

## LEADERS

ity to retain skilled pilots to the supply of spare parts for military aircraft. To these logistical arguments can be added President Bill Clinton's unwillingness, at this precarious moment, to pick fights with the armed service chiefs. With public coffers relatively full, and the prospect of mid-term elections in which defence could be a pressing local issue, the line of least resistance lies in giving the military establishment (and all its constituent parts) what it wants.

### Boldness is all

No responsible politician could ignore the recent warnings from America's top officers that, unless annual defence spending is raised by at least \$20 billion, their mighty arsenal could turn into a "hollow force", bristling with expensive equipment which cannot be used because of poor maintenance and staffing. But America's political leaders lack the confidence to ask harder questions of the service chiefs—such as why the "readiness" problem has arisen so suddenly in the past few months, and whether it could have been averted by more efficient use of the existing defence budget.

Political courage, and a readiness to question conventional military wisdom, will be needed if America's armed forces are to make the switch from fighting yesterday's wars—in which one country's heavy armour did battle with another's—to the information-age conflicts of tomorrow. Institutional and economic interests are bound to be hurt when a behemoth like the Pentagon re-orientes itself to deal with a world that is much less predictable, but no less dangerous, than that of the cold war. And among defence experts who are not beholden to any special-interest group, there is a growing

consensus that the Pentagon has been too slow to adjust.

Who is to blame for this state of affairs? There are some obvious culprits: legislators who doggedly insist on maintaining military bases, and industrial assembly lines, in their home districts, and service chiefs who are keener on scoring points over rivals than on shaping America's overall defence posture. At a time of hard decisions about how to counter fanatics with biological weapons, or save lives in former Yugoslavia, it is exasperating that base closures have proceeded much more slowly than the broader drawdown of the cold-war armed services. And efforts to develop anti-missile defences—which have little to show for \$40 billion of taxpayers' money—have been frustrated by rivalry between the army, navy and air force. Meanwhile, political favouritism still distorts the defence budget. With unusual bluntness, military commanders recently told Congress that they were ordering too many C-130 transport aircraft—which happen to be made in Georgia, home of the House speaker, Newt Gingrich.

But criticism of service chiefs, or legislators with local loyalties, is in danger of missing the point. Every player in America's defence debate has a corner to defend; there is nothing wrong with that, so long as countervailing pressure is applied by policymakers who have the nation's broadest interests at heart. The onus is on the Clinton administration to say precisely which fighter aircraft, helicopters or ships will have to be sacrificed in order to free money for electronics or information systems that are really needed. Such hard choices are bound to involve a political cost. But if the urgency of America's defence dilemma is explained to them, there is no reason why America's voters should not understand.

## Arresting Pinochet

### It was right

CHILE'S General Augusto Pinochet told the *New Yorker* that England was the ideal place to live because of its respect for rules and civility. These things sometimes clash. It was uncivil of Britain to have arrested its frail guest in his London hospital room at the behest of a Spanish judge, but doing so was within the rules of international law. It was also morally right. General Pinochet is not just an old man with a bad back. He is a former dictator with innocent blood on his hands. Insofar as the law permits—which the courts have still to decide—he should be held to account for his crimes.

Those who think otherwise make several arguments, of which one is plain wrong. It is wrong to argue that the amnesty the general extracted from his own country when it returned to democracy puts him beyond the reach of courts elsewhere. He is not, by a long shot, the world's worst former dictator, or even Latin America's. But there are grounds to believe that he has violated plenty of international laws. Even if Mr Pinochet really was fighting a civil war, as he claimed, the four Geneva Conventions make it illegal in an internal conflict for a government to murder or torture anyone not taking active part in hostilities, who has laid down their arms or is sick, wounded or in detention. Moreover, once he had gained control of the country, the murder, torture and imprison-

ment over which the general presided clearly violated the Nuremberg charter and the UN Convention against Torture.

Another argument says that even if a relevant body of international law exists, there are humane and practical reasons why it is seldom enforced. The general's arrest has not only disturbed the delicate political balance inside Chile (see page 33), but sent the wrong message to other dictators. In many parts of the world, from South America to South Africa to Eastern Europe, despots have been eased bloodlessly out of power only after being promised immunity from punishment. Without such a promise, bad men would have every incentive to hang on violently until the bitter end.

### Just stay in your palace

True: but beside the point in this case. It is still open to countries to offer amnesties as they make the transition to democracy. Mr Pinochet is in his present pickle not because Chile has broken its promise to him but because the general made the mistake of swanning around the world on what turns out to have been the false assumption that the decision of Chile's polity binds the rest of the world's courts. It is a good thing that it doesn't. It may be necessary for unfortunate countries to promise former dictators safety at home. But coaxing them





## LEADERS

from power does not require adding the bonus of a safe tea in London with Lady Thatcher.

Which brings in the third argument. Lady Thatcher took tea with the man who helped Britain in its Falklands war but happened to be a dictator. The dictator happens not to be the cup of tea of Tony Blair, who did not plan the trap that snapped on the general but does not seem inclined to rescue him. Should such changes of political fashion determine a man's legal fate? If so, why not arrest Fidel Castro for his alleged human-rights abuses? To stretch a point, there are people who say that Henry Kissinger's bombing of Cambodia violated the Geneva Conventions. Would it not be ludicrous if the Pinochet precedent forced people as different as Messrs Castro and Kissinger to fear, whenever they were abroad, that some judge somewhere might demand their trial under some

human-rights statute?

Well, no. Such people would have nothing to fear unless they had indeed tortured or mass-murdered or bombed indiscriminately. The necessary business of *Realpolitik* would be protected by the rules of diplomatic immunity (which Britain says the general did not enjoy) that exist for expressly that purpose. Of course it would be wrong for just any judge applying just any law to reach beyond his borders and pluck foreigners for trial. But laws aligned with international treaties, as (according to the Spanish judge) in this case, are another matter. It would be better to make such prosecutions less arbitrary by giving them to the international criminal court whose creation America opposes. Meanwhile, the Pinochet arrest marks a modest step towards the sort of world in which powerful people think twice before they do evil.

## Rules and referendums

**The British government's increasing use of referendums will be an advance for democracy only if the government accepts the need for impartial rules**

**"I**N THE face of international aggression unleashed against the government of the fatherland, I support President Pinochet in his defence of the dignity of Chile." The rantings of an extreme Chilean nationalist? No, the words put to Chilean voters in a referendum in 1978.

Small wonder that many democrats have distrusted referendums. Clement Attlee, a former Labour prime minister, famously denounced them as "the instrument of Nazism and fascism." That is too extreme. Used conscientiously, as in Switzerland (which has held more referendums than all other countries put together), referendums are as pure a form of democracy as you can get. The difference between an authoritarian plebiscite and a democratic referendum lies in the rules under which they are held. In most European democracies, referendums are governed by the constitution. But Britain has no written constitution. So the government can make up new rules for each referendum it holds.

### Stand firm or Neill

In a recent report Lord Neill, who chairs the Committee on Standards in Public Life, suggested one way of defusing the dangers inherent in this system. He wants standard rules for the financing of referendum campaigns, to ensure that each side of the argument is properly put to voters. So it is disquieting that the Blair government has signalled this week that it is likely to ignore this part of Lord Neill's report.

The Blairites say that it would be absurd for ministers to call a referendum but not to express an opinion. That is surely correct—but it is also a misleading caricature of Lord Neill's proposals. If and when the government calls a referendum on British membership of a single European currency, or proposed reforms to the electoral system (see page 55), there is nothing in the Neill report that would stop Tony Blair and his colleagues from campaigning as hard as they like.

The real issue concerns whether public money should be available equally to both sides, or just to the one favoured by the government. The Labour Party told the Neill committee that it opposed spending taxpayers' money on unpopular

causes, such as the No campaign in the recent vote on Northern Ireland's peace deal. But if a referendum is worth calling, then it is also worth ensuring that voters hear both sides of the question equally. In the referendum on setting up a Welsh assembly, the No campaign nearly did not start at all because of a dire shortage of cash—but still came close to winning.

Lord Neill also proposes that the government should be banned from distributing literature on referendum issues. He records complaints that, in both the Scottish and Welsh referendums, the government's supposedly neutral literature biased readers towards a Yes vote. Instead the Neill report suggests that both sides of a campaign should receive enough public money to set up a functioning campaign headquarters and to send a free mailshot to voters.

But what if there is a demand for more information, or a neutral reading of the issues? It would clearly be wrong for a government which supports one side of the argument to be the arbiter of what information is relevant and neutral. But a possible compromise would be for any factual briefing to be agreed between the two sides. Failing that, it should be cleared by an independent Election Commission, such as the one the Neill report recommends.

Lord Neill's report was limited to political finance. So his recommendations, though necessary, are not enough. The way the question is asked can, as General Pinochet realised, sway the results of referendums. So can the timing of referendums, the threshold required for victory, and the length of the campaigns. All these issues should be included in the remit of the proposed Election Commission. There is even a case for allowing an independent body to decide the issues on which referendums need to be held: which issues are important enough to require a separate vote?

Already, the present government has matched the total of referendums previously held in Britain. In theory, this is good news—it is right that people should have a direct say in big constitutional issues. But if referendum results are to be accepted as legitimate, the contests have to be accepted as fair.

