

Prime Minutes

Here are the 2 speeches for tomorrow. See side-lined passages. Mr Younger's concentrates almost entirely on helicopters. No problems there. Mr Biffen's is a masterly exposition of doctrines. It sails close to the wind in parts, but I think he has to if he is



PRIVY COUNCIL OFFICE

WHITEHALL, LONDON SW1A 2AT

28 October 1986

to hold the House. My

only suggestion is a tiny drafty amendment on the last page.

Dear Michael,

WESTLAND PLC

I attach a comprehensive draft speech for the Lord Privy Seal's wind-up of the Westland debate tomorrow. I should be grateful for comments from you and copy recipients as soon as possible.

I am copying this letter to Nigel Wicks (No 10), Ian Andrews (PS/Secretary of State for Defence), Catherine Bradley (PS/Secretary of State for Trade and Industry), Sir Robert Armstrong and to Linda Brown (MPs).

Have you any comments?

N. C. W.
28.10.

Yours,
Alison

ALISON SMITH
Private Secretary

Michael Townley Esq
Room 205
70 Whitehall

I agree -
last page said - the
words you indicated. No
other comment and

DRAFT WIND-UP SPEECH FOR WESTLANDS

DEBATE ON WEDNESDAY 29 OCTOBER

INTRODUCTION

This debate does not take place altogether in the atmosphere of high drama which surrounded the events of the beginning of this year. In the calmer mood which now prevails I believe we are in a better position to assess what happened with an appropriate sense of proportion. I propose, therefore, first to address in general terms the points which have been raised about the defence issues, and then to say a few words about what I consider to be the main implications for the Government from what happened. The core of my remarks will, however, concern Select Committee matters. This is what I believe the House would wish.

WESTLAND PLC

1.1 It has clearly emerged from today's debate that hon Members on both sides of the House are concerned - and rightly so in my view - with the future success of Westland. In particular, its role in collaborative programmes and its contribution to our own economy make it of significant importance. Since the financial difficulties earlier in the year, its financial reconstruction has enabled it to look forward from a stronger financial basis than before. The management and workforce of the company deserve considerable credit for this revival of its fortunes [as the hon Member for Yeovil reminded us], and I am sure all hon Members would wish them well.

1.2 Of the specific issues raised in the debate, which were not dealt with substantially by my Rt Hon Friend the Defence Secretary in his opening speech, I believe the most important is collaboration. This was mentioned by a number of hon Members and is a major theme both in the Defence Select Committee's Third Report and in the Government's response to it.

1.3 As the House will know, Britain and France were pioneers in this field with the successful collaborations, launched in 1967, between Westland and Aerospatiale to develop the Lynx, Gazelle and Puma helicopters. This proved highly beneficial both to the two companies themselves and to a number of others including Rolls Royce. Following this, the principle of European collaboration in the military helicopter field was endorsed by all four helicopter-producing nations at both government and industry level during the 1970s. Since then a number of collaborative projects have been initiated in Europe.

1.4 The most important of these from Westland's point of view is the Anglo-Italian EH101. This is designed from the outset to fulfil both naval and commercial needs with maximum commonality, and has the Government's full support. Another example is that Britain, Italy, Spain and the Netherlands are close to finalising arrangements for a joint project for a new light attack helicopter based upon the Agusta A129. Once again, Westland will play a leading role.

1.5 The advantages of collaboration as a way of tackling major new helicopter developments in Europe are clear. It enables development costs and risks to be shared, combines European technology to produce the most advanced and competitive product possible and offers the prospect of longer and more stable production runs. The Government welcomes the fact that Westland has continued to play its full part in European co-operation.

1.6 But the value of collaboration is such that it is not to our European partners exclusively that we should look. There will be occasions when transatlantic collaboration will make economic sense, either in development or through the licensed production of a proved design. This could provide opportunities for making the most of Westland's technological capability not just in relation to helicopters but also in relation to aerospace equipment more generally. It behoves both Governments and industry to keep an open mind on this possibility and to treat the prospects which present themselves on their merits.

2. COLLECTIVE RESPONSIBILITY

2.1 Turning from the issues relating to the company itself, I should make it clear that I do not propose to deal with the detailed catalogue of events surrounding the discussion in Government of the Westland's issue or the disclosure of the Solicitor-General's letter. They have been subjected to considerable scrutiny and I do not believe that I can profitably add to that. I should, however, say a few words about the Governmental lesson which emerges from the affair.

2.2 Effective Government, like the proper working of Parliament, depends not just on statute and standing order but on observance of convention. Many essential features of both Government and Parliament are not necessarily susceptible to treatment as an absolute for the statute book and the orders of this House. But they remain critical to the well-being of the institution. In particular, strong and secure Government cannot be achieved without the maintenance of collective Ministerial responsibility. I referred to this in the debate on 27 January last. It was the original breakdown in the working of the general obligation on Ministers to subordinate their personal and departmental interest to the decisions of the Government as a whole which forms the unhappy backdrop to this entire sequence of events. The so called Westland affair powerfully reinforces the wisdom of successive administrations in generally abiding by this rule of collective responsibility. That message, underlined by the unhappiness of two Ministerial resignations, will long be remembered when so much else in our current political controversy has faded. I turn now to the issue of the Select Committees.

3. BACKGROUND TO DISCUSSION OF SELECT COMMITTEES

3.1 The Westland incident has illustrated the importance of Select Committees and the nature of their relationship with the Executive. There have been several references to these matters in the course of the debate. As Leader of the House it is appropriate that I should address myself to them. But I believe that before discussing these issues specifically, it would be for the benefit of the House if I say a few words about the development of departmental Select Committees so that they can be seen in context.

3.2 The House will, of course, recall that the present structure of Select Committees dates only from 1979. The present system was set up then by the House on the initiative of this Government following the comprehensive recommendations of the Select Committee of Procedure in their First Report of the Session 1977/78. While there had been Select Committees of the House since long before then the present departmental Select Committee structure was a new creation. I believe it is one which has clearly proved its effectiveness. Indeed, departmental Select Committees have become a familiar and established part of our parliamentary procedure.

3.5 This Government took the initiative in setting up the departmental Select Committees: it has no intention of seeking to hinder or impede their effective scrutiny of the Executive. This follows an undertaking given by the then Leader of the House, my Rt Hon Friend the Member for Chelmsford on 25 June 1979. He argued that the Government would do all it could "to co-operate with the new system of Committees and to make it a success" (col 45).

He further asserted: I believe that declaration of intent to be a better guarantee than formal provisions laid down in Standing Orders" (cols 45-46).

His assurance carries the weight and authority of one who played such a significant role in setting up the new system.

4. SELECT COMMITTEE POWERS

4.1 The new system of Committees inherited the long-standing powers of earlier Select Committees. These are set out formally in Standing Orders. They are far-reaching and without condition.

The powers of departmental Select Committees specifically are set out in SO.99. Amongst other powers, this says clearly that departmental Select Committees can send for persons, papers and records: These powers are unqualified.

4.2 In practice, however, these formal powers have consistently been exercised with discretion and by convention. As is the case with other aspects of business and procedure in this House, convention has been accepted as appropriate for many years - certainly before the departmental Select Committees themselves were created. While Standing Orders must necessarily deal in absolutes, conventions enable the many considerations and factors affecting the work of Select Committees to be taken into account.

4.3 The purpose of these conventions is to allow the development of a way of working which is satisfactory both to the Committee and to the Executive. In addition, the operation of the conventions has sought to preserve two generally agreed principles of Government.

The first of these is that 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 down upon him as Minister. He has the duty to explain in Parliament the extent of his powers and duties and to give an account to Parliament of what is done by him in his capacity as Minister or by his Department. The second principle is that civil servants, in turn, are responsible to their Ministers for their actions and conduct.

4.4 I believe that the House would not wish this clear line of Ministerial accountability for Departments to be weakened in any way by seeking a new and separate accountability from officials. Certainly that was the view of the Select Committee of Procedure in its 1978 Report. It was there stated that: "it would not, however, be appropriate for the House to seek directly or through its Committee 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."

4.5 Thus these principles on which the conventions are based are not a novel doctrine designed to meet the circumstances of recent inquiries but, indeed, pre-date the departmental Select Committee system. For as long as Select Committees and their formal unqualified powers have existed, so have existed the qualifications by which they have been tempered. Furthermore, I do not believe that these qualifications have prevented Select Committees from working effectively hitherto.

5. RECENT DIFFICULTIES

5.1 But there have, of course, been times when the Government and the Select Committees have had different perceptions of how the traditional conventions should be applied in a particular case. These difficulties are inevitable given the different standpoints of the Select Committee and the Executive. Although there is a mechanism of last resort for resolving these disagreements, by putting the matter before the House, the practice has always been to seek to find a resolution which is generally acceptable, by using the flexibility which the conventions afford.

5.2 The Government sought to find such a resolution in relation to the Defence Select Committee's inquiry into Westland. In the debate on 15 January, the House had endorsed the Government's recognition of the competence of departmental Select Committees to consider the issues raised by Westland. This did not, of course, mean that the usual conventions should be set aside.

5.3 Amongst these is the practice of the Prime Minister's not appearing before Select Committees to give evidence. I believe it wholly appropriate that uniquely, the Prime Minister should be answerable only on the Floor of the House. In this instance, my Rt Hon Friend has already made a Statement to the House on 23 January this year and taken part in two debates on the incident on 15 January and 27 January before the Select Committee had begun its inquiry. She has also answered orally and in writing to a number of questions on the matter. This, Mr Speaker, is entirely in accordance with the practice of the House and of successive Administrations. A Prime Minister, by convention, is accountable to the House as a whole rather than to individual Select Committees. This aside, there were two areas in which difficulties were experienced in finding an appropriate way forward.

5.4 The first occasion is discussed by the Committee in paragraphs 218-224 of their Report. This concerned the production of two documents which the Committee believed were material to their Inquiry. The Government was reluctant to release the documents themselves, since they included material of a classified and commercially confidential nature. But summaries of the documents were provided at an early stage, and certain parts of the original documents were submitted to the Committee in full. Paragraph 224 states the Committee's view that the efforts of the Permanent Secretary at the Department of Trade and Industry to furnish them with summaries as fully and as accurate as possible "were both conscientious and successful".

5.5 A second area, one of greater difficulty, has been the provision of oral evidence from certain named officials: three from the Department of Trade and Industry, and two from the Prime Minister's Office. The convention in this area is, as I suggested earlier, that it is for Ministers to determine who should represent them before Select Committees. The power to call for the attendance of individually named persons is, of course, formally unqualified as the Select Committee was right to assert in paragraph 228 of its Report. Yet it has always been acknowledged that with regard to Civil Servants, this power must be limited in practice so that the principles of Ministerial accountability are not undermined. In this instance, the officials concerned had already been questioned by the Head of the Home Civil Service in the course of his inquiry, to which the Prime Minister had agreed. They had given him full accounts of their parts in the matter. The Government took the view that it would be unreasonable that they should be subjected to a further round of detailed questioning by the Defence Committee.

But the Government was anxious to be helpful, and the Secretary of the Cabinet therefore offered to give evidence to the Committee on the basis of the information which he had amassed in the course of his inquiry.

5.6 I appreciate that notwithstanding its formal powers in the event the Committee decided, albeit reluctantly, to take evidence from the Cabinet Secretary. Taking advantage of the flexibility afforded by the conventions is the way in which Select Committees and the Executive have traditionally resolved their differences. I recognise at once that such differences are not confined to the Westland inquiry.

5.7 Similar controversy has arisen in relation to the Trade and Industry Committee's report into the tin crisis. In this case the Committee felt that their inquiry was unduly restricted by civil servants refusing to answer questions relating to advice given to Ministers. But as stated in the Memorandum of Guidance for Officials appearing before Select Committees "in order to preserve the collective responsibilities to Ministers, the advice given to Ministers by their Departments should not be disclosed".

This Memorandum is familiar to Select Committees and this rule is well established. It is Ministers and not officials who are responsible to Parliament for the activities of their Departments.

5.8 I recognise that the Trade and Industry Committee investigating the tin crisis found it unsatisfactory that their investigation had to be carried out under this constraint. The Government was acting in accordance with established conventions, which form the basis on which civil servants give evidence before Select Committees. But what the Committee sought would have implied a change in these conventions. The Government believes that it is important that the conventions should continue to obtain and be observed in their present form by Ministers, officials and Select Committees, They are underpinned by the fundamental principle of Ministerial accountability to Parliament.

5.9 In all its dealings with Select Committees the Government has sought to abide by the conventions and to reach a mutually satisfactory arrangement within these traditional practices.

6. GOVERNMENT RESPONSE TO FOURTH REPORT

6.1 I have indicated how in disagreements with Select Committees, the Government has sought to act helpfully within the traditional conventions. It has not altered these conventions, nor does it seek to do so. Indeed, that section of its response to the Defence Select Committee's Fourth Report which deals with Select Committees and accountability is primarily a restatement of the conventions and the principles which lie behind them.

Despite this it has been suggested in Fleet Street over the past days that the Government is in some way breaking new ground and that it seeks to weaken the whole Select Committee system.

This is as damaging as it is untrue.

6.2 In particular, attention has been directed at the final sentence of paragraph 44. This says that the Government proposes to make it clear to civil servants giving evidence to Select Committees that they should not answer questions which are or appear to be directed to the conduct of themselves or of other named civil servants. It has been represented as a way of making any future Select Committee inquiry ineffective. It does not do, and is not intended to do, anything of the kind. Instead, the Government response to the Defence Select Committee seeks to restate the principles of accountability and to reinforce the conventions which support and give effect to these principles.

6.3 I should explain why I believe that this restatement of principles and the setting out of their consequences in our view is necessary. The work of departmental Select Committees is, as I mentioned earlier, of relatively recent origin. The Committees are bound to seek to develop their roles so as to fulfil their responsibilities as they see fit. Evenso, we judge that the signs in certain recent inquiries that Select Committees are looking to assign responsibility to individual named civil servants cut across the principle that it is Ministers who are answerable to this House. We have put down this marker because we believe that this degree of candour should exist between Select Committees and the Government.

6.4 There have been a number of factors which have led us to the view that Select Committees should not act as disciplinary tribunals. The first is the weakening of the overall ministerial accountability to which I have just referred.

6.5 There is also that fact that there is already a comprehensive and detailed disciplinary system for the Civil Service.

6.5 [The principles which govern the conduct of the Home Civil Service are the responsibility of the Prime Minister as Minister for the Civil Service. General procedures to be followed to ensure fairness and consistency of practice are agreed with the representatives of the staff. [The detailed disciplinary rules are set out in the Civil Service Pay and Conditions of Service Code. A copy is available in the Library of the House.

These procedures are designed to help ensure that the standards of conduct laid down for civil servants are properly observed by providing a fair method of dealing with alleged breaches.

The procedures take account of practices in the private sector insofar as they are in line with the Advisory Conciliation and Arbitration Service (ACAS) Code of Practice on Disciplinary and Related Procedures. They are reviewed from time to time to reflect changes, including those in employment protection law and practice. The most recent revision was earlier this year (26 February 1986).]]

I do not believe that Select Committees could properly be grafted on to this system.

6.6 And there is the view that, however carefully it is carried out, examination of conduct by Select Committees must necessarily contain an element of unfairness. The civil servants appearing before them are still subject to the instructions of Ministers in answering questions and are without the safeguards and rights attached to the disciplinary procedures themselves. Given these arguments, the Government's proposal in paragraph 44 of its response to the Defence Select Committee was designed to prevent Select Committees involving themselves in disciplinary matters.

6.7 Unfortunately, however, it has been represented as meaning that no official would in future answer questions about any course of action followed by himself or any of his colleagues. There is no question of this, as I believe hon Members will see when they reflect on the difference between "conduct" and "actions". Select Committees will continue to be able to direct their inquiries to establishing and commenting on what has happened and what has been done. If something has gone amiss, a Select Committee will be as free as ever to seek an account from the Minister concerned or from a senior official representing the Minister. As now, this can range over what has gone amiss, why it went amiss, and what has been done to correct and remedy what has gone amiss and to prevent a recurrence. In short, we do not seek to prevent Select Committees from pursuing their inquiries into the expenditure, administration and policies of departments.

7. HOW THIS WORKS IN PRACTICE

7.1 As far as departmental expenditure is concerned, of course, the Public Accounts Committee has the special function of examining the accounts showing the appropriation of the sums granted by Parliament. The Government is, fully aware of the unique position of, and the conventions surrounding the PAC. I can confirm that it is not at all the Government's intention to alter in any way the basis of the accountability of Accounting Officers to the PAC. It is of course also the case that although the Accounting Officer answers personally to the PAC for the aspects of his Department's activities which concern that Committee, he nevertheless himself remains ultimately responsible to his Minister in all things.

7.2 [[The Government recognised the PAC's position in its reply to the Seventh Report from the Treasury and Civil Service Committee earlier this year. This said:

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

[FOR USE IF MR SHELDON HAS TAKEN PART IN THE DEBATE]

7.3 The House will have noted the authoritative contribution on this point from the Rt Hon Gentleman the Member for Ashton-under-Lyme.

EITHER: [I should be happy to discuss with him any serious difficulty for his Committee's work which he sees arising from the Government's response].

OR: [I am pleased that he is content with the Government's recognition of his Committee's unique role].

7.4 As far as the work of other Select Committees is concerned,

EITHER: [the House will have been interested to hear the contribution to today's debate from my Rt Hon Friend the Member for Worthing. I note the intention of the Treasury and Civil Service Committee]

OR: [the Treasury and Civil Service Committee may well wish to consider further the role of civil servants in relation to Select Committees. I hope that what I have said will be helpful to the Committee in their consideration. I can assure my Rt Hon Friend the Member for Worthing that the Government will seek to contribute constructively to their work, within the general principles set out in the Government's response and in what I have said this evening. I look forward to seeing the result of their inquiry.]

7.5 My Rt Hon Friend has another interest in this area as well, as Chairman of the Liaison Committee. This Committee will, of course, have a special role in looking at how in practice the work of Select Committees evolves in the context of the Government's response and the new guidelines for officials which will be drawn up. These will be intended to sustain, not undermine, existing practices. Evenso, I can assure the House that they will not be finally and formally issued until the Liaison Committee has had a chance to see them.

CONCLUSION

Finally, Mr Speaker, I would suggest to the House that the motion before us - that we adjourn - is particularly appropriate for

omit [this stage of] the discussion about Westlands. We have debated exhaustively the defence implications of the matter and have looked in detail at the decision-making connected with it. We have had the benefit of two Select Committee reports and the Government response to them in our consideration. I recognise that there is interest in the continuing evolution of the work of Select Committees, but that is a separate issue which is not for further discussion now, especially since we can expect a Report from the Treasury and Civil Service Committee. For the present, since the recent and apparent development of the Select Committee as disciplinary tribunal caused some anxiety the Government had a responsibility to make clear its position. This we have done and in such terms that the House is now entitled to move on. I urge my Hon Friends to support the motion.