



Prime Minister
This is the
version submitted.
N.L.W.
4.3

Ref. A086/723

MR WICKS

Defence Select Committee

I attach a revised draft of my memorandum to the Defence Select Committee, taking account of comments made from No 10 and from the Department of Trade and Industry.

2. I am sending copies of this minute and of the revised memorandum to the Private Secretaries to the Lord President, the Lord Privy Seal, the Secretary of State for Defence, the Secretary of State for Trade and Industry, the Attorney General and the Chief Whip.

I have dealt with Mr Britton by telephone re references to him.

ROBERT ARMSTRONG

4 March 1986

SELECT COMMITTEE ON DEFENCE

Memorandum by Sir Robert Armstrong

The Clerk to the Committee has sent me on 28 February a list of supplementary and additional questions which the Committee wish to put to me on 5 March 1986, arising out of the evidence I gave on 5 February 1986.

2. The Committee will be aware that the investigations which I made for the purposes of my inquiry were conducted in confidence, and that my report was submitted to the Prime Minister in confidence, and copied only to the Attorney General. The Committee will be further aware that I prefer not to name or identify individual officials on the public record, for reasons which I made clear to the Committee when I gave evidence on 5 February.

3. I should like to be as helpful as possible, subject to these considerations, in answering the questions in the list which the Clerk sent me on 28 February. As the Committee has asked for a good deal of detailed information, I think I can best respond by submitting this memorandum. In preparing the memorandum I have drawn not only on the findings of my inquiry and the evidence I received in the course of it but on other information and subsequent inquiries as necessary.

4. On the afternoon of 3 January 1986, a representative of Westland telephoned an official of the Department of Trade and Industry, to ask for the views of the Department on Mr Heseltine's letter of that day to Mr Horne; the company's representative said that Mr Heseltine's letter appeared to go further than the Prime Minister's letter of 1 January to Sir John Cuckney in describing the views of European Governments and companies, and that this placed them in some difficulty in

relation to the documents being prepared to go to shareholders on 6 January. The Department of Trade and Industry said that the Prime Minister's letter of 1 January to Sir John Cuckney had been carefully drafted on the basis of reports available to the Government about views of European Governments and companies, and that that Department knew of no new reports, though it was possible that the Ministry of Defence had received additional information or knew that such information was available.

5. Nothing was said during the course of those conversations about the need to have any correction to Mr Heseltine's letter in the public domain, but Sir John Cuckney told me subsequently, after I had completed my inquiry, that it had been useful to the board of Westland that the fact that it was thought that Mr Heseltine's letter of 3 January contained material inaccuracies became public knowledge before the company's press conference on 6 January.

6. The Solicitor General's preliminary and provisional view of Mr Heseltine's letter of 3 January was communicated to an official of the Prime Minister's office by an official of the Department of Trade and Industry during the evening of 4 January, probably about 7.00 pm. Sir John Cuckney was also informed in strict confidence that it seemed possible that Mr Heseltine's letter might contain material inaccuracies, but that the matter was still under consideration. Sir John Cuckney said that it was very important to Westland that the matter should be cleared up before the company's press conference the following afternoon. Neither officials in the Prime Minister's office nor officials in the Department of Trade and Industry were aware that the Solicitor General had discussed Mr Heseltine's letter of 3 January with Mr Heseltine on the night of 4 January. So far as I am aware, the only officials who knew on Sunday 5 January that the Solicitor General was being asked to consider writing to Mr Heseltine were one official in the Prime Minister's office and one official in the Law Officers' Department through whom the

request was conveyed. One official in the Department of Trade and Industry was aware that the possibility of asking the Solicitor General to write to Mr Heseltine was under consideration.

7. The Prime Minister told the House of Commons in her statement on 23 January (col 454) of the considerations which were in the minds of officials in her office when they saw the copy of the Solicitor General's letter on 6 January.

8. There was no evidence from my inquiry which suggested that Mr Brittan consulted the Prime Minister, or sought her authority, before giving authority, subject to the agreement of the Prime Minister's office, for the disclosure of the Solicitor General's letter, and on the basis of other information available to me as well as this I do not believe that he did. There is no evidence of any discussion between the Prime Minister's office and the Department of Trade and Industry on the morning of 6 January of the possibility of disclosing the existence of the Solicitor General's letter before the telephone conversations about which the Committee already knows.

9. All the Department of Trade and Industry officials concerned first saw the Solicitor General's letter in the Secretary of State's Private Office at about 1.00 pm or shortly after on 6 January. Before the Private Secretary at the Department of Trade and Industry spoke to his Secretary of State, he tried to speak to the Prime Minister's office, to find out whether they had seen their copy of the Solicitor General's letter and what their reaction was. As the extension was engaged, he spoke first to his Secretary of State. The Secretary of State made it clear that he was giving authority for the disclosure subject to the agreement of No 10; he has agreed that he did not use those words, although he used words to that effect. It is impossible to say exactly when that call took place: somewhere between 1.15 and 1.30 pm (there is no significance in the apparent discrepancy

between the Prime Minister's "about 1.30 pm" and my "quarter past one, twenty past one, something around that time"). The Prime Minister's office was consulted about the method of disclosure; they did not give instructions, but they agreed that the only practicable way of getting the fact that the Solicitor General had written and the gist of what he had said in his letter into the public domain within the time constraint of the 4.00 pm deadline was the method that was eventually adopted. The evidence given to my inquiry does not suggest that any other method of disclosure was seriously considered, given the time constraint. As I told the Committee, some of the officials concerned told me that they had had reservations about disclosing a letter from the Solicitor General, though the evidence to my inquiry does not suggest that anyone voiced these reservations at the time. The disclosure was made unattributably because it was thought preferable that it should not be attributed to the Department of Trade and Industry.

10. Given this, the DTI press statement issued on 6 January, which had been agreed between the DTI and the Prime Minister's office before the Solicitor General's letter was received in the DTI, would not have been, and was not considered as, a vehicle for getting into the public domain the fact that it was thought that there might be material inaccuracies in Mr Heseltine's letter of 3 January. No official above Grade 3 (Under Secretary) was involved in the discussions about the disclosure, either in the Prime Minister's office or in the Department of Trade and Industry, and no one elsewhere.

11. In the course of a discussion of business with members of her staff on 7 January, which was not recorded and at which a considerable number of other matters were discussed, the Prime Minister was told that there had been contacts between her office and the Department of Trade and Industry, but not in any detail. I became aware of the details of the contacts when I took evidence. The Prime Minister first became aware of the details

of those contacts when she read my report. So far as I am aware, the Solicitor General first became aware of the circumstances of the disclosure when he saw the Attorney General's copy of my report on 22 January.

12. The request to me to consider whether an inquiry should be instituted came from the Attorney General. The Solicitor General made no separate request. The authority which I sought was for an inquiry into the circumstances in which the Solicitor General's letter of 6 January came into the hands of the Press Association. When I had completed my inquiries of officials I was able to complete a clear account of these circumstances, and did not consider that I should learn any more of significance by interviewing officials from any other Department. As I have told the Committee, I was ready to interview Mr Brittan but I did not think it right to do so without the Prime Minister's agreement. In the event I was present when the Prime Minister discussed the findings of my report with Mr Brittan on 22 January. Nothing in that discussion caused me to change, or wish that I could have changed, my report.

13. As I have told the Committee, it is customary to seek the Prime Minister's agreement before Ministers are asked to give information to a leak inquiry. I could not say in what proportion of leak inquiries in the last ten years Ministers have been asked to give information, but it is a perfectly usual occurrence and there is no inhibition in seeking the Prime Minister's agreement when it is appropriate to ask Ministers to give information.

14. My provisional view is that there is nothing in these events which would lead me to amend my note of 25 February 1985 on the duties and responsibilities of civil servants in relation to Ministers, but I shall consider the matter afresh in the light of your Committee's report, and of the forthcoming report of the

Select Committee on the Treasury and the Civil Service on their inquiry into the duties and responsibilities of civil servants in relation to Ministers.

Cabinet Office

4 March 1986

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MR WICKS

DEFENCE SELECT COMMITTEE

Reference Sir Robert Armstrong's letter to Sir Brian Hayes of March 3.

So far as the questions raised in Sir Robert's covering letter are concerned, I would make the following points:

- Q20 - I have no staff association or union to consult.
- Q23 - It would not normally be possible to reach me between 12.45 and 14.30pm on a Monday. But this was not a normal day. It was my first day back after Christmas leave, such as it was, and I stayed at my desk to clear paper.

I think I should make the following points in relation to other questions, viz:

- Q13 - I am bound to say that I was not aware that the Solicitor General's advice should not on any account be disclosed. Having said that, I am of course aware that classified documents should not be disclosed without authorisation and it goes without saying that at the very least there should be no disclosure of the advice of Law Officers which could affect the course of justice.
- Q24 - I was not present at any discussion of the disclosure with the Prime Minister before January 22.
- Q32 - I have not seen a copy of the inquiry report.

So far as Sir Robert Armstrong's memorandum is concerned, I have the following points:-

BI
says
at 4-30
to 5.00
NLW

Para 8 - In answer to questions, I told the press on the day of the disclosure that I understood that the Prime Minister was aware of the general thrust of the Solicitor General's letter before it went to Mr Heseltine. I, too, was aware of the broad thrust in advance of

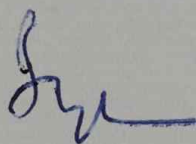
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seeing the letter. This was because I had been informed about the likelihood of such a letter. As the Defence Committee's Question 7 correctly implies, I talked to DTI about the general situation surrounding Westland, and the need to get over the Government's neutral stance, but not about leaking the contents of the Solicitor General's letter.

Consequently Paragraph 8 of the memorandum is inaccurate. I suggest the following:

"There is no evidence of any discussion between the Prime Minister's Office and the Department of Trade and Industry on the morning of 6 January of the possibility of disclosing the existence of the Solicitor General's letter before that letter arrived."

On Paragraph 9, the sentence "the evidence given to ^{my} ~~any~~ inquiry does not suggest that any other method of disclosure was considered". In fact my own evidence implies that some consideration was given to this since I said that I was nervous about the journalist whom Miss Bowe proposed to use. Consequently, I think it would be more accurate for this particular sentence in Paragraph 9 to end "... method of disclosure was seriously considered given the time constraint".



BERNARD INGHAM
4 March 1986

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PRIME MINISTER

cc Mr Ingham
Mr Powell
Mr Flesher

DEFENCE SELECT COMMITTEE

I attach at Flag A a draft of the memorandum which Sir Robert Armstrong proposes to submit tomorrow evening to the Defence Select Committee in response to their questionnaire (at Flag B). The draft is now the subject of extensive clearance within Whitehall. At Flag C are further questions which the committee have submitted tonight.

Subject to the marginal comments on the draft (on which see more below), I think Robert's text is a useful way of handling the committee. It does, however, inevitably not deal with many of their questions. But it will be easier for him to fend them off if he has already submitted this piece of paper.

Could I particularly draw your attention to two points in paragraph 11 on page 7.

- (i) You will see there an alternative draft for the first two sentences concerning our discussion with you on 7 January, the day after the disclosure of the Solicitor General's letter. Our recollections are inevitably hazy, but we believe that the words suggested are an accurate description of what took place.
- (ii) The sentence in square brackets beginning "I do not know that" ought to be omitted. There is a note on the file which indicates that I had some discussion with you on 8 January about a leak inquiry. I had told you that during the day that Mr Brittan was not opposed to a leak inquiry; and I minuted you in the evening to say that:

"Later information is that Mr Brittan does not want a

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leak inquiry. Robert is thinking of a way through on the lines we discussed and will advise."

I should be glad to know whether you have any comments on the draft, and especially my manuscript changes. The draft is likely to be revised further tomorrow in the light of recipients' comments.

N.L.W

N.L. Wicks
3 March 1986

| Agree with manuscript changes - but have suggested one revision - see in the margin. Also I have suggested one minor point on p. 4. $\frac{7}{8}$