

PRIME MINISTER

Seen by PM 7/10

DEFENCE COMMITTEE: WESTLAND PLC

I think we have at last got the Westland passage right. Robert and I have agreed the following.

Paragraph 38 should take in the last two sentences of paragraph 35 to read as follows;

"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 the Government is satisfied that those concerned acted in good faith and remains of the view that, having regard to all the circumstances, disciplinary proceedings were not called for. As the Prime Minister said in the House of Commons on 24 July:

'My right hon. Friend (sc the Secretary of State for Industry) and I have total confidence in our officials referred to in the Report.'

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

The last two sentences of paragraph 35 would then be deleted.

This drafting adds nothing new whatsoever, exposes no flank for further questioning, puts the argument into more logical order and is fair to all concerned.

Attached are the relevant paragraphs in their final form.

N.L.W.

N. L. Wicks

7 October 1986

PM said this was in letter form

*N.L.W.
8.10*

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

"He [sc the then Secretary of State for Industry] took the view that the fact that the Solicitor General had written to the then Secretary of State for Defence, and the opinion he had expressed, should be brought into the public domain as soon as possible. He asked his officials to discuss with my office whether the disclosure should be made, and, if so, whether it should be made from 10 Downing Street, as he said he would prefer.

He made it clear that, subject to the agreement of my office, he was giving authority for the disclosure to be made from the Department of Trade and Industry, if it was not made from 10 Downing Street. He expressed no view as to the form in which the disclosure should be made, though it was clear to all concerned that in the circumstances it was not possible to proceed by way of an agreed statement."
(House of Commons, Official Report, 23 January 1986, col 450.)

"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. 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:

"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."

(House of Commons, Official Report, 27 January 1986, col 671.)

38. 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 the Government is satisfied that those concerned acted in good faith and remains of the view that, having regard to all the circumstances, disciplinary proceedings were not called for. As the Prime Minister said in the House of Commons on 24 July:

"My right hon. Friend (sc the Secretary of State for Trade and Industry) and I have total confidence in our officials referred to in the Report."

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

Paragraph 38:

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 the Government is satisfied that those concerned acted in good faith and remains of the view that, having regard to all the circumstances, disciplinary proceedings were not called for. As the Prime Minister said in the House of Commons on 24 July

etc.

PRIME MINISTER

DEFENCE COMMITTEE: WESTLAND PLC

I am very sorry to have to revert to the drafting of the Government's response.

Paragraph 38 reads;

"The Government is satisfied that those concerned acted ~~in~~ ⁱⁿ good faith, believing that Ministerial authority had been given for what was done....."

of
Robert thinks, and not just because/Leon Brittan's comments, that it would be better if the paragraph read:

"The Government is satisfied that those concerned acted in good faith, believing that there was sufficient authority for what was to be done ..."

I am content with this draft. So is Charles. I don't think Bernard would object.

Agree?

N.L.W.

N. L. Wicks

7 October 1986