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DC 30 88/89

DEFENCE COMMITTEE

DC 30
of Session 1988-89

NEXT MEETING OF THE COMMITTEE

The Committee will meet on Wednesday 12 April at 10.30 in Committee Room 16.

Mr Douglas and Mr McFall have indicated that they wish to raise the subject of Sir Leon Brittan's remarks reported in the Press yesterday and this morning relating to the disclosure of the Solicitor General's letter about Westland.

Mr McFall has indicated an intention to move that should the time for discussion of this matter on Wednesday morning be inadequate, discussion should continue at a convenient time later in the day.

I have been asked to prepare a background note on the significance of Sir Leon's remarks in the context of the Committee's previous inquiry. This is attached, together with a selection of extracts from this morning's press.

The principal scheduled item for the morning of 20th April is evidence on the decommissioning of nuclear submarines. The brief will be circulated for this on Monday morning 10th April, together with a list of witnesses. UK NIREX will be heard at 10.50, with Ministry of Defence witnesses following.

ROBERT ROGERS
Clerk of the Committee

6 April 1989

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SIR LEON BRITTAN'S REMARKS ABOUT THE DISCLOSURE OF THE SOLICITOR-GENERAL'S LETTER

It was reported yesterday and in the Press this morning (copies attached) that Sir Leon Brittan, now an EC Commissioner, had said in a television interview:

"The release of the Solicitor-General's letter was something which was approved by Mr Charles Powell - the relevant Private Secretary in No 10 - and it was approved by Mr Bernard Ingham, the Prime Minister's Press Secretary. As I made clear at the time, there would have been no question of the release of that document without the express approval from No 10."

Sir Leon is reported in today's Press as saying of the interview:

"I gave the interview before I left for Brussels at the end of 1988. There is absolutely nothing new in anything I said in the interview."

The words used by Sir Leon in the interview in fact go further than the evidence of any witness before the Committee in the 1986 inquiry.

Sir Leon told the House on 27 January 1986 (col.671) "I made it clear to my officials at the Department of Trade and Industry that, subject to the agreement of No 10, I was giving authority for the disclosure of the Solicitor-General's letter to be made." Examined on this point by the Committee on 30 January 1986, he said "I accept fully responsibility for what was done and would not suggest for a single moment that my instructions were anything other than followed. I would particularly stress that it all had to be subject to the agreement of No 10" (Q.933).

This point was dealt with by the Defence Committee in paragraph 154 of their Report. The key question was, if Mr Brittan had given such clear instructions, and later said that his instructions were followed, how was it that No 10 did not give their agreement to the disclosure?

Sir Robert Armstrong tried to give an answer in his evidence. He said that it was "a difference of understanding" about exactly what was being sought and what was being given (Q.1288). He said that he was

"absolutely clear that the officials in No 10 did not believe, from the conversations, that they were being asked to convey an agreement on which the Secretary of State's authority was conditional" (Q.1318).

The Defence Committee found some difficulty in believing that "four extremely able officials in key positions would have been capable of identical misunderstandings of this

sort in two separate telephone conversations". But on the evidence before them, they decided on balance that the No 10 officials (specifically Mr Ingham) realised that they were being asked not for agreement but for authority, and this they sought to avoid giving.

Sir Leon's words mean that the real situation was very different; that far from trying to distance No 10 from the disclosure, Mr Powell and Mr Ingham gave their express approval for that disclosure.

If Sir Leon is correct, his words also now indicate that Sir Robert Armstrong's evidence to the Committee was incorrect, because the disclosure was expressly approved by Mr Powell and Mr Ingham¹. His evidence could, it seems, be incorrect either because the officials concerned did not tell him the truth during his inquiry, or because they did, and he did not tell the truth to the Defence Committee. It is also possible that the officials did tell the truth to him during his inquiry, but that he did not tell the Prime Minister in his inquiry report.

A further point arises. The Committee criticised Mr Ingham and Mr Powell because they were in a position to tell the Prime Minister on 7 January what turned out to be the principal findings of Sir Robert Armstrong's inquiry report more than a fortnight later. The Prime Minister told the House that

"I discussed the matter with my office the following day, [7 January]...I was told that the Solicitor General's advice had not been disclosed by my office... I was also told, in general terms, that there had been contacts between my office and the Department of Trade and Industry" (Official Report, 27 January 1986, col.657)

If the disclosure was made the express approval of Mr Ingham and Mr Powell, then not only did the "difference of understanding" mentioned by Sir Robert never take place, but Mr Ingham and Mr Powell chose to tell no-one, not even the Prime Minister, that they had themselves authorised the disclosure.

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¹ And Sir Robert Armstrong said explicitly to the Defence Committee (Q.1191) "I am clear that the authority for the disclosure was given by the Secretary of State for Trade and Industry."