



*Pme Mules<sup>2.</sup>*

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Ref. A086/694

MR WICKS

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--- I attach a summary note of the evidence Sir Robert Armstrong gave to the TCSC on 26 February. The transcript will follow in due course.

2. I am sending a copy of this minute to Ken Lussey (DTI), and to Peter Martin (MPO).

*MS*

M C STARK

28 February 1986

Ref. A086/684

NOTE FOR RECORD

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Sir Robert Armstrong gave evidence to the Treasury and Civil Service Select Committee (Sub-Committee on Duties and Responsibilities of Civil Servants) on 26 February at 16.15. Mr Austin Mitchell was in the chair; the other Committee members present were Mr Ralph Howell, Mr John Townend and Mr Richard Wainwright. The session lasted about one hour and a quarter. A full transcript will follow from the Committee, but the principal questions and answers were as follows:

Q. What is the relationship between the State and the Crown?

A. That is a matter of political philosophy, rather than practical politics. Other than in the OSA, there are few references in statutory legislation to the State. The Crown is sometimes seen as an expression of the coherence and power of the State: also as a guardian of the citizen's rights. It represents something abiding.

Q. Has a civil servant any responsibility to Parliament, beyond that to his own Minister?

A. A civil servant should remind the Minister of his duty to Parliament, but should not "blow the whistle" on him directly to Parliament. The Minister, not the civil servant, is answerable to Parliament. The civil servant is not on his own: he has others to turn to in matters of conscience. He could ask his Permanent Secretary to speak to the Head of the Civil Service.

Q. Does that mean that a Minister would be safe in the knowledge that any dereliction of duty by him would emerge only by accident?

A. You cannot construct a system on that basis. Ministers accept their responsibility to Parliament. Parliament has real control, as recent events have demonstrated. An affair like Watergate would have emerged much quicker under the British system than it did in the United States.

Q. Would it ever be legitimate for a civil servant to give Parliament information without his Minister's knowledge?

A. He will not always have explicit authority for his words - eg when giving oral evidence to a Select Committee. But he should never behave as Mr Ponting did.

Q. Since there is no authority independent of his employers to whom a civil servant can turn, should an ombudsman be introduced?

A. That is a difficult concept, since it would complicate the relationship of confidentiality between a Minister and a civil servant.

Q. Do we need a code of conduct for Ministers?

A. I see no need for it.

Q. What can a civil servant do to protect himself against public criticism?

A. Civil servants should not be named. In the matter of the Solicitor General's letter Ministers took responsibility for the disclosure: individuals were named

by the press, not by Ministers. The naming of civil servants in Parliament was exceptional and unwelcome.

Q. In a recent case (employment statistics) the Paymaster General quoted civil servants as the source of his advice. The cynic might conclude that whenever civil servants are named, it is to protect their Ministers: and that when not named, the evidence did not support the Minister's case?

A. I cannot accept this implication. Some professional civil servants, eg statisticians, medical officers, registrars, may have certain direct and even statutory responsibilities for the integrity of data etc, and may legitimately be quoted. But normally, civil servants should not be named.

Q. Are current Ministers taking a particular interest in senior civil service appointments?

A. No more than previously.

Q. Would it be a good idea to fill the posts of departmental press officers with political advisers?

A. This would not be necessary. With one exception (Haynes) Ministers have been content to use professionals for these posts. Others (junior Ministers, the party machinery etc) can perform other, more narrowly political functions. Political advisers are very much part of the scene; I wholly welcome them. I would not want to go towards the French system, where there is a problem what to do with civil servants identified with the party not currently in power. We are achieving more secondments to the private sector - but it will never be as easy as in the

French system. Attitudes will take time to change. There are practical difficulties (pension, financial arrangements etc).

Q. Should we have a single Minister for the civil service, rather than three as at present?

A. That is a matter for the Prime Minister. Arrangements have varied in recent years. Changes occurred in 1962, 1968 and 1981 (abolition of CSD). The right balance may depend on the policy of each Government, and perhaps on personalities.

Q. What of the dual role of Secretary of the Cabinet (SOC) and Head of the Civil Service (HOCS)?

A. I have not encountered any conflict of interest between the two roles. Nor have I found the dual responsibility particularly onerous in terms of workload. The responsibilities of the HOCS are less time-consuming than is often thought. Matters concerning senior appointments etc take less than a quarter of my time. A Second Permanent Secretary runs the day to day affairs of the MPO. If the HOCS and SOC posts are split, the HOCS risks being detached from the policy concerns of the Government as a whole. The HOCS is not there to represent civil servants of a particular Department. In the GCHQ case there was no particular conflict, no more than if the HOCS sat in the Treasury or the CSD. It is an illusion, fostered by the title, that the HOCS is there to defend the Civil Service against Ministerial criticism.

Q. How bad is morale in the Civil Service?

A. There are serious problems, resulting from the reduction in manpower, heavier workload, reduced promotion prospects and relative decline in pay. Detailed evidence on that is for the Treasury to give.

Q. Is there a national Civil Service?

A. Civil servants identify first with their Department, or particular units within it. Probably few identify with the Civil Service as a whole. Some Ministries develop something of a separate ethos. But there is more interchange than hitherto, especially in the Open Structure.

#### WESTLAND

Q. Your Note of February 1985 said that a civil servant should not be asked to do anything unlawful. Does that include breaches of a clear rule, eg that against disclosure of a Law Officer's advice?

A. I was speaking of breaches of statutory law. I recognised in my evidence to the Defence Committee that the disclosure of a Law Officer's advice was regrettable.

Q. You said to the Defence Committee that you wished the civil servants concerned had had that consideration (rule against disclosure of a Law Officer's advice) in their minds. Should it not have been the Minister who had that consideration in mind?

A. Civil servants are not absolved from considering that point, and putting it to their Minister. It is a pity that in this case the civil servants did not consult their Permanent Secretary, as provided for in the Note: had they done so, life might have been different.

Q. But the Permanent Secretary was out of London.

A. The civil servants were operating within a tight time constraint. But they might have considered whether it was possible to miss that bus (the 4.00 pm deadline) or to speak to their Permanent Secretary on the telephone, as they had spoken on the telephone to the Secretary of State.

Q. Tight deadlines are all the more likely nowadays?

A. That is not a defect of the Note. Civil servants must exercise their own judgment, but even within a tight time constraint, advice from senior officials is always available.

A. Have you had any further discussions or representations on a code of ethics?

A. Not yet. Mr Luce told the House last week that the present arrangements were adequate. I would not be against drafting a code of ethics if I thought it could be done: but I do not think it can.

Q. Do the principles in your Note apply to the security service?

A. Possibly, though I have not thought about it, some or all areas of the principles might apply there too mutatis mutandis.

Q. When is a leak not a leak?

A. When it is authorised. That raises the question of implied versus express authority; that is a matter for the Attorney General and for lawyers. The responsibility for authorisation rests with Ministers.

Q. Is there a permanent delegated authority for disclosure by a press officer?

A. The latter will know whether he is operating within Ministerial authority. It is a very difficult area; press officers have to make judgments on the hoof.

Q. Would a code of practice on disclosure of official information help to prevent errors of judgment by civil servants?

A. No; I doubt that any code could deal with all situations. Paragraph 9 of my Note attempts to deal with this question.

MS

M C STARK

28 February 1986



