

The cost of Zircon

A 'get-out' clause now supposedly allows the government to keep Parliament in the dark about projects like Zircon. **DUNCAN CAMPBELL** explains why the get-out doesn't work

ONE MONTH AGO, the *New Statesman* published the controversial article on Project Zircon. Although the *NS* report has since been misrepresented as the gratuitous 'blowing' of an important secret, its central thrust was the disclosure of the deliberate deception of Parliament, for four years, about plans for a major defence project. Under a 1982 agreement, such plans have to be disclosed, at least to the Public Accounts Committee (PAC), composed of MPs from all parties.

The facts of our investigation have been obscured by two factors. One concealing factor is the government's national security smokescreen, and the rumpus that that has created. The second concealing factor has been the conduct of some senior MPs, notably Robert Shelton, Chair of the PAC, who have seemed more concerned to distance themselves from the row than to stand up for the rights and privileges of Parliament.

In bringing the Zircon affair to public attention, we had to prove three separate points:

1. That Project Zircon, to build a spy satellite, actually existed;
2. That it had not been notified to Parliament in the manner required for major defence projects;
3. That it fell within a category of cost, and was at a stage of progress, which it was obligatory to notify to Parliament.

Point 1: does Zircon exist? Zircon is officially acknowledged to be what we said it was — a spy satellite for GCHQ, for which the Ministry of Defence has to pay. That, after all, is what the fuss has been about — and if it is *not* now fully intended that Zircon should go into orbit, then the whole security row has been a charade.

But a great deal of disinformation has been planted about its current status, too. As soon as news of Zircon broke, on 20 January, the Defence Ministry line was that Zircon 'is at a very preliminary stage. No decision has been taken on whether the project will continue beyond its

present exploratory phase.' An MoD press officer added that 'the phrase exploratory means we could not really be in the business of contracts.' Some 'Whitehall sources' even suggested, two weeks later, that Zircon had been cancelled.

Professed official uncertainty about an 'experimental' project stands in dramatic contrast to the fervour of the government's denunciation of 'traitors' who have allegedly leaked the precious Zircon secret. But there is nothing 'preliminary' or 'experimental' about Zircon — save that every satellite is preliminary and indeed experimental until a rocket has safely taken it in orbit around the earth.

Official approval to go ahead with Project Zircon was given during 1983. The 'orbital slot' for a Skynet satellite over the Indian Ocean — Zircon's cover story — was openly registered internationally on 27 September 1983. That's when the Russians found out. In the autumn of 1984 — according to the *Sunday Times* — at least a hundred engineers began work at a gigantic, high security, windowless new building at Marconi's Portsmouth factory. The *Independent* newspaper has also published a picture of a second Zircon construction site, a newly refurbished 10,000-square-metre spacecraft assembly area at Filton, near Bristol. News of this extensive new classified satellite construction programme had, unsurprisingly, leaked to an industry newsletter, *Interspace*, by February 1985, and the Russians read that too. Finally, in April 1985, British Aerospace announced the award of a contract to build the new 'Skynet' satellite — but carefully didn't say how much it was worth.

Rather more convincing than 'Whitehall sources' dissembling in the press is the evidence of the sworn affidavit of Sir Peter Marychurch, Director of GCHQ, which was used last month to get an injunction against me. Marychurch says that 'a substantial part of the information about the project [in the BBC programme] is correct'. 'Serious damage', he alleged, would be caused 'by revealing the existence of the project'. This would not be true if Zircon may really never be launched.

Point 2: had Parliament been told? Robert Sheldon, in the House of Commons on 27 January, stated that, prior to his interview with me on 7 October 1986, he 'had no prior knowledge of the project'. Naturally, no one else in Parliament

knew about Zircon either (except for Ministers). Zircon was secret from Parliament, until the BBC told them about it.

Point 3: should Parliament have been told? The formal criteria which determine when information about a major defence project should be passed to the Public Accounts Committee is loosely called the 'Chevaline' agreement, drawn up in 1982 after a decade in which Parliament had not been informed of the huge cost overruns of the 'Chevaline', or Polaris modernisation programme. The information comes to the PAC in the form of an annual Major Projects Statement. There are two criteria for inclusion in the Statement:

- (a) Projects for which the Treasury have authorised expenditure in excess of £200 million;
- (b) Projects expected to exceed the £200 million threshold are included when expenditure on project definition has reached £10 million [even though authorisation for the full amount may not have been given].

The £200 million 'threshold' (it was raised to £250m in June 1986, but the £200m figure has been applicable to Zircon for most of its development) is the *lifetime* cost of the project, once (and if) it is completed. Neither the PAC nor any official body disputes that, when completed, Zircon will have cost far more than £200m. According to two independent Defence Ministry sources, Zircon will cost about £400-500 million. It is quite irrelevant to say, as government sources did at the beginning of the Zircon row, that 'nothing like the sums quoted' have been spent. *Lifetime costs are the issue.*

I have offered to give evidence to the Public Accounts Committee, whereby they could confirm what the actual costs of Zircon are, and where they have been concealed. As yet, I have had no answer from the Committee.

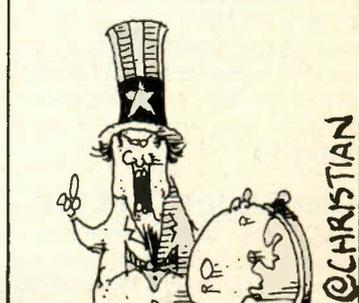
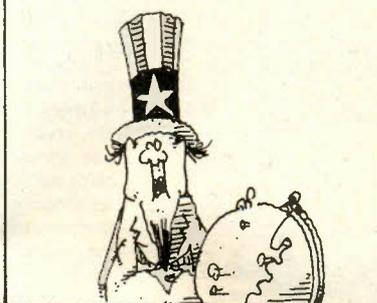
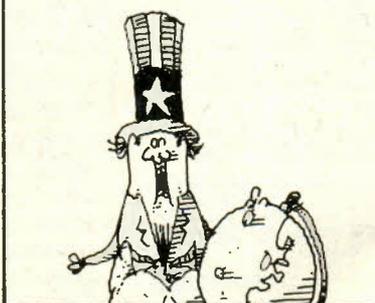
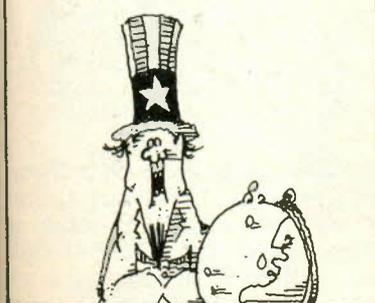
The only official statement which has appeared to cast any doubt on the total cost of Zircon was made by the Comptroller and Auditor General, Sir Gordon Downey, in January. He then said that 'there was no commitment to a major project by defence standards' (i.e. one costing more than the threshold). Some commentators have read this to imply that Zircon, even if it went ahead, would not be a major project. But all Downey's statement

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says is that he believes Zircon still to be in the uncommitted 'project definition' phase.

If the costs of a project may cross the threshold, then the next question to ask is whether Treasury approval has been given. The MoD says that Treasury approval has *not* been given. We understand that this is true. But the Treasury *never* approves such secret intelligence projects anyway; approval comes instead from the Cabinet Office and the Permanent Secretaries Committee on the Intelligence Services (PSIS). The money is then reinserted inside Departmental budgets. The Treasury's views at that point are irrelevant. We believe that PSIS approval *has* been given for more than £200m to be spent on Zircon.

'Whitehall sources'

But even if full PSIS approval hasn't been given, Zircon still falls into the normal Major Project Statement criteria because more than £10 million has been spent on its project definition and development phases. The exact sum spent so far on Zircon is secret — but the better-informed 'Whitehall sources' appear to place it at about £70 million. No one, including the Defence Ministry and Robert Sheldon, dispute that far more than £10 million has been spent on project definition. Consequently (and this is not disputed by the MoD either), Zircon *does* fall into the normal Major Project Statement criteria, by one definition, or the other.

The MoD, however, claims that there's a special 'get-out clause' whereby highly classified major projects are not notified to the PAC in the normal way. In a Parliamentary Answer to Ann Clwyd MP on 2 February, Defence Minister Archie Hamilton claimed that projects could be excluded from the Major Project Statement on 'grounds of national security'. Hamilton said that:

In the case of a project which is excluded from the Major Project Statement on ground of national security, the National Audit Office would be informed by the time when, but for national security considerations, the project would have been included in the Statement for the first time; and would have continuing access to the relevant papers. It would then be for the Comptroller and Auditor General to decide when to inform the Chairman of the PAC.

If true, this means that if a Department regards a project as particularly sensitive, they can drop it from the Statement. They then keep the National Audit Office fully informed (and there is no dispute that the NAO *has* been kept informed about Zircon). Then they can pass the buck on to Sir Gordon Downey, as to whether or not to pass the information on to anyone on the PAC.

Downey would decide whether or not to pass the information on based on what the MoD (or, in this case, GCHQ) told him about the sensitivity of the project. And GCHQ or the MoD can ask him, as they did four years ago with Zircon, not to inform the PAC or even the Chair, about the existence of a Major Project. Even by then, Zircon should probably have appeared in the Major Projects Statement.

Can Zircon 'get out'?

The 'get-out clause' procedure, if it were valid, would annul the spirit and the letter of the Chevaline agreement. What would have happened with Zircon is *exactly* what happened with

Chevaline. Almost a billion pounds had been spent by the time that Parliament heard about it in 1980, ten years after it begun. The Comptroller was fully informed about Chevaline throughout the whole affair. But he didn't tell the PAC or any other Select Committee about it.

More importantly, no one had ever heard of this 'get-out clause' prior to 20 January 1987, when it was plucked out of thin air in order to explain the non-disclosure of Zircon to Parliament. (It is supposed to be justified by a 1982 Note, of which more later). During 1986, in interviews with the BBC/*Secret Society* team, each major person and organisation involved in the Chevaline agreement denied that such a clause could even exist.

Sir Frank Cooper, the former Defence Permanent Secretary, made the Chevaline agreement with former PAC chair Lord Barnett. Both he and Barnett denied the existence of such a clause. In the context of Project Zircon, I asked Sir Frank if it was right 'that the Public Accounts Committee is supposed, after the Chevaline row, to be informed of the costs, confidentially if need be, of *all* major defence projects?' Sir Frank said 'Yes'. He did not qualify his answer.

Campbell: Was the system working when you left?

Cooper: Yes.

Campbell: It's been put to me that the Ministry of Defence sticking to its agreements is one thing, and that they do — but GCHQ is quite another [matter . . .].

Cooper: As far as the Ministry of Defence is concerned I think there was a perfectly clear agreement.

At a meeting in July 1986, Lord Barnett also told us that there was no exemption for 'national security' projects. *He pointed out that such an exemption simply could not exist, since the whole purpose of the Chevaline agreement was to deal with the problem of very highly classified projects being concealed from Parliament.*

Without naming the secret project which I believed flouted the Chevaline agreement, I then asked Lord Barnett to appear on the Zircon programme. Barnett agreed to view our evidence for the secret project, then comment on it in a filmed interview. But four days later, to his surprise, he was appointed Deputy Chair of the BBC Governors, and had to withdraw.

On 17 April last year, the Defence Ministry's own press office told us that the Major Projects Statement covered 'everything'. What about national security projects? we asked. The spokesman pointed out that 'all parliamentary committees can receive classified information to conduct their work'.

Last October, researcher Jolyon Jenkins interviewed a very experienced former Clerk to the Public Accounts Committee, who had overseen the operation of the Chevaline agreement. He told us that 'there was no get-out clause at all'.

Jenkins: Not even if there were grounds of national security?

Clerk: No, because the whole Chevaline thing was about national security and not being sufficient ground for withholding information from the committee. If there was a project over £200 million . . . they would jolly well tell us.

Another witness is Allan Rogers MP, a member of

the PAC for the last four years. He told us this month that he'd never heard of a national security get-out clause — until the Zircon scandal began.

The buck slides

Finally, there is the evidence of Robert Sheldon himself, the Chair of the PAC. During the BBC interview, I asked him if the Defence Ministry were allowed to leave 'anything *at all* off the list (*the Major Projects Statement*)':

Sheldon: No, no, we make sure that everything is on that list. And I, through repeated assertions, make sure that is so.

Campbell: And you've been quite certain that that message has got through.

Sheldon: Oh, indeed I have.

He was then asked about Zircon. I told him that it was a GCHQ intelligence satellite, and almost certainly the most highly classified major British government project of the 1980s. I told him what it cost, then asked 'If our information is right, would that be a breach of the rules that the Ministry of Defence had agreed to abide by?' Sheldon replied:

Certainly we would expect any project over two hundred and fifty million pounds to be brought to our notice . . . I stand by the whole purpose of the major projects statement, that anything costing more than two fifty million pounds, over its life, would be brought to our committee.

And if this hasn't been done, obviously this would be a most serious matter . . . This is a matter to which I would give very serious consideration indeed, in view of the assurances that we've been given in the past.

It could not be more plain that during 1986, every party concerned with the Chevaline agreement, other than the Sir Gordon Downey (whom we did not then approach), firmly refuted the whole idea of the 'get-out clause'. Such a clause, if it existed, would defeat the letter and spirit of the agreement.

Sheldon has now adopted the government position — and says there *is* a get-out clause. In a wholesale turnabout from his October interview, he told MP Ann Clwyd on 26 January that 'projects may be omitted from [the Major Projects] list on grounds of national security'.

Value for money?

The 'get-out clause', on which the Defence Ministry relies for hiding Zircon from Parliament, appears in a Note to the PAC written in 1982 by Sir Gordon Downey. The Note is part of the PAC's report on Chevaline, and is headed 'Reports on Value for Money Studies'. Paragraph 12 reads:

It is possible to envisage circumstances in which a Government Department might argue that some other important information should not be reported to Parliament by the Comptroller and Auditor General, or even disclosed to the PAC, on the grounds that to do so would be damaging to the national interest. In such circumstances, it is likely that the C&AG would wish to consult the Chairman of the PAC about the handling of such material . . .

Before we interviewed Robert Sheldon in October 1986, Jolyon Jenkins had spotted that someone might try to use this very clause as a loophole. So he raised his anxieties with the former PAC clerk, who told him that 'I'm not as suspicious as you . . . I didn't read anything like that into it'. Before

interviewing Sheldon, I told him that the major purpose of the interview was because we were worried that there might indeed be a get-out clause. But Sheldon was wholly unequivocal; he was absolutely certain, throughout the filmed interview, that there were no get-outs.

On one interpretation, Sheldon's present embarrassment can be blamed almost entirely on Sir Gordon Downey. It was Downey who later drew Clause 12 to Sheldon's attention, and who has since briefed journalists that it is a get-out clause. It was also Downey who wrote in 1982 that it was 'likely' that he would 'wish to consult the Chairman of the PAC' about things like Zircon. Then he was told about Zircon in 1983, and still hadn't got round to mentioning it to Sheldon four years later. When, one wonders, was Sir Gordon Downey going to decide that the time was ripe to tell the PAC about Zircon?

But Downey's get-out clause is a legalism. As interpreted, it flies in the face of the whole purpose and spirit of the Chevaline agreement. It completely defeats parliamentary accountability, so far as sensitive projects like Chevaline and Zircon are concerned. *And it conflicts totally with*

what all the parties involved believe (as we quote them above) to be the spirit and effect of the Major Projects Statement.

Nor does Downey's get-out clause even begin to appear valid in orthodox drafting terms. When he submitted his Note to the PAC, the Major Projects Statement did not exist — it was set up following the report of which it forms part. The title and content of the Note show it to be concerned with a quite different subject. It is entitled 'Report on Value For Money (VFM) studies', and it 'concentrates on VFM examinations or projects and programmes'. Later, Downey says that 'This paper is mainly a statement of practice *as it has evolved so far* (our italics) . . . I would in due course expect to report more comprehensively on those . . . main systems of financial control which I intend in future to undertake.'

Downey now points out that the PAC, in the same report, did 'endorse' what he said. But Downey himself goes on in the Note to recommend that the PAC should make new rules such that they should be given the annual statement ('with whatever classification is

needed') of the expenditure on major defence projects. This, he said, 'would place the onus on accountability where it belongs'.

Who to believe

Parliament will have to decide whom it wishes to believe about the Chevaline agreement. They can choose between Lord Barnett's 1982 report which firmly concluded (as does the Zircon programme) that 'Full accountability to Parliament in future is imperative'. Or they can choose instead Sir Gordon Downey's legalisms.

They must also choose between the Robert Sheldon of 7 October and the Robert Sheldon of 27 January. Whom are they going to believe? Until that is sorted out, scandals like Chevaline, and Zircon can happen again, and again. Sir Gordon Downey admitted as much this week, and claimed that he had 'always made it clear to Parliament that there was certain information which on national security grounds they would not get. This was not overtaken by the MoD agreement to supply the Project Statement.'

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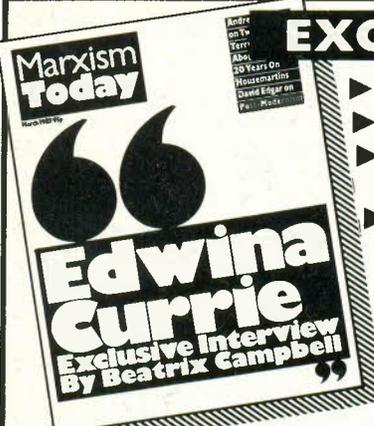
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