

CONFIDENTIAL

Prime Minutes
(1) Agree publication
at 3.30 pm on Monday
c: Mr Coe

13 October?

(2) I would not say X
overleaf. Agree? *Agree not*

MR WICKS

WESTLAND REPLY

So far as I can see, publication on Monday, October 13 is not merely OK but desirable. The Queen is starting her tour of China and Reagan/Gorbachev in Iceland will dominate the press.

N.L.U.

3.10

There is very little else in our diary of political interest for that day; the sexiest other bit seems to be the producer price index. The rest of the week is not at this distance very exciting apart from DES policy developments on October 14.

The only argument is the timing of publication. If we let the evenings have it - and the Standard blows it up - that will encourage Fleet Street and radio and television to run with it later. If, on the other hand, the evenings find it boring, Fleet Street is less likely to be excited.

My own choice would be to put it into the Lobby at 3.30 - ie mid-afternoon - without press notice.

Such a publication date will give ample time - including presumably two weekends - for examination before debate. You may feel that the lesser of two evils is more publicity for the report without a procedural row, rather than a procedural row which would enhance the publicity for the subject and probably content of the report, or lack of it.

If in the interim we are asked when the report is coming, I suggest we take the following unattributable line:

- the broad intention is to have it debated in the spill over, so we shall publish the Government's reply as soon as it is available from the printer (which won't

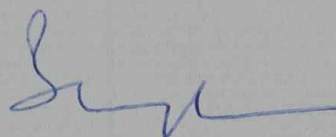
CONFIDENTIAL

be during conference week). At this stage we can't say when.

*Better not
to put this
in. X*

It is for consideration whether we should add: "As you know, so much has been said in the House on this subject that we can't see there is much left to add. In other words we would expect the response to bring together what has already been said."

I am copying to the offices of the Lord President, Lord Privy Seal, Chief Whip and Sir Robert Armstrong.



BERNARD INGHAM

3 October 1986

000
Ref. A086/2779

MR WICKS

Defence Committee: Westland plc

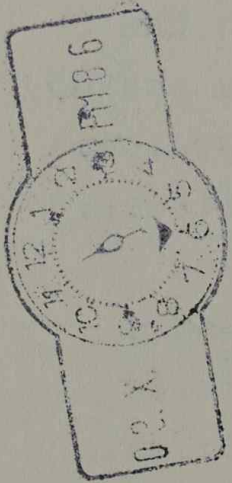
I attach a submission to the Prime Minister, covering the latest draft of the Government response to the Third and Fourth Reports from the Defence Committee.

2. At the meeting we paused over the last words of the first tiret of paragraph 39. I have looked at that again, and now propose that they should read "duties laid upon him as a Minister". I think that that is an improvement on "duties laid upon him by Parliament" - not least in that it covers the case where the powers exercised are those of the prerogative and are not conferred by statute.

3. I am asking the Attorney General specifically to check the wording of paragraphs 39 and 40.

4. As to paragraph 45, we have searched the debates in the House of Commons when the Select Committee structure was set up. There is no quotation which refers specifically to the position of individual civil servants in relation to Select Committees. The quotation we have found (and reproduced in the revised paragraph 45 of the draft) is the nearest we can find, and I think that it will bear the weight of the argument, if it is linked to a restatement of the lines of accountability (civil servants to Ministers, Ministers to Parliament) on the lines now suggested in the draft. But I should be surprised if this particular significance was in Mr Stevas's mind when he used the words.

_____ I think the quotation adds nothing - and would be best left out
or





5. I have kept paragraph 45 as a separate paragraph, and not run it into paragraph 44, because it seemed to me that a combined paragraph would be uncomfortably long. But that could easily be changed.

6. There is one procedural point still to be resolved (apart from the actual date of publication). The convention, as stated in Questions of Procedure for Ministers, is that:

"even when it is agreed that no issue requiring collective consideration is involved, it is customary to circulate all White Papers to the Cabinet before publication".

(C(P)(83) 5, paragraph 109.)

Cabinet colleagues other than those directly involved have not yet seen the draft response at any stage. It would probably be prudent to ensure that they have an opportunity to read it before publication. I suggest, therefore, that the draft should be circulated to the Cabinet in proof copies, under cover of a note by the Secretary of the Cabinet, on Friday 10 October. Final printing and distribution could then be carried out from Monday 13 October, with a view to publication on Thursday 16 October. That procedure and timetable would not be possible if publication were to be on Monday or Tuesday 13 or 14 October, since final printing would then have to be completed before the weekend.

5. I should be grateful if you could let me know whether the Prime Minister agrees that we should proceed accordingly.

6. I am sending copies of this minute to the Private Secretaries to the Lord President, the Lord Privy Seal and the Chief Whip.

RA

3 October 1986

ROBERT ARMSTRONG

B

Ref. A086/2780

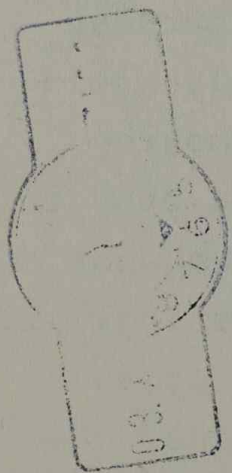
PRIME MINISTER

Defence Committee: Westland plc

I attach a further draft of the Government response to the Third and Fourth Reports of the Defence Committee on Westland plc.

2. This draft includes an amendment to paragraph 39 (the last words of the first tiret), a revision of paragraph 45 in the light of the discussion at your meeting yesterday, and the revised text of paragraph 40 approved at that meeting.

3. Subject to your approval, and that of the other Ministers to whom this minute is being copied, this text will be sent to the printers next week, so that copies may be available for publication in the week beginning 13 October. The actual date of publication in that week is still to be decided. Other things being equal, I suggest that it should be published towards the end of the week, so that it is not lying around for comment for too long before the House of Commons resumes: say, on Thursday 16 October. It could be published at, say, 2.30 pm: this would enable the Chief Whip to give an advance copy to Sir Humphrey Atkins and the Minister of State, Privy Council Office a copy to Mr Terence Higgins (if that is finally decided upon: I was not sure whether it was definitely agreed at yesterday's meeting) at, say, 12.00 noon. There would be no press notice and no press conference; the No 10 Press Office and other Press Offices concerned will be given "Question and Answer" briefing.





4. It was agreed at your meeting that the Government response should be laid as a Command paper presented by the Prime Minister, the Secretary of State for Defence, the Secretary of State for Trade and Industry and the Minister of State, Privy Council Office.

5. I am sending copies of this submission and the revised draft to the Lord President, the Secretary of State for Defence, the Lord Privy Seal, the Secretary of State for Trade and Industry, the Attorney General, the Chief Whip and the Minister of State, Privy Council Office.

ROBERT ARMSTRONG

3 October 1986

DEFENCE COMMITTEE: THIRD REPORT AND FOURTH REPORTS

Draft Government Response

Draft of 3 October 1986

In this memorandum the Government responds to the two reports from the Select Committee on Defence relating to Westland plc which were published on 24 July 1986:

Third Report (HC 518, Session 1985-86)

The Defence Implications of the Future of Westland plc

Fourth Report (HC 519, Session 1985-86)

Westland plc: the Government's decision-making

THIRD REPORT

2. The Government notes with interest the discussion of the various issues raised and the Committee's views on a number of points. These are the subject of more detailed comments in the following paragraphs.

Future Developments of the Military Helicopter (paragraphs 30-32)

3. The Government shares the Committee's view of the growing importance of helicopters in the land battle. Their inherent flexibility and mobility when allied to improving anti-armour weapons are likely to secure them a growing role in anti-armour operations, and the advent of systems to allow more comprehensive use at night and in bad weather will enhance their utility in all roles. Like any system, however, helicopters have their limitations and due regard will continue to need to be given both to the threats to their operations (which may be

expected to grow in the battle area, not least in response to their own effectiveness) and to competing systems in each role for their relative cost effectiveness.

Helicopters in service with British forces (paragraphs 33-40)

4. The Government agrees generally with the Committee's analysis, but considers that the "sacrifice of quantity" referred to in paragraph 36 should not be exaggerated. The current holding is 867 helicopters (excluding the 60 or so referred to in the Committee's report as awaiting disposal or beyond economic repair) as against 940 in 1975.

5. The Government notes the Committee's reference (paragraph 37) to replacement of current helicopter types. The EH101 is, as the Committee say, planned to replace the ASW Sea King (in this case, Sea King V/VI). It is, however, the Sea King IV which is already replacing the Wessex 5 in the Commando role.

Future British Requirements (paragraphs 41-75)

6. The Government notes the Committee's support for the idea of equipping EH101 with the Sea Eagle anti-ship missile (paragraph 46) and will bear this in mind in future consideration of the possibility. It remains to be seen, however, whether such an enhancement of capability is feasible and can be afforded.

7. As regards support helicopters, the Government agrees that the options for the future are much as the Committee have described them in paragraph 71, though for the sake of completeness it could have been added that additional medium lift capacity could be obtained by purchasing additional Chinooks instead of additional EH101s (paragraph 71(c)). It follows from the Committee's analysis of the options that the

statement in paragraph 68 that there is no doubt that a new support helicopter will be needed in substantial numbers in the early 1990s goes too far at this stage, though plainly there is a strong possibility that such a requirement will be identified as a result of the studies currently being undertaken. The possibility of acquiring more medium lift capacity, which the Committee believe should remain open (paragraph 55), is being actively addressed in these studies.

8. The Government accepts the Committee's view that the Services' requirement for support helicopters, and the way in which any such requirement might be met, should be resolved quickly (paragraph 67). The Government welcomes the Committee's recognition of the desirability of reappraising the military requirement for support helicopters from first principles before procurement decisions are taken (paragraph 68).

9. The Government notes the Committee's preliminary view that there is a very good case for maintaining a fully airmobile brigade (paragraph 70), following the mechanisation of the present 6th Air Mobile Brigade which together with the addition of a new armoured regiment will begin in 1988. The Government will take account of the Committee's view in its further consideration of the possibility of retaining an airmobile capability.

10. The Government notes the Committee's view that there is a strong case for giving the Army, as users of support helicopters, full responsibility for them (paragraph 75). The Government points out, however, that account has to be taken of the breadth of helicopter tasks undertaken outside the Central Region and of the implications of transfer not only for command and control, but for training, manning and support arrangements. Nevertheless, the Government is bearing the Committee's views in mind in their current examination.

International Helicopter Production (paragraphs 76-90)

11. The Government accepts the analysis of the international helicopter market set out in the Committee's report; and it is specifically in acknowledgement of the high level of capital investment required for the design and development of advanced new helicopter types (paragraph 77) that the Government has for many years been looking towards collaborative solutions to its helicopter requirements whenever these are practicable. In the innovative arrangements established for the EH101 project the United Kingdom and Italian Governments, together with Westland and Agusta, have also recognised the benefits that may be derived from maximising the market potential of a single basic design with military, commercial and utility variants.

12. The Government has confirmed its continued adherence to the 1978 Four Nation Declaration of Principles, and our partner nations also maintain their support.

The Recession in the Helicopter Industry and Westland's Situation (paragraphs 91-98)

13. The Government notes and generally accepts the Committee's analysis of the effects of over capacity in the world helicopter industry and the decline in opportunities in the civil and military markets.

European Collaboration in Helicopter Production (paragraphs 99-118)

14. Whilst the Committee are correct in pointing out that the collaborative projects launched in pursuance of the Declaration of Principles have not taken the precise form originally envisaged (paragraph 104), they do nevertheless offer the prospect of a substantial improvement in rationalisation within Europe. The EH101 would be the European transport/ASW

helicopter in the 13 tonne class, and NH90 could still continue if the United Kingdom were to decide not to continue its participation due to lack of a requirement. Although for historical reasons it has not proved possible to arrive at a single anti-tank helicopter project, it must be remembered that the United Kingdom, France, Germany and Italy currently each operate different helicopters in this role.

15. It should also be remembered that NH90 and A-129 MKII have attracted the support of nations who were not signatories to the 1978 Declaration - respectively the Netherlands, and the Netherlands and Spain. In addition, collaborative arrangements have been established with Europe for the development and production of a range of engines capable of powering all four of the collaborative helicopters.

16. Following the acquisition by UTC of a stake in Westland, the Government has considered the status of the various collaborative helicopter projects in which the United Kingdom is participating. The current position is as follows.

EH101

17. The EH101 programme remains a high priority project for the United Kingdom, and the Government is continuing to provide for its share of the cost of the helicopter development and introduction into service. The Italian Government and Agusta have indicated to us that their position has not changed.

Light Attack Helicopter

18. It is intended that a Memorandum of Understanding (MOU) for a Feasibility Study to be undertaken on a Light Attack Helicopter based on the Agusta A-129 will be signed shortly by the Ministries of Defence of Italy, Netherlands, Spain and the

United Kingdom. The association between UTC and Westland has not hindered the negotiations which have led to this satisfactory conclusion.

19. Following agreement by the Secretary of State for Defence and his Italian counterpart, the French and German Governments have been notified of the intention to proceed with this collaborative project; and that we remain ready to discuss the possibility of harmonisation of the work on the A-129 with that of France and Germany on the PAH2/MAP/HAC3G if they so wish. This readiness to continue discussions on harmonisation has been noted by our allies.

NH90

20. The NH90 Feasibility Study is continuing and the participating companies are due to report to the five Governments during the autumn. United Kingdom future participation in this project will depend on the results of this study and of the extensive work being carried out within the Ministry of Defence on the future requirement for support helicopters. The next stage in the NH90 programme would be a Project Definition Study.

21. Whilst there are clearly a number of factors to take into account in determining how the United Kingdom should best work towards the replacement of the Wessex and Puma helicopters, the relationship between UTC and Westland has not so far been a problem in respect of the NH90 studies. The Government reiterates its view that future participation by the United Kingdom in the NH90 programme should not be precluded by that relationship. In that context the Government notes the Committee's arguments in paragraphs 116-118, including the references to the potential relationship between the Super Puma and NH90.

Control (paragraphs 119-152)

22. The Government notes the Committee's statement that "it is the responsibility of Government to satisfy itself that the ownership of shares in defence contractors of national importance has no implications for national security" (paragraph 144). It is important to distinguish between the influence that a foreign shareholder might bring to bear on commercial operation of a UK defence contractor on the one hand, and the protection of classified information or technology, in the interests of national security, on the other. The Committee can be assured that, whenever a foreign company becomes involved with a contractor to the Ministry of Defence, the Government takes the necessary steps to ensure that classified information is protected. Indeed, in the particular example of the Libyan involvement in Fiat, and therefore in Westland (after the company's reconstruction), the protection of classified matters has been positively confirmed.

23. On the subject of commercial control, as noted by the Committee, action may be taken in certain circumstances under the Fair Trading Act 1973 to refer the acquisition by a foreign company of material influence over the policy of a defence contractor for investigation by the Monopolies and Mergers Commission if the Secretary of State considers that the acquisition raises public interest issues. In the event of an adverse public interest finding by the Commission, powers are available to the Secretary of State to prevent or reverse the acquisition or to impose conditions. Moreover, powers under the Industry Act 1975 are available if the Government considers that commercial involvement by foreign parties is in itself against the national interest. The Secretary of State's powers under the Companies Act 1985 to investigate the ownership of shares may also be used where there is good reason to do so. All these powers are currently exercisable by the Secretary of State for Trade and Industry.

24. It is noted that the Committee wish to examine this aspect when taking evidence on the next Statement on the Defence Estimates.

The Defence Industrial Base (paragraphs 153-175)

25. The Government notes the Committee's discussion of the defence industrial base and Westland's importance to it. The defence industrial base is a major national asset whose health and future are of great importance. The pursuit of value for money in defence procurement, to which the Committee refer in paragraph 156 of their report, takes full account of the longer-term considerations which bear on the continued existence of companies or capabilities within the defence industrial base. The considerations were set out in the Open Government Document "Value for Money in Defence Equipment Procurement" (OGD 83/01) published by the Ministry of Defence in 1983. While the various considerations, short and longer term, will not always point in the same direction when selecting a procurement source, it is the Government's view that only by bearing them all in mind can long-term value for money be secured. In this respect, as the Committee noted (paragraph 163), the benefits of collaboration have to be fully taken into account, though this may involve difficult decisions.

26. As regards the importance of Westland to the defence industrial base, the Government notes the Committee's conclusion (paragraph 173) that the Board of Westland had the right and responsibility to make and defend its decision whether to associate with UTC-Sikorsky or the European consortium. This was and remains the view of the Government.

27. The Government attaches at least as much importance as the Committee to the quality of the working relationships between the Ministry of Defence and the Department of Trade and Industry. It repeats the assurances given to the Committee in

evidence that these relationships, both formal and informal, are excellent. For example, the Department of Trade and Industry is represented at meetings of the Ministry of Defence's Equipment Policy Committee and Defence Research Committee, and both Departments are represented at senior level on the Board of Management of the British National Space Centre. Among the many less formal links Ministers of both Departments meet from time to time to discuss industrial issues of mutual interest, as do officials. Nevertheless, both Departments are always on the look-out for ways of strengthening the links and making consultation more effective. The Government does not believe, however, that the quality of these relationships would be enhanced by imposing on them the formal structure of a Ministerial Aerospace Board.

FOURTH REPORT

28. Full accounts of the matters with which the Fourth Report is concerned have already been given by Ministers in statements in Parliament, speeches in debates and Answers to Parliamentary Questions, and by the Head of the Home Civil Service in his evidence to the Committee. The Government stands by those accounts, sees no reason to qualify or add to them, and no point in repeating yet again the sequence of events and decisions covered by the report.

29. The Committee make a number of comments on the inquiry into the circumstances in which the existence and part of the gist of the Solicitor General's letter of 6 January 1986 to the then Secretary of State for Defence came to be disclosed:

- a. that the fact that the disclosure had been authorised by the then Secretary of State for Trade and Industry must have been known to a number of people before the inquiry began (paragraph 196);

- b. that in undertaking the inquiry the Head of the Home Civil Service was inquiring into the conduct of someone whose direct Civil Service superior he was (paragraph 215);
- c. that the inquiry did not result in disciplinary proceedings against any of the officials involved (paragraph 213).

30. The Attorney General said in his answer to a Parliamentary Question on 24 July (House of Commons Official Report, 24 July 1986, Written Answers, col 323-4):

"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 or at all.

At the time when I granted immunity to the official 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".

31. The Head of the Home Civil Service had reason, before he began his investigations, to think that the disclosure had been made by an official who believed that due authority had been given for the disclosure. He did not, however, know at that time what that authority consisted of or how it was conveyed or expressed. Like the Attorney General, he took the view that it was important to discover as fully as possible the circumstances in which the disclosures came to be made, and to hear the accounts of those concerned (all of whom co-operated fully in

his inquiry), before reporting his findings, so that conclusions and decisions could be based on as full a knowledge as possible of the facts and circumstances.

32. The officials questioned in the inquiry were in the Department of Trade and Industry and the Prime Minister's Office. The Head of the Home Civil Service is not the direct superior of officials in the Department of Trade and Industry. The Head of the Home Civil Service does not supervise, and has never supervised, the day-to-day work of members of the Prime Minister's Office: he is their superior only as a result of the Prime Minister's Office being treated for "pay and rations" purposes as part of the Cabinet Office (Management and Personnel Office) (in exactly the same way as it has always been treated as part of the Department of which the Head of the Home Civil Service has from time to time been the permanent head). The Head of the Home Civil Service did not, by virtue of the "dual role" under which the post of Head of the Home Civil Service is combined with that of Secretary of the Cabinet, face any problem that his predecessors as Head of the Home Civil Service would not have faced in a similar situation.

33. As to the question of the "dual role", the Government sees no reason to take a different view of the matter in the light of the Fourth Report from the Defence Committee from that which it took in its response to the Seventh Report of the Treasury and Civil Service Committee (Cmnd 9841):

"41. The current arrangement, under which the post of Head of the Home Civil Service is combined with the Secretaryship of the Cabinet, has clear benefits. The Secretary of the Cabinet, although not "the Prime Minister's Permanent Secretary", is of all the Permanent Secretaries the closest to the Prime Minister. As Permanent Secretary for the Cabinet Office (including the Management and Personnel Office), he is responsible to the

Minister of State, Privy Council Office, and to the Prime Minister for the matters for which she has particular responsibility as Minister for the Civil Service. He also sees many of the senior staff in action and is therefore in a good position to advise the Prime Minister, as Minister for the Civil Service, on Grade 1 and 2 appointments. As to the matter of the load of work, the Government believes that, provided that the incumbent delegates sensibly, his burden is manageable.

42. Against this background the Government sees no grounds for changing the existing organisation at the present time."

34. The Government has already made clear to the House of Commons, in the Prime Minister's answers to questions on 24 July (House of Commons, Official Report, 24 July 1986, cols 587-590) and in the speech by the Minister of State, Privy Council Office on 25 July (ibid, 25 July 1986, cols 858-862), that it does not agree with the Committee's suggestion that the Head of the Home Civil Service failed to give a clear example and a lead in these matters. On the contrary, as the Minister of State said of his part in the matter:

"Far from that being a failure of leadership, it demonstrates the exercise of leadership with great responsibility and integrity." (Official Report, 25 July 1986, col 862.)

35. The Committee say that they do not believe that the authority of the Secretary of State for Trade and Industry was sufficient to make public parts of a document which contained the advice of a Law Officer without the knowledge or permission of the Law Officer. As the Committee make clear, there is a rule that it is not permissible, save with the prior authority of the Law Officers, to disclose to anybody outside the United

Kingdom Government service what advice the Law Officers have given in a particular question or whether they have given, or have been or may be asked to give, such advice. In this case the prior authority of the Law Officer concerned was not sought or given. The Prime Minister, the then Secretary of State for Trade and Industry and the Head of the Home Civil Service have all expressed their regret that the Solicitor General's letter was disclosed in the way it was disclosed. But it remains the Government's view that, having regard to all the circumstances, disciplinary proceedings were not called for.

36. Mr Leon Brittan, who was the Secretary of State for Trade and Industry at the relevant time, said in a speech in the House of Commons on 27 January (House of Commons, Official Report, 27 January 1986, col 671):

"As my right hon. Friend said in her statement to the House last Thursday, I made it clear to my officials at the Department of Trade and Industry that - subject to the agreement of No 10 - I was giving authority for the disclosure of the Solicitor General's letter to be made. I therefore accept full responsibility for the fact and the form of that disclosure.

The House knows of the extraordinary, perhaps unprecedented circumstances in which we were working - the circumstances of the persistent campaigning of my right hon. Friend the former Secretary of State for Defence and the urgency of the need to ensure that the contents of the Solicitor General's letter should become known. But for all that, and in retrospect, I must make it clear to the House that I accept that the disclosure of that information - urgent and important as it was - should not have taken place in that way, and I profoundly regret that it happened.

I must also make it clear that at all times the Department of Trade and Industry officials acted in accordance with my wishes and instructions. What they did was with my full authority. They are not to be blamed. Indeed, they gave me good and loyal service throughout my time as Secretary of State for Trade and Industry."

The Prime Minister said in the House of Commons on 23 and 27 January:

"Officials in the Department of Trade and Industry approached officials in my office, who made it clear that it was not intended to disclose the Solicitor General's letter from 10 Downing Street; but, being told that the Secretary of State for Trade and Industry had authorised the disclosure, they accepted that the Department of Trade and Industry should make it and they accepted the means by which it was proposed that the disclosure should be made.

My officials made it clear to the inquiry that they did not seek my agreement. They told the inquiry that they did not believe that they were being asked to give my authority, and they did not do so."

(Official Report, 27 January 1986, col 655)

"They considered - and they were right - that I should agree with my right hon. Friend the Secretary of State for Trade and Industry that the fact that the then Defence Secretary's letter of 3 January was thought by the Solicitor General to contain material inaccuracies which needed to be corrected should become public knowledge as soon as possible, and before Sir John Cuckney's press conference. It was accepted that the Department of Trade and Industry should disclose the fact and that, in view of the urgency of the matter, the disclosure should be made by means of a telephone communication to the Press

Association. Had I been consulted, I should have said that a different way must be found of making the relevant facts known."

(Official Report, 23 January 1986, col 450)

37. The Government is satisfied that those concerned acted in good faith, believing that Ministerial authority had been given for what was done. As the Prime Minister said in the House of Commons on 24 July:

"My right hon. Friend and I have total confidence in our officials referred to in the Report."

(Official Report, 24 July 1986, cols 588 and 589).

38. The Defence Committee's Fourth Report reverts, in its final paragraphs, to the matter of accountability.

39. The basic principles on this matter are clear:

Agreed with | - Each Minister is responsible to Parliament for the conduct of his Department, and for the actions carried out by his Department in pursuit of Government policies or in the discharge of responsibilities laid upon him as a Minister.

- A Minister is accountable to Parliament, in the sense that he has a duty to explain in Parliament the exercise of his powers and duties and to give an account to Parliament of what is done by him in his capacity as a Minister or by his department.

- Civil Servants are responsible to their Ministers for their actions and conduct.

40. As to the implications of these principles for the individual responsibility of Ministers, it has been accepted for many years that a Minister is not bound to endorse the actions of his officials, if he did not know of them and would have disapproved of them had he known of them. If the policies or actions of a Department are criticised, the Minister remains constitutionally responsible to Parliament, and is accountable to Parliament in the sense that it is his duty to give an account to Parliament of the policies or actions in question, and of anything done or to be done in response to the criticism. But there is not, and never has been, a convention that a Minister is bound to resign in every case where his Department is criticised: it depends on all the circumstances in the case.

41. As the Government's response to the Seventh Report of the Treasury and Civil Service Committee suggested, these principles have implications for the relationship of Select Committees to Ministers and civil servants. Select Committees exercise their formal powers to inquire into the policies and actions of Departments by virtue of the accountability of Ministers to Parliament. Civil servants who appear before them do so as representatives of, and subject to the instructions of, the Minister. The civil servant is accountable to his Minister for the evidence he gives to a Select Committee on his Minister's behalf.

42. Under Standing Orders a Select Committee has the right to send for any person whom it chooses; but it does not, and in the Government's view should not attempt to, oblige a civil servant to answer a question or to disclose information which his Minister has instructed him not to answer or disclose, or which it is contrary to his duty of confidentiality to answer or disclose. If in giving evidence to a Select Committee a civil servant refuses to answer a question on the ground that his Minister has so instructed, the Committee's recourse must in the

end be to the Minister. Similarly, if a Select Committee is not satisfied with the manner in which or the extent to which the Minister's accountability has been discharged, the Committee should not insist upon calling on a civil servant to remedy the deficiency, and thus in effect to exercise an accountability to Parliament separate from and overriding his accountability to his Minister. As the Select Committee on Procedure stated in its First Report of 1977-78:

"it would not, however, be appropriate for the House to seek directly or through its Committees to enforce its right to secure information from the Executive at a level below that of the Ministerial head of the department concerned, since such a practice would tend to undermine rather than strengthen the accountability of Ministers to the House".

43. The individual civil servant is accountable through his senior officers to his Minister, and if he has done amiss, it is to his Minister that he and his seniors are ultimately answerable. There are established means available - eg internal inquiry, disciplinary proceedings - whereby the Head of a Department can bring an individual civil servant to account, and can penalise him if penalties are called for, with safeguards and rights of appeal as appropriate.

44. The Government does not believe that a Select Committee is a suitable instrument for inquiring into or passing judgment upon the actions or conduct of an individual civil servant. As a witness the civil servant is liable to be constrained in his answers by his instructions from or his accountability to his Minister or by his duty of confidentiality, and therefore unable to speak freely in his own defence. The fact that a Select Committee's proceedings are privileged does not absolve him from the obligation to comply with those instructions and that duty.

Particularly if politically controversial matters are involved,

Was this
in before

There is a risk that the process of questioning may be affected by political considerations. A Select Committee inquiry into the actions and conduct of an individual civil servant, conducted in public and protected by privilege, would give the civil servant concerned no safeguards and ^{no} rights, though his reputation and even his career might be at risk. These arguments reinforce the case for not blurring or cutting across the lines of accountability: from civil servants to Ministers, and from Ministers to Parliament. (As the then Leader of the House of Commons said at the time when the new Select Committee structure was created:

"The objective of the new Committee structure will be to strengthen the accountability of Ministers to the House for the discharge of their responsibilities".

(House of Commons, Official Report, 25 June 1979, col 44.)

A Minister's responsibilities of course include responsibility for the conduct of his Department.)

45. These considerations confirm the Government in its view that it is not appropriate for the inquiries of Select Committees to be extended to cover the conduct of individual civil servants. Accordingly the Government proposes to ^{*} ~~make it~~ ^{tell} a ~~standing instruction to~~ civil servants giving evidence to Select Committees not to ^{answer} questions which are or appear to be directed to the conduct of themselves or of other named individual civil servants.

Suggest "to make it clear to civil servants giving evidence to Select Committees that they should not answer etc."

PRIME MINISTER

DEFENCE COMMITTEE: WESTLAND PLC

Questions on Robert Armstrong's minutes at Flags A and B are:

1. The amendment to paragraph 39 looks better. Agree?

*Agreed
no*

2. The redraft of paragraphs 44 and 45 reduces, but does not entirely eliminate, the confrontational aspect of the text. But I think that it will just about do, though see the possible small change to paragraph 45 which I have marked. I do not think it matters whether paragraph 45 is subsumed into paragraph 44. What are your views on the paragraphs?

redraft. a) Was the political content in before? b) The phrase adds nothing in bill etc

3. Bernard advises in his minute at Flag C that the Response should be published at 3.30 pm on Monday, 13 October. Robert prefers Thursday, 16 October. I suggest you agree Monday, 13 October unless the Lord President, Lord Privy Seal or Chief Whip think otherwise. Agree?

*Day 1
see the
previous
redraft int*

4. Robert suggests that advance copies should be given, just before publication, by the Chief Whip to Sir Humphrey Atkins and by Mr. Luce to Mr. Terence Higgins, Agree?

Yes no

5. Robert suggests the White Paper should be circulated to the Cabinet on Friday, 10 October. Agree?

Yes no

6. Finally, paragraph 40 which has caused us so much trouble. I don't think that the drafting can be improved. But I do wonder, re-reading the passage in its context and in the light of the points made by the Defence Committee, whether the paragraph is needed at all. I will take this up with Robert on Monday morning and we can settle the matter once and for all when you see him on another matter on Monday morning. Agree to have a further look at the need for this paragraph?

N.L.W.
(N. L. WICKS)

3 October 1986