

1. MR. WICKS
2. PRIME MINISTER

REPORT OF THE PRIVILEGES COMMITTEE

Attached is the Report of the Committee of Privileges into the leak of the draft Report of the Environment Committee on Radioactive Waste. This is being published tomorrow (Thursday) morning.

The background to this is that The Times published on 16 December 1985 extracts from and an account of the draft Report prepared by the Chairman of the Select Committee on the Environment on Nuclear Waste. This was under the headline "MPs attack nuclear industry". The Committee had not had an opportunity to see the Report. Subsequently the matter was referred to the Committee of Privileges.

The Committee failed to find the source of the leak. They have recommended however that Richard Evans, The Times lobby reporter who wrote the story, should be barred from the House for six months and that The Times' representation in the lobby should be reduced from four to three for the same period.

The Committee was surprisingly united in this Report. Indeed only Tony Benn voted against the Report and such unusual figures as Ian Mikardo, Merlyn Rees, Peter Shore and David Steel all voted in favour of it. The next step is for the Report to be placed before the House which, I gather, is likely to be on Tuesday week.

The Report is likely to provoke a great deal of controversy and Bernard feels very strongly that it is wholly mistaken - his minute saying so is attached. It is a rather odd principle that a journalist should be punished and the

leaker should go free (even if he is anonymous). I imagine the Committee's view was that the lobby system is a privilege granted to journalists by Parliament and those who abuse it should have that privilege removed.

The Report will of course, as a matter for the House of Commons, be the subject of a free vote in the House. But, however cogent Bernard's arguments, Government members must be seen to vote in favour of the Report given that the Lord Privy Seal is the Chairman and the Attorney General is a member. Presumably the Labour Party Front Bench will also vote in favour given the presence on the Committee of Peter Shore and John Morris.

You may wish to refer the handling of the debate to a smaller group such as the Monday gathering.

W
(Tim Flesher)

7 May 1986

DCABEK

PRIME MINISTER

PRIVILEGES COMMITTEE

I was asked by the Sunday Lobby how you were to vote on the Privileges Committee report next week.

I said I did not know. The Government intended there to be a free vote.

However, my impression was that Cabinet Ministers were essentially libertarian - which they would interpret as being in practice as well as in principle in favour of a free press; as recognising that a reporter was in the business of disclosure; and that responsibility lay with the leaker.

I think the Lobby will see you as being on the side of the angels. I hope they will not use it to widen the alleged split between you and John Biffen (I gave them no reason to do so).

Particular interest will however be taken in your vote if you do vote. My hope would be that, notwithstanding the hour,* you would find it possible to vote, if only to ensure against a hostile media.

BERNARD INGHAM
16 May 1986

mf
Ben

* Very late - maybe around 1.00 pm (and there will be a vote on the NIREX SDOs about the same time, the next day)

1. MR. WICKS
2. PRIME MINISTER

N.C.W.
9.5

→ PW Files

PA

REPORT OF THE PRIVILEGES COMMITTEE

The Cabinet asked the Lord President to consider in the first instance with appropriate colleagues how the Government should approach the report of the Privilege Committee which recommended the banning of a Times reporter for six months from the Palace of Westminster. The Chief Whip has been thinking about how the Government should play this. His preliminary thoughts are that the best approach would be to distance the Government from the report by placing it in a wider context of the conduct of select committees and the use of privilege by members themselves. He has identified two particular issues:

(i) The fact that select committees have no power at present to conduct their deliberations (as opposed to their evidence sessions) in public. This encourages the kind of cabalistic approach which was so typical during Westland. The aim should be to so change the rules governing the operations of select committees as to give them the power to deliberate in public and therefore to make it more difficult for them to adopt a consensus approach. At present Chairmen of select committees view them as power bases; Opposition members make the running; Government members do not feel obliged to defend the Government; and the clerks exercise excessive power. If they were to sit in public all these tendencies should be reduced.

(ii) There should be another look at the way in which privilege is used by individual members to attack outsiders. Recent events, e.g. Brian Sedgemore's speeches and allegations, have raised the question of

the responsible use of privilege and the report of the select committee might be a useful vehicle to prompt a reassessment. One possibility would be to require that attacks of the kind in which Brian Sedgemore specialises should, as with judges, only be in order if embodied in a substantive motion. This would give the chair far more control over the language used (although, of course, it would still require the chair to be willing to rule out of order offensive remarks made on the floor of the House).

If you and colleagues agree with the general drift of what the Chief is proposing the Lord Privy Seal might float some of these ideas in his speech. The theme of this speech might therefore be, rather than the need to punish the Times, the need to work out new rules for applying Parliamentary privilege given the new problems identified in recent months. If the Lord Privy Seal were to take such a line it would be considerably easier for Government members to support or at least not to oppose a motion from a backbencher (the Chief Whip has in mind Sir Eldon Griffiths) proposing that the suspension of the Times reporter should be limited to one week. This would also have the merit of opening up a number of areas of debate especially on select committees that the Government would wish to see opened up.

Do you agree in principle with the approach which the Chief Whip is suggesting?

- Very good

Yes

W

(Timothy Flesher)

9 May 1986

CONFIDENTIAL

cc: Lord President
Mr Wicks

CHIEF WHIP

PRIVILEGES COMMITTEE - THE TIMES

I am told that the Committee of Privileges is recommending that The Times' representation should be reduced from 4 to 3, and that Richard Evans, Lobby Reporter, should be barred from the precincts of the House, both for a period of six months. All this on account of a leak to Evans from the Environment Committee.

Murdo Maclean informed me today that the recommendations would be the subject of a free vote.

This note sets out the Government's presentational interest in this matter. In my view the Government should not:

1. impede journalistic enterprise; it can't espouse the cause of free enterprise and then stifle it when free journalistic enterprise operates;
2. act in restraint of the trade of either The Times or an individual journalist - in this case Richard Evans - simply because they have done what they are in business to do: ie disclose information, however inconvenient that information is to Parliament.
3. victimise a man who appeared uncompromisingly before them; I do not know what demeanour Richard Evans adopted before the Committee but I admire his refusal to disclose his sources (if only there were more like him!) and his refusal to allow the Committee to indulge in salami tactics (in asking Evans to rule out a Committee Clerk as a source);

CONFIDENTIAL

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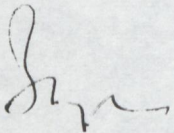
2.

4. interfere (as it will be seen) with the freedom of the press, especially in the manner proposed; if the Government were to back the report its moral authority over the Labour Party in banning Wapping journalists would be entirely eradicated.

In short, the Committee of Privileges has set a trap for the Government. Instead the Government might reasonably:

- deplore the leak of the Environment Committee's reports
- record that there is no evidence whatsoever of malpractice on the part of The Times or Richard Evans - ie there is no evidence they came by their information dishonestly (stolen document, bribery etc)
- emphasise that the fault apparently lies entirely with the leaker since newspapers are unashamedly in the business of reporting news
- distance itself from the recommendations by adding that in the light of the report the Government has no view to offer on the recommendations which are entirely a matter for the House.

To do other than this is to place at risk the Government's relations with the media in the run-up to a General Election.



BERNARD INGHAM

7 May 1986

Proof

**FIRST REPORT
FROM THE
COMMITTEE
OF PRIVILEGES**

Session 1985–86

**LEAK OF DRAFT REPORT OF
ENVIRONMENT COMMITTEE ON
RADIOACTIVE WASTE**

**Report, together with Proceedings of the Committee,
Minutes of Evidence, and Appendix**

*Ordered by The House of Commons to be printed
1 May 1986*

LONDON
HER MAJESTY'S STATIONERY OFFICE
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Wednesday 20th June 1984

Ordered, That Mr Julian Amery, Mr Attorney General, Mr Tony Benn, Mr John Biffen, Sir Bernard Braine, Sir Paul Bryan, Mr Edward du Cann, Sir Philip Goodhart, Mr Gregor MacKenzie, Mr Ian Mikardo, Mr John Morris, Mrs Sally Oppenheim, Mr Merlyn Rees, Mr Geoffrey Rippon, Mr Peter Shore, Mr David Steel, and Mr Peter Thomas, be members of the Committee of Privileges.

FIRST REPORT

LEAK OF DRAFT REPORT OF ENVIRONMENT COMMITTEE ON RADIOACTIVE WASTE

The Committee of Privileges, to which stood referred, pursuant to the Resolution [18th March], the Second Special Report of the Environment Committees (House of Commons Paper No. 211), has agreed the following Report:

INTRODUCTION

1. On 18th March the House gave effect, from the beginning of this Session, to Your Committee's recommendation that a special report from a select committee stating that a leak of its proceedings had caused substantial interference should automatically stand referred to Your Committee.¹ The Second Special Report from the Environment Committee concluded that an account of the Chairman's draft report on radioactive waste published in *The Times* newspaper on 16th December 1985 was the result of someone leaking a copy to the author, and had caused serious interference with the work of the Committee.² Accordingly this Special Report stood referred to Your Committee.

2. Before considering the substance of the matter referred to it, Your Committee notes the acceptance by the Liaison Committee and the select committees of other recommendations made by Your Committee designed to reduce the number of original leaks.³ It welcomes the steps taken by the Environment Committee to discover the source of the leak and in particular the fact that all members of the committee were asked to give a formal written assurance that they were not responsible for the leak, which assurances were published. Similar assurances were given by all the staff concerned.⁴ Your Committee trusts that these steps will help to induce, in the minds of all concerned, a greater sense of responsibility regarding the confidential nature of some committee proceedings. The fact that formal assurances will be required in such cases in future will serve as a reminder that the rules of the House in this matter cannot be lightly disregarded; anyone who is later found to have made a false statement will have committed a grave offence meriting severe penalty.

THE SOURCE OF THE LEAK

3. The publication in *The Times* of the account of the Chairman of the Environment Committee's draft report was undoubtedly based on a leak (Q1), and this was not denied by the author. Unfortunately, however, the thorough investigation carried out by the Environment Committee to identify the original source of the leak was not successful; whoever was responsible has not admitted his complicity and his identity remains unknown (Q7). As is customary, the journalist concerned has refused to disclose his source; he was not even willing to exclude any category of person, such as the staff of the committee (Q32-34 and Appendix). Your Committee does not believe it would be profitable to carry out any further investigations on these lines.

¹Second Report from the Committee of Privileges, Session 1984-85 (HC 555), Summary of Conclusions and Recommendations, para. 14(iv).

²HC 211 (1985-86), paras. 2 and 17

³HC Deb. 6th February 1986, col. 206 w.; *ibid*, 10th March 1986, col. 763

⁴HC 211 (1985-86) paras. 7-11 and Annexes C and D

THE DAMAGE DONE

4. Your Committee described in its Second Report last Session the evidence given by chairmen of select committees and others regarding the damage that could be done by leaks of draft reports.⁵ These generalised assessments remain important, particularly regarding the damage that a leak in one case can do to the select committee system as a whole, but difficult to quantify and to some extent hypothetical. Here Your Committee was able to consider the actual damage done in a specific case.

5. The Environment Committee itself summarised the effect of the leak in this instance as constituting "a serious interference with the work of the committee"; the suspicion that, despite the assurances received, a member of the committee had leaked the draft report was bound to "damage the trust that needs to exist" within a committee if it is to work effectively; premature disclosure of parts of a draft report was also bound to influence discussion of those parts when the report came to be considered; and for these reasons the committee had even considered abandoning its inquiry and report.⁶

6. These assessments were amplified by Sir Hugh Rossi, the Chairman of the Environment Committee, in oral evidence. Apart from anything else the publication of the leak in *The Times* had delayed by several weeks the consideration of the draft report (Q1).⁷ More seriously, the fact that so much of the report was leaked before it was even discussed, had made members of the committee feel "they were no longer free to approach the draft report in the impartial non-partisan way in which it had been the practice in our committee to approach matters of this kind" (Q1); "party political considerations, which we had so far avoided, began to creep into the matter" (Q2); one Member had said that those who disagreed with the original draft were put at a "major disadvantage" and discussion concentrated on how the press interpreted the changes in the report, rather than on their merits (Q2); some members felt constrained in proposing changes (Q3); and members became affected by "the public expectation as to what they ought to be seen to be doing" (Q10). However Sir Hugh could not be certain about the actual effect of this modified approach on the contents of his report or on what changes would have been made to it in a different atmosphere (Q4, 6).

7. One damaging consequence of the leak was, however, certain. The draft report was, in the end, amended in a number of important respects, with the result that "the original newspaper report was in fact inaccurate insofar as it purported to be a report of the conclusions which the committee had reached" and a great deal of misinformation resulted (Q1); this continued in circulation for several weeks; and even when the final report was published some commentators appeared to be relying on the earlier leak instead of the actual text. Sir Hugh gave two examples of such inaccuracies (Q6). On the other hand some advance publicity could be helpful (Q9).

8. Finally Sir Hugh confirmed that the "feeling of mistrust as to what we can discuss freely amongst ourselves" still lingered on (Q8). He also emphasised the need to nurture the development of the new select committees with care; the

⁵HC 555 (1984-85) paras. 34-36

⁶HC 211 (1985-86) para. 17

⁷ibid, para. 3

approach of Members on these committees was different from their party-political approach elsewhere, and much depended on their work being seen to be impartial; to this end "perhaps it is necessary at times that we can talk in a way that we perhaps cannot talk when we are on our hind legs on a public platform or in the Chamber" (Q5).

9. Mr. Charles Wilson, the Editor of *The Times* and Mr. Richard Evans, who was the author of the article published on 16th December 1985, which disclosed the contents of the Chairman's draft report⁸ were also called to give evidence. They saw no damage resulting from the publication of the draft report, but rather an advantage to the public interest by a widening of the public debate on the nuclear industry at an earlier date (Q17, 21); the final report was not, they claimed, so very different from the draft that was leaked (Q28).

10. Your Committee cannot assess precisely the extent of the damage actually done by the leak of this draft report, and in particular the degree to which the agreed report itself would have been different if there had been no leak. It is convinced, however, by the evidence of the Committee's Chairman that damage was done on this occasion, and the direct denial of this by the journalists, whose opinion on this matter cannot possibly be as authoritative as that of the Committee's Chairman, was in no way substantiated. This damage amounted to substantial interference with the work of this particular committee. Every leak of this kind is also a further threat to the effective operation of other committees.

THE CONTEMPT COMMITTED

11. For the reasons set out in paragraphs 5 to 8 of Your Committee's Second Report of last Session, it is a contempt of the House to disclose the proceedings of select committees before they are reported to the House. The House's resolution of 6th February 1978 showed that it would treat seriously any contempt involving "substantial interference" with the work of the House or its committees.⁹ Your Committee has found such interference in this case and accordingly finds that a serious contempt was committed by whoever enabled *The Times* to obtain a copy of the draft Report of the Chairman of the Environment Committee, by the journalist who wrote the article and by the Editor of *The Times* who published it.

THE CONDUCT OF THE PERSON WHO WAS THE SOURCE OF THE LEAK

12. In the opinion of Your Committee the person responsible for the original leak, whether a Member, one of his staff or one of the staff of the committee, whatever his motive, and whatever the means employed, did something that would merit penalties imposed by the House. But because he has not been identified, Your Committee can make no recommendation. It simply expresses once again its dismay that there are Members or others who apparently have no respect for the traditions and rules of the House, who are prepared to betray the trust of those with whom they work on select committees, and who continue to do things which clearly damage the effective operation of those committees. If the person responsible for this case is ever identified, he should be severely punished.

⁸see HC 211 (1985-86) para. 2 and Annex A

⁹ CJ (1977-78) 170; HC417 (1976-77)

THE CONDUCT OF THE JOURNALISTS

13. The Editor of *The Times* and the Lobby reporter knew they were committing a breach of privilege in publishing the article (Q11). They defended their decision on three grounds.

14. First, they argued that publication was in the public interest and this was paramount (Q12); "the public interest in this case far outweighed other considerations", including any embarrassment to the committee or its work or to Parliament, said Mr Wilson (Q14); publication had widened the public debate on the conduct of the nuclear industry (Q17) and this could have been relevant to decisions being taken within the industry (Q21).

15. Secondly, the journalists contended that the rules of privilege in this matter were "out of date" and had fallen into disrepute (Q13); they had not been enforced against other publishers of leaks and they could not see why they should be in this case (Q13, 16, 18, 41), especially as similar rules, Mr Evans claimed, did not apply to leaks of cabinet proceedings or other government reports (Q16, 18, 21, 29).

16. Thirdly, they emphasised that they had taken the decision to publish responsibly, because of the public interest, and that they were not simply showing disrespect for Parliament. They informed Your Committee that they had also received a leaked copy of the Second Special Report from the Environment Committee, and Mr Evans had written a story about this, but the Editor had decided not to publish it; it was not in the public interest and they did not want to be seen "thumbing a nose at Parliament" (Q18, 21). The Editor indicated that in certain previous cases of leaks published in *The Times Diary*, if he had then been Editor he might also have considered it unnecessary to publish (Q43, 44). In their view the real culprit in all these cases was the original source, not the publisher (Q19).

17. Mr Evans also stated that he had never offered money or other reward for the information he was given (Q37).

18. Your Committee is not convinced by the explanations given by the journalists for their conduct. Although they claimed "public interest" they were unable to show how it could be in the public interest to give currency to a draft—which would almost certainly be amended and therefore gave an inaccurate account of the committee's views—when the agreed and accurate report would soon be available; the public debate might be stimulated, but on false premises. Indeed, on the question of timing, Mr Evans was candid: "if we waited two weeks another newspaper might get hold of it" (Q15). The interests of *The Times*, it seems to Your Committee, were now being equated with "the public interest" which *The Times* journalists had been claiming to uphold.

19. The defence that the privilege rules are inapplicable and obsolete is not well judged. Whatever may have been claimed before Your Committee's report last year, when all these arguments were examined carefully, it can no longer be claimed today. Your Committee reaffirmed then that privilege rules should still be applied in serious cases of leaks from select committees; it indicated the sort of cases it had in mind (including cases like the one now before it); and it even made

plain the penalties it considered appropriate in such cases.¹⁰ *The Times* decision to commit a contempt in this case was taken in open defiance of a very recent, considered, warning and not just of some obsolete rule.

20. ~~Thirdly~~ although welcoming the assurance by the Editor of *The Times* that decisions to breach privilege by publishing leaks were not taken lightly or irresponsibly, Your Committee doubts whether *The Times* has given sufficient (or indeed any) weight to the damage that such publication can do and has done to select committee work, despite the rehearsal of all these arguments in evidence before Your Committee last year.¹¹ Beyond saying that the public interest outweighed such damage—which they dismissed as merely “embarrassment” (Q14)—the journalists made no attempt to deal with these arguments. They did not seem to appreciate the fact that their publication of the leak interfered in any way with the committee’s work; and they ignored completely the public interest of avoiding such damage.

/ Finally,

21. For all these reasons your Committee does not accept that the publication of the leaked copy of the Chairman’s draft report to the Environment Committee was justified by public interest or any other consideration. Continued and repeated publications of this kind can only threaten the work of all select committees and hence of Parliament.

22. Whatever may be the responsibility of the original source, those who publish leaks must bear a heavy responsibility because it is the act of publication which actually causes the damage. Your Committee particularly regrets that a Lobby reporter should continue to act in defiance of the House in this way, because he and his colleagues are granted many privileges by the House to help them in their work, and because they have often shown their support in other ways for the select committee system, which gives them much information.

RECOMMENDATIONS REGARDING PENALTIES

23. Your Committee turns to consider the penalties appropriate to this case following the guidelines it set down last session.¹²

/ in

24. Your Committee cannot recommend any penalty in respect of the original source of the leak, as he has not so far been identified (paragraph 3), but, for the reasons stated in paragraph 12, it strongly condemns this behaviour.

25. Your Committee believes that Mr. Richard Evans, the Lobby reporter of *The Times*, has shown scant respect for the traditions and rules of the House in this matter. He has openly drawn attention to the leaks he has publicised and he has committed breaches of privilege in this way on a number of occasions (Q20). Your Committee has found that he was in contempt of the House in this case (paragraph 11). It therefore recommends that he be suspended from the Lobby for six months and excluded from the precincts of the House for that purpose and for that period.

26. The Editor of *The Times* must bear a major share of responsibility for this serious contempt of the House. The practice of publishing leaks from select committees has clearly been the policy of his newspaper, and the newspaper itself should not be allowed to continue its work in the Palace of Westminster without suffering some restriction as a result of this policy. Your Committee therefore recommends that the number of Lobby passes issued to *The Times* newspaper be reduced by one for six months.

1st May 1986

¹⁰ HC555 (1984-85), paras. 51-56

¹¹ *ibid.*, paras. 32-36

¹² HC 555 (1984-85) para. 56

/ idea

PROCEEDINGS OF THE COMMITTEE

TUESDAY 15 APRIL 1986

Members present:

Mr John Biffen, in the Chair

Mr Julian Amery
Mr Attorney-General
Sir Bernard Braine
Sir Paul Bryan
Sir Philip Goodhart

Mr Gregor Mackenzie
Mr Ian Mikardo
Mr John Morris
Mrs Sally Oppenheim
Mr Peter Shore

Sir Hugh Rossi, a Member of the House, was examined.
Mr Charles Wilson, Editor of *The Times*, and Mr Richard Evans, Lobby Reporter of *The Times*, were called in and examined.
The Committee deliberated.

[Adjourned till Thursday, 1 May, at Six o'clock.]

THURSDAY 1 MAY 1986

Members present:

Mr John Biffen, in the Chair

Mr Julian Amery
Mr Tony Benn
Sir Bernard Braine
Sir Edward du Cann
Sir Philip Goodhart
Mr Gregor Mackenzie

Mr Ian Mikardo
Mr John Morris
Mrs Sally Oppenheim
Mr Merlyn Rees
Mr Geoffrey Rippon
Mr Peter Shore

Draft Report (Leak of Draft Report of Environment Committee on Radioactive Waste), proposed by the Chairman, brought up and read.

Ordered, That the Report be read a second time, paragraph by paragraph.

Paragraphs 1 and 2 read and agreed to.

Paragraph 3 read, amended, and agreed to.

Paragraphs 4 to 9 read and agreed to.

Paragraph 10 read, as follows:

"10. Your committee cannot assess precisely the extent of the damage actually done by the leak of this draft report, and in particular the degree to which the agreed report itself would have been different if there had been no leak. It is convinced, however, by the evidence of the Committee's Chairman that damage was done on this occasion, and the direct denial of this by the journalists was in no way substantiated. This damage amounted to substantial interference with the work of this particular committee. Every leak of this kind is also a further threat to the effective operation of other committees."

An Amendment made.

Question put, That the paragraph, as amended, stand part of the Report.

The Committee divided.

Ayes, 11

Mr Julian Amery
Sir Bernard Braine
Sir Edward du Cann
Sir Philip Goodhart
Mr Gregor Mackenzie
Mr Ian Mikardo
Mr John Morris
Mrs Sally Oppenheim
Mr Merlyn Rees
Mr Geoffrey Rippon
Mr Peter Shore

Noes, 1

Mr Tony Benn

Paragraph 11 read, as follows:

"11. For the reasons set out in paragraphs 5 to 8 of Your Committee's Second Report of last Session, it is a contempt of the House to disclose the proceedings of select committees before they are reported to the House. The House's resolution of 6th February 1978 showed that it would treat seriously any contempt involving "substantial interference" with the work of the House or its committees. Your Committee has found such interference in this case and accordingly finds that a serious contempt was committed by whoever enabled *The Times* to obtain a copy of the draft Report of the Chairman of the Environment Committee, by the journalist who wrote the article and by the Editor of *The Times* who published it."

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes, 11

Mr Julian Amery
Sir Bernard Braine
Sir Edward Du Cann
Sir Philip Goodhart
Mr Gregor Mackenzie
Mr Ian Mikardo
Mr John Morris
Mrs Sally Oppenheim
Mr Merlyn Rees
Mr Geoffrey Rippon
Mr Peter Shore

Noes, 1

Mr Tony Benn

Paragraph 12 to 17 read and agreed to.

Paragraph 18 read, amended, and agreed to.

Paragraphs 19 and 20 agreed to.

Paragraph 21 read, as follows:

"21. For all these reasons Your Committee does not accept that the publication of the leaked copy of the Chairman's draft report to the Environment Committee was justified by public interest or any other consideration. Continued and repeated publications of this kind can only threaten the work of all select committees and hence of Parliament."

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes, 11

Mr Julian Amery
Sir Bernard Braine
Sir Edward Du Cann
Sir Philip Goodhart
Mr Gregor Mackenzie
Mr Ian Mikardo
Mr John Morris
Mrs Sally Oppenheim
Mr Merlyn Rees
Mr Geoffrey Rippon
Mr Peter Shore

Noes, 1

Mr Tony Benn

Paragraph 22 read and agreed to.

Amendment proposed, to leave out paragraphs 23 to 26 and add—

"23. Having considered all the evidence submitted to it, and all the relevant factors your committee has concluded as follows:

1. There were no grounds on which the Environment Committee could justify its decision to protect the confidentiality of its original draft report; and indeed it would have been in the Public interest if that report had been published when drafted, in exactly the same way as all legislation is published in draft, as Bills, for the consideration of the House and the public before decisions are made.

2. For these reasons Your Committee cannot recommend to the House that any action be taken against any person who published the draft before it was officially released, and would regard it as unwise for the House to use the provisions of Parliamentary Privilege to impose any penalty upon those who did so.

3. Your Committee also thinks it right to recommend, to the House, that all proceedings of Select Committees be exempted from any protection by Privilege, and that all such Select Committees be advised to conduct their business in open session and to make all their papers public when they are sent to Honourable members."— (Mr Tony Benn)

amendment to made.
Question put, That the ~~paragraph stand part of the Report.~~

The Committee divided.

Ayes, 1
Mr Tony Benn

Noes, 11
Mr Julian Amery
Sir Bernard Braine
Sir Edward Du Cann
Sir Philip Goodhart
Mr Gregor Mackenzie
Mr Ian Mikardo
Mr John Morris
Mrs Sally Oppenheim
Mr Merlyn Rees
Mr Geoffrey Rippon
Mr Peter Shore

Paragraph 23 read and agreed to.

Paragraph 24 read, amended, and agreed to.

Paragraph 25 read, amended, and agreed to.

Paragraph 26 read, amended, and agreed to.

Question put, That the Report, as amended, ~~to~~ be the First Report of the Committee to the House. / be

The Committee divided.

Ayes, 11
Mr Julian Amery
Sir Bernard Braine
Sir Edward Du Cann
Sir Philip Goodhart
Mr Gregor Mackenzie
Mr Ian Mikardo
Mr John Morris
Mrs Sally Oppenheim
Mr Merlyn Rees
Mr Geoffrey Rippon
Mr Peter Shore

Noes, 1
Mr Tony Benn

Ordered, That the Chairman do make the Report to the House.

Ordered, That the Minutes of Evidence taken before the Committee, together with an Appendix, be reported to the House.

LIST OF WITNESSES

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Unconnected

MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE OF PRIVILEGES

TUESDAY 15 APRIL 1986

Members present:

Mr John Biffen, in the Chair

Mr Julian Amery
Mr Attorney-General
Sir Bernard Braine
Sir Paul Bryan
Sir Philip Goodhart

Mr Gregor Mackenzie
Mr Ian Mikardo
Mr John Morris
Mrs Sally Oppenheim
Mr Peter Shore

Examination of Witness

SIR HUGH ROSSI, a Member of the House, Chairman of the Environment Committee, examined.

Chairman

1. Sir Hugh, thank you very much for coming. I think it might be helpful to all Members of the Committee if you gave a very quick resumé of how we come to the present point in our consideration of the difficulties which have arisen on the draft report of the Environment Select Committee.

(*Sir Hugh Rossi.*) The matter is recited in the short report that we submitted to your Committee following the recommendations of your Committee as to new procedures.* Very briefly, what happened was this, that for a number of months during the summer recess and the early autumn a draft report based upon the evidence my Committee had received over the preceding nine months was being redrafted, honed and polished. Five or six different versions were prepared until I was satisfied that it was in a form I could submit to my Committee for consideration. Having reached that point, the final draft as approved by me was circulated to all Members of my Committee on 10 December of last year. Each page of each copy was marked "Confidential". However, on the very day on which we were to meet as a committee to discuss that final draft for the very first time there appeared in *The Times* a report, in which the reporter, Richard Evans, stated that a copy of the Committee's report was in his hands. His comments upon our report were such as to make us all believe that what he said was true, that in fact he did have a copy of the report and had received it before we had had an opportunity of considering it ourselves. That caused a great deal of disquiet amongst all Members of the Committee. We had been seeking to operate on the basis of trust between ourselves and immediately the suspicion arose in everybody's minds

*Second Special Report from the Environment Committee, 1985-86, HC.211.

that perhaps some Member of the Committee had had some dealings with this particular reporter. In addition, it was felt by Members of the Committee that they were no longer free to approach the draft report in the impartial non-partisan way in which it had been the practice in our Committee to approach matters of this kind. Therefore, they felt that their actions and considerations were bound to be coloured by the fact that this matter had appeared in the Press in the way it had done. In consequence, we felt we were unable to proceed at that meeting with the consideration of the report. Indeed, there was a discussion between us as to whether or not we should abandon the nine months' work, and that feeling prevailed because it was felt it would be very, very difficult for us to adjudicate upon the matter in the way we would like. However, the decision was taken to allow the matter to rest over the Christmas recess. We approached the matter once again when the House resumed after the recess and decided to proceed with our consideration of the report. In fact we revised the draft report in a number of important respects, with the consequence that the original newspaper report was in fact inaccurate insofar as it purported to be a report of the conclusions which the Committee had reached. That in itself had some unfortunate repercussions, because it appears to be the practice amongst the media not necessarily to read a full committee report when it is published but to rely upon newspaper reports of that report, and in consequence a great deal of misinformation regarding our report resulted. If you are interested in that aspect of it, I can quote a number of instances where that occurred, but that is a summary of the situation.

2. That is a most helpful summary. I have one question to put before we go round the table. Can you indicate what actual and

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SIR HUGH ROSSI

[Continued

[Chairman *Contd.*]

specific damage was done to the work of the Committee? I do not mean "inconvenience" or "irritation". In what way did you feel your work could, as it were, identifiably be considered as having been damaged by *The Times* report?

(*Sir Hugh Rossi.*) I think the damage was mainly the constraint which appeared to be placed upon individual Members of the Committee in their approach to the report. Certain purple passages had been quoted out of context in the original newspaper report—passages which were there, incidentally, to stimulate discussion more than anything else. Nevertheless, great emphasis was given to those passages, which resulted in a feeling amongst Members of the Committee that perhaps they ought to be seen to be supporting or opposing a particular concept: in other words, party political considerations, which we had so far avoided, began to creep into the matter. If I may, I would like to quote from a note that I received from a Member of my Committee which expresses the situation. To explain, I asked all Members of the Committee if they would care to let me have memoranda so I could put to you all the points they had in their minds. I think these words of one Member of the Committee summarise it best: "I would like to place it on record, however, that my greatest worry was that, since the original draft was published, any amendment to it was liable to be interpreted as being either a watering-down or a beefing-up of the original report. This put Members of the Committee who disagreed with the original draft, amongst whom I include myself, at a major disadvantage. The discussions held by the Committee subsequent to the leak seemed to me to revolve entirely round how the Press interpreted the changes in the report rather than on their merits. I felt this undermined the value of the report, and the Press coverage of the matter reflected the original rather than the final publication". I pray that in aid, as it were, as evidence of the fact that the minds of the Members of the Committee were prejudiced by the fact that this draft report was published before they had had an opportunity of considering it.

Mr Morris

3. I am grateful to you for your clear explanation of what happened. The complaint made to us is that any amendment would be regarded as either a watering-down or a beefing-up of the report, but an amendment of significance is highly likely

to be either of those things. Like the Chairman, I wonder whether the damage was other than loss of trust and faith in one another. Can you put your finger on any significant damage?

(*Sir Hugh Rossi.*) To this extent, that I think what this Member is trying to say, and what others have said to me, is that they then felt themselves to be constrained in the suggestions they would like to make as to the changes in the report. The scene in which they then found themselves meant that they were not approaching this in the uninhibited way they would otherwise have liked to approach it, so to that extent the value of our discussion was undermined.

Mr Shore

4. Again pursuing the same point, which I think is the crucial one, do you think, Sir Hugh, that the final report that you got your colleagues on the Committee to agree to was, in the event, significantly different, or different at all, from what you would have expected those conclusions to be had the leak not taken place?

(*Sir Hugh Rossi.*) It is difficult to say. There were recommendations in the draft report and certainly passages in the draft report that I was very uncertain as to whether or not the Committee as a whole would be prepared to endorse and underline.

Some of these passages and recommendations have remained; others have gone. What the outcome would have been if we had met in a totally impartial, sterile atmosphere it is difficult for me to say. Changes have certainly taken place. More changes or fewer changes might have taken place in other circumstances.

Mr Mikardo

5. I would like to pursue the point that you raised, Chairman, and John Morris, about the effect on Members of the Committee. Sir Hugh, we are all used to the fact that we live in a goldfish bowl and that sometimes our actions are misinterpreted, a situation which has intensified since there has been a reduction in the standards of large parts of the press. Every time you and I make a speech we have to bear in mind, if we are so inclined, not merely its merits but how it will appear to others when perhaps it has been only insufficiently reported and so on. Surely we develop in this House a pretty thick hide about all this? I really cannot believe that there is any Member of your

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[Continued

[Mr Mikardo Contd.]

Committee who was keen to move an amendment, who had had your document and thought he would move an amendment to leave out on page 7, lines 3 and 4, but, because there was a report in *The Times*, said to himself, I had better not do that because people will start to ask why I am doing it. Is there really amongst the very good people on your Committee anyone who would be as inhibited as that?

(Sir Hugh Rossi.) I am only trying to reflect to this Committee, Mr Mikardo, fairly what has been said to me by Members of my Committee. I am reporting to you what they have said to me and I have quoted at length what one has taken care to put down in writing to me. I think I can say this of all Members of the Committee, that we are experienced politicians, we are used to being on the rostrum, we are used to debating on the floor of the House and we can all take the knocks that we receive in those fora. I think it is also true to say that when we are performing (if that is the correct word) on those occasions we perhaps are living a life or living a character that others expect of us, certainly that our followers in the country might be expecting of us as loyal supporters of our party. When we are in a Select Committee our approach is somewhat different and what we are trying to regard ourselves as, rightly or wrongly, is not so much as party politicians but as Members of this House concerned with watching the work of the Executive. We realise that the Select Committees of which we are Members are in their infancy and they have to be nurtured very carefully. A great deal will depend upon the way in which the work we do is seen to be impartial and effective and a true criticism of the way in which the Executive is handling the affairs of this nation. In doing that we feel that perhaps it is necessary at times that we can talk in a way that we perhaps cannot talk when we are on our hind legs on a public platform and in the Chamber.

Mrs Oppenheim

6. Sir Hugh, you have already said, and, indeed, the report says also, that the result of the leak was to influence the proceedings, to constrain and delay the proceedings. You were dealing with a subject which is very sensitive in the public arena, which I think makes all this more important. Apart from being influenced, constrained and delayed, as to the precise nature of the damage that these three factors wrought, do

you think the actual outcome of the deliberations or conclusions would have been materially different and perhaps of a higher calibre? That is not a criticism but do you think the final conclusions would have been of a higher calibre in the public interest?

(Sir Hugh Rossi.) I think it is quite possible that some of the recommendations that we made might not have been in quite the form in which we have made them and, on the other hand, recommendations that we have not made might have been made, but this is really in the area of hypothesis and I really cannot particularise more than that. Certainly part of the damage that resulted, not in so far as Members of the Committee were concerned but in so far as our work as Members of the Committee was concerned in the general public interest, was that a misinformed impression was created as to some of the details that were likely to appear in our report. Unfortunately, because we took our decision immediately after *The Times* publication, we could not deal with the report there and then and there had to be this interval of time, there was a matter of weeks in which misinformation continued to be circulated and, therefore, when the report appeared it seemed to carry a cloak of many colours for which there was no justification. People said, in reporting our report, that we had recommended, for example, that the BNFL should not enter into any new foreign contracts. We did not recommend that but that was reported as a recommendation after the issue of our report. It was also suggested—and there was a press release by one of the unions who work at Sellafield in which these words were used—“by recommending that nuclear reprocessing should end”. We made no such recommendation but here is a press release by a union after our report had appeared. Quite clearly they had formed a mistaken impression about our report because of this leak of a draft which, in the event, was not our report.

Mr Amery

7. Have you any clue as to who was responsible for the leak?

(Sir Hugh Rossi.) None at all. Following the recommendations of this Committee, in full Committee I questioned each Member round the table in turn as to whether he or a member of his staff was or could have been in any way responsible. I drew a negative every time. Subsequently, again following

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[Continued

[Mr Amery *Contd.*]

the recommendations of this Committee, I wrote to each member of the Committee, who then reconfirmed all that he had told me verbally in writing, and the replies are in the appendices to the report which this Committee has. Similarly, the Clerk of my Committee approached all members of the staff who had in any way had access to the report and again received a negative. It is impossible, I am afraid, to find any George Washington amongst members of my Committee or their staffs or the staff of the Committee.

Mr Mackenzie

8. The point that does concern me, Sir Hugh, is this, that once the matter had been reported in the newspapers did you feel, as an experienced Chairman of a Select Committee, that this inhibited Members from saying what they really wanted to say for fear that they might personally be reported, even orally, to a reporter? Have I made my point, that someone would actually go out and say to a reporter, "Mr X said so-and-so"? Did you feel that this fear was felt by Members of the Committee in the discussion?

(*Sir Hugh Rossi.*) Yes, that fear did surface in the Committee and has lingered. At the moment there is a feeling of mistrust as to what we can discuss freely amongst ourselves.

Sir Philip Goodhart

9. Would you say that the final report of the Committee got as much publicity as the leaked report?

(*Sir Hugh Rossi.*) That is the other side of the coin, and in a sense there is a lot to be said for a film trailer which reveals the Perils of Pauline and leaves the public waiting for the next instalment with bated breath. I have to say this, that the subject-matter is one in which there has been, for many months, a great deal of interest. The

publication of the report also coincided with another kind of leak from Sellafield, and there was a good deal of public interest in what the Committee might say about the reprocessing of nuclear fuel at Sellafield as a result. In any event, there was a great deal of interest focused on the report, but certainly the belief that here was an all-party committee with a substantial Conservative majority upon it likely to come out with statements which were believed to be contrary or opposed to government policy did attract a lot of media interest which perhaps might not have been there otherwise.

Mr Attorney-General

10. Looking at Annex A on page X of your report,* the Richard Evans article, I was really horrified by the very last paragraph on the page where he departs from the leaked report and gives what he thinks will be the reactions of Members on party political grounds: "While the one Liberal and three Labour MPs are likely to strengthen some of the proposals, they are not disappointed with its overall content and tone. Sir Hugh may find more difficulty in carrying some of his Conservative colleagues." If that is not imagination or invention, that would probably have been the information given to him by the leaker. Do you think that affected your colleagues at all?

(*Sir Hugh Rossi.*) Yes, I think it did; it was one of the things which very much influenced them in their approach to the report—public expectation as to what they ought to be seen to be doing.

Chairman: Thank you, Sir Hugh. We have all had a chance to put questions to you. It has been very helpful to have your comments.

(The witness withdrew)

*Special Report from the Environment Committee, 1985-86, HC 211

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[Continued

Examination of Witnesses

MR CHARLES WILSON, Editor, and MR RICHARD EVANS, Lobby Reporter,
The Times, called in and examined.

Chairman

11. Mr Wilson and Mr Evans, this session of the Privileges Committee concerns an article which appeared in *The Times* newspaper relating to the draft report of the Environment Committee. We are conducting our affairs in a relatively informal way. I will open with a question, and Members of the Privileges Committee will thereafter ask questions. I suggest that the most practical way of dealing with it is for you to assume that any question which is put is put to you jointly, and if we wish to put a specific question to one or other of you we will so indicate in the question. My question is in respect of Mr Wilson in his editorial capacity and Mr Evans in his role as the contributor of the article in question. Did you realise that you were committing a breach?

(Mr Wilson.) I think we both realise that *prima facie* it was a breach of privilege.

Mrs Oppenheim

12. Knowing it was a breach of privilege, did you have any particular purpose in publishing it, other than what you considered to be its news value? Were you seeking to influence future events by publishing pieces of the report?

(Mr Wilson.) I was not seeking to influence the outcome of the final report, if that is the point of the question. My main reason for publishing it was its public interest. I felt that public interest in this subject was paramount and it overcame all the other considerations I had.

Mr Mikardo

13. Your said you realised when you did it that it was a breach. Does that mean you took the view it did not matter whether or not you breached the privileges of the House? Does it mean, referring to your answer to Mrs Oppenheim, you took the view you had the right to decide that this was a consideration which was more important than the privileges of the House, a consideration which entitled you, on your own say so, to decide it would be all right to breach the privileges of the House?

(Mr Wilson.) In all the circumstances, yes, and those circumstances included the fact that although leaks, if I may call them that, are considered to be breaches of privilege—and I have admitted that they are and this

one was—no action has been taken over a very long period against such leaks, and the rules are out of date. The rules were written at least as long ago as 1837, and the new form of Select Committees was set up in 1979, and I believe the rules are out of date, and are acknowledged as being out of date by the disrepute into which they have fallen. Leaks are becoming more and more common and the people being accused of committing breaches of privileges have become non-existent.

Chairman

14. If you take the work of the Select Committees, I think it is fairly reasonable to identify those areas where evidence is submitted. Evidence may be submitted in confidence because it may be commercially highly sensitive, or it may have defence connotations. There is also the area where the Select Committee wishes to have the protection of privacy to engage in deliberation before producing its final report, and it is in respect of the latter that we are having this discussion this afternoon. You have indicated that although you regarded it as a breach of privilege—and that is not in doubt—nonetheless for other factors you proceeded to publish. What would be your attitude to those other areas I mentioned, which are also part of privilege, namely, evidence that is given in confidentiality because it involves matters of commercial sensitivity? What would be your attitude if you came across that? I am not trying to dress anything up. What I want to know is, if you are in the business to pick and choose as to how you regard privilege, at what point do you decide that you will accept the efficacy and the validity of privilege?

(Mr Wilson.) If I might refer to the Second Report on the Committee on Privileges, 1984–85, in paragraph 55 it says: "Your Committee emphasises that the ultimate criterion in all such cases lies, as it always has, in the effect of the leak on the public interest." As I have said earlier, I think that the public interest in this case far outweighed other considerations. It might have been said to you that the publication of the draft report upset or damaged the work of the Committee. I did not feel then, and do not feel now since the publication of the report proper, that that is so and I repeat that I think the public interest far outweighed any embarrassment—because I

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[Continued

[Chairman *Contd.*]

think it can be no higher than that—to the Committee or its work or to Parliament.

(Mr *Evans.*) Could I make the point that there are an increasing number of leaks from Select Committees. This is really one batch of evidence from any witness, so in particular terms I do not think that comes into effect. Should it do so and if it did involve national security or commercial confidentiality, I think one would be very hesitant about using it and I would have thought the editor would be as well.

Sir Paul Bryan

15. If you say it is in the public interest to publish it when you did, why is it less in the public interest to let it wait a fortnight until it has been properly discussed and publish it then?

(Mr *Evans.*) Perhaps I could take up one point. If we waited two weeks another newspaper might get hold of it.

16. That is it.

(Mr *Evans.*) Precisely, but can I make one other point. Let me assume that the report had been drawn up by a committee set up in Whitehall to look into the question of nuclear waste. Let us say that committee came to roughly the same kind of recommendations—an important committee, a committee that was going to have an effect on policy-making. If we were to obtain that report and use it there would be no comeback whatsoever. The fact that the report has been produced by a Select Committee makes it different because of the existing rules of privilege. I would argue that the Select Committees since 1979 have become much more important. I think the public now take far greater note of Select Committees and, with respect, I would suggest the rules of privilege need to be modified and to be brought up-to-date. I think that could be to the advantage of Parliament, the public, and, dare I say it, the press as well.

(Mr *Wilson.*) I would like to put the point that it was not two weeks. The report proper was published three months after the publication of the draft report.

Mr Mikardo: It was published late because of what you did.

Sir Paul Bryan

17. It is your fault.

(Mr *Evans.*) That, I think, is arguable.

(Mr *Wilson.*) And events have since shown just how much public interest was

involved. Can I say that when the report was finally published, in criticising the nuclear industry the report made a great point about the industry's defensive secretiveness and I feel that that is what we have here. I see no damage by the publication of the draft report, only an advantage to public interest and a widening of the public debate at an earlier date, three months earlier than it would have taken place had the report been published when the report was published.

Mr Mikardo

18. Could I take up Sir Paul's point. If the situation were that here was some work done by a Select Committee which was on a topic of great public interest—and nobody is disputing that this was a topic of great public interest—but it was not going to be published, then investigative journalists might well consider—and I can understand it—that it was their duty to get this out in the open because it was going to be kept secret. You have been making a reference to secrecy. The complaint about secrecy is that the things never come out. You have drawn a false parallel. Here was a case where there was no secrecy. The delay was your fault. The delay was caused by the leak. So there we were in a situation in which in a few weeks' time you would have got the truth, the whole truth and nothing but the truth. A draft is never the truth because it is always amended, in my long experience of committees. You have told us why you did it. You wanted a scoop and you made it exactly clear that your interest was not the public interest: your interest was your paper's interest in jumping ahead of others. I would make one other point. One of the witnesses said, Chairman, that no damage was done by the leak. He is not in a position to know that. The Chairman of the Committee under strong questioning has told us the work of the Committee was damaged, has told us that he did not think the report was the same as it would have been if there had not been a leak and maybe, therefore, was not a good report. The Chairman of the Committee is in a much better position than you can be to know whether damage was done. We hear you saying it was in order to get a scoop over your competitors.

(Mr *Evans.*) Can I answer one of those questions as to its being done to get a scoop. The first report on nuclear waste was one of public interest. It so happens the Environment Select Committee, as you well know, did a report on the leak itself. That was

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[Continued

[Mr Mikardo Contd.]

leaked to us as well. I got that report, I wrote the story and the decision was taken not to use it, probably quite rightly, because that was not in the public interest. It would have been, in effect, thumbing a nose at Parliament. There is a very big difference. If I can go back to Mr Mikardo's first point, let us assume that Whitehall or, indeed, Cabinet discussion had been going on about policy. If we get a leak on that—say Cabinet has been discussing Sunday trading, Libya or whatever—that we can use and there is no comeback. So I draw this parallel again, that because the report is being done by a Select Committee should we face possible punishment for a breach of privilege and yet if the report has been done by an important body within Whitehall or a Cabinet sub-committee, that we can use and there is no comeback. That is why I say the rules of privilege relating to Select Committees are now out-of-date.

(Mr Wilson.) I would like to make a point we have at the back of our mind here. Mr Evans' job is to find scoops, to find ways of presenting them to his newspaper. I as the editor have a different task, that is, to judge whether or not we publish them. I published a story of public interest and that was the primary reason. I have to stress that. As Mr Evans said, he did a couple of months later come up and say, "I now have a leak of the leak." I read the story and said, "I see no public interest in this." I felt there was no point in flouting or waving a red flag at an albeit dormant bull for an item that was not of sufficient public interest or for which there was no other reason for publication.

Sir Philip Goodhart

19. If every day you have an editorial conference which leads to the publication in the following day's paper of a number of leading articles, if you found that a member of the editorial conference of *The Times* was regularly ringing up the *Daily Telegraph* and/or *The Guardian* and telling them what was going on at your editorial conference, would you not be cross and would you not seek to get rid of that employee?

(Mr Wilson.) I think the answer to that question is yes. A similar question was asked of my predecessor at an earlier meeting of this Committee. I do not think I would, personally, treat them as gently as Mr Douglas Home would have done. That brings one to the point that if one is here to discuss a leak—and the verb is "to leak"—the perpetrator of the leak is the source of the leak.

Mr Mackenzie

20. How often did you breach privilege in the course of last year?

(Mr Evans.) Myself? I have not kept count, but several times, and so have other newspapers. I think it will become increasingly the case because the Select Committees have taken on a new role and their work will increase in importance.

21. I am interested in the point made by Mr Wilson that his motivation in publishing this was purely the public interest. I cannot understand, for the life of me, why the public interest would not be better served, and the public debate would not be a better public debate, if the actual report rather than a draft report had been published. Some of us still cannot forget that your newspaper actually leaked the proceedings of this Committee, which was not in the public interest at all and which was believed by some people to be *The Times* showing in a rather frivolous way that it could show what was happening in the Privileges Committee rather better than anyone else. How can you say that the public interest is better served and public debate is better served by publishing a draft report than by waiting until you have the proper report with its proper recommendations?

(Mr Wilson.) To take the second point you made, the fact that the second time Mr Evans came back with the leak of the leak it was not published indicates we are not very happy to say "Yah-boo! We have another leak." That is nonsense and childish. That is not so in this case or in any other case which I have had or will have in future. Going back to the substantive part of your question, some Members of the Committee have suggested that it was delayed three months only because we leaked the draft report, but, if it was only a few weeks, it was an important public debate and there was every reason for it to take place as soon as possible. It was a very serious matter, as subsequent events have proved, and there may have been decisions taken in the industry in the intervening period between publication of the draft and publication of the final report which would have been affected by a widened public debate. If there were matters in the draft report that were not in the final report, that would all have been grist to the mill of public discussion and it could only increase public debate, which I suggest was only right and proper in this case.

(Mr Evans.) If I may add to Mr Mackenzie's question, he said it would have

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[Continued

[Mr Mackenzie Contd.]

been better if we had waited until the report had been published; it would have been much better for the purposes of public debate. You can apply that argument to any document that is being prepared by the Cabinet in Whitehall or anywhere, but that is not the way in which the world works. There are leaks in committees and leaks in Whitehall, and it will always be so. Why should Select Committees be different?

Mr Attorney-General

22 It is apparent from your article that as a lobby correspondent you know perfectly well that a draft report such as the one you leaked is the work of one man plus the clerk of the committee; that is made clear in the penultimate paragraph on page ● of the Second Special Report of the Environment Committee. "Although the report is only at draft stage and will be considered for the first time by the full committee tonight . . ." Was it your understanding that the draft report was the work of Sir Hugh, perhaps with the assistance of the Clerk from time to time?

(Mr Evans.) My understanding was that, whilst Sir Hugh and the Clerk drew up the draft report, Sir Hugh would have done it after private consultations with a considerable number of Members of the Committee; it was not solely Sir Hugh's work, and he did not do it without having had a chat with other colleagues.

23. You have now admitted for the first time that . . .
(Mr Evans.) Officially, for the first time.

24. The headline is pretty misleading—"Nuclear Industry Criticised by MPs". You were giving the impression that the Committee agreed with the report?

(Mr Evans.) I am sure I do not have to tell you that I do not write the headline.

25. That was the headline applied to your article?

(Mr Evans.) Yes.

26. And it was very misleading?

(Mr Evans.) I do not think it was that misleading.

27. It would have been apparent to you that the draft report was due for consideration either that day or the day after you wrote your article and would then be considered line by line probably by the full Committee, as you forecast. The final document was going to be a much more effective and useful document than a draft report by the Chairman?

(Mr Evans.) A more effective document from whose point of view?

28. In the sense you would be getting an accurate reflection of the Committee's views. You cannot deny that, can you?

(Mr Evans.) As it turned out, the final report, apart from the first two or three passages, which was a general kind of introduction, was very much like the initial draft report.

29. It was just your good luck, but you did not know at the time you leaked this what the end result, after full deliberation by the Committee, might be?

(Mr Evans.) That is correct, but I am saying I do not see how it affects the situation. You can apply the same argument to other reports within government; you might say it is better to wait until there has been Cabinet deliberation, but things do not happen like that.

30. I will not ask you to name the leaker; you will not tell me, but did he tell you how the party components of the Committee were likely to move, as you report in the last paragraph on that page?

(Mr Evans.) It is several months ago. I spoke to several Members of the Committee.

31. Was that your invention or what you were told?

(Mr Evans.) It certainly was not my invention.

32. I will not ask you who was responsible, but in *The Economist* inquiry conducted by the Privileges Committee in 1975 the Editor was kind enough to exclude anybody who was either the Clerk or any of the other Committee staff. Are you willing to do that?

(Mr Evans.) I have thought about this question. Bearing in mind the letters which MPs have written, I think it would be wrong for me to exclude anybody. To do so would automatically narrow down the field of suspects and could identify the source.

33. You do realise the consequences of that answer in respect of the members of staff upon whom we have to rely totally? Are you not prepared even to do that?

(Mr Evans.) I think it would be wrong for me to do so; it could endanger my source.

Mr Mikardo

34. Why "wrong"?

(Mr Evans.) It would be wrong from a journalist's point of view. As you well

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[Continued

[Mr Mikardo Contd.]

know, the golden rule is that you do not disclose you source or any information which may lead to that source being discovered.

Mr Attorney-General

35. I thought you just told me that you had spoken to several Members of the Committee?

(Mr Evans.) I had.

36. Bearing that in mind, are you seeking to leave the feeling amongst Members of this Committee that the source might have been the Clerk or some member of the Committee's staff?

(Mr Evans.) I am not seeking to leave any feeling with the Committee. The question you asked originally was related to the comment I had made in the newspaper article. That was made after I had spoken to several Members of the Committee, and that is entirely different and did not relate to my source.

37. I am sure you will not object to answering my last question. Did you offer any monetary or other reward?

(Mr Evans.) Certainly not, and that has never been the case in relation to any article I have written, whether it be a Member or anybody else. I would not be interested.

38. I cannot blame you for the passage in the Diary, but when we last considered the question of Select Committee leaks the Diary reported my advice to the Committee. That was like a red flag to a bull, was it not?

(Mr Wilson.) It may well have been and I hold no responsibility for it.

39. But can you think of anything more calculated—let us use your phrase—to hold a red flag to a bull than reporting the Attorney-General's advice to the Committee?

(Mr Wilson.) I prefer not to think of anything more calculated to do so because I am sitting here at this moment.

Mr Morris

40. Following the Attorney-General's question to you, you say you are not in the business, Mr Wilson, of "cocking a snook" or saying "yah-boo" to Parliament; hence you did not publish the report of a leak of a leak. Since your paper did precisely this in respect of the matters to which the Attorney-General referred when you published our deliberations, has there been

a change of policy in your paper since the last time it happened?

(Mr Wilson.) There has been a change of editor, as is obvious, and I have my views about it. I happened to be on duty on the day this story was presented and I read the story and discussed it with the author and one or two other colleagues and decided, for the reasons I have said, to publish it. I also saw the subsequent story and decided not to publish that. If you are asking would I today have published the story that was in the Diary, then I do not know the answer. I did not see a copy and I could not answer the question. By and large I have to say that I do agree with the evidence that was given by the Chairman of the Lobby and most of the editors, including my predecessor, when they came before you at the Second Report, but I have no wanton desire to prove that this system of privilege does not work.

41. You mean it does not work if you do not consider it sufficiently important to outweigh the public interest. You play God in that respect.

(Mr Wilson.) No, I am not playing God at all. I think rather the reverse. I say so many people have gone before me untouched and should I not be as lucky as one of the other disciples?

42. Would you publish the Attorney-General's advice to the Committee, as your predecessor did, if that situation came about? I want to know whether there has been a change of policy in your paper?

(Mr Wilson.) I would have to see it. I did not see it at the time and I have not seen it since.

43. You know what we are talking about. Before coming here you will surely have considered the history of this matter. The Attorney-General made it quite clear. There we were deliberating upon the leak and lo and behold, the next day in the Diary there was a full comment on the deliberations of the Committee.

(Mr Wilson.) I do not think I would have made that decision but I do not wish to pass blame or comment on the decision of any of my colleagues.

44. We are not asking that. What we want to know is what you would do and, therefore, has there not been a change of policy if you would not publish similar matters as the Attorney-General's advice to the Committee?

(Mr Wilson.) The two are not mutually exclusive. I could not have not made the

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MR CHARLES WILSON and MR RICHARD EVANS

[Continued

[Mr Morris *Contd.*]

same decision without there having been a change of policy. Newspaper policy is made, as I am sure the Committee will know, very much on the day it happens, on the hoof and on the run. I do not think in the cold light of day I would have said, "Let's publish this Diary item," because it seems to me to serve little purpose but to annoy.

Mrs Oppenheim

45. Can I return to my first question that I asked you, whether, in publishing the leak, you were seeking to influence the Committee, and you said no, you thought it was, in your judgment, in the public interest to do so. There was then a conflict because Mr Evans then spoke of the growing importance of the work of Select Committees and then you said that in the event you did influence events within the industry because behaviour within the industry has changed, you implied, as a result of your having leaked.

(Mr Wilson.) I am sorry, I did not mean to infer that, but that is happening within the industry.

Chairman

46. I fear we are running against a Division very shortly. I would like to come back to the question of the disclosure when the Attorney-General stated, as I am quite sure we all understand, there is a convention that you do not disclose your sources. Mr Evans indicated that he was aware of *The Economist* case* and that is, indeed, not least because from my office notice was given of this particular precedent and the interest that might be taken in it. Can I say, Mr Wilson, why there is concern in this Committee, I am sure, about the shadow that rests upon those who might be in a position to disclose and whose name we do not know. On the whole we accept that most politicians can fight their corner but I think it really is profoundly unfair and it does not demonstrate the mutual goodwill which one would expect to exist between the newspaper world, using the Lobby system,

and this House of Commons, when presumably the people who are most exposed in this situation are servants of the House, namely, the Clerk to that Committee. Then there is another category, the employees of Members of Parliament, and there is gradation. That is obvious. In the case of *The Economist* the answer was given that clearly they did not feel they were torpedoing press principles but they were able at least to lift the shadow so that we knew it was Members of Parliament who had been part of the arrangement whereby that information was made available. That came about in a situation where initially the journalist did not feel able to help the Committee in that respect but eventually the editor made the helpful contribution subsequently of identifying that the leak did not derive from any of the staff and they at least, therefore, were free of that shadow.* I am not asking you to comment now on what I have just said but I would like to say that, as far as a helpful relationship between *The Times* newspaper and the House, operating in all its forms, particularly through this Lobby, is concerned, I would like to think matching the performance of *The Economist* was not too much to ask. I am not asking for that now, but I would hope you would feel able to go away and consider it. May I say that if your judgment matches that of the editor of *The Economist*, in no sense will it reflect or detract from the regard and esteem we have for Mr Evans.

(Mr Wilson.) I will comment, as you say. I have to make it clear, though, that this decision is a matter for Mr Evans. I do not know the source; I have not asked the source.

47. All I am asking is, would you kindly acquaint yourself with *The Economist* precedent?

(Mr Wilson.) I am happy to do that but in the end it will be Mr Evans' decision.†

Chairman: As there are no other questions, thank you very much.

*See First Report from the Committee of Privileges, 1975-76, HC 22.

†*ibid.*, para. 6.

†See Appendix to Minutes of Evidence.

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APPENDIX TO THE MINUTES OF EVIDENCE TAKEN BEFORE
THE COMMITTEE OF PRIVILEGES

11

APPENDIX

Letter from Mr Charles Wilson, the Editor of *The Times* to the Chairman of the Committee

I am sorry for the delay in responding to your request,* but Mr Evans had not received a copy of the transcript of the "hearing" and has finally read the copy sent to me.

I have since spoken at length to him and he feels that it would not be appropriate for him to give any indication—even in a negative sense—of the source of the leak. He is as confident as the Members that the staff are above the need for exoneration.

As I told the Members of the Committee, this is a decision he would make alone without pressure from me. However, I have to say, I agree with it.

If I can be of any further help to the Committee, I will be happy to try.

*In Question 46 and 47.

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