to consider whether he had any opinion to express upon it. It is on the public record, I think, that on that Saturday, the 4th January, the Solicitor General had a message from the Prime Minister asking him to consider writing but I do not think that anybody knew that he was going to write; I do not think he himself knew he was going to write until he went into the office on Monday morning.

1214. The balance of probability between the two departments concerned here, the one who had a better chance of anticipating the letter from their knowledge and direct communication with the Solicitor General, would I be unfair in suggesting that was Number 10?

(Sir Robert Armstrong) I would have thought it was equal really.

1215. You think it was equal?

(Sir Robert Armstrong) I am not aware of any marked distinction between the two in this respect.

1216. You have given us some times in terms of the receipt of the Solicitor General's letter, are you absolutely sure of the sequence of telephone conversations that you have told us about, that the first call out was from the DTI office to the Secretary of State?

(Sir Robert Armstrong) Absolutely sure. My understanding is a private secretary at the Department of Trade and Industry did, in fact, try to contact Number 10 before he spoke to his Secretary of State but the private secretary's line concerned was engaged and he, therefore, spoke to his Secretary of State and then to Number 10.

1217. There were no other calls either from 11.30 or prior to 11.30 on that morning from Number 10 to the Department of Trade and Industry saying, in effect, "We can anticipate getting a copy of the letter from the Solicitor General"?

(Sir Robert Armstrong) I asked that; I have no evidence there were such calls.

1218. There was a complete denial?

(Sir Robert Armstrong) There were calls earlier in the morning about the general situation but not about the Solicitor General's letter.

1219. Why was it necessary to get this letter into the public domain when the Department of Trade and Industry made preparations for a press statement to be issued that day at Westland by the Secretary of State?

(Sir Robert Armstrong) I do not know the answer to that.

1220. Did you know of the press statement?

(Sir Robert Armstrong) I did not know there was a press statement issued that day.

1221. I have the press statement here dated 6th January from the Department of Trade and Industry. I do not want to mislead the Committee or anybody else. No-one in the Department said they were preparing

to issue a press statement and in some way - I am not sure of the detail of it myself but it is here - in some way this went out and you needed to add to that the Solicitor General's letter?

(Sir Robert Armstrong) There was no suggestion in my inquiry that any consideration was given to using that statement as a vehicle for getting this information into the public domain.

1222. Can I just round off these questions again by referring to Annex A in the document in paragraph five, where in your words you say: "Civil servants are in breach of their duty if they deliberately withhold relevant information from their minister, or if they give their minister other advice than the best they believe they can give." Do you believe the minister was given the best advice in relation to the release of the Solicitor General's letter on that day?

(Sir Robert Armstrong) My inquiry suggests that there was no advice, he was presented with the issue and asked for a decision, presented with the factors and asked for a decision. Those who heard this call and who took part in it have said it was put to him - I think the phrase was "deadpan".

1223. I have never listened into a civil servant's conversation but I find it incredible that the civil servant who has the documents in front of him does not say "The balance of advantage, minister, is to either withhold this, we sit on it because we have got a press release or we leak it." There is no indication whatsoever of that type of advice going to the minister one way or the other - "deadpan".

(Sir Robert Armstrong) That is what I was told in my inquiry and I think that is perfectly credible. Any civil servant will tell you that there are times when you present a matter with the same kind of expression as you said "balance of advantage, this or that" and there are other occasions, particularly when the judgment is essentially

a highly political one, when you will present the facts and considerations and invite the minister to make his own judgment.

1224. I can see you doing that in face-to-face circumstances, Sir Robert, but not over the telephone.

(Sir Robert Armstrong) I can assure you I have done it myself in different matters.

1225. You may have the Armstrong alchemy that does not apply to a Douglas!

(Sir Robert Armstrong) We both come from the same part of the world.

Mr Leigh

1226. Sir Robert, it took three-quarters of an hour this morning, interesting as your evidence has been, for the word "Westland" to be mentioned and I want to return to the defence implications of Westland PLC because, of course, you will be aware of the way that the Select Committees were set up following a speech by the then Leader of the House on the 25th June 1979 to inquire into particular departments and that is what we want to concentrate on. In the course of your inquiry can you tell the Committee what particular defence implications emerged, say, concerning the national security of our country?

(Sir Robert Armstrong) I know of none.

Mr Leigh: You know of none. Thank you very much.

Mr Churchill

1227. Sir Robert, when the officials of the DTI consulted Number 10 was any caveat entered by Number 10 officials relative to the desirability or otherwise of disclosing a confidential letter from a law officer?

(Sir Robert Armstrong) I do not think there was at that specific point, no.

1228. Was any reason given by those officials why they would prefer the disclosure to be made by the DTI rather than by Number 10?



(Sir Robert Armstrong) The DTI is the sponsoring department for Westland and I think that was the consideration.

Mr George

1229. Is it true, Sir, that Ministers are taught formally on taking office about the special confidentiality ruling attached to advice from law officers?

(Sir Robert Armstrong) I believe that is right. I only say that because I have not got the documents immediately to hand to check.

1230. That would even be given to people who have a legal background and who might be expected to know. Is it a matter of course that ministers are told this?

(Sir Robert Armstrong) I think it is probably a matter of actual course, yes. It is also a matter, if I may say so, of commonsense, that in ordinary business life you do not disclose legal advice, it is up to the client to decide that.

1231. I would have thought it is commonsense. You said a few minutes ago you "think" you know the source of the leak, could you elaborate on that?

(Sir Robert Armstrong) I am sorry, I did not say that, I said I thought I knew what had happened. I am sure I know the source of the leak. I think I know what happened on that day. There are obviously bits of it which, if I say that, what I am saying is I think on the basis of what I have heard that I can understand what happened and in that sense I think I know what happened.

1232. Do you think historians will judge your investigation really did get to the heart of the matter, or maybe even sooner than historians, contemporaries would regard your inquiry as valid, having got to the heart of the matter?

(Sir Robert Armstrong) I cannot tell you what historians will say about it, I am afraid. I think I did find out what happened.

1233. I do not want to be mischievous, or perhaps I do, but over the weekend a very reputable journalist - they are mostly reputable people, journalists - at the Observer said that you were having second thoughts about your conclusions, is this absolutely untrue?

(Sir Robert Armstrong) I read that when I came back from my meeting in the United States and it is totally fictitious. I do not know where the journalist got it from, he is, as you say, a reputable journalist. That was totally fictitious, I have had no second thoughts or doubts about the matter. It was also totally fictitious that two officials in the Department of Trade and Industry had said that they disagreed with my findings, first of all they had not seen my report and, secondly, they had never said anything of the kind, or so they both assured me.

1234. Could they be shown the report because I assume they are privy to the same limit as we are on report conclusions?

(Sir Robert Armstrong) They know what is in the public domain because of what the Prime Minister said in her statement on 23rd January and her speech of 27th January. That is founded, to a large degree, on that report and they know what is said and they are content with it.

Mr George: Could you comment on the differences, or discrepancies, between Mrs Thatcher's first account to parliament on the leak and the second account, and whether there is any difference between the first and the second in your report?

Chairman: Before Sir Robert answers that question I wonder whether you think, on reflection, that is a reasonable question to ask the witness to comment on, alleged discrepancies in the speech of the

Prime Minister? I am not stopping you asking any question you would like but I wonder if you would like to think about it again?

Mr George

1235. I do not expect to get an answer but I think it is a reasonable question to ask.

(Sir Robert Armstrong) I do not think it is a question I would answer in general terms at all. If there were particular points that you wish to ask about I would obviously do my best to help but as far as I am aware the statement and the speech are consistent with each other and consistent with my report.

1236. The last question, I am not sure whether I mis-heard this, did you say that Leon Brittan had authorised the leak?

(Sir Robert Armstrong) I said in the conversation, the telephone conversation that took place, during that lunchtime on 6th January he authorised his Department to bring into the public domain the fact that the Solicitor General had written to the Secretary of State for Defence and had an opinion expressed in that letter.

1237. Did he not authorise the method of a leak?

(Sir Robert Armstrong) I do not think the precise method was discussed on the telephone or with him.

1238. Can you give us some indication if you think there is a single source for the leak?

(Sir Robert Armstrong) I think one person made the communication to the Press Association, yes.

1239. Was that person acting under orders or off his or her own bat?

(Sir Robert Armstrong) I think that person was acting in the knowledge that the Secretary of State had given his authority and in the knowledge that there was cover from 10 Downing Street.

1240. In your evidence to the Treasury and Civil Service Committee you said, Sir Robert, at page 28, paragraph 96: "I think that as a civil servant one knows pretty well what things one can properly disclose and what one cannot." While this statement was made prior to the events we are discussing do you think the civil servants who did disclose the information were fully aware of the consequences of the action that they were taking?

(Sir Robert Armstrong) What was the number of that question?

1241. It is page 28, paragraph 96, your reply.

(Sir Robert Armstrong) Yes, but in this case the official concerned was acting under authority, under specific authority.

1242. This official appeared to be acting on authority to put information into the public domain, surely there were a number of options as to how the information could be put into the public domain, by writing a letter, issuing it as a formal press release to be handed out after the press conference at Westland?

(Sir Robert Armstrong) Clearly there were options. As I say there was this acute awareness of an extreme time constraint, a need to get this information into the public domain before the press conference at 4pm. We are talking about something only two hours or less than that before the time at which the information had to reach the public domain, I am talking about the minds of the people concerned. The view was taken that the only way in which you could do it with that speed was the way which was chosen. I am not sufficiently expert to judge whether that was right but I think it plausible that was a fair judgment to make given the time constraint. I regret that it was done in that way; the Prime Minister says that she regrets it was done in that way; Mr Brittan says that he regrets it was done in that way and the officials concerned regret that it was done in

that way with the benefit of hindsight. Given the time constraint that decision was a plausible one. Yes, there were other ways in which the information could have been brought into the public domain which would not have involved disclosing the fact that the Solicitor General had written or disclosing the fact that he expressed an opinion on the question. I can go into that, I can expand on that if you wish. I think it likely that any of those ways would have taken longer than an hour and a half or whatever the time was that was available.

1243. I admit the time was there, I am still not convinced there was a great need to get the information out as swiftly as people seem to think. Were these people not committing an illegal act? We operate under time constraints at times but that does not mean to say we commit illegal acts to meet deadlines.

(Sir Robert Armstrong) I cannot be the judge of legality or illegality, that is not my trade. I have to rest on what the Attorney-General said when the Prime Minister said "My right honourable learned friend tells me he is satisfied the immunity in no way interrupted in the course of justice; on the facts disclosed in the inquiry there would have been no question of proceeding against the official concerned."

1244. If you were confining your investigation to a limited number of civil servants and reached a conclusion would you not think by broadening your inquiry to include politicians and ministers you might have reached a different conclusion and found what the real source of the leak was and not civil servants acting either illegally or under orders?

(Sir Robert Armstrong) I am not clear what you are implying by that question. My inquiry was designed to find out the circumstances in which this information reached the Press Association and I believe it did that.

1245. I am saying it is straining a number of people's incredulity to assume highly responsible civil servants would commit an illegal act without having been done under the authorisation and by broadening your inquiry might it not have been feasible for us to assume you might have identified the real source of the leak and not civil servants acting -----

(Sir Robert Armstrong) Would you like to ask me the straight question?

1246. Who leaked?

(Sir Robert Armstrong) The information was passed to the Press Association by an official of the Department of Trade and Industry acting under the authority of the Secretary of State.

1247. The Secretary of State did not authorise the leak, the Secretary of State authorised the disclosure of information to the public.

(Sir Robert Armstrong) He authorised disclosure and the actual method was discussed among officials.

Mr Speed

1248. Sir Robert, I wonder if I can ask you one or two questions to clear up some of the matters you have been dealing with? Was the entire letter, the Solicitor General's letter, read to the Secretary of State of DTI over the telephone or just extracts? I am not quite clear if the entire letter was read.

(Sir Robert Armstrong) I think it was almost the entire letter. I think there may have been some preliminary paragraphs omitted but the substantial part of the letter was read.

1249. Following on the question from Mr Mates, did your inquiry establish precisely how the selective extracts were leaked? Who took the decision that those particular extracts would be those communicated to the Press Association?

(Sir Robert Armstrong) I think it was two officials in the Department of Trade and Industry.

1250. That was the conclusion of your inquiry?

(Sir Robert Armstrong) Yes.

1251. On the point that Mr George was making I think one of the problems that has arisen is that you said that you saw no incompatibility between the different statements and speeches of the Prime Minister, I am sure that is right. Something that has caused a little problem and that has been raised in the press is the Prime Minister's earlier statement and reply to a question Mr Onslow asked on the 23rd January, Column 455, when she said, and it might have been a slip of the tongue: "... to get that accurate information to the public domain that I gave my consent." That does not add up with all of the other things we have heard, it was just these two officials at Number 10.

(Sir Robert Armstrong) That does not coincide with what she said in the statement itself, that her agreement was "neither sought nor given", I cannot remember the exact phrase. My understanding is it would be a slip of the tongue. Like you I heard that because I was in the official box at the time and that was the conclusion to which I came.

1252. You have not taken any opportunity to clear that up yourself in the post facto of your inquiry?

(Sir Robert Armstrong) I gather from the Prime Minister it was a slip of the tongue.

1253. Finally, since the speed of releasing information has been quite a material factor in this whole affair do I take it from your exchanges with Mr Douglas that you were not aware that there was the urgent statement required to be distributed by the DTI to the Westland press conference at 1540 on the 6th January with copies of that statement?

(Sir Robert Armstrong) There was nothing in my inquiry that suggested any official considered dealing with this matter in

a press statement that had been issued by the Department on that day.

1254. Were you yourself aware during that inquiry that there were these very special arrangements being made for a special messenger leaving the Department in good time to be at the press conference with this quite important statement that had been made by the Secretary of State himself?

(Sir Robert Armstrong) No, I do not know about that.

Chairman

1255. Sir Robert, you have been answering our questions for over an hour and a half and there are more to come, would it be helpful if you have a short break to stretch your legs?

(Sir Robert Armstrong) That would be very nice.

Chairman: I suspend the Committee for 10 minutes.



After a short break:

Chairman

1256. Before I ask Mr Marshall to ask you some questions he has in mind, Sir Robert, is there anything you want to say to the Committee in amplification of one of your previous answers?

(Sir Robert Armstrong) Thank you very much. Yes, there was one question where I think I was asked about whether it was unusual for immunity to be granted in the case of a leak inquiry. It is unusual, but my memorany has been refreshed: there was such another case in 1983 where immunity was authorised in order that the inquiry could be satisfactorily carried out.

Mr Marshall

1257. To tidy up one point - an answer to a question from Mr Douglas - it was put to you there was a press release put out by the DTI during the same period before the Westland press conference, a press statement put out by Mr Brittan. I think, just for the record, it is perhaps right to make it clear that the press release did not in any way make any of the points which were the subject of the leak. Is that your understanding?

(Sir Robert Armstrong) It had no bearing on the matters we have been discussing.

1258. The question was whether or not that would not have represented an adequate opportunity to put over other points. That was my understanding of that exchange. We had not assumed you to say this contained some information.

(Sir Robert Armstrong) My understanding is that it did not do so. Whether it could have been used as a vehicle, I do not know. I do not know about the timing.

Dr Gilbert

1259. I wanted to be quite clear - you have said several times that in the conversation between Mr Brittan and his Private Secretary, Mr Brittan did not lay down precise methods that were to be used in getting this material into the public domain. Can you give us the degree of precision that is available to you that he used. Did he, in fact, authorise a leak?

(Sir Robert Armstrong) I think that he - and I do not think there is any disagreement about this - said that he wanted the fact that the Solicitor General had written, and the opinion he had expressed, to be brought into the public domain, and in specific terms. I do not think that the conversation addressed the precise method by which that should be done.

1260. Indeed. The precise method?

(Sir Robert Armstrong) The method by which that should be done.

1261. The particular method would cover to whom it was leaked, whether it was selective or whether it was leaked or not? I would like to know, with respect to any of those items, was the conversation specific? In other words - I repeat my question - did the Secretary of State authorise that the matter be leaked?

(Sir Robert Armstrong) I do not think that there was any discussion of the method by which this was going to be got into the public domain. I think the Secretary of State said he wanted it brought into the public domain and before the press conference at 4 p.m. That was a fairly brief conversation as far as it went. As I reminded you, the Secretary of State was out at a lunch engagement and, therefore, was perhaps not asked to talk for too long, and not able to talk as freely as he would if talking in the privacy of his office.

1262. I am obliged. I have listened to the answer very carefully; you have not yet addressed the point, another point I put to you. I am not asking about the way in which it should be leaked, but did the Secretary of State authorise a leak?

(Sir Robert Armstrong) A disclosure which is authorised is not a leak.

1263. So be it. Did he authorise that it should not be put out by means of a press release, but rather done by way of informing an individual?

(Sir Robert Armstrong) My understanding is that he authorised it to be put out - to coin a rather American phrase. I do not think he authorised any method or anything else, except I think he did say he wanted it out before the Westland press conference.

1264. That is very interesting, it brings it to the heart of a whole other area of problems. If it was not a leak there was no point in having a leak inquiry?

(Sir Robert Armstrong) You do not know there was no leak until you have had the inquiry.

1265. You might know quite early on if you had indeed asked one side of the telephone conversation. You do have some difficulties in this case. You asked only the official in the Secretary of State's office but not the Secretary of State, for reasons you have already disclosed to us. Were you, at the time that you finished your interview with the official in the Secretary of State's office, satisfied that that official was telling you the truth with respect to that telephone call?

(Sir Robert Armstrong) Yes, I was.

1266. In other words, at the end of that interview you then knew there had not been a leak?

(Sir Robert Armstrong) I knew at that stage what I had been told by that official, and other officials to whom I had spoken before that. There were other people to whom I needed to speak about other circumstances because, as you will know, what the Secretary of State said on the telephone sought some degree of consultation with No. 10 Downing Street and I needed to enquire into that.

1267. Yes, I accept all those things. You have just told us in the last few minutes if disclosure of information was authorised by the Secretary of State it did not constitute a leak. You have also told us that you were told by the official for the Secretary of State's office that his Secretary of State had authorised disclosure. You have also told us you believed that evidence. I put it to you, on the words that you have used in the last few minutes to the Committee, that at the end of your interview with that official in the Department of Trade and Industry you knew that there had not been a leak?

(Sir Robert Armstrong) I was not asked whether there had been a leak. I was asked to find out the circumstances of the disclosure.

1268. Indeed. Could you address yourself to the question. You knew at that point in time there had not been a leak?

(Sir Robert Armstrong) I knew at that point in time that the disclosure had been made with the authority of the Secretary of State.

1269. Which means it did not constitute a leak?

(Sir Robert Armstrong) Which meant it was authorised.

1270. Yes. You seem to have very great difficulty in answering some questions. It was authorised and therefore was not a leak?

(Sir Robert Armstrong) I think "a leak" is such an imprecise term I do not wish to use it.

1271. You knew it was authorised: what was the point of having a leak inquiry if you knew that the disclosure was authorised?

(Sir Robert Armstrong) It was not a leak inquiry, but an inquiry into the circumstances in which this was disclosed.

1272. We tried to get from you at the beginning what the terms of reference of the inquiry were and you said, as I recall, that there were not any precise terms of reference?

(Sir Robert Armstrong) I think I said that no terms of reference had been written down: if they had, it would have been to enquire into the circumstances under which the document in question had reached the Press Association. I cannot remember the precise words I used, but to that effect. It was not an inquiry into whether a leak occurred, or what leak occurred, not put like that: no, in my mind, that if I had discovered it was authorised that was the end of the story.

1273. At what time, on what date, did you conclude your conversation with the official who had the conversation with Mr Brittan?

(Sir Robert Armstrong) The conversation took place on the 16th January in the afternoon. I cannot remember the precise time.

1274. Did you consider it might have been appropriate to inform the Prime Minister forthwith that you had information which you believed to be true that one of her Ministers had, in fact, authorised the disclosure?

(Sir Robert Armstrong) I thought I should complete my inquiry and find out all the circumstances before I reported to the Prime Minister.

1275. Thank you. Where was the Prime Minister when the telephone calls from the Department of Trade and Industry arrived?

(Sir Robert Armstrong) As far as I know, in No. 10 Downing Street.

1276. Did you enquire as to whether or not either of the officials in No. 10 went to the Prime Minister to get her clearance?

(Sir Robert Armstrong) I was told they did not.

1277. You asked them that?

(Sir Robert Armstrong) Yes.

1278. Did you ask them why they did not?

(Sir Robert Armstrong) They did not think that there was anything which they were required to seek the Prime Minister's authority for.

1279. Really?

(Sir Robert Armstrong) The authority had been given by the Secretary of State and they knew that.

1280. They were relying on the authority of the Secretary of State for Trade and Industry?

(Sir Robert Armstrong) Yes.

1281. To commit an improper act. Could you tell me this -----

(Sir Robert Armstrong) Yes, they had been told that the Secretary of State had authorised the disclosure and they did not, as has been explained, think that they were being asked to seek the Prime Minister's agreement to that.

1282. I am not suggesting they had been asked to seek the Prime Minister's agreement. The question was whether they thought it appropriate to seek the Prime Minister's agreement?

(Sir Robert Armstrong) They thought, given that the Secretary of State had authorised the matter, that was sufficient authority for the officials concerned.

1283. They were quite prepared, these officials in No. 10, to give cover (whatever that may mean) to an improper act so long as it was authorised by a Minister outside No. 10? That is, in fact, your evidence to this Committee?

(Sir Robert Armstrong) The Prime Minister has explained this in her speech and her statement, I do not think I can improve on that account on the considerations that came into it.

1284. The telephone calls between the DTI and No. 10, were they simultaneous?

(Sir Robert Armstrong) Consecutive.

1285. What was the time interval between them? A conference, at the one or other end of the first telephone call, to discuss what should be the nature of the second telephone call?

(Sir Robert Armstrong) I do not think there was any conference between the two at either end.

1286. They were quite independent, one of another?

(Sir Robert Armstrong) I think there was the first conversation and then the official said, "I am going away to talk to the other end of it, to talk to my opposite number at the other level." It is between Private Secretaries and then the Press Secretary.

1287. Subsequent to the conversation between Private Secretaries, did the Private Secretary at either end have a discussion with their respective Head of Information before the Heads of Information exchanged telephone calls?

(Sir Robert Armstrong) I have no evidence they did. I should not think there was time.

1288. I see. So there were misunderstandings, as I understand the Prime Minister's report, emerging from both these telephone calls?

(Sir Robert Armstrong) As a result of the telephone calls, there was a difference of understanding as to exactly what was sought and what was being given. Where there was, I think, no difference of understanding was that at the end of the conversations the Prime Minister's Office had accepted that the disclosure should be made from the Department of Trade and Industry, and made in the way it was made.

1289. The fact that the telephone calls were sequential rather than simultaneous should in no way be taken to imply that the second telephone call was made to resolve a dispute between Number 10 and DTI?

(Sir Robert Armstrong) No. The second conversation was in part technical as to methods of disclosure and so on.

1290. I see. You used an interesting phrase a moment ago. I used the phrase "misunderstanding", and I believe you used the phrase "failure of understanding", was it, "difference of understanding"?

(Sir Robert Armstrong) "Difference of understanding".

1291. So we have two differences of understanding, in two telephone calls involving four of the most senior and experienced officials in the country, used every day to dealing with matters of classified information, nature of disclosure and so on. Do not you find that remarkable?

(Sir Robert Armstrong) I find it very regrettable, but I think it is absolutely credible that these things do sometimes happen, and I think that that is what happened in this case.



I think there was a genuine difference of understanding.

1292. No, not one difference of understanding, two differences of understanding, Sir Robert, in two different telephone calls between four highly skilled officials.

(Sir Robert Armstrong) In essence, the same difference of understanding in the two telephone calls, as to exactly what was being sought and what was being given. I mean, telephone conversations in these circumstances do not bear the same degree of precise weight as a written exchange would do, as I am sure you know well.

1293. Indeed, but these were experienced officials, and they were trying to protect their backs; they were trying to make sure that they had either authority or cover, otherwise the telephone calls would not have taken place; and they would have wanted to know in precise terms whether or not they had cover. Is not it remarkable that there were two differences of understanding on the same point, between four officials?

(Sir Robert Armstrong) I do not ----- I think it is very regrettable. I do not think it is entirely remarkable. What would you have had them ask - "Have you consulted? Have you asked the Prime Minister?"? Would you have had them ask that? In the way these things are done, that is a question you do not ask, because that is a question that, as it were, is teaching your grandmother to suck eggs, or telling him his business. So that when these telephone conversations occur, as I say, the conversation is informal and bears the possibility of differences of understanding, because people are not talking necessarily with the degree of precision they would use if they were putting it all down on paper.

1294. Did you ask either of the officials of DTI if, in the course of their conversations on that day with the officials

in Number 10, they disclosed that they had the authority of their Secretary of State?

(Sir Robert Armstrong) They did do so.

1295. They did do so. Did you ask the officials at Number 10 if they had disclosed that fact to the Prime Minister?

(Sir Robert Armstrong) They did not do so. They did not ----- At that time there was no contact between them and the Prime Minister. As the Prime Minister has said, she was not approached at that time.

1296. Did you ask either of the officials at Number 10 when they first disclosed to the Prime Minister the fact that officials at DTI had told them that they had authority from their Secretary of State?

(Sir Robert Armstrong) I did not ask that, because that was not germane to the matter into which I was inquiring: namely, the circumstances in which the disclosure occurred. I satisfied myself that they had not, before the leak occurred - before the disclosure occurred, I beg your pardon (a Freudian slip!) - that they had not, before the disclosure occurred, been in touch with the Prime Minister on the matter.

1297. Right. You have said frequently in the course of this morning, Sir Robert, that the people at Number 10 accepted that DTI make disclosure. I am interested in your choice of verb. Would it be equally accurate to say that the people at Number 10 insisted that the DTI make the disclosure?

(Sir Robert Armstrong) No, they said that they were not going to make the disclosure. They accepted, or they acquiesced in, or they did not object to - whatever phrase of that kind you like to use - that the DTI were going to make the disclosure.

1298. There was no request from the officials at DTI, to the officials at Number 10, that somebody at Number 10 should make the disclosure?

(Sir Robert Armstrong) They asked whether Number 10 would do so, and Number 10 were not going to do so.

1299. Thank you. Then we get on to the question of the way in which the disclosure was made. You said that the only way to do it was the method adopted. This presumably was agreed in the second, but not the first, telephone call, or was it agreed in both?

(Sir Robert Armstrong) No, in the second telephone call; and it was agreed that it was the only way to do it in the time. If I did not say that before, I should have said it was a question of getting this into the public domain within the time available, which was then less than two hours, in effect. This was the only way practicable in the time available, if that deadline was to be met.

1300. When you use the words "the only way to do it", does that cover both the leak, the selectivity, to whom it was to be leaked and when it was leaked?

(Sir Robert Armstrong) It covers the method, the way in which, the channel by which, the information which the Secretary of State desired to be got into the public domain was got into the public domain.

1301. It did not cover the selectivity; that was a decision taken, if I understand you, solely on the authority of the officials at DTI?

(Sir Robert Armstrong) I think that was implicit in what the Secretary of State had said he wanted to be got out,

but I do not think that the Secretary of State determined the precise selectivity.

1302. Yes, I think there may be a misunderstanding between us on this point. What I am asking you is whether or not the official at DTI put to an official at Number 10 the selective nature of the leak that was being contemplated?

(Sir Robert Armstrong) I have no evidence that that was discussed.

1303. You did not inquire?

(Sir Robert Armstrong) I did inquire, and I had no evidence that that was discussed.

1304. You did inquire, and you have no evidence that it was discussed?

(Sir Robert Armstrong) I have no evidence that it was not discussed, put it that way round, if you like.

1305. There is a considerable difference! Thank you.

(Sir Robert Armstrong) I think my own way was more precise, if I may say so.

1306. So be it. So we now know, then, that the selective nature of the disclosure was taken solely on the responsibility of the officials at DTI?

(Sir Robert Armstrong) I think that they decided how to comply with the Secretary of State's requirement, yes.

1307. In that respect?

(Sir Robert Armstrong) In that respect. I do not think that that was done, but I think that their selection was guided by what they knew that the Secretary of State would like to have disclosed, which was the fact that the Solicitor General had written, and the opinion he had expressed.

Mr Douglas

1308. Sir Robert, Hansard of 27 January, column 657, the top of the column, or near the top, the penultimate sentence and the last sentence. The Prime Minister said: "I discussed the matter with my office the following day when I also learned of the Law Officer's concern. I was told that the Solicitor General's advice had not been disclosed by my office." Did you inquire any further into that conversation between Number 10's officials and the Prime Minister?

(Sir Robert Armstrong) No, that was not part of my inquiry, because that was 24 hours after the disclosure had happened, and my inquiry was related to the actual circumstances of the disclosure. If I can help you on the matter, I will, but it was not part of the inquiry.

1309. Have you therefore any way to enlighten the Committee as to whether anybody from Number 10 indicated, at that conversation on the following day, the information and conversations between the DTI and Number 10?

(Sir Robert Armstrong) The Prime Minister went on: "I was also told in general terms that there had been contact between my office and the Department of Trade and Industry. I did not know about the then Secretary of State for Trade and Industry's own role in the matter of the disclosure until the inquiry had reported."

1310. You are standing by the record, in that the record says that the Prime Minister did not know that the Secretary of State for Trade and Industry was giving his authority to the disclosure, by whatever means?

(Sir Robert Armstrong) I have no evidence that the

Prime Minister has misled the House in that matter at all.

1311. Do you not think, in view of the nature of relationships between Ministers and top officials, including the Prime Minister, that it is exceedingly strange that, in view of the urgency of this matter, in view of the public attention devoted to it, in view of the fact of the Law Officer's letter and disclosure of the Law Officer's letter, no further information was given to the Prime Minister, other than that it was not their fault, it was someone - well, they did not even say it was someone else?

(Sir Robert Armstrong) They did not say that. They said that there had been contacts between my office. I think you have to remember that already by 7 January the possibility, perhaps even the likelihood, that there would be some form of inquiry was already there. The Attorney General had already raised the matter, and it was therefore in people's minds. As the letter in which the Attorney General sought my view had been copied to 10 Downing Street, they were aware of the Law Officer's concern, as the Prime Minister has said, and of the possibility that there might be an inquiry. From that point on, I think it was understandable that people would expect the matters to be dealt with in the inquiry and would expect to give their accounts of the matter to the inquiry.

1312. But the official inquiry is not officially considered until the 14th?

(Sir Robert Armstrong) No, but if you think there is likely to be one, that colours the matter in advance, does it not?

1313. I will leave that aside, if I may, Chairman, for a minute or so. I will probably return to that point at some later time. Let me, if I may, seek your advice, Sir Robert, on the

hierarchy of interrelationships between government. I mean, the normal phraseology in terms of the Prime Minister is prima inter pares, but really in terms of the Cabinet Office, if it asks for something from other departments, is it not your experience that they have priority in terms of communication, in terms of administrative expediency?

(Sir Robert Armstrong) I am sorry, I do not understand the question.

1314. What has been musing me here is that the DTI seems to be asking Number 10 for authority and approval to do something, and it strikes me that that is the obverse of normal relationships; that if Number 10 wants something done, it will be done; if a department of state wants it done, there might be hesitancy. Is that not the normal experience, is that not a normal view? Not having been in government, I would not know, but is that not a normal view, in your experience?

(Sir Robert Armstrong) I do not think you can generalise in that way, Mr Douglas. I think that a Secretary of State is perfectly able to take a decision and implement it. He has to decide to what extent he consults his colleagues. There are many decisions in the Government taken by Secretaries of State without consultation. There are many other decisions which are taken with consultation either with the Prime Minister or with a wider group of colleagues.

1315. Even if I put it at its lowest level here, what is being asked by the DTI, of Number 10, is "We want cover for what we're going to do." Is that something that Number 10 officials would give, without putting conditions or constraints on it?

(Sir Robert Armstrong) I do not think it was ----

I do not think that it emerged clearly from the conversations that that was what they were after. They wanted to ----- Certainly the officials at Number 10 believed that the officials in the Department of Trade and Industry had the authority of their Secretary of State. I do not think that they understood or believed that they were being asked to give, as it were, covering authority for that; and indeed covering authority was not required. An official does not give covering authority for what a Minister does. So that this is where I think the difference of understanding arose in these two conversations. There was the difference of understanding as to exactly what was being sought and what was being given. The Prime Minister's Office, in effect, said, "You've got your Secretary of State's authority. You tell us that he would like, would prefer, the disclosure to come from 10 Downing Street. It's not going to come from 10 Downing Street. We accept that you go ahead and make it."

1316. That is not what Mr Brittan was asking. If we go back to column 671 on 27 January: "Subject to the agreement of Number 10, I was giving authority for the disclosure of the Solicitor General's letter to be made."

(Sir Robert Armstrong) And as has been made clear, the Department of Trade and Industry thought that they had conveyed it to 10 Downing Street.

1317. As Dr Gilbert has said, these are conversations between probably the top officials in the land, and the Secretary of State for Trade and Industry, as I understand it, saying to his officials, "Subject to the agreement of Number 10." Are you saying to me that that "simple" message could not be conveyed accurately, even across the telephone?



(Sir Robert Armstrong) Well, it clearly -----

1318. Whereas in an earlier remark to me you said that the Minister could receive all this information dead-pan. This simple statement: "I was giving authority for disclosure", "Subject to the agreement of Number 10, I was giving authority for disclosure" - that could not be conveyed to Number 10?

(Sir Robert Armstrong) What I have said, Mr Douglas, is that I do not think those were the precise words which Mr Brittan used on the telephone, and I am absolutely clear that the officials in Number 10 did not believe, from the conversations, that they were being asked to convey an agreement on which the Secretary of State's authority was conditional. I think this is where the misunderstanding, the difference of understanding, if you like, arose. I very much regret, obviously, that it did arise, and so did the people concerned, but I think I can see very well how it could have occurred, in conversations which I think were quite short, at a time when everybody was under lots of other pressures.

Mr George

1319. Sir Robert, in view of the confusion over the telephone, as Head of the Civil Service will you give the Defence Committee a guarantee that none of these people will be anywhere near a telephone speaking to the commander of one of our Polaris submarines?

(Sir Robert Armstrong) I think I can give that guarantee.

1320. Secondly, did the Prime Minister make any of her own private inquiries, to your knowledge, as to who the culprit or culprits might be prior to your being authorised to conduct your inquiry?

(Sir Robert Armstrong) I do not think she did, no. She knew very early on 7 January that there was a probability of a more formal inquiry and she could well have thought that she would be criticised if she anticipated that inquiry by some more informal method of proceeding.

1321. I would have the impression that the Prime Minister knows a great deal of what goes on in her office and in 10 Downing Street and in the machinery of Government. Did you see the quotation from Hansard that she was unaware of Mr Brittan's own role in the matter of disclosure until after the inquiry had reported, which was 16 days afterwards? Do you believe that to be the case?

(Sir Robert Armstrong) I believe that to be the case. I think it is strange but I believe that to be the case.

1322. If Miss Bowe was acting under authority why, therefore, did she seek immunity from prosecution?

(Sir Robert Armstrong) I think that anybody would do so before making a statement which was liable to incriminate her. She was not to know the outcome of the inquiry.

1323. But did she think she might be eventually incriminated for an act that she was likely to do?

(Sir Robert Armstrong) I do not know how good a lawyer she is, but I think if I were in her place I would certainly have wanted my position to be quite clear before I answered in the affirmative a question which admitted that I had done an act which might subsequently be found by the Attorney-General to be an illegal act, or judged by the Attorney-General. Obviously it is a matter for the court whether it is in the end.

1324. Earlier on you were questioned relating to the memorandum submitted by the Cabinet Office on civil servants' and ministers' duties and responsibilities and there are a number of paragraphs which indicate that any civil servant who feels he or she is likely to be committing an illegal act has a channel of communication prior to committing that illegal act. I am referring to paragraph 7 in the report on page 2: "If a civil servant has sincerely held doubts about the propriety of a policy or action he does not need to carry the burden alone," and then, as we discussed earlier: "This should be shared with senior officials, if necessary up to the Permanent Secretary or Permanent Head of the Department." In another paragraph on page 8 of this report: "A civil servant should not be required to do anything unlawful. In the very unlikely event of a civil servant being asked to do something which he or she believes would put him or her in clear breach of the law, the matter should be reported to his superior officer or to the Principal Establishment Officer." Did any of the people who were interviewed seek to communicate any disquiet they may have to anyone superior to them, as these two paragraphs lay down a wide range of individuals who ought to be consulted?

(Sir Robert Armstrong) I asked the specific question of the official particularly concerned and that official said yes, it did occur to her that she would have liked to talk to the Permanent Head of the Department but she knew he was not in the Department; he was out of London and she could not, therefore, do so, so she shared her burden with the other officials directly associated with the matter and they made up their minds to proceed. I do not think I can --- They are entitled to do that. Whether matters would have been different if they had had a chance to consult Sir Brian Hayes I do not know. I think they might have been.

1325. It was just the one person who sought advice?

(Sir Robert Armstrong) Nobody did seek advice of the Permanent Secretary because he was not there to have it sought of him.

1326. But according to these paragraphs I have referred to, there were a number of other individuals who ought to have been consulted other than the Permanent Secretary?

(Sir Robert Armstrong) Who could have been. The person concerned considered three individuals whom she could consult. One of them she did consult. The other two were not available.

1327. The last question: so much of the trouble was based on a letter written by Mr Heseltine that allegedly contained material inaccuracies. Subsequently it transpired it did not. Did any of the participants in your inquiry express any regret that the whole issue had blown up over a misinterpretation of a letter? Was any remorse expressed or sadness expressed?

(Sir Robert Armstrong) I think the matter remained on the basis of the subsequent exchange of letters between the then

Secretary of State for Defence and the Solicitor-General. I am paraphrasing because I have not got the documents with me but the Defence Secretary said there were not material inaccuracies because he had information which supported what he said, and the Solicitor-General said, "Well, that is fine, but I do not think so. It is on your responsibility that you do it," so that was how that was left. Nobody expressed regret in relation to that subsequent exchange of correspondence. People did express regret, yes, about the difference of understanding after the event, and, of course, about the decision that was taken to make the disclosure in the way it was done. There could have been ways of doing it which avoided the matters which have been the subject of criticism.

1328. May I ask the last question: how many of the "famous five" you interviewed came from outside the Department of Trade and Industry?

(Sir Robert Armstrong) Two.

1329. Did more than one of them have the initials BI?

(Sir Robert Armstrong) By definition I think they did.

They must have done. They were not both initials BI, no.

1330. Can you give ---

(Sir Robert Armstrong) I do not think I want to go any further.

Mr George: Our colleague Mr Leigh said ---

Chairman: You said it was the last question, Mr George. How many more?

Mr George

1331. My colleague Mr Leigh said there was no mention of Westland in the whole affair so far. I am not asking if you interviewed Mr Ingham - I hope you did - but did you come to any conclusion as to what his role was in this whole saga? I am not asking if

you interviewed him but what assessment you have of his role?

(Sir Robert Armstrong) Yes, I formed a view of his role in this affair.

1332. Could you indicate what that role was?

(Sir Robert Armstrong) I think my answers have covered that very fully.

Mr George: Do you? Thank you.

Chairman

1333. Sir Robert, I know Mr Leigh has two questions and I think Dr Gilbert has a couple as well and I have two to ask following this. Can you tell us, at any stage in this process did any official refuse to take the action that was eventually taken?

(Sir Robert Armstrong) Only one person took the action and by definition that person did not refuse to take it.

Chairman: I beg your pardon. Perhaps I could elucidate - refused to take it and then half an hour later changed her mind?

Mr Mates

1334. Or been ordered to.

(Sir Robert Armstrong) I see. No, I think there were misgivings but there was no refusal.

Chairman

1335. Thank you. Can you tell me, are there any disciplinary proceedings either in train or pending?

(Sir Robert Armstrong) Disciplinary proceedings in the case of officials of the Department of Trade and Industry would be for the Head of that Department. Clearly things were done in this affair which would have been better done differently and in that sense people made wrong judgments. The question is this -and

I have to ask it of myself in relation to those people for whom I have a responsibility - whether that error of judgment, if that is what you would call it, was of such a nature as to make it necessary to invoke disciplinary proceedings. There are no precise rules which lay down when a matter of that kind becomes a matter for disciplinary action. If it appeared to the Head of the Department concerned that somebody had done such a thing out of malice aforethought or as a matter of gross neglect, then I think one would consider disciplinary proceedings. I certainly took the view in this case that the mistakes that were made, for which the people have expressed great regret, did not amount to actions which called for disciplinary proceedings of that kind. Obviously the fact that they were made is there and is on the record. They have expressed their regret and I can assure you they will be double-plus careful not to repeat them.

1336. Thank you, Sir Robert. I know it is not your responsibility to decide on any disciplinary proceedings in another Department but do you happen to know whether any are in train or pending?

(Sir Robert Armstrong) I believe not and I certainly would not wish to urge disciplinary proceedings on the Permanent Secretary.

Mr Leigh

1337. Sir Robert, another hour and a quarter has passed and I hope you will forgive the most junior Member of the Defence Select Committee if I ask one more question on defence. You told me earlier that your inquiry showed up no implications for defence or national security. Can I put it another way to give you another chance of answering this question. Did your inquiry reveal any insights into the way defence decisions are taken or should be taken?

(Sir Robert Armstrong) As a general answer I think the answer is no. I think that we should not be where we are now if the then Secretary of State for Defence had agreed his letter of 3 January to Mr Horne with the Departments concerned before it was issued, but I do not know that that is a matter with defence implications.

1338. Thank you. One other question: you have given honest and frank answers to our questions over the last couple of hours. You are aware that we did ask for certain named officials to appear before this Committee, Mr Ingham, Mr Powell and Miss Bowe. Do you think they could give us any insights that we have not been able to learn from you?

(Sir Robert Armstrong) I have tried to answer fully and I hope I have done, and I do not believe that you would learn very much more from them. I have to say about them that, as will be clear to you, though we have been scrupulously careful not to mention names, they have already submitted to detailed questioning from me as to their role in these matters and I have done my best to share with you, so far as I can, my understanding of the matter as derived from that. They gave evidence to me in confidence and in private and very fully, knowing that it was so. I think that I should have to say that I can understand the Committee's interest in the decision-making process but from their point of view it becomes rather a different matter. I am rather reminded of the story of the pig and the hen going up the motorways and stopping at some motorway restaurant for a dish of bacon and eggs and the pig saying, "I am not going to do that. For you it is a contribution. For me it is a total commitment"! In the case of these people concerned, it is not just a question of the decision-making process, it is a question



of their careers and reputations and lives, and they have very fairly gone on the record with me in confidence. As I say, I have inquired into the matter as thoroughly as I could and as fairly as I could and I have made my report to the Prime Minister. I feel that it would be rough justice if they were subjected to a second process of that kind. I suppose I think it peculiarly because in the nature of the case this has now become a matter of intense political interest and attention and however restrained the Committee might be in its questioning that would be bound to be in everybody's mind. Whether, in those circumstances, it could really be an inquiry which was fair to them I rather question, not because I think that the Committee would not want it to be so but because I think the surrounding circumstances would make it very difficult.

Dr Gilbert

1339. Sir Robert, there could, of course, be questions that Members of this Committee might wish - I do not say would but might wish to put to the named officials that they had not thought proper to put to you.

(Sir Robert Armstrong) That is in the Committee's wisdom.

1340. Indeed.

(Sir Robert Armstrong) If the Committee wishes to put questions to me I will endeavour to answer them even if they are questions which might otherwise have been put to these people. I should prefer to deal with it in that way.

1341. Indeed, but quite early in your evidence you said you were not prepared to identify the individual conversations between officials and so on and, therefore, I, for one, did not press you on all of that area, and there might well be questions that one

would want to put on reflection and after studying your transcript.

(Sir Robert Armstrong) Dr Gilbert, I very much hope that you will be able to accept my judgment of the matter, having been thoroughly into the inquiry. If there is more that I can give to help you to do that without a breach of the confidence in which I interviewed these people, I will gladly do so.

1342. Indeed, I am sure you would, but there are, of course, areas that were not actually covered by your inquiry which might be of interest to Members of the Committee. For example, it would not occur to you - it might occur to you but it would not fall within your remit in any way to ascertain whether or not the Secretary of State for Trade and Industry had prior clearance from the Prime Minister, implicitly or explicitly. You have not inquired - and no-one will criticise you for this - as to when the officials in the private office at No. 10 first revealed to the Prime Minister that it was an official leak. There are many questions of this sort that you said would fall outwith your inquiry but which would be of great interest to know whether or not - or precisely, I should say - how this regrettable chain of circumstances came about.

(Sir Robert Armstrong) As to the two points which you have mentioned, the first occasion on which the officials at No. 10 spoke to the Prime Minister - you are correct, that was not within the range of my inquiry because it took place after the event, but I have inquired about it separately and my inquiries confirmed what the Prime Minister said, that there was a discussion on the Tuesday, 7 January, in which she was told in general terms of those contacts. As to the first part of your question, whether the Secretary of State had prior authority from the Prime Minister, I naturally addressed

that matter in the inquiry and I find absolutely no evidence whatever that he did, and I do not believe that he did.

1343. Indeed, one does not question for one moment what the Prime Minister says about being told things in general terms. What could be of interest - maybe you can help the Committee - is, was she actually told at that time that the Secretary of State for Trade and Industry authorised the disclosure?

(Sir Robert Armstrong) She has said she was not told at that time.

1344. She was just told in general terms. What she said was that she was not told about his role until later, which comprises a whole lot of things.

(Sir Robert Armstrong) It certainly comprises also the point you made about the authority.

1345. When did she first know that?

(Sir Robert Armstrong) As far as I know, she has said, I think - I have not got the reference immediately to hand - she first learnt of it when she read my inquiry report. I cannot remember, that is probably on the 27th.

1346. Her words were: "I did not know about his own role." Were those words intended to mean that was the first time she knew he had authorised disclosure?

(Sir Robert Armstrong) I understand that it does mean that.

1347 Thank you, that is very helpful. It is the first time we have had that information officially. I think those are all my questions.

(Sir Robert Armstrong) You surprise me very much. I have not been skimming through, but I thought that had been made clear either in the statement or in the speech.

1348. Only in those terms, Sir Robert - not so explicitly as you have just given to the Committee.

(Sir Robert Armstrong) Certainly it is my understanding that she did not know of the Secretary of State's authority till she read about it in the report.

Dr Gilbert: Thank you. I have no further questions.

Chairman

1349. Sir Robert, thank you very much for the evidence you have given us this morning. We shall consider what you said with the aid of the transcript and consider how we want to proceed further. I should for the benefit of others remind everybody else that we have two further sessions this week, one this afternoon when we are having British Aerospace to give evidence, and one tomorrow morning when Mr Heseltine will be with us. These sittings will take place as planned. Sir Robert, thank you.

(Sir Robert Armstrong) Thank you very much, Chairman. I am grateful to the Committee.

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