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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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20 October 1986

Dear Ken,

Westland: Sunday Times Interest

Thank you for your letter of 17 October. Sir Robert Armstrong has noted that no Department of Trade and Industry officials accepted invitations to brief Mr Simon Jenkins prior to the publication of his article in yesterday's "Sunday Times".

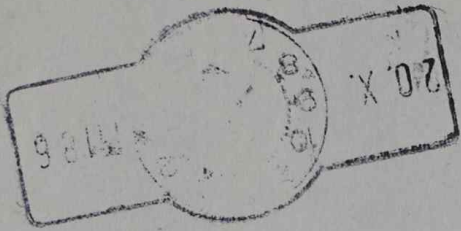
I am sending copies of this letter to Nigel Wicks and John Pitt-Brooke.

Yours ever,

Travis Woolley

(T A Woolley)
Private Secretary

Ken Lussey Esq
Department of Trade and Industry



AEROSPACE
WESTLAND
PT 6



THE SUNDAY TIMES

● Westland will return to haunt Margaret Thatcher this week. Even Tory MPs want to reduce the bureaucratic shield that protected her last winter. SIMON JENKINS report

ON January 27 this year, Mrs Thatcher told a close colleague that she feared she might have to resign over the Westland affair. She had lost two senior ministers and had been threatened with the loss of a third over the leaking of a letter from the solicitor-general to the defence secretary, Michael Heseltine. Westminster was girding itself for an emergency debate, expecting to hear of more skeletons in cupboards uncomfortably close to Downing Street.

The sheer relentlessness of the crisis was undermining not the government, but Thatcher's conduct of it. She was heard to murmur that "by six o'clock" she might no longer be prime minister.

Her immediate saviour was Neil Kinnock. Perhaps unaware that he had his opponent on the ropes, his speech was a disaster, verbose and omitting the telling questions Thatcher's supporters had feared. Her own speech had been drafted by a

team of unprecedented seniority: the home secretary, the foreign secretary, Lord Whitelaw, the chief whip and the attorney-general were all summoned to help. Passages had to be "negotiated" with the departed Leon Brittan, lest he step out of line in the debate.

Thatcher fought back, recovered her morale and won the most precious commodity in a political crisis — time. Soon Libya, South Africa and other matters stole the headlines. Westland sank from view and by the end of the session this summer was treated by her party as embarrassing history, safely left to the eccentricities of Labour's Tam Dalyell.

More crucial to Thatcher's recovery, however, were the remarkable manoeuvres plot-

ted throughout the crisis by her chief whip, John Wakeham, and the cabinet secretary, Sir Robert Armstrong. Together they constructed a ramshackle but effective escape route by exploiting a series of constitutional conventions governing the relations of civil servants to parliament. These conventions were criticised by the Commons treasury and civil service select committee as an "accountability gap".

Unlike Westland, this gap will not go away. In a flurry of missives between Commons select committees and the government throughout the summer, MPs have sought greater freedom to cross-question civil servants on their work. Government has sought to stop them. The result, as parliament re-assembles this week, is a battle between legislature and executive that both sides are determined not to lose.

WESTLAND, which parliament is to debate again in two weeks' time, was the ultimate challenge to parliament's capacity to seek out wrongdoing in Whitehall. The leaking of a law officer's letter was regarded by most MPs as a major scandal, not just a matter of "confidential advice between officials and ministers" gone a bit wrong. The prime minister's private secretary and her press officer were waging a dangerous campaign to undermine the defence secretary, Michael Heseltine. They were obliged to do so, it was argued, because he was flouting collective government responsibility and because Thatcher would not sack him.

Officials were plainly acting under Thatcher's ministerial authority, confirmed at regular campaign meetings during the long Westland saga, and specifically at a secret meeting at Chequers the day before the leak. Thatcher herself has made no attempt to deny this, stating she too wanted the letter "in the public domain", regretting only the means of disclosure.

Her press secretary, Bernard Ingham, wisely as it turned out, was reluctant to leak it himself but ordered the trade and industry press officer, Colette Bowe, to do so instead. He did not want Downing Street's fingerprints on it. The concept that Brittan "authorised" it, when he plainly requested that authorisation to come from Downing Street, was a seon it. The concept that Brittan "authorised" it, when he plainly requested that authorisation to come from Downing Street, was a semantic way of deflecting blame from No 10.

The leak technically flouted the Official Secrets Act rules for handling law officers' advice, the civil servants' Estacode of conduct and a battery of proprieties: mischief enough for any parliament to feel that it merits inquiry. But politics is

a rough game and Downing Street is not for the squeamish. Thatcher told her colleagues she was delighted with the leak the following day.

All this might have remained shrouded in lobby secrecy had not the law officers proved squeamish to a fault. The attorney-general, Sir Michael Havers, is believed to have threatened to send the police into Downing Street unless an inquiry was set up. He had been through the bruising of the Ponting case and was worried about any accusation of a political double standard. A week later, Thatcher gave in and instructed a reluctant Armstrong to hold an inquiry, despite the relevant facts being well known.

THE inquiry, and Armstrong's defence of it before Commons select committees, are regarded in Whitehall (though not in Westminster) as a masterpiece of the mandarin's craft. Unlike such predecessors as Sir William Armstrong and Lord Hunt, Armstrong had not been a central figure in the informal cabal that encircles a prime minister in Downing Street. He was the cabinet's Jeeves rather than Grand Vizier of the government machine. For five years he was upstaged in Thatcher's affections by her principal private secretaries, Clive (now Sir Clive) Whitmore and Robin Butler. A conservative traditionalist of public administration, to the Thatcherites he was not "one of us".

Armstrong approached the Westland affair with obvious distaste. It had shattered each of the conventions of his Whitehall upbringing: collective ministerial responsibility, civil servants as impartial advisers to ministers, clear lines of accountability to parliament. Here were ministers playing fast and loose with interdepartmental co-ordination; officials behaving like party hacks; uncontrolled leaking everywhere. It was a horrible mess. Bit by bit, Armstrong (his office untainted by Westland) had to re-establish the sanctity of constitutional conventions. He also found them extremely useful in his, and Wakeham's, efforts to salvage Thatcher's reputation.

In each of their moves, Armstrong and Wakeham could use a protective shield of secrecy and convention inconceivable in America or most democratic countries. Armstrong and Wakeham could use a protective shield of secrecy and convention inconceivable in America or most democratic countries. Armstrong's inquiry into the leak was wholly secret, with those involved given immunity from prosecution. Its central finding, that the whole matter had been a "difference of understanding" between groups of officials, was ingenious — the only possible way of decently exonerating those involved.

It was also incredible, both to parliament when announced by Thatcher on January 23 and to the defence select committee. The latter reported in July that: "we do hope [Sir Robert's] credulity was as sorely taxed as ours". That devastating conclusion, however, was not published until

the day after the royal wedding, when Westland could safely be dismissed with a groan.

Most useful of all, Wakeham and Armstrong could impose a total ban on any of the five civil servants publicly named — swiftly dubbed the "gang of five" — being cross-examined by the

ment was somewhat eccentric. But that was the convention. A minority on the defence committee demanded that the two officials from No 10, Charles Powell and Bernard Ingham, be summoned by the full House of Commons, but were outvoted by their Tory colleagues.

All five civil servants were thus left unable to defend themselves against charges made against them in the

defence or trade and industry select committees, both of which were showing an interest in Westland. What they did was entirely for ministers to explain to parliament.

Since Leon Brittan had resigned and the prime minister does not appear before select committees, this argu-

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press, in parliament and even in Thatcher's account of what had happened.

As a stalling measure, Wakeham finally offered up the two relevant permanent secretaries, Sir Brian Hayes of the trade and industry department and Sir Robert himself from the Cabinet Office. Sir Robert put up one of the most effective stonewalling jobs ever seen in a committee room. Permanent-secretary accountability appears to have supplanted ministerial where an official is under real pressure.

Two of the five civil servants are believed to have been so incensed by their treatment at this time that they wrote their accounts of what happened and sealed them in a bank vault. All they had for their pains was Thatcher's expression of her total confidence in them.

Much of the problem is that many MPs believe ministers are supposed to resign when things go wrong in their departments. Yet ministerial resignation is always a political, not constitutional, act. Brittan went not because of



Wakeham: willing ally

any blame for the leak but because he felt he had lost the confidence of his party backbenchers — as did Lord Carrington after the Falklands invasion. Departments make mistakes all the time but nobody (except opposition MPs) expects ministers to depart as a result. Yet if they do not, and if civil servants do not resign either, asked the Treasury select committee last summer, "then who is accountable?"

Matters are even more opaque at No 10. Here the relevant minister for Ingham and Powell, most senior of the gang of five, was Margaret Thatcher. She was protected both by the convention that she is cross-questioned only at the dispatch box of the House, and by the doctrine of "proportionality".

This holds that whatever blame might attach to her for the leak, a prime ministerial resignation would be quite out of proportion. Yet for her officials to go instead — as Brittan's friends thought they would after his resignation — would be unfair on them, as well as an offence against ministerial responsibility. It is a Catch 22 that leaves parliamentary accountability well out in the cold.

THE SCENE is now set for a head-on confrontation between government and parliament. First blood is likely to go to the defence select committee, chaired by the Tory ex-minister, Sir Humphrey Atkins. It meets on Wednesday to respond, probably angrily, to a Downing Street paper sent last week in reply to its own highly critical comments on Number 10's handling of the Westland affair.

The paper, drafted by Wakeham and Armstrong in collaboration with the prime

minister, stated categorically that if a committee of MPs does not like what ministers tell them, "it should not insist upon calling on a civil servant to remedy the deficiency". After the trauma of Westland, Whitehall never again wants to see officials' names in the political spotlight, let alone subject to partisan cross-examination.

The paper restates the old convention that officials are accountable only to ministers and ministers to parliament. It was this convention that the defence civil servant, Clive Ponting, flouted in the Belgrano affair, claiming he also had a responsibility to parliament. In future civil servants are to be ordered, if they are summoned before a parliamentary committee, "not to answer questions which are... directed to the conduct of themselves or of other named individuals civil servants".

The target for the defence committee's zeal will be Sir Robert Armstrong, who is expected to have to appear before it yet again. A mandarin of the old school (of Hankey and Bridges), he is a liberal and open-minded man, receptive to recent pressure for more open government and a more flexible executive. But Westland forced him to defend and restate the old verities. Last week's response to the defence committee showed he has found willing allies in the two dominant personalities of Downing Street at present, John Wakeham and Thatcher herself. They will be at his side again.

He will state, as he has stated interminably before, the classical view that civil servants must remain wholly at the disposal of ministers of the crown, not of parliament. Damage this central principle and a thousand Clive Pontings will be choosing each day which master to serve: minister or some future parliamentary select committee. This might make good copy for journalists, but would not help ministers and would breed the divided counsels familiar in Washington.

Such talk sounds to many MPs, and many younger civil servants, like a feeble attempt to prop up an already doomed edifice. Joe Haines, a former Downing Street press officer, described Sir Robert to the Treasury select committee as a man trying to maintain "the amateur captaincy in county cricket". Terence Higgins, Tory chairman of the liaison group of select committee chairmen (and no radical), sees an ever-widening gap in accountability between what ministers may choose to say to parliament and what their civil servants actually do in their name.

"Ministers do not resign when things go wrong in their departments," he says. "If there has been a mistake, they can simply say, I'm responsible but don't intend to do anything about it. In such circumstances, how can accountability be made effective?" Short of using the nuclear weapon of a vote of censure on the floor of the House, parliament's scrutiny powers soon become a charade.

To the radicals, government nowadays is too vast an enterprise for 150 ministers to "account" for it, either to parliament or to anyone else.

An archaic constitution may have helped save a prime minister from disproportionate punishment for an official error. But the price of enforcing the old conventions seems certain to be yet more Westlands: government by leaks, counter-leaks, broken secrets and "accusations made under parliamentary privilege".

THE OBSERVER

(F)

Thatcher defies new Westland attack

WITHIN the next few days MPs will be debating the charges of incompetence and double-dealing levelled at the Government by the Defence Select Committee inquiry into its handling of the Westland affair.

Last week, in response to these stinging criticisms, the Government advanced a new version of Ministerial accountability. In future, it appears Ministers will seek to avoid responsibility for their actions by pinning the blame on civil servants who will be gagged in case they spill the beans.

Nearly a year has gone by since Westland first hit the headlines, but the spectre of this single most disreputable episode of Mrs Thatcher's period in office still haunts her Government. The only way it could be exorcised would be to acknowledge openly that it was an aberration caused by a breakdown, not just of collective responsibility, but of proper behaviour.

Last week's Government White Paper, 'Westland plc — The Government's decision-making' — takes an altogether stiffer-necked approach. The nearest it gets to an apology is the following:

The Prime Minister, the then Secretary of State for Trade 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.

This version of events is extraordinary. Mrs Thatcher is not just seeking to deny her own very considerable role in the leaking of a Law Officer's letter aimed at discrediting one of her Cabinet colleagues, but in addition is claiming that all concerned who committed this potentially criminal offence 'acted in good faith.'

Contrast this approach with the famous Crichton Down case 40 years ago, which is always quoted as the textbook guide to Ministerial conduct. The then Minister of Agriculture, Sir Thomas

POLITICS



BY
ADAM
RAPHAEL

Dugdale, was at the centre of a row over compulsorily purchased land which his department had mishandled without his knowledge. Though he had taken no direct part in the matter, Sir Thomas immediately resigned.

This purist doctrine of how Government works may be a counsel of perfection but it is surely not too much to ask of Ministers that they should take the blame for actions they themselves have initiated. It is, of course, true that one Ministerial head did roll as a result of the Westland affair—Leon Brittan's — but, as he made clear in his resignation letter, this was not because he felt he had done anything wrong but because 'I no longer command the full confidence of my colleagues.'

Bigger target

The then Industry Secretary's own view of the proper relationship between Ministers and their civil servants is summed up in a revealing exchange before the Select Committee. Asked why he had ordered an Under-Secretary in his department to brief MPs against the European deal when the Government was meant to be neutral, Mr Brittan said that if he were to have done the briefing personally this would be 'open to misconstruction' — whereas, if his officials did, no such misunderstanding would arise. The Select Committee's report rightly comments that this attitude was at the heart of what subsequently took place.

Mr Brittan has paid a heavy price for his folly, but is he merely the scapegoat for a much bigger target? Mrs Thatcher's responsibility for what took place has deliberately been obscured. In her statements to the Commons on 23 and 27 January, she acknowledged that

her private office had acted in accordance with her wish that the contents of the Solicitor-General's letter 'should become public knowledge as soon as possible.' Yet she has also repeatedly disclaimed any responsibility for the form of the leak and has refused to clarify when she was told what had been done in her name.

Mr Brittan is in no doubt where the responsibility should lie. 'I would particularly stress, it all had to be subject to the agreement of No. 10,' he told the Select Committee. When the Prime Minister was challenged by the Shadow Attorney-General, John Morris, who asked her in a letter if she had pre-planned the leak and whether she had set up an inquiry knowing the circumstances of how it occurred, she refused point-blank to reply, claiming that she had already given a full account. 'I have nothing to add,' she wrote.

Sadly, the Westland affair has exposed the inability of the House of Commons to hold Ministers accountable for their actions. The Defence Select Committee — which, it should be noted, is chaired by a former Chief Whip, Sir Humphrey Atkins, and has a Conservative majority — did a good job in asking the right questions and nailing the evasive answers. But as its report admits, its members did not succeed in getting at the truth. In pinning the blame on civil servants, they deliberately concentrated on what they knew was the wrong target in the hope of flushing out their real quarry.

'Truth is stranger than fiction,' Mrs Thatcher said at a particularly strained moment during the Westland crisis. Why the affair, despite fading memories, is still so potentially dangerous for this Government is that everyone at Westminster and many outside know that the truth has not been told. Instead, it has been falsified in order to hide where the responsibility lies. Westland is no Watergate. Mrs Thatcher, thanks to the loyalty of her personal staff and her colleagues, has survived but her reputation for straight dealing has been permanently sullied.