

MINUTES OF THE TRADE AND INDUSTRY BACKBENCH COMMITTEE MEETING,

20th OCTOBER 1988

(COMMITTEES)  
PPS NOTES

The meeting was chaired by Mr Michael Grylls MP. The guest speaker was Lord Young, Secretary of State for Trade and Industry. There were about 75 members attending. Also present were Mr Newton, Chancellor of the Duchy of Lancaster and Minister for Trade and Industry, and Mr Maude, Minister for Corporate Affairs.

Lord Young

Lord Young spoke about Barlow Clowes and the report of Sir Godfray le Quesne into the handling of this case by the Department of Trade and Industry.

The speaker described the Barlow Clowes affair as the most serious financial matter his department had dealt with for many years. Over 11,000 people were involved and many of them were financially unsophisticated. The Government's responsibility was to be as open as possible and Lord Young explained how he had managed to have a report that differed from previous ones as it included advice to Ministers from Civil Servants on the execution of policy.

The advice given to Barlow Clowes Gilt Managers in 1975 by officials at the Department was that they did not need a licence. Lord Young explained, however, that had they applied for one they almost certainly would have been granted it, given the existing legislation. A licence was granted in 1985 after Barlow Clowes had produced an Auditors Certificate and assurances were given to the Department by Barlow Clowes' solicitors.

In Autumn 1987, the speaker explained, the Department was faced by a very different situation. To avoid a disorderly collapse of business the Department instituted an investigation into Barlow Clowes and issued a new license, subject to review pending the outcome of that investigation.

Lord Young pointed out that Barlow Clowes International had never been licensed by the Department. There was never proper evidence that UK residents were involved in this fund.

The speaker concluded that the Financial Services Act has changed a previously unsatisfactory situation. Offshore funds must now carry a health warning. The Government had been advised by counsel that it had no legal responsibility and Lord Young ended by saying that if one looked at the facts of the report one would conclude that the conduct of the DTI was reasonable.

QUESTIONS

Mr Maxwell-Hyslop said he did not share Lord Young's satisfaction with his department. Referring to Chapter 5 section 1 of the report he pointed out that fuses in the system had been withdrawn.

Lord Young replied that his job was to ensure the smooth functioning of the financial world. An audited account had been produced for Barlow Clowes and assurances had been received from other firms. He pointed out that he had never claimed more than that his Department had acted reasonably.

Mr Browne agreed with Lord Young that there was not a case for legal responsibility but said that there was one for moral responsibility. As the victims of Barlow Clowes were unsophisticated investors, believing that they were investing in Government stocks, there was a case for the Government to give compensation.

Mr Shaw congratulated Mr Newton on his parliamentary performance and agreed that the report was effective and open. However, even though the Government was not to blame, thousands of people who had lost money were suffering. Intermediary firms who may be legally liable would delay paying and the Government should speed up the process.

Lord Young replied that he understood the suffering of the investors as he had read all the letters written to him at the Department. However, it was not the job of the Government to guarantee every risk in life. The Financial Services Act had now changed the regulatory system to make a future Barlow Clowes near impossible. But for the Government to pay compensation would 'be the edge of a very slippery slope'. Lord Young said he would like very much to be able to find a way to pay up, but one could not ignore the principles: if the Government was not responsible, it should not pay.

Sir Anthony Grant said that his concern was the re-issue of the licence in 1987. Given subsequent evidence this decision was clearly wrong. It was not made in bad faith but was wrong in judgement. A Conservative Government should realise that responsibility lay beyond strict legal responsibility.

Lord Young explained that had the licence not been granted it would not have been possible to send the liquidators in to Barlow Clowes and distribute the money to all the investors. If Barlow Clowes had been allowed to collapse some investors would have received all their money and others would have been left with none. The Government's moral responsibility was fulfilled by sending the report to the Parliamentary Commissioner for Administration.

Sir James Spicer asked Lord Young whether a finding by the PCA of moral responsibility on behalf of the Government would be used as an opportunity to give compensation.

Lord Young pointed out that a Government had never previously volunteered to send papers to the PCA.

Mr Cormack suggested all British citizens should receive 75 per cent of their money back, whichever fund they were invested in.

Mr Budgen questioned the efficacy of referring the report to the PCA. The Ombudsman should only be used when all other channels had been exhausted.

Lord Young stated that the papers had been sent to the PCA but the case had not actually been referred to him.

Sir Peter Emery said that it looked as if the Government was washing its hands of the affair. The Government should take the lead in examining the legal and moral responsibility of the Financial Intermediaries. There was an excuse for the Government to do this because the Financial Services Act would soon start 'to bite' and such a case would not recur.

Lord Young said that behind the scenes the Government had achieved a great deal. Payments to the investors were promised by the liquidators before Christmas.

Mr Nelson said that it was an error of judgement to be seen to be reluctant to pay all the way down the line and then be forced to. Politically, the Government could make a decision and that is what it should do.

Mr Lawrence pointed out that both the Bank of England and the Stock Exchange thought ill of Barlow Clowes. A detailed reply to all the opposition reports was required. The DTI should not just follow the letter of the law.

Mr Latham stated that he could not sell this policy to his constituents and he asked Lord Young to go away and think again.

Mr Winterton endorsed Mr Latham's statement and said that it was time that the Government went onto the offensive over Barlow Clowes. To try and divorce Barlow Clowes Gilt Managers from Barlow Clowes International was unjustified and unjustifiable as all but one of their directors were the same.

Lord Young said that he had warned Mr Winterton not to raise people's expectations. By doing this, he had helped create the present dilemma.

Michael Grylls

not as bad as press has said

depressed after it - surprised by feeling.

not just Winterton - Hordern, Clank, Emery, Grant,  
did as well as he could.

\* He will get the Horderns etc. for a drink this week.

Private sector rescue - he is interested in it

Patrick McLoughlin

tough meeting. incorrect that no one supported  
supporters David Shaw, John Knight, Grylls self & officer.

Surprising opposition from loyalists.

Latham - applause - think again.

Private sector rescue may be answer with Govt. money

Ian Stewart

bothered in 85. Quotes a letter written by Ian in  
85. ~~to~~ to DTI. involved illegal depositing.

DTI took every reason to licence rather than  
assess merits of case. Wrote to DTI that if  
answers not satisfactory, then face unpleasantness  
of closing it down. You must look after  
interests of future investors, as well as current  
res.

Stephen Dorrell