



Minister of State

*Nigel*

I attach the full text of  
the latest draft as discussed.  
NB. P. Luce will not use  
it all!

*Paul Thomas*

P. He has just rung to  
say he has shown the Chief  
Whip and Lord President  
copies of the transcript version  
on from which this was  
typed and they saw no problems  
in it!



ADJOURNMENT DEBATE: MINISTER'S RESPONSE

The Hon Gentleman is well known in the House and outside for his persistence and determination in pursuing issues. We respect him for that. But I have to let him into a secret. He does sometimes get so obsessed with an issue that he loses his balance and objectivity. One obsession he has is that there is a continual conspiracy in Government against the nation. This impression that he gives that he lives in a world of illusions does very often diminish the credibility of his case.

Indeed he is notorious at raising issues which fascinate a part of Westminster and the Press but which bore the rest of the country stiff.

It is also very noticeable that the Hon Gentleman continues not to notice many of the facts given to the House when it suits him to do so.

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The Third and Fourth Reports from the Defence Committee on Westland were received by the Government only yesterday. These reports are based on lengthy inquiries that the Committee has conducted and the Government will naturally be studying them carefully before responding to Parliament in due course. I note that the Rt Hon Gentleman the Member for Islooin recognised yesterday the need for the Government to have time to reply.

In responding to the points that the Hon Member has made, I do not propose to go over the whole of the series of events in detail. My Rt Hon Friend the Prime Minister gave full accounts to the House on 23 and 27 January and has answered many questions in the House since then. Sir Robert Armstrong gave extensive and detailed evidence to the Committee on two occasions; and my Rt Hon and Learned Friend the Attorney-General has answered numerous questions in the House concerning his position and that of my Rt Hon and Learned Friend the Solicitor-General.

But there are a number of points that the Hon Member has insisted on making in spite of the information already made available and I propose to deal briefly with a few of these and to raise related issues.



Prime Minister's Involvement

He has continued to allege that the disclosure of the Solicitor-General's letter was made in some way with the Prime Minister's authority. The Committee's report states very clearly in paragraph 183 that "The Prime Minister stated that she had no knowledge on 6 January of what was taking place. We accept this". I hope that in the light of that clear conclusion from the Committee we shall hear no more from the Hon Member on this matter.



Attorney-General

He has repeated also the allegation that he made earlier concerning the Attorney-General, suggesting that the Attorney knew when he instituted the inquiry that the disclosure had been authorised by the then Secretary of State for Trade and Industry. I would refer the House to the reply given by the Attorney-General yesterday which he made the position abundantly clear. He said:

"The Select Committee state that if, when I authorised an offer of immunity from prosecution to one of the officials concerned in the Head of the Home Civil Service's inquiry into the circumstances of the disclosure of the Solicitor General's letter of 6 January, I was able at that stage to say that under no circumstances would I prosecute the official concerned, I must have known, and must have learned from the Head of the Home Civil Service, that the disclosure had been authorised.

I wish to make it absolutely clear that, at the time when I advised that an inquiry be instituted, I did not know by whom the disclosure had been made or that it had been authorised by the then Secretary of State for Trade and Industry if at all.

At the time when I granted immunity to the official



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concerned, while I had reason to believe that the disclosure had been made by the official concerned, and that the official concerned had acted in complete good faith, I was not aware of the full circumstances. It was important that the inquiry should discover as fully as possible the circumstances in which the disclosure came to be made, and should provide those concerned with the opportunity of giving their accounts of their part in the affair. It was clear that the testimony of the official in question would be vital to the inquiry, and I judged it right that possible impediment to full co-operation in the inquiry should be removed. I was and am satisfied that that in no way interefered with the course of justice: the facts as disclosed in the inquiry confirmed my judgement that there would have been no question of proceeding against the official concerned.

As the Select Committee recognise, I was not told of the direct involvement of the then Secretary of State for Trade and Industry until 2 January."



Individual Civil Servants/Discipline

I turn now to the allegation the Hon Member has made concerning individual civil servants. Once again I would refer Hon Members to what my Rt Hon Friend the Prime Minister stated in the House yesterday on this matter.

"First, my Rt Hon Friend the Secretary of State for Trade and Industry and I have total confidence in our officials referred to in the report. As the House will be aware, those responsible for deciding on disciplinary action have already concluded that there was no case for such action.

Second, I do not accept the Committee's comments on the role of the Head of the Home Civil Service. He continues to enjoy the Government's total confidence. He is a very distinguished public servant, who has performed great service to Governments <sup>of both</sup> ~~and~~ parties."

The Select Committee said 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. My Rt Hon Friend the Prime Minister has already expressed to her House, in her speech on 27 January, her regret at the manner in which the disclosure was made. As the Head of the Home Civil Service has said in his evidence to the Selection Committee, clearly things were done in this affair which would



have been better done differently, and in that sense people made wrong judgements. The question is whether those errors of judgement were such as to call for disciplinary action. As my Rt Hon Friend ~~and~~<sup>the</sup> Prime Minister made clear yesterday, those responsible for decisions about disciplinary action concluded that there was no case for such action in these instances. As the Committee's report acknowledges, the disclosure was made with the authority of the then Secretary of State for Trade and Industry. Indeed the House will need little reminding that my Rt Hon and Learned Friend the Member for Richmond, Yorks in his statement to this House on 27 January accepted full responsibility for the fact and form of the disclosure. He went on to make clear that officials acted in accordance with his wishes and instructions.



### Accountability

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This was a clear demonstration of the principle of Ministerial accountability. The overriding importance of that principle has been stressed in the Government Response to the Seventh Report from the Treasury and Civil Service Committee, which my Rt Hon Friend the Prime Minister presented to the House yesterday. The Government had no hesitation in reaffirming the principle that Ministers are responsible and accountable for the actions of their civil servants.

This issue has been addressed at some length in the Government Response to the Seventh Report of the Treasury and Civil Service Committee. This set out the position in the following way:

"Any attempt to make civil servants directly accountable to Parliament, other than the strictly defined case of the Accounting Officers' responsibility, would be difficult to reconcile with Ministers' responsibility for their departments and civil servants' duty to their Ministers.

This has implications for the position of civil servants in relation to Select Committees generally and the Departmental Select Committees in particular. These Committees were established to examine the expenditure, administration and policy of government departments, and the conventions accepted as applying to the exercise of their powers are set out



comprehensively in the First Report from the House of Commons Select Committee on Procedure and the memorandum to that Committee by the Clerk of the House.

The report and the memorandum recognised that civil servants who give evidence to Select Committees do so on behalf of their Ministers; that there are certain matters on which they cannot answer questions (notably, as the Committee's own report states, on policy matters - which are for Ministers - and on advice given to Ministers); and that, as the Procedure Committee's report stated:

"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its rights to secure information from the Executive at a level below that of the ministerial head of department concerned (normally a Cabinet Minister), since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House";

and the memorandum to the Procedure Committee by the Clerk of the House stated:

"it would certainly appear more in accordance with Ministerial accountability to the House that Ministers should accept responsibility for the conduct of their officials, and that the House should proceed against Ministers".

It is not, in the Government's view, generally in



accordance with those conventions, or with the underlying principles of ministerial accountability, that Select Committees should criticise individual civil servants who are, for the reasons already explained, unable to speak freely in their own defence."

The very serious problems arising from attempts by Select Committees to hold civil servants accountable to them are I believe amply demonstrated in the efforts of the Defence Committee to extend its inquiry beyond questions of departmental policy and execution into the performance and conduct of individual officials. I sincerely trust therefore that in the next session of this Parliament we shall see Select Committees return to the principles which have hitherto been accepted as the basis on which officials give evidence to Select Committees.



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Bernard Ingham and Sir Robert Armstrong

The Hon Member singled out for particular criticism the Head of the Home Civil Service and the Prime Minister's Chief Press Secretary. They have long been accustomed to such allegations from the Hon Member. But that is no reason for leaving those allegations unanswered and my Rt Hon Friend the Prime Minister had made clear to this House on numerous occasions, including yesterday afternoon, that they retain her total confidence and she has asked me to confirm that again this morning.

The Committee's report claims that Sir Robert Armstrong's dual role as Cabinet Secretary and Head of the Civil Service may have caused a conflict of interest in the conduct of this inquiry. The Government's response to the Seventh Report from the Treasury and Civil Service Committee already makes clear that it sees no *grounds for change* in what is said in the Defence Committee report affects that. The dual role is not the issue here. The fact is that the staff in the Prime Minister's Office have always come within the formal responsibility of the Department whose Permanent Secretary is the Head of the Civil Service - but in practice of course they answer to the Prime Minister direct, rather than through the Head of the Civil Service, in the day to day discharge of their duties.

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Sir Robert Armstrong: Failure to give a Lead

The Select Committee have said that the Head of the Home Civil Service failed to give a lead in this case. I cannot accept that view. He has stated on the record, in evidence to the Select Committee which has been reported and broadcast, that it would have been much better not to have disclosed the information in the way in which it was disclosed. He issued a note of guidance in February last year on the duties and responsibilities of civil servants in relation to Ministers. The Treasury and Civil Service Committee have accepted the validity of those principles and they have been reaffirmed by the Government in the response to the Treasury and Civil Service Committee which was published yesterday. The Head of the Home Civil Service conducted himself, with assistance from a colleague from the Cabinet Office (Management and Personnel), in the disclosure of the Solicitor General's letter and reported fully to the Prime Minister and the Attorney General on the disclosure and the circumstances in which it came to be made. He took the view, in my judgement rightly, that it would not be fair or reasonable to expect the officials who had given an account of their role to him and co-operated fully in his inquiry to submit to a second round of detailed questioning of the sort that would have been involved in giving evidence to the Select Committee. He offered himself to give evidence to the Select Committee, and answered their questions fully and fairly at two sessions lasting altogether for nearly five hours. Indeed, the Select Committee have relied extensively on his evidence in producing their own Report. Far from that being a failure of leadership, it



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demonstrates the exercise of leadership with a high degree of responsibility and integrity.



There are of course many other issues raised in the Defence Committee's Fourth Report and I do not intend to comment on these in detail today. Some of them are relevant to the general question of the relationship between civil servants and Ministers. The Government set out its position on these matters fully in its response yesterday to the Seventh Report from the Treasury and Civil Service Committee. This response drew attention to and reaffirmed the procedures laid down in the note of guidance issued by Sir Robert Armstrong in February 1985 for civil servants who are faced with a crisis of conscience. The Government said then and remains of the view that it is neither desirable nor practicable to attempt to prescribe in detail for every situation which might arise. But the Government has already acknowledged that Sir Robert's note was not necessarily the last word on the subject. And it has been agreed that there should be further discussions with the Civil Service unions about the detailed procedures, and about the arrangements for a right of appeal direct to the Head of the Civil Service.

The matters to which I have referred are but a few of those raised in the Committee's report. The Government will of course be making its full views known in due course.



## DISCLOSURE INQUIRY: DEFENSIVE

The Select Committee state that it appears that Sir Robert Armstrong must have known at the outset of his inquiry that the disclosure of the Solicitor General's letter must have been authorised.

By the time that Sir Robert Armstrong began to carry out his inquiry, he had reason to believe that the disclosure had been made by the official concerned, and that the official concerned had acted in complete good faith. He had not at that stage heard the testimony of the official concerned. Neither was he aware of the full circumstances, though he was aware that there was likely to be some conflict of evidence about some of the circumstances. In that situation he took the view that it would be premature to report to the Prime Minister at that stage. The right course was for him formally to hear the testimony of all the officials concerned, to ask all necessary questions of each of them, and then to form a judgment as to what had occurred. That was exactly what he did, and in the circumstances it was



the right and fair thing to do. To have reported to the Prime Minister what he had reason to believe, before he had tested the matter thoroughly by means of his inquiry would have been to risk reaching erroneous conclusions and a miscarriage of justice.



DRAFT PARAGRAPHS ON DEFENCE SELECT COMMITTEE

REPORT

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### Discipline

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The officials concerned are of course well aware of the errors of judgment which were made. They 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. My Rt Hon Friend the Prime Minister has made it clear that both she and Mr Rt Hon Friend the Secretary of State for Trade and Industry have total confidence in the officials concerned.