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*From the Secretary of the Cabinet and Head of the Home Civil Service*

Sir Robert Armstrong GCB CVO

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CHIEF WHIP

c Mr Wicks

response to Select Committee on Defence Reports on Westland

In discussion on 18 July, we agreed that it would be desirable for there to be an immediate response, published on the same day as the Committee's Reports, to certain of the points likely to be contained in those Reports, and in particular to the points concerning the Attorney General, the decision not to take disciplinary action against the five officials, the allegation in Peter Kellner's New Statesman article that Mr Ingham lied to me when he gave evidence in the inquiry, and the position of the Head of the Civil Service.

2. We thought that this response might take the form of a Written Answer to a Parliamentary Question, which could be released at 3.30 pm on 24 July (the Select Committee's Reports will be released at 11.00 am that day). The Question would have to be put down the previous day. Mr Ingham could draw the Lobby's attention to the Question and advise them to expect a substantive reply. If there were to be an attempt by the Opposition to amend the motion for the adjournment, it

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would not then be necessary for the Government spokesman to deal in detail with issues of substance: he could rely on the reply.

3. I attach a first draft of a reply. Where possible it is based on already published material; notably on the Prime Minister's statement of 23 January, her speech of 27 January, her letter of 17 February to Dr Owen, and my evidence to the Select Committee.

4. I should like to start the process of clearing a text with the Attorney General, the Permanent Secretary to the Department of Trade and Industry, and Mr Ingham. For this purpose I think that it will be sufficient to tell those consulted that our idea of the points from the Select Committee's Report with which it is proposed the reply should deal is based on intelligent speculation. We shall of course need to review the draft reply very quickly as soon as we have texts of the Committee's Reports, to see if the informed speculation is well founded and to see whether there are any other points with which the reply should deal.

5. I should be glad to know whether you and Mr Wicks are content for me to proceed accordingly.

RA

21 July 1986

Draft of 21 July

DRAFT QUESTION

To ask the Prime Minister, whether she will make a statement on the implications for the Government of the premature disclosure of part of the contents of forthcoming reports from the Select Committee on Defence.

DRAFT ANSWER

I. The leaks of the Select Committee's Reports

It is deplorable that there have been a number of what appear to be advance disclosures of selected material from the Select Committee on Defence's Reports on the Westland affair. Hon Members will be able to judge for themselves how far the advance disclosures correspond with the Select Committee's Reports which have been published this morning. The Government will respond to the Committee's Reports in due course in the usual way; but in view of the advance disclosures and their

references to particular individuals there are a number of comments which I think it right to make immediately.

II. The Attorney General

2. The House will recall from my statement on 23 January last that my Rt Hon and Learned Friend the Attorney General authorised the Head of the Civil Service to tell one of the officials concerned in his inquiry into the circumstances of the disclosure of the Solicitor General's letter of 6 January to the then Secretary of State for Defence that, provided that he received full co-operation in that inquiry, the official concerned would not be prosecuted in respect of anything said during the course of the inquiry. The Select Committee argue that, if my Rt Hon and Learned Friend was able at that stage to say that under no circumstances would he have prosecuted the official concerned, he must have known, and could only have learnt from the Head of the Civil Service, that the disclosure had been authorised.

3. It is a pity that the Select Committee did not, as a matter of natural justice, give my Rt Hon and Learned Friend an opportunity of commenting on and responding to this accusation before they included it in their Report. Had they done so, he would have been able to point out that the conclusion by no means follows from the premise, and to tell them that all he knew at that time was that there was reason to believe that the disclosure had been, or might have been, made by the official concerned. Neither he nor the Head of the Civil Service knew that the disclosure had been authorised, or anything else about the circumstances of the disclosure. The purpose of the inquiry was not just to ascertain who had made the disclosure: it was to investigate the circumstances in which the disclosure came to be made, and to provide those concerned with the opportunity of giving their accounts of the circumstances of the disclosure and their part in the affair. It was clear that the testimony of the official in question would be vital to any inquiry into the circumstances of the disclosure; and that the official's readiness to co-operate fully in the inquiry would unquestionably be likely to

be affected by the possibility that an admission could lead to a prosecution. My Rt Hon and Learned Friend judged it right that that possible impediment to full co-operation in the inquiry should be removed. It was only after reading the report of the inquiry that my Rt Hon and Learned Friend told me that on the facts as disclosed in the inquiry there could have been no question of proceeding against the official concerned.

III. Should disciplinary action have been taken against civil servants?

4. It is a long-standing convention in this House that we do not name or discuss the position of individual civil servants. I feel obliged, however, to make an exception in this instance.

5. The Select Committee say that they find extraordinary the fact that no disciplinary action was taken against any of the officials concerned in the disclosure of the Solicitor General's letter. I have no intention of going yet again over the ground that has already been

very fully covered in my statement of 23 January and my speech of 27 January last, in various answers I have given to Parliamentary Questions and in the evidence given by the Head of the Home Civil Service to the Select Committee. I have already expressed to the House, in my speech on 27 January, my regret at the manner in which the disclosure was made. As the Head of the Civil Service said in his evidence to the Select Committee, 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 whether those errors of judgment were such as to call for disciplinary action. It was decided by those responsible, having regard to all the admittedly very unusual circumstances, that they were not. It was not my responsibility to take that decision, but I consider it to have been an entirely reasonable decision to take in the circumstances.

6. The officials concerned are of course well aware of the errors of judgment which were made, and which are a matter of public record. That is something that they have to live with.

They are not likely to repeat those errors. What happened will be a lesson to others for the future. All are officials of proven ability and competence, in whom the Government has great confidence. They should now be allowed to put this affair behind them and get on with their duties and careers.

IV. The Chief Press Secretary

7. In one of the recent press reports it was suggested that one of the officials concerned - my Chief Press Secretary - had or might have lied to the Head of the Civil Service during the course of his inquiry. There is no suggestion in the Select Committee's Report that they believed this to be the case, and I think it right to put on record at once and categorically that there is no foundation whatever for this suggestion, which was a monstrous slur on the integrity of the civil servant concerned. Those who know him will be in no way surprised to know that he gave evidence to the inquiry fully, frankly and truthfully.



V. The Head of the Home Civil Service

8. The Committee suggest that this case may demonstrate one of the conflicts of interest which the Treasury and Civil Service Committee identified when they recommended that the posts of Secretary of the Cabinet and Head of the Home Civil Service should not be held by the same individual. I cannot follow this argument. The Head of the Civil Service was in exactly the same position in relation to the officials concerned in his inquiry as previous Heads of the Civil Service who were Permanent Secretaries to the Civil Service Department and before that to the Treasury would have been. In particular, the Prime Minister's office has always come within the formal responsibility of the Department whose Permanent Secretary is the Head of the Home Civil Service. In practice, of course, the Head of the Civil Service does not exercise direct supervision over the day-to-day work of members of the Prime Minister's office; for that they are answerable to the Prime Minister whom they serve. On the general question of combining the positions of Secretary of the Cabinet and Head of the Home

Civil Service I have nothing to add to the Government's response to the Seventh Report of the Treasury and Civil Service Committee, which is being presented today as Cmnd 9841, save to remind the House that the present position is not unprecedented: two former Secretaries of the Cabinet combined the two positions for parts of their careers, and were indeed Permanent Secretaries to the Treasury as well.

9. The Committee suggest that in this case the Head of the Civil Service failed to give civil servants the lead for which they were entitled to look to him. Once again, I cannot accept the Committee's view. Following discussions with my Rt Hon and Learned Friend the Attorney General, it was the Head of the Civil Service who proposed to me that there should be an inquiry. He conducted that inquiry himself, with the assistance of a colleague from the Cabinet Office (Management and Personnel Office), and reported fully to me and to my Rt Hon and Learned Friend the Attorney General on the disclosure and the circumstances in which it came to be made. Since it would have been unfair for the people

concerned to be subjected to a second process of inquiry into the same events, he offered himself to give evidence to the Select Committee on Defence, and answered their questions fully and fairly at two sessions lasting altogether for nearly five hours. Far from that being a failure of leadership, I believe most Rt Hon and Hon Members will share my view that it demonstrated the exercise of leadership with a high degree of responsibility and integrity in what had become a tense and politically charged situation.

V. Select Committees and Ministerial accountability

10. The Select Committee's Report on the defence implications of the Westland affair demonstrates the value of departmental Select Committees in calling Ministers and their Departments to account for their policies and the execution of them. Their separate report on Government decision-taking, the defence implications of which are hard to perceive, demonstrates the shortcomings and dangers of the Select Committee type of inquiry, when

attempts are made to stretch it beyond questions of departmental policy and execution into the performance and conduct of individuals. On this aspect of the matter I commend to the House paragraphs 13 to 15 of the Government's response to the Seventh Report of the Treasury and Civil Service Committee, which deals with the implications of Ministerial accountability to Parliament for relations between civil servants and Select Committees.