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PREM 19/330

Part 3.

Confidential filing

The Top Salaries Review Body (TSRB) report on Ministers and Members of Parliament's pay. Possible revised Ministerial Salaries Act.

PARLIAMENT

MEMBERS

Part 1: June 1979
Part 3: July 1980

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~11.7.80~~		28.11.80					
~~16.7.80~~		ends –					
~~18.7.80~~							
~~21.7.80~~							
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~~10.11.80~~							
~~28.11.80~~							
~~3.12.80~~							
~~5.12.80~~							

PREM 19/330

●PART 3 ends:-

CSD to CDL Office 28.11.80

PART 4 begins:-

RTA to CAW (A03752) 5.12.80

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
CC(80) 29th Conclusions, Minute 1 (Extract)	17/07/80
C(80) 47	23/07/80
Limited Circulation Annexe, CC(80) 30th Conclusions,	
Minute 2	24/07/80
C(80) 50	29/07/80
CC(80) 31st Meeting, Item 3	31/07/80

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed Wayland   Date 19 August 2010

PREM Records Team

LK

Nick Sanders.

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PA

R A Birch Esq
Chancellor of the Duchy of
Lancaster's Office
70 Whitehall
LONDON SW1

Your reference

Our reference

Date
28 November 1980

Dear Robin

PAY AND PENSIONS OF MPS

I attach a draft submission from the Chancellor to the Prime Minister about MPs pay and pensions, setting out the points for decision. The material on the accrual rate was of course provided by Dick Saunders, to whom I am copying this letter. The paper has been drafted on the assumption that the issues will be settled in correspondence or bilaterally between the Prime Minister and the Chancellor, but it could easily be used as the basis for a Cabinet discussion if necessary.

The submission does not suggest what should be done if the Government again loses on any of the three issues, as I imagine that in that event the Cabinet will wish to reconsider its position.

Yours sincerely

Alan Williams

A R Williams
Pay 3 Division

ENC

LK

DRAFT

Prime Minister

PAY AND PENSIONS OF MPS

You will recall that on 21 July the House of Commons approved a resolution calling for an increase in the rate of pensionable pay for MPs to £13,750 (against a Government proposal of £13,150), a link between Members' salary and that of a specified grade in the public service, and an increase in the accrual rate for Members pensions to 1/40th of final salary for each year of service. In my statement to the House on 7 August, I said that these issues raised considerable complexities and that the Government had decided to place ~~on~~ a factual paper before Members; the House would then have an opportunity to vote after the recess on further proposals in the light of that paper.

The factual paper was circulated on 23 October. Since then I have had about a dozen letters from individual Members, expressing a range of opinions from continued support of the points in the July resolution to outright opposition, and I have consulted Edward du Cann, Paul Bryan, Charles Morrison and Kenneth Baker. I will also be seeing opposition representatives shortly. At the meeting with the representatives of the 1922 Committee a number of proposals on how the Government should now proceed were put forward and I would be grateful to have your views, and those of colleagues, on them.

Pensionable pay

The factual paper pointed out that the Government's treatment of MPs pay was on a par with our treatment of the pay of the other Top Salaries Review Body groups. If the House insisted on the full Boyle rate for Members' pensions (£13,750), it would be virtually impossible not to allow the other groups the same thing. I am pleased to say that the representatives of the 1922 Committee took this point and said that they would support the Government's original proposal for a pensionable pay rate of £13,150. I propose therefore that we should put down a fresh motion fixing pensionable pay at £13,150. The relevant legislation requires that, to be effective, this motion must have The Queen's recommendation, and it will not therefore be amendable. For the July debate we put down two identical motions, one framed as an expression of opinion in order to give the House an opportunity to make amendments. The representaives of the 1922 Committee advised against this procedure this time round, and I agree with them. It could only add to our difficulties.

Linkage

The factual paper set out the arguments against any form of linkage but said that if the House was determined on ~~a~~ linkage then the least damaging system would be to have independent reviews of MPs' pay about once every five years and linkage operating between these reviews. The link should be with a "basket" of outside pay rates - the paper suggested a basket of Civil Service grades.

The representatives of the 1922 Committee felt that opinion in the House was still in favour of linkage and that the form of linkage suggested in the paper would find support. They recommended

against outright rejection of any form of linkage by the Government and proposed instead that a committee of the House should be set up to look in greater detail at the issue.

I agree with this view. I fear that if we put down a motion rejecting linkage altogether we shall lose. I therefore suggest that our motion should propose that further consideration should be given to the idea of having quinquennial independent reviews of Member's salaries with updating in the intermediate years by reference to a basket of outside comparaters, and that this consideration should be undertaken by a Select Committee. If the House accepts this proposal we can follow it up later with a motion naming the members of the Select Committee and settling other procedural points. In my speech I would make it clear that the Government were still sceptical about linkage but that we were prepared to consider what the Select Committee might have to say.

Pensions Accrual Rate

An accrual rate of 1/40th would make the parliamentary pension scheme considerably more favourable than almost all other public sector schemes. The Government's factual paper therefore pointed out the high cost and the possibly serious repercussions if it were pursued. The representatives of the 1922 Committee indicated that, although there was still a strong groundswell of opinion in favour of 1/40ths, we could probably dissuade the House from pursuing it at the present time if the Government were to make a worthwhile concession on the purchase of added years. At present Members may purchase added years at any time by periodical

contributions or, within 12 months of entering the House, by lump sum. The proposal would be to allow payment in the latter case by instalments spread over, say, 5 years, in order to ease the financial burden on the Member. A new one-for-all option for lump sum purchase by instalment would be given to all Members. Thus a Member who is relatively close to retirement, and could not buy much extra service by periodical contributions, could find it easier to supplement his pension by lump sum purchase of added years. I am advised that this is technically feasible and indeed is already a feature of one or two public service pension schemes. I therefore recommend that we should make this concession as an alternative to the 1/40ths.

There is, however, one small point that I should mention. The contribution rates for buying added years in all the public service schemes are currently being increased on actuarial advice, and the Government Actuary's Department have just proposed revised rates for the Parliamentary scheme. If we did not introduce the new rates at the same time, there would be some Exchequer subsidy to those choosing to take up the new option (for a 50 year old Member buying 5 extra years, it would amount to £3,000, while the Member himself would pay about £10,000). However, only the Civil Service out of the other public service schemes has yet introduced the higher rates. To do so immediately for MPs would seem churlish and I am convinced that it would endanger any agreement not to pursue 1/40th accrual. To delay implementation of the higher rate for about a year would be a small price to pay for persuading Members to drop their proposals for faster accrual, and I hope we can agree that I should follow this course.

Conclusion

Subject to your views, and those of colleagues, I propose the following (once I have completed consultation with Opposition interests).

i. to put down a single unamendable motion fixing the pensionable pay of MPs at £13,150

ii. to accept that linkage, on the bsis of quinquennial independent reviews and the use of a basket of comparators in intermediate years, should be considered further by a Select Committee;

iii. to urge the House to reject the 1/40ths accrual rate and to offer Members the opportunity to make lump sum purchases of added years on an instalment basis as an alternative: the cost of any added years to remain at the old rate for about a year.

I am copying this minute to other members of the Cabinet and Sir Robert Armstrong.

010

cc Mr Gow

2

CDL 10/80

PRIME MINISTER

Astonishingly good news

MS 12/11

NOTE OF MEETING ON MPs' PAY AND PENSIONS HELD ON 10 NOVEMBER 1980

Present : Chancellor of the Duchy of Lancaster
Mr Edward Du Cann, MP
Sir Paul Bryan, MP
Mr Charles Morrison, MP
Mr Kenneth Baker, MP

In Attendance :

Mr Saunders) CSD
Mr Williams)
Mr Birch

The Chancellor summarised the results of a discussion with the Members as follows :

a. It was agreed that the representatives of the 1922 Committee would not press for the pensionable rate of pay to be set at £13,750 and that they would hope that a non-amendable Motion setting the pensionable rate of pay at £13,150 and accompanied by The Queen's recommendation would be passed by the House.

b. On linkage, as a basis for determining the pay of MPs, the discussion had shown that, in general, the proposals in the paper for quinquennial independent review and intermediate updating of salary by reference to a basket of analogues would find favour with the 1922 Committee and, in their view, a Back Bench committee should be appointed, chaired by Mr Du Cann, to study the possibility in greater detail. In view of the state of opinion in the House, it was desirable to leave this issue in play for a while, avoiding outright rejection.

c. On the rate of accrual of pensions, it was the clear view of the executive of the 1922 Committee that, in principle, accrual at the rate of 1/40th of final pensionable salary per year was appropriate but that this was impossible in present circumstances. It would, however,

assist the Government in securing rejection of the principle of "40ths" if certain concessions could be made on the following lines :

(1) In addition to the existing facility to buy added years by lump sum within 12 months of entering the House, a further once-for-all option for 12 months only from a current date, and

(2) Provision, if this were possible, for purchase of added years by lump sum to be made easier by payment through periodical subscriptions.

In discussion with officials, the point was made that the option to purchase added years by lump sum could not be maintained on a continuous basis since the individuals would then be able to gain unfair advantage by chosing the times at which they bought their added years (by buying them cheaply just before a sub stantial pay rise). If the option were opened once-for-all for existing Members for a further 12 months, this would not preclude further new Members in the future being given the option in the usual way during the first 12 months of their membership of the House. The idea of buying added years by monthly instalments (for example) would need to be examined; it could be much more attractive for Members but would need to be subject to a time limit (eg. it would be necessary for instalments to be completed within a period of, say, five years) and it would have to be made clear that unlike the instalments under the normal arrangements for buying added years, these payments did not attract tax relief.

In conclusion, the Chancellor said that he would look into the form of the Government Motion which he would need to present to the House relating to the pensionable rate of pay and would consider whether such a Motion should extend to subjects of linkage and additional arrangements for the purchase of added years.

RAB

RA BIRCH
11 November 1980

Copy to : Mr Sanders (No 10); Mr Le Cheminant, Mr Hyde (Cab Off)
Mr Maclean, (Chief Whip), Mr Williams, Mr Saunders (CSD)

12 NOV 1980

Civil Service Department
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CHANCELLOR OF THE DUCHY OF LANCASTER
31 OCT 1980
25

Parly Member

PA

MS

R A Birch Esq
Chancellor of the Duchy of
Lancaster's Office
Privy Council Office
70 Whitehall
LONDON SW1

Your reference

Our reference 3/11

Date

31 October 1980

Dear Robin

MP's PAY AND PENSIONS

As you requested, I attach a briefing for the Chancellor for his consultations in the House on MPs pay and pensions. It is in the form of questions that the Chancellor might like to put to those he is consulting, with supporting material. The section of the accrual rate was provided by Dick Saunders.

Following the consultations Ministers will need to be in a position to decide the following points:

i. Whether to defer to the wishes of Members (assuming that they still differ from those of the Government) on any of the three issues before the debate.

ii. If not, whether to defer on any of the issues immediately following a further adverse vote by the House.

iii. If the higher rate of pensionable pay is agreed for MPs, whether to give it to the other groups.

iv. If linkage is accepted in principle, whether to pursue the basket idea.

v. Whether to pursue the lump sum compromise as an alternative to the 1/40ths accrual rate.

I am copying this letter to Dick Saunders here.

Yours sincerely

Alan Williams

A R Williams
Pay 3

CONSULTATIONS ON MPs PAY AND PENSIONS

When the Chancellor is conducting his consultations through the usual channels and the Parliamentary Parties on MPs pay and pensions, he might like to seek answers to the following questions which arise from the factual paper circulated to all Members on 23 October.

PENSIONABLE PAY

Q1 Will the House accept £13,150 (the Government's original proposal) as the proper rate of pensionable pay in the light of the arguments about repercussions?

The Chancellor will wish to make it quite clear that if the House continues to vote for pensionable pay of £13,750, the Government believe that it would be virtually impossible not to allow the full TSRB rate for the other TSRB groups (nationalised industry board members, the Judiciary, senior Civil Servants and senior officers in the Armed Forces), and the full Pay Research rate for Assistant Secretaries and Senior Principals. The House would in effect be voting for higher pensionable pay for all these groups.

If the indications are that Members are still in favour of higher pensionable pay, two further questions arise:

Q2 Would many Members be angered by a Government motion which asked for their approval of £13,150 as the pensionable pay rate?

Q2(a) Should there be an amendable motion to this effect, or would an effective one suffice?

Q3 Do members expect to have their actual pay supplemented to enable them to meet the cost of their contribution towards the extra £600 of pensionable pay?

On the first question, it should be noted that an effective motion on pensionable pay requires the Queens Recommendation. There is no way such a motion can be amended, even by the Government.

On the second question, the Chancellor may recall that the original motion passed by the House on 21 July does not specify any further supplement. However this was probably an oversight. The Chancellor will presumably not wish to commit the Government on either of these points but it would be helpful to have the reactions of those he is consulting.

LINKAGE

Q4 Are members still in favour of linkage or have they been dissuaded by the arguments in the factual paper?

If it appears that linkage is still popular,

Q5 What are Members' views about the "basket" arrangement mentioned in the paper?

The paper does not set out the basket idea in any detail. Some of those consulted may ask for more information. The main elements of the proposal are as follows:

- Every five year or so (or once each Parliament) the proper level of MPs' pay would be independently reviewed

- Between reviews MPs' pay would increase annually in line with the increases (if any) of a basket of Civil Service grades

- The basket would contain a wide range of grades to avoid both the identification of MPs' pay with that of any particular grade in the Civil Service and the idea that the work of MPs could be equated with that of a specific Civil Service group. The range of grades would be such as to include pay rates both above and below that of MPs so that differential movements in higher and lower rates would be balanced out. A possible basket would include all grades in the Administration Group between HEO and Assistant Secretary plus equivalent grades in the Science and the Professional and Technology groups

- The pay increase for MPs would be the average of the increases in the maximum of the scale of each grade in the basket

- MPs would continue to have their pay increased on their current review date (13 June) but if there were staging for Civil Service pay increases, there would also be staging for MPs. If one of the grades in the basket settled late, MPs would get an increase based on the management offer for the outstanding grade which would subsequently be adjusted to take account of the final settlement.

The Chancellor might wish to stress that the Government view this as very much a second best. They would prefer not to have linkage at all. However if it were to be introduced, it would be essential to have peridic independent reviews to ensure that Members' pay was at the right level. It would also be important not to identify MPs' pay with that of a narrowly defined group - hence the basket. A basket which went wider than the Civil Service would be difficult to administer because of different settlement dates and patterns of pay increases. The grades selected for the basket are not intended to be comparable to MPs, they are there only to give a broad spread of pay rates.

ACCRUAL RATE OF PARLIAMENTARY PENSIONS

Q6 Is the House still likely to be in favour of 1/40th accrual for Parliamentary pensions in the light of the factual material provided in the Government paper?

The following subsidiary questions arise:

Q7 The paper makes clear that, if the Exchequer bore the whole cost, or a large proportion of it, the Parliamentary scheme would be unusually generous in the apportionment of cost between employer and employee (for want of better terms). In the extreme case, the Exchequer contribution would be doubled. Are Members likely to judge this publicly unacceptable?

Q8 On the other hand, if Members themselves bore a substantial proportion of the cost, this would be little different from what is available under the added years facility. The present option of buying added years is however more flexible, in that Members may take decisions in the light of their own circumstances. Is there any real need to beyond this?

Q9 At the end of the paper, the possibility is floated of providing a further option to purchase added years by lump sum. This is expensive, and by no means all Members could take advantage of it, but would this be likely to prove an acceptable compromise?

The Chancellor might take the opportunity to mention informally that the Government hopes to legislate in the coming session to implement the two recommendations in TSRB 13: grants from the Members' Fund for pre-1964 Members, and greater flexibility in the transfer arrangements. He will be initiating more formal consultations separately, on the basis of a paper summarising the proposals. But the Chancellor could try to make something of the latter proposal in particular: this will enable Members to build up a fuller entitlement in the Parliamentary scheme; it recognises the facts of Parliamentary life; and the Government's proposals (a transfer option on every change of circumstances) are better than the TSRB recommendation (extending the existing 12 months option period after first entering the House to 5 years).

On the paper itself, the following are among the questions that might be raised:

Paragraph 11 - Why compare with public service schemes?

Parliament is ultimately responsible for the terms of these schemes. It would be odd if MPs gave themselves a significantly better benefi than they were prepared to allow others.

Paragraph 12 - Judges are cited as a late entry profession. Why not MPs?

One normally becomes an MP much earlier in life then one becomes a judge. Judges will have spend the earlier part of their careers as barristers and will have had no opportunity to belong to an occupational pension scheme. The judicial pension arrangements are long-standing and have been seen in part as compensation for loss of income on becoming a judge. Even so, the scheme is very generous by the standards of the public service. It is possible that different standards might be applied were it being introduced today.

Paragraph 15 - Surely pension rights in other schemes would not be lost?

This is an over-oompressed explanation of a complex area, the details of which the Chancellor could ask officials to explain. Briefly, if one is in two schemes at the time of retirement, the maximum pension is 2/3 of combined salary. But if old pension rights had been transferred in to the Parliamentary scheme, they would be lost after 26 years. If, on the other hand, they had been preserved, there would be no effect so long as the Parliamentary scheme accrued at 1/60ths. But if the Parliamentary accrual rate was improved, the Revenue rules require the preserved benefit to be treated as a "retained benefit" (ie as if it had been transferred in). That benefit would not itself be affected, but the Member could only accrue entitlement in the Parliamentary scheme over a period of less than 26 years.

The Chancellor might offer to explain this to the House in the forthcoming Debate.

Paragraph 15 - Would contributions cease after 26 years 8 months?

No. That would involve increasing contributions by other Members or by the Exchequer.

Paragraph 17 - Surely the Government would resist such claims by public service unions?

Of course. But it would have difficulty in explaining to the unions and their members why in equity MPs were in any different position. A good many public service employees (eg doctors, dentists, teachers, scientists, accountants, lawyers) could advance very similar arguments to those put forward by MPs.

Paragraph 19 - But what about the Member whose previous job was non-pensionable?

The purpose of the added years provisions is to give MPs in this position the opportunity to catch up. It is for this reason that the opportunity to purchase added years is becoming more widespread in the pensions world. Enhanced service or rapid accrual because of a lack of pension entitlement in previous employment is most unusual.

1.

PA pl
MS

Then we must do more to have the consultations on other groups, not.

1. MR. WHITMORE

2. PRIME MINISTER

MPs' Pay

I attach a minute from the Chancellor of the Duchy about the next steps on Members' pay. I gather that, perhaps not surprisingly, the Chancellor of the Duchy is moved to look favourably on the proposal that pensionable pay for Members should be £13,750 and not £13,150. In the last resort, it may be difficult to persuade the House to do anything other than go for £13,750, and it may be a necessary price to pay. Rather more worryingly, I think that the Chancellor of the Duchy may also be disposed to try and find a way to accept Members' wishes on pension accruals. In my view, we ought to try and stiffen his resolve on this matter before he enters into consultations.

Finally, he may want to be sympathetic towards linkage if his consultations reveal - as they will - a weight of opinion in favour of the linkage principle.

In view of all this, might this topic usefully be discussed at the meeting with the Chief Whip on Monday morning?

I agree.

Yes MT.

MS

Mr Sanders. MS

There was a brief discussion on this at this morning's meeting with the Home Secretary, Lord Thorneycroft and the Chief Whip.

The Home Secretary was very unhappy about the question of MPs' pay rumbling on this stage in the pay round and argued that we should try to delay matters. But nobody managed to think of how this was possible.

It was left that the Chief Whip would try and stiffen the backbones of the Secretary. When I asked the Prime Minister afterwards whether she would see Mr Sir John Stokes, she said no.

AT 3xi

31 October 1980

PRIME MINISTER

MPS' PAY AND PENSIONS

Now that I have sent out the factual paper on pay and pensions of MPs to all Members under cover of my letter of 23 October, we need to begin consideration of the next steps. I have discussed these with the Chief Whip and we think that it will be important to undertake urgent discussions with our own supporters in the House and with the principal Opposition interests. Accordingly, I propose next week to hold meetings with Edward du Cann and Kenneth Baker, and separately with Michael Foot and Alan Beith to sound likely Parliamentary reaction to the content of the factual paper.

In the letter, as in my statement to the House on 7 August, I promised consultations on linkage of salary, but it seems wise in view of the potential difficulties with the pensionable rate of pay and the accrual rate for pensions to extend the consultations to these subjects also. As soon as they are complete I will report to you more fully with proposals for the next stage. You will then be able to judge whether a Cabinet discussion seems necessary or the matter can be cleared in correspondence.

As to timing, we are committed to give Members an opportunity to vote on further proposals; the Chief and I would like to dispose of this matter so far as possible before the Prorogation (perhaps with a short debate during the week after next), but it is not yet clear whether this will in fact be possible.

I am sending copies of this minute to Willie Whitelaw, Geoffrey Howe, Christopher Soames, Michael Jopling and Sir Robert Armstrong.

NStJS.

N St J S
28 October 1980 (recd 30/10)

30 OCT 1980

SH

PA

MS

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OFFICE OF THE 24 OCT 1980 DUCHY OF LANCASTER

16 Parliament

R A Birch Esq
Chancellor of the Duchy of
Lancasters Office
Privy Council Office
70 Whitehall
LONDON
SW1

Your reference

Our reference

Date

24 October 1980

Dear Robin

MOTIONS ON MPs' PAY AND PENSIONS

You asked for advice on the Motions that will be needed when the House of Commons again debates MPs' pay and pensions.

We shall certainly need an effective motion on pensionable pay. The only question is whether this motion should refer to the rate of pensionable pay being urged by the Government, £13,150, or the rate which MPs voted for in the resolution of 21 July, £13,750. The disadvantage of using £13,150 is that it could annoy MPs, who might feel that they had already rejected this figure, and that if it is thrown out again (as, I would guess, is quite likely) we would then have to table yet another motion. On the other hand, I hardly think it would be satisfactory for the Chancellor to table a motion containing the £13,750 figure and then stand up and make a speech urging Members to reject it! I suggested earlier that we might have two effective motions tabled simultaneously, one mentioning £13,150 and the other £13,750. The £13,150 motion would be voted on first and if accepted, the £13,750 motion withdrawn by the Chancellor; if £13,150 was rejected, the £13,750 motion would be moved immediately. However it was the opinion of Parliamentary Counsel that this would be a very strange procedure. I take the point, and I am therefore driven to recommend an effective motion referring to £13,150. As this would be a rejection of the views of the House as expressed in July, we would also need a similar motion framed as an expression of opinion so that it could be amended.

The plot would be as follows: the Chancellor urges Members to vote for £13,150, making it clear that if MPs award themselves higher pensionable pay the Government will treat other TSRB groups likewise; expression of opinion motion voted on; if passed unamended, the effective motion then put; if rejected or amended, the Chancellor withdraws the effective motion and promises to submit another as soon as possible reflecting the views of the House.

Neither linkage or the 1/40_ths accrual rate actually require motions. However if these issues are not voted on again, it will be difficult for Members to indicate whether or not they have accepted the arguments in the factual paper.

The Chancellor may feel that his consultations through the usual channels will establish whether linkage is still favoured by a majority. However if he thinks that this will not be enough, I suggest that we table a motion to the effect that MPs' pay should continue to be settled at regular intervals by the House and not linked to that of any other group. Members who disagree with this view will then have the opportunity to put down amendments or to vote against the motion. If the motion is rejected we will need to activate the "basket" proposal and in due course table another motion which acts out the details of the procedure for linking MPs pay to Civil Service grades.

The Section of the factual paper on the 1/40th accrual rate suggests that Members could be given the option to purchase added years by lump sum. It would be useful to have the views of the House on this proposal. I have discussed this point with Dick Saunders and we would recommend tabling a motion which stated that the House took note of the difficulties over increasing the accrual rate to 1/40th, considered that the purchase of additional years was a satisfactory alternative, and welcomed the proposal to make such purchase possible by lump sum.

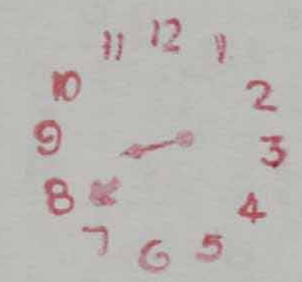
I am copying this letter to Dick Saunders here and to Lesley Furlonger, Parliamentary Counsel.

Yours sincerely

Alan Williams

A R Williams
Pay 3

28 OCT 1980



PA p1
MS

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

23 October 1980

To all Members of Parliament

Dear Colleague.

PAY AND PENSIONS OF MPS

You will recall that in my statement to the House on 7 August on the pay, pensions and allowances of MPs, I announced that the Government had accepted the resolution of the House on allowances for secretarial assistance and were asking the Fees Office to give effect to it forthwith, backdated to 13 June. On the matters relating to pensions however, while the Government had noted the view of the House, there were considerable complexities arising from the need to consider the repercussions for public service groups and the implications for public expenditure. The Government had therefore decided that before making further proposals to the House they should prepare a factual paper and place it before Members for consideration. Members would have an opportunity to vote on further proposals in the light of that paper after the recess. I said that the Government also proposed to discuss linkage of salary in the same paper and to undertake consultations on this subject in the autumn through the usual channels and through the Parliamentary parties.

... I now enclose a copy of the promised paper. I intend to arrange a further debate on the issues discussed in it as soon as possible, and in the meantime you will no doubt wish to consider the material set out in the paper.

Yours ever

Ian St John-Stevas

PAY AND PENSIONS OF MEMBERS OF PARLIAMENT

Introduction

1. On 21 July 1980 the House of Commons debated the Government's proposals on the pay, pensions and allowances of MPs. The House accepted that Members' salaries should be increased by 9.6% as the Government proposed, but expressed its opinion that the Government's proposed motion should be amended in the following four respects:-

i. That Members' notional salary for pension purposes should be set at £13,750 - the full rate recommended by the Top Salaries Review Body - with effect from 13 June 1980.

ii. That Members' pay should correspond in future to the salary paid to "a specified grade in the Public Service".

iii. That the accrual rate for MPs' pensions should be increased from $\frac{1}{60}$th to $\frac{1}{40}$th of final pensionable pay for each year of service.

iv. That Members' secretarial allowance should be increased to £8,000 pa - the full rate recommended by the Review Body - plus £800 pa for provision of a pension for the secretary or other employee.

2. The Chancellor of the Duchy of Lancaster announced on 7 August that the Government accepted the resolution of the House in respect of the secretarial allowance, but that because of the wider repercussions of the other three aspects of the resolution they would circulate a factual paper for the consideration of hon. Members after which the House would have an opportunity to vote on further proposals.

PENSIONABLE PAY

3. The House voted in favour of increasing the notional rate of Members' salary applying for pension purposes to £13,750, as against the Government's proposal of £13,150, which the House accepted as the salary rate from 13 June 1981. The immediate extra cost to public funds of putting this into effect would amount to some £60,000 in the twelve months from June 1980, in respect of the 16% Exchequer contribution alone. If Members' pay were supplemented, as in the past, to enable them to meet the cost of their extra contribution towards the extra £600 (although the motion passed by the House of 21 July did not specify this), a further £20,000 would be incurred.

4. There are, however, wider implications. None of the other groups covered by the Top Salaries Review Body (TSRB) have had their pensionable pay based on the rate recommended by TSRB in their most recent report. The Government believe that it would be virtually impossible to allow the full TSRB rate for Members' pensions and not for the other groups. In addition, Assistant Secretaries and some Senior Principals in the Civil Service are being paid substantially less than was indicated by the evidence collected in the 1980 pay research exercise, and no notional adjustment has been made for pension purposes. The Government believe that in equity if the TSRB rate is to be used for MPs, a notional pension rate would also need to be set for these grades.

5. The cost of these consequential adjustments to pensions would be met directly from public funds in pension payments to those retiring before April 1982. The approximate additional cost is estimated to be about £1¼ million (at current prices) in this and the next financial years and about £0.65 million per annum thereafter, made up as follows:-

	£000 1980 prices		
	1980-81	1981-82	Continuing Annual Cost
Exchequer contribution to PCPF	65	15	-
Pensions and lump sums: Civil Service Under Secretaries and above.	200	200	100
Pensions and lump sums: other TSRB groups	300	200	150
Pensions and lump sums: Civil Service Assistant Secretaries and equivalents	600	800	350
Pensions and lump sums: Civil Service Senior Principals and equivalents	100	100	50
	1,250	1,300	650

LINKAGE

6. The House voted in favour of the following amendment:

"In the light of the continued difficulty in providing fairly for the salaries of Members of this House, the salaries of Members should be regulated to correspond with the amounts of salary paid to a specified grade in the Public Service".

These issues have been considered before. In 1975 a resolution stating that it was desirable in principle that Members' pay should be linked with the Civil Service Assistant Secretary grade was passed by the House, and the Government of the day invited the Top Salaries Review Body to consider the question. The Review Body recommended firmly against linkage in their twelfth Report (Cmnd 7598, published in June 1979). The Government asked them to consider further the possibility of relating the salary of a Member to one or more analogues in the professional field but in their Report No 13 (Cmnd 7825 , published in February 1980) they once again advised against any form of link. Extracts from the relevant TSRB reports are attached at Annex A.

7. The arguments against linkage are as follows:

i. The House ought not in principle to give up making the

decision on the level of Members' pay. Circumstances change from year to year and there is no guarantee that any link would lead to salaries that Members would consider appropriate at a particular time. The House has both a right and a duty to settle the pay of Members taking into account all the relevant factors.

ii. A link between the pay of two groups ought to be based on the close similarity of their work, otherwise an increase for one is no grounds for giving an increase to the other. But there are no outside groups whose work is comparable to that of MPs. The job of a Member of Parliament is unique. It would be quite unjustified to change Members' pay in response to factors which have no bearing on Members' work.

iii. A link with an individual comparator would be highly undesirable as the sensitivity attached to Members' pay would probably be transferred to the comparator. One of the arguments put forward for linkage is that it would take MPs' pay out of the political arena but with a single comparator a more likely effect would be to transfer the political pressures to the pay of this group.

iv. A link with a pay index of a general kind would be less open to the objection above but it would make the pay increases of Members automatic in a way that is enjoyed by few employed groups. Moreover, indices reflect a wide variety of pay movements, many of which would be inappropriate as determinants of MPs' pay.

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8. These are serious objections and Members may feel that they amount to an overriding argument against the principle of linkage. If, however, the House continues to think that linkage is desirable, it will be important to devise a scheme that avoids the worst defects of the points considered above. It would seem necessary to retain a system of periodic independent reviews of Members' pay to ensure that the rate in payment is at a level which is not out of line with the tasks and responsibilities of Members and which takes account of all the relevant circumstances. This would also enable the House to express its views on Members' pay from time to time. Reviews once every four or five years, or once each Parliament, would seem appropriate and these periodic

reviews might continue to be conducted by the Top Salaries Review Body. Some form of linkage might then be operated between these reviews.

9. For the adjustments made between periodic reviews the objection to an automatic link with a general pay index given in paragraph 7 remains very strong. But a link might perhaps be established with the rate of increase in the pay of a "basket" of comparators. There is no outside group whose work is remotely comparable to that of MPs so private sector comparators seem out of the question. Possibly the least unsatisfactory course might be to use a "basket" of non-industrial Civil Service grades whose salaries are clearly known; and it would be sensible to include a wide selection of grades to avoid identification of MPs with any one of them and the problem mentioned in paragraph 7(iii).

ACCRUAL RATE OF PARLIAMENTARY PENSIONS

10. The Motion on 21 July recommended that Parliamentary pensions should accrue at the rate of $\frac{1}{40}$th of final pensionable salary for each year of reckonable service. The amendment did not specify whether the change should be non-retrospective (ie applying to service from a current date only) or retrospective in respect of past service of existing Members. The following paragraphs therefore consider the implications of both a retrospective and a non-retrospective scheme.

BACKGROUND

11. Parliamentary pensions accrue at the rate of $\frac{1}{60}$th of final pensionable salary for each year of service. About two-thirds of members of occupational pension schemes receive pensions of $\frac{1}{60}$th of salary at or near retirement for each year of service (or equivalent benefits). Within the public service, about 87% have $\frac{1}{60}$th accrual, or the broad equivalent in pension and lump sum. Members may of course opt to commute part of their $\frac{1}{60}$th pension to a lump sum. Annex B sets out the position for the main public service pension schemes.

12. With an accrual rate of $\frac{1}{60}$th, a full pension of $\frac{2}{3}$ final salary

is earned after 40 years. The intention is that full pensions are accrued over a full career. The extension of transfer and preservation facilities in recent years enables many people to earn a full pension without the need for more rapid accrual rates. The few examples of more rapid accrual in the public services date from a time when the present day facilities did not exist, and apply only to occupations where very late entry (ie judges) or relatively early retirement (eg policemen, firemen, armed forces) is the norm.

13. Parliamentary pensions are paid from the Parliamentary Contributory Pension Fund, to which Members contribute 6% of salary and the Exchequer a further 16%. Just under half the Exchequer contribution is to give credit for service before the pension scheme was introduced in 1964 in respect of which Members serving at that time paid no contributions. The Exchequer contribution is the actual charge on public funds. The average length of service as a Member of Parliament is 17-20 years, giving a pension from Parliamentary service alone of some 30% of final pensionable salary. TSRB has twice considered whether Parliamentary pensions should accrue faster than at present. The relevant extracts from TSRB 8 and 13 are attached at Annex C. TSRB drew particular attention in their latest report on these matters to two provisions of the scheme: the facilities for transferring pension rights from previous employment and for purchasing added years of service. These are discussed further in paragraphs 19-22 below.

Inland Revenue rules

14. The tax treatment of occupational pension schemes generally is governed by the Finance Acts 1970 and 1971. The Acts do not apply directly to statutory schemes, such as the Parliamentary scheme, but it has always been taken as axiomatic that such schemes should conform to the law and the practice which apply to the general run of occupational pension schemes. For a scheme to qualify for full tax reliefs, the Inland Revenue rules require:

a. that the pension at normal retirement age must not exceed $\frac{2}{3}$ final remuneration;

b. that employees' periodical contributions must not exceed 15% of salary.

A scheme not satisfying these requirements would enjoy no tax relief on employee contributions, or on benefits.

15. The effect of a. is that a full pension accruing at $\frac{1}{40}$ths would be earned after 26 years 8 months service, with no extra entitlement after that time. Any pension rights earned in other schemes would be largely or wholly lost once the Member had served more than 26 years 8 months in the House. However, the effect of b. is more restrictive. It would not be practicable to finance a $\frac{1}{40}$th accrual rate from employee contributions of less than 15% of salary. The balance would have to be met from public funds. This is discussed further in paragraph 16(i)-(iv).

Cost of $\frac{1}{40}$th rate of accrual

16. Four basic options are discussed below: a retrospective and non-retrospective improvement, financed wholly by Members themselves or by the Exchequer respectively. All figures quoted are approximate and would need to be re-examined if any of these proposals were adopted.

i. Retrospective improvement financed by the Exchequer

This would mean that all existing Members would have the whole of their pensions calculated on the $\frac{1}{40}$th basis, at no extra cost to themselves. This would require an increase in the Exchequer contribution of about 15% of salary, (making a total of 31%), falling to some 8½% (a total of 24½%) after about 20 years. This would approximately double the present Exchequer contribution of £1.4 million a year. At 37% (ie 6% from hon Members and 31% from the Exchequer) the initial total contribution would make the scheme one of the most costly in the country. The Exchequer share of $\frac{5}{6}$ would place Members in a privileged position compared to other groups of employees. For example, the majority of public servants pay between about a third and a half of the accruing cost of their pensions. And employees who participate in the earnings-related part of the State scheme pay just over a third of the cost.

ii. Retrospective improvement financed by Members

This could not be achieved by a flat rate increase in all Members' contributions, because those with long service would gain at the expense of those with short service. Contributions would have to be calculated for Members individually: the new rates of contribution would range up to about 50% or more of salary, with an average around 25%. This is clearly unrealistic, and would of course far exceed the Inland Revenue limit even for relatively new Members.

iii. Non-retrospective improvement financed by the Exchequer

If the improvement applied from a current date only, at no extra cost to the Member, the Exchequer contribution would have to increase initially by about 10% of pay roll to a total of 26%. The cost would be about £1 million a year, an increase of some $\frac{2}{3}$ in the present Exchequer contribution. The total contribution would be 32% (ie 6% from hon Members and 26% or so from the Exchequer). Again, with $\frac{4}{5}$ of the cost being from public funds, this would be considerably more generous than schemes available elsewhere.

iv. Non-retrospective improvement financed as far as practicable by Members

In this case, Members' contributions would need to increase from 6% to an average of 16%. To avoid breaching the Inland Revenue limit, the contribution would need to be limited to 15%, so that the Exchequer would meet some of the cost. Such an arrangement would be little different from the present added years facility (see paragraph 20 below), but without the flexibility of the present arrangements. If the Scott Committee, which is currently investigating the value of inflation-proofed public sector pensions, were to recommend an increase in Members' contributions, the scope for Members themselves financing an improved accrual rate would be further curtailed.

Repercussions and reactions

17. The benefits of the Parliamentary pension scheme are broadly in line with those of the main public service schemes. Despite its small size, the Parliamentary scheme influences public service schemes. Setting the accrual rate at $\frac{1}{40}$th would make it more favourable than virtually all the public service schemes, including those, such as the armed forces and the police, with enforced early retirement. Virtually all public servants in late-entry occupations, where, for example, there may be a need for lengthy professional and vocational training, accrue their pensions at $\frac{1}{60}$th. Even where early retirement is not the norm, few public servants serve the full 40 years: the average civil servant retiring today, for example, does so with 27-28 years' service. For all these reasons, pressure from public service staff interests for a similar improvement would almost certainly follow an improved accrual rate for Members. If $\frac{1}{40}$th accrual were conceded throughout the public service, the ultimate cost might exceed £1 billion a year at 1980 prices. Most private sector organisations could not match an improvement of this order at the present time. It would therefore tend to widen the existing differential between public and private sector schemes.

Transfer of pension rights and purchase of added years

18. It would however be possible to achieve the objective of the motion in most cases without altering the accrual rate and in a way that would allow individual Members more freedom in determining the accrual rate to apply to their own pensions. There are two features of the Parliamentary scheme which enable Members to retire on pensions which are nearer to the maximum $\frac{2}{3}$ of final salary than might normally be earned by service in the House: the transfer provisions, and the purchase of added years.

19. Where a Member has been in pensionable employment before entering the House, his former pension scheme may pay a sum of money to the Parliamentary Contributory Pension Fund representing his accrued pension rights, which is then translated into additional reckonable service in the Parliamentary scheme. The option to transfer in pension rights may only be exercised within 12 months of first entering the House, and TSRB have pointed out that this

is not a satisfactory arrangement: no further option is offered to a Member who loses his seat and is re-elected at a later date, or to a Member who becomes a Minister and has to relinquish outside employment. The Chancellor of the Duchy of Lancaster announced in February that the Government accepted that these anomalies should be put right, and it is intended that legislation to achieve this should be brought before the House as soon as possible.

20. However, even when a Member has transferred in such pension rights as he may have earned before entering the House, his prospective service up to age 65 may not be sufficient to earn a full pension. For this reason, Members have since January 1979 been able to purchase extra years of reckonable service, meeting the full cost themselves. The most advantageous means of doing this is by "periodical contributions". Under this method, the Member's contribution is increased from the present 6% (or, in future, whatever higher contribution may be introduced in the light of the Scott Committee's recommendations) by an amount depending on his age and the number of added years bought, subject to the 15% maximum, and on which he is entitled to tax relief. To take a representative range of examples within the contribution limit of 15%, Members entering the House for the first time between the ages of 45 and 55 could purchase between 9 and 4.2 added years. This gives an effective accrual rate of approximately $\frac{1}{40}$th for their service up to age 65.

A good many Members are already availing themselves of this facility.

21. Members may also purchase added years by lump sum within 12 months of entering the House at a cost which varies between some £1,700 and £2,800 per year purchased, depending on the Member's age. This buys an inflation-proofed benefit currently worth £220* a year. Although this option is less attractive than periodical contributions - the lump sum payment does not attract tax relief - it can supplement the pension of a Member already contributing at the 15% maximum rate. If the House takes the view that it should improve the entitlement of Members to pension, the Government would think that an appropriate solution could be found by a new option to purchase added years by lump sum.

Its O.K.

* is based on Rel £13,150 rate as opposed to general rate of pensionable rate!

Extract from TSRB 12 (Cmnd 7598, June 1979)

SALARY LINKAGE

62. We have recommended the salaries appropriate to Members of Parliament, Ministers and other office holders. The problem of how those recommendations, once implemented, can be kept up to date remains: it is a problem that has engaged the attention of those covered by our recommendations and a substantial amount of evidence has been put to us advocating some form of linkage between the pay of Members and certain other groups or to a particular index.

63. Such an approach is not new. Similar evidence was put to the Lawrence Committee in the course of its review of Parliamentary remuneration in 1964, and to us in relation to our reviews in 1971 and 1975. Each time it was rejected. Nevertheless, the underlying pressures for linkage remain. There is a wish to remove from the political arena the decisions on Parliamentary salaries, which under any system of independent review must be made by Parliament itself, and to provide greater protection against the effects of inflation. The combination over recent years of the high rate of price inflation, of relatively infrequent reviews of Parliamentary remuneration, and of general restraint measures has made it difficult for Parliament to be seen to vote itself the size of salary increase that is justified simply to catch up with the general movement of earnings outside.

64. It is therefore no surprise that the concept of linkage has continued to be canvassed in Parliament. In the House of Commons debate that took place in the context of our 1975 recommendations, Members of Parliament adopted a Resolution in the following terms:

> "It is desirable in principle that the salaries of Members should be regulated to correspond with a point on the scale paid to an Assistant Secretary in the Public Service not later than three months after the next General Election and annually until that date the salaries of Members should be increased by not less than the same amount of increase as the Assistant Secretary."[1]

No action has been taken on the Resolution. It was an expression of opinion which neither has legislative effect nor places an obligation on the Government. But during that debate the Government of the day gave a commitment that we would be asked to look at linkage in our next review. Our terms of reference reflect that commitment.

65. All Members were invited to comment on linkage in the questionnaire sent to them in the course of this review. Fifty three per cent of all MPs responded to the questionnaire, and nearly all of these replied to this question. Ninety per cent of those who did so (47 per cent of all MPs) preferred an automatic adjustment. Of the 307 proposals put forward by 271 Members, 59 per cent favoured a link with the civil service in one way or another, 7 per cent a link with the judiciary and 14 per cent a link with other professions. Just over 10 per cent of the proposals supported adjustment by reference to movements in general

[1] Hansard, Vol. 896, Columns 441–514.

indices; of these average earnings or average wages were most favoured. Most of the respondents who suggested a civil service link did not specify any particular grade, although the Assistant Secretary[1] was the most popular choice among those who did so. Many of those who have advocated some system of automatic adjustment have been more concerned with the advantages in principle than with the practical implications of a particular method.

66. Further support for the concept of automatic adjustment came in separate written or oral evidence. We include in this category the 62 Members who put forward a joint submission in favour of a link with the Assistant Secretary in the civil service. But we should also record that we have had other evidence to the contrary. Some Members oppose the idea of linkage for many of the reasons we have advanced in our earlier reports, reasons to which we would now like to return.

67. Proposals for links with other specific groups seem to us to have two major disadvantages. They tend to be based upon the assumption that there is a high degree of affinity between the work of MPs and that of the comparator group, rather than on evidence. This means that if, as we consider it to be, the job of an MP is *sui generis*, an MP could benefit from increases that are germane to the 'parent' group but not to MPs. There is also the danger, which is likely to increase as the size of the comparator group diminishes, that where the pay of the 'parent' group is settled by negotiation, the attachment of MPs' pay to it will impose an undesirable political pressure upon the negotiating process.

68. Linkage to an index of some sort, by its more general nature, would at least reduce these objections. But it would prevent the rational evaluation of the pay for the job against the background of the changing circumstances of the work. Furthermore, since an index reflects all forms of pay movements in the private as well as the public sector, Members might well find themselves in the position of benefiting from levels of increase which were, for example, in times of pay restraint, inconsistent with the Government's publicly stated policies.

69. A link to another group or to an index is not a solution that we can commend. We sympathise with the objective of those who advocate it, but remain of the view that the regular adjustment of salaries can be achieved more satisfactorily by the commissioning of regular independent reviews and by the implementation of the recommendations that result from them. Nevertheless, while we adhere to this view which we have expressed in our earlier reports, we do recognise that others are deeply sceptical about reliance on such a system in the light of the experience of recent years; and that this may lead to continued pressure to adopt some form of linkage. We have therefore set out below the principles that we consider should be observed if Parliament itself decides to go ahead with the introduction of the concept of automatic updating in relation to Parliamentary remuneration.

70. First, and most important, a system of updating should not attempt simply to replace periodic assessment of Parliamentary remuneration by an independent body. Its use should be limited to keeping an independently assessed salary level reasonably up to date between reviews. In this context, the maximum interval between such reviews should be 4–5 years.

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[1] Final agreement has not yet been reached on the salary scale for 1 April 1979 for the Assistant Secretary. An interim agreement provides for a scale of £10,947 to £13,378 by 4 annual increments from that date.

71. Second, the form of updating will be critical. It will be clear from what we have already said (paragraph 67) that we regard the idea of a link to a particular group as wholly inappropriate. A link to an index also involves difficulty. A general index related to the total work force in the UK is inappropriate; its use would increase the risk that the level of salary would be found to be higher than was justified at the next review. This is because in percentage terms increases at lower income levels have in recent years usually been higher than those at higher income levels; and we have no reason to believe that this relationship will change in the future. A better course would be to reflect movements at levels of pay comparable to the salary of an MP.

72. For this purpose, we consider that the most suitable procedure would be to make use of the Department of Employment's New Earnings Survey[1]. Percentage movements in earnings at an appropriate NES percentile, one that is close in annual terms to the recommended salary level of an MP, would be applied annually to that salary between reviews. The NES is based on data for April of each year, but it is not published until November. The present 'settlement' date for MPs is in June. For the purposes of an updating system between regular reviews, there would seem to be no reason why MPs' pay should not be adjusted in November of each year using movements derived from April – April data. It is for this reason that we have suggested that, if the full implementation of the salary level that we now recommend has to be staged, and MPs' pay is to be the subject of some form of updating, the staging should be completed by November 1980 (paragraph 21). The updating arrangement could operate from that date.

73. In forming the view that the New Earnings Survey is the most suitable source available for this purpose, we have not overlooked its disadvantages. It takes no account of superannuation and other relevant benefits or of pay settlements reached after, but retrospective to a date before the date of the survey. Nevertheless, we are clear that these disadvantages are less significant than those that would be associated with any other form of linkage.

74. A similar updating arrangement between regular reviews could notionally be applied to the Parliamentary salary of Ministers and other paid office holders in the House of Commons. But we do not consider that this is an option that should be applied to the salaries attached to the offices themselves, because the sample size in the New Earnings Survey at the higher Ministerial salary levels would be small and possibly unreliable statistically. Moreover, we consider that it would not be appropriate for the salaries of Ministers, who have a responsibility for the national economy, to be adjusted automatically in this way.

75. Nevertheless it would be wrong if an appropriate differential were not maintained between the salaries of Ministers and of backbench Members. In these circumstances, relative salary levels across the whole field of Parliamentary remuneration would be distorted, and it would be increasingly difficult to fill Ministerial appointments, particularly at the junior level, with men and women of the calibre required. We consider that the proper solution is a standing arrangement for a regular independent review of the pay of Ministers. Reviews should be at least biennial and should be conducted in the knowledge of an assurance that subsequent recommendations would be implemented.

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[1] The New Earnings Survey analyses information for a random sample of 1 per cent of employees in Great Britain.

Extract from TSRB 13 (Cmnd. 7825, February 1980)

SALARY LINKAGE

90. In Part I of our report we examined the possibility of a salary link for MPs[1]. We have been asked subsequently to consider further the possibility of relating the salary of a Member to "one or more analogues in the professional field". Our starting point must be the position we adopted in Part I. Whilst recognising the underlying pressures that had led to the inclusion of the linkage issue in our terms of reference, we decided that in principle we could not recommend any form of link, either to another group or to an index. We concluded that the right approach to MPs' pay is regular independent review coupled with the swift implementation of the resulting recommendations.

91. In reaching that conclusion we considered evidence in which a variety of different forms of linkage were proposed, including links with particular professional groups, and we examined the underlying principles upon which any form of link would need to be based. Consequently, our conclusions were not related to a particular analogue but were intended to be of general application. It may therefore be helpful if we set out those principles.

92. The basic requirement for a link between the salaries of any two groups is a close similarity between the work, both in function and in weight of job. To fulfil its purpose a link must operate automatically, thereby updating pay from one year to the next. The result must also appear reasonable to the general public.

93. Even if these requirements are met, there remain serious objections to using any individual comparator, since the arrangements for settling its salaries could be subjected to the undesirable pressures that would inevitably arise from the knowledge that what was agreed would also apply to MPs. The different circumstances of the comparator could well generate a further difficulty. Factors might need to be taken into account which would not be relevant to the pay of MPs and which, if allowed to influence the level of MPs' pay, could lead to increases which on subsequent independent review might be found not to have been justified.

94. A link with a pay index of some kind would be more general in nature and would therefore be less open to the objections to a link with an individual comparator. But the use of a general index related to the total workforce in the country would reflect some pay movements that, for the reasons set out in Part I of our report[2], would not be appropriate to the salary of MPs. A less unsatisfactory approach would be to reflect only the movements at parallel levels of pay. In that case, we remain of the view that if such an approach were thought desirable the most suitable procedure would be to make use of the movement in the nearest percentile in the Department of Employment's New Earnings Survey[3]. The data from that survey is published

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[1] Review Body on Top Salaries. Report No. 12: Ministers of the Crown and Members of Parliament and the Peers' expenses allowance: Part I—Cmnd 7598 (paragraphs 62–75).

[2] *ibid.* paragraphs 71 and 72.

[3] *ibid.*

in November each year, and we suggested that this date might be used each year for updating MPs' pay. The change to a November date has been criticised in Parliament because it might influence pay negotiations elsewhere in the community. We see the force of this criticism. However, it would be possible to use the New Earnings Survey and at the same time to retain a June date for change if Parliament were prepared to make use of information from the previous Survey. Yet even this course is open to serious objections of a kind that, in our view, would further undermine the case for the creation of any automatic link. For instance, in a period of falling inflation, the use of data that would be fifteen months out of date could lead to higher increases in MPs' salary than the general rate of increases current at the time of updating.

95. Since the publication of Part I of our report one fresh suggestion has been made to us, namely that some form of automatic updating of MPs' pay might be based on the increases that are recommended for the four groups specified in our standing terms of reference. These are the Chairmen and members of the Boards of nationalised industries, the higher judiciary and certain other judicial appointments, senior civil servants, and senior officers of the armed forces.

96. But we are bound to conclude that an updating system on this basis would not be appropriate either. The appointments in these groups cover a wide range both of functions and responsibilities. As a consequence, pay too covers a wide range and has to take account of many factors peculiar to individual appointments. There is no similarity between the functions and responsibilities of these groups and those of a Member of Parliament. Furthermore, there is no relationship in terms of pay level between these groups and MPs.

97. All the proposals for a link of one kind or another have one aim: the introduction of an automatic system that will effectively remove the decision on MPs' pay from the Parliamentary arena. We repeat that we do not consider that a pay link is the right way to deal with the problem. In Report No. 7 in 1975, we recommended that the salaries of Members of Parliament and of Ministers and paid office holders should be subject to biennial review by an independent body. The Government have accepted that the salaries of Ministers and paid office holders should be reviewed in this way every two years; it would be consistent to review the salary of Members with the same frequency, but with a full reassessment of the Member's job only taking place every 4 years. This is the method that we recommend.

98. As for the adoption of some form of link between independent reviews, this is not, for the reasons which we have given (paragraphs 91–96) a course we can recommend. But if Parliament resolves to take such a course then the least unsatisfactory method of updating that we can suggest is, as we have said, by reference to the appropriate percentile of the Department of Employment's New Earnings Survey.

THE MAIN PUBLIC SERVICE PENSION SCHEMES

The benefits of public service pensions schemes are broadly in line with each other: all are equivalent to a maximum pension of $\frac{2}{3}$ final salary, with provision for death benefits, widows' (and widowers' in the Parliamentary scheme) and dependants' pensions, etc. In most of the schemes, a quarter of the pension is automatically commuted to a lump sum. In some (notably the police and fire, and Parliamentary schemes) such commutation is optional.

2. In most schemes, the maximum $\frac{2}{3}$ pension is earned after 40 years' service, ie an accrual rate of 1/60th per year of service. There are however exceptions: police, fire, armed forces and prison officers' pensions accrue more rapidly because the jobs require a high standard of physical fitness. Hence, these groups retire earlier than is usual and cannot enjoy a full 40 year career. Judges' pensions accrue even faster, because they have no opportunity to enter the scheme other than relatively late in life. This benefit has roots going back many years, and is the only example in the public service of rapid accrual based on late entry rather than early retirement.

3. The table overleaf sets out the accrual rates in the main public service schemes (including, for this purpose, the Parliamentary scheme), together with the numbers of employees in the schemes and the employee contributions paid. 1/40th accrual would reduce the period over which a full pension can be earned from 40 years to 26 years 8 months.

Public service accrual and contribution rates

Length of time over which full pension accrues	Scheme	Number of scheme Members	Employee Contribution (% of salary)
15 or 20 years	Judiciary	700	3 or 4% (widows' contribution only)
30 years (1)	Police Fire Prison Officers	127,000 38,000 20,000	7%(men), 5%(women) 6¾% 8½%(men), 7%(women)
34 years (from age 21) 37 years(from age 18)	Armed Forces Officers Armed Forces other ranks	37,000 276,000	Not quantified
40 years	MPs Civil servants Local Government NHS Teachers	630 680,000 (2) 1,098,000 728,000 662,000	6% 8½%(men), 7%women (3) 5% (manual) 6% (non-manual) 6%

Notes

1. Police, fire and prison officer pensions accrue at the rate of 1/60th for the first 20 years of service and 1/30th (ie double accrual) for the nest 10, up to a maximum of 30.

2. Excluding prison officers.

3. The Civil Service Scheme is non-contributory, but in pay research salaries are reduced to take account of pensions. If the scheme were contributory, male civil servants would pay 8½%.

Annex C

TSRB COMMENTS ON RATE OF ACCRUAL
Extract from TSRB 8 (Cmnd 6574, July 1976)

Rate of accrual

36. During our current review, we have received a number of representations about the rate at which pension entitlement is accrued under the Parliamentary scheme. Some 72 per cent of the Members who replied to our questionnaire said that they favoured a faster rate of accrual: and the respondents who specified a particular rate of accrual were evenly divided between those who advocated a rate of one-fortieth of final salary a year and those who advocated other rates[1]. A wide range of rates of accrual was also suggested to us in other evidence.

37. The point most often put forward in support of a faster rate of accrual is that it is rare for an MP to be able to serve in the House of Commons for the 40 years necessary under the present arrangements to qualify for full pension entitlement. We have been told that the average length of service as an MP is 17–20 years. Nevertheless, certain other points also have to be taken into consideration. A career in Parliament is not unique in being a late-entry career, and a 40-year accrual period is standard elsewhere in the public services (with one or two exceptions that are mainly related to particularly hazardous and physically demanding jobs – for example, in the police and fire services – and the judiciary where it is unusual for a judge to be appointed under age 50). Moreover, it is becoming increasingly common for pension entitlement to be preserved or transferred from one scheme to another and MPs may benefit from this in the same way as other people. Finally, the cost of a faster rate of accrual could be high, particularly if Members had to bear the whole cost themselves.

38. The recommendations that we make in this chapter will achieve some of the objectives of a faster rate of accrual and will, we believe, prove more beneficial to Members as a whole. We consider that the rate of accrual under the Parliamentary scheme should not be changed.

[1] Appendix A, Tables 23 and 24.

Extract from TSRB 13 (Cmnd 7825, February 1980)

Rate of accrual

41. The present scheme provides for an even rate of accrual of pension entitlement of one-sixtieth of final salary for each year of service up to a maximum of 40 years, giving a maximum pension of two-thirds of final salary. What is, by comparison with practice elsewhere, a favourable rate of accrual means that the maximum benefit available to MPs is equal to that available in most public service schemes.

42. The survey of Members carried out for the review indicated less concern with the rate of accrual than in 1975. But it is the area in which most suggestions for improvement were made—about one-third of the total number of suggestions. Faster accrual has also featured in oral evidence on pensions. The most common specific proposal put to us has been that the rate should be one-fortieth of final salary for each year of service. The main argument in support of this rate is that it is extremely unusual for an MP to be able to serve the 40 years necessary under the present arrangements to qualify for full pension entitlement.

43. We can understand Members' feelings on this issue: the great majority of Members are unable to complete 40 years service in the House. However, as we explained when we considered this question in our 1975–76 review[1], a number of other points have also to be taken into account. A career in Parliament is probably a 'late entry' career to a greater extent than most others. Nevertheless MPs are by no means alone in being unable, in most cases, to qualify for maximum benefit from the scheme to which they belong. An accrual rate which provides maximum benefit equivalent to two-thirds of pay at retirement after 40 years is widespread in the public services although in practice, because of late entry, the average reckonable service of public service pensioners is well below 40 years. A similar rate of accrual is common among the better private sector schemes, but many private sector schemes offer a less favourable rate. Faster rates of accrual are not common and are mainly related to particularly hazardous and physically demanding jobs (such as the police and fire services). Moreover, the cost of a faster rate of accrual could be high, particularly were Members to bear the whole cost themselves. Within the public sector it is common for an entitlement to a pension to be preserved or transferred from one scheme to another. In the private sector the preservation of pension entitlement is common and a number of private sector schemes now make provision for transfers; however, many people do not elect to transfer—partly because of problems created by current pensions legislation and partly because preservation can be financially advantageous. Where these changes have taken place, MPs have the same opportunities as other people. Against this background we consider that the present accrual rate for MPs is satisfactory. Moreover, the ability to purchase additional years of reckonable service goes a long way towards meeting the criticisms of the present rate of accrual without imposing any further financial burden on those MPs who regard the present rate as adequate.

[1] Review Body on Top Salaries. Report No. 8: Ministers of the Crown and Members of Parliament and the Peers' expenses allowance: Part II—Cmnd 6574 (paragraphs 36–38).

Parliament
Members

10 DOWNING STREET

From the Private Secretary

20 October, 1980.

MPs Pay and Pensions

The Prime Minister has seen your letter to me of 17 October. She was grateful to the Chancellor of the Duchy for setting out his views.

She is content, subject to any further views from colleagues, with the drafting amendments proposed in your letter.

I am sending copies of this letter to Stephen Boys-Smith (Home Office), Jim Buckley (Lord President's Office), Murdo Maclean (Chief Whip's Office) and David Wright (Cabinet Office).

N. L. SANDERS

R.A. Birch, Esq.,
Office of the Chancellor of the Duchy of Lancaster.

Gr.

PRIME MINISTER 1

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

17 October 1980

Agree redraft MS

Dear Nick,

You commented (A) on the linkage section (B) of the CDL's draft factual paper. I asked him to amplify his views, and this is the result. Are you content to go ahead with the redrafting suggestions below, or do you want to discuss the question with colleagues?

MS 17/10

MPs PAY AND PENSIONS

Thank you for your letter of 14 October.

The Chancellor takes a sceptical view of the value of linkage as a principle for determining MPs' pay and thinks that the object of policy should therefore be to assist Members into coming to this conclusion themselves. He is, however, very concerned that the Government should not appear to be too intractable on the issue as this is likely only to provoke the House into insisting on linkage. He also believes that it would be wise to guide Members towards the least damaging form of linkage in case they cannot be dissuaded from the idea.

In the light of the Prime Minister's views, the Chancellor would agree that the first two sentences of paragraph 8 could be changed to remove any implication that it is only the type of linkage envisaged in the motion that is unsatisfactory. The suggested redraft is as follows :

> "These are serious objections and Members may feel that they amount to an overriding argument against the principle of linkage. If however the House continues to think that linkage is desirable, it will be important to devise a scheme that avoids the worst defects of the points considered above."

The first two lines of paragraph 7 of the paper should also be changed to read :

> "The arguments against linkage are as follows:"

This avoids any slight implication that the paper is merely presenting the Review Body's arguments without necessarily endorsing them, and it is in any case desirable on the grounds of strict factual accuracy.

N Sanders, Esq.,
Private Secretary
NO 10 Downing Street

The Chancellor believes that any further amendment of the paper which made it appear that the Government were trying to push Members into rejecting linkage would be counter-productive.

On the question of spelling out the proposal for a "basket" link in more detail, the Chancellor feels that it would not be appropriate in the present paper. The proposal is very much a second best, to be brought forward only if the House insists on linkage. If Members get the impression that the Government has a detailed plan for a particular type of linkage they might be less inclined to reject linkage in principle. However, the Prime Minister might like to see in rather more detail the basis on which a scheme could be introduced. This could also be referred to as necessary in the consultations through the usual channels and with the Parliamentary parties which the Chancellor promised in the Autumn before the proposed debate.

i. Every five years or so the proper level of MPs' pay would be independently reviewed (this point is made clear in the paper)

ii. Between reviews MPs' pay would increase annually in line with the increases (if any) of a basket of Civil Service grades

iii. The basket would contain a wide range of grades to avoid both the identification of MPs' pay with that of any particular grade in the Civil Service an d the idea that the work of MPs could be equated with that of a specific Civil Service group. The range of grades would be such as to include pay rates both above and below that of MPs so that differential movements in higher and lower rates would be balanced out. A possible basket would include all grades in the Administration Group between HEO and Assistant Secretary plus equivalent grades in the Science and the Professional and Technology groups

iv. The pay increase for MPs would be the average of the increases in the maximum of the scale for each grade in the basket

v. MPs would continue to have their pay increased on their current review date (13 June) but if there were staging for Civil Service pay increases, there would also be staging for MPs. If one of the grades in the basket settled late, MPs would get an increase based on the management offer for the outstanding grade which would subsequently be adjusted to take account of the final settlement.

I am copying this letter to Stephen Boys-Smith (Home Office), Jim Buckley (Lord President's Office), Murdo Maclean (Chief Whip's Office) and David Wright (Cabinet Office).

Yours ever,

Robin

ROBIN A BIRCH
Private Secretary

MFJ

file

Parliament
Members

10 DOWNING STREET

From the Private Secretary

14 October 1980

Dear Robin

MPs' Pay, Pensions and Allowances

The Prime Minister has seen your letter to me of 3 October and the attached draft factual paper on the outstanding issues on Members' pay and pensions.

She would like to have some further advice from the Chancellor of the Duchy on the linkage question. In her view, the paper should either go into more detail about the possibility of a "basket" arrangement if it is intended to lead Members to the conclusion that such a proposal would indeed be practicable; if, on the other hand, it is intended that Members should conclude that the objections to linkage are insuperable in practice, then the tone ought perhaps to be slightly different.

I should therefore be grateful if you could let me have as soon as possible a note of the Chancellor of the Duchy's general approach to the linkage issue.

I am copying this letter to Stephen Boys-Smith (Home Office), Murdo Maclean (Chief Whip's Office) and David Wright (Cabinet Office).

Yours ever

Nick Sanders

R.A. Birch, Esq.,
Chancellor of the Duchy of Lancaster's Office.

DSG

Ref: A03205

MR. SANDERS

MPs' Pay, Pensions and Allowances

You asked for advice on the draft paper which Robin Birch sent to you under cover of his letter of 3rd October about MPs' pay, pensions and allowances.

2. The paper is broadly satisfactory as a factual account of the implications of the Resolution of the House on MPs' salaries passed on 21st July and comments from colleagues are likely to be confined to questions of presentation. But when Cabinet discussed these questions in July it was the clear intention that responsibility for any improvements in MPs' pay and pensions - and their consequentials - should rest squarely on the House of Commons. The information document is only one part of this process; the other, equally important, element will be the arrangements made for handling matters in the House and in particular the terms of any Government motion or motions which will be put up for debate.

3. Therefore I think that the Prime Minister might await comments from other Cabinet colleagues on the draft text before commenting herself. Meanwhile there would , it seems to us, be advantage in asking the Chancellor of the Duchy to submit early proposals about the handling of this question in the House including drafts of any Motions which he would propose might be tabled in the Government's name. It will then be necessary to decide whether this needs to come back to the Cabinet, should go to some other Committee, or can be settled without reference to a formal Committee.

D J Wright

(D. J. Wright)

13th October 1980

PRIME MINISTER

MPs' Pay, Pensions and Allowances

The Chancellor of the Duchy has circulated to Cabinet a draft of the factual paper on linkage and the unresolved pensions issues that Cabinet agreed in July should be prepared. It is at Flag A. There is some Cabinet Office advice on it at Flag B.

If you have time I hope that you will be able to look at the draft paper yourself. I am worried about the paragraphs on linkage, which are at Flag C. They seem to me to be a little too forthcoming, especially in paragraphs 8 and 9, and you may want to see them toned down a bit. I suspect that the draft would read rather more effectively if the section on linkage began with a brief and rather more neutral summary of possible linkage arrangements and then went on to say that any proposal would have to meet the major objections raised by the Boyle Committee in the past.

The section on pensions accrual rate (paragraphs 10 to 21) is difficult to follow, but this may be inevitable, given the complexity of the subject matter.

Since the Chancellor of the Duchy agreed the draft, we have begun our discussions about the possibility of postponing the State Opening. If in the end we agree to do so, the Chancellor of the Duchy may well want to bring forward the discussion on this issue to the overspill if he can, because we shall face a shortage of business in the Commons while we wait for the Lords to pass the outstanding bills on. I think that this may be rushing the discussion a little too much; but, as the Cabinet Office note suggests, it may be wise to ask the Chancellor of the Duchy to put forward recommendations on the timing of the debate fairly soon.

Shall we therefore say that:

/ (i) ...

(i) You would like to see an alternative section on linkage but otherwise are content with the draft paper and covering letter, subject to any views expressed by Cabinet colleagues;

ii) You would like the Chancellor of the Duchy to put to you as soon as possible his proposals for the handling of this subject in the House?

MS

He has clearly concluded that a "basket" of compensations possible for the purpose of calculating increases. If so - ought the detail to be worked out in a little more detail or is the [illegible] really negotiating basis?

MT.

13 October 1980

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

3 October 1980

Dear Nick,

MPS' PAY, PENSIONS AND ALLOWANCES

You will recall that I sent to you a copy of my letter of 11 August to Jim Buckley asking the CSD to begin work in consultation with the Cabinet Office on the preparation of the factual paper about MPs' pay, pensions and allowances for which the Cabinet asked at their meeting on 31 July (CC(80) 31st Conclusions, Item 3), which was promised by the Chancellor in his statement in the House on 7 August. I now attach a draft which has been prepared in accordance with this request and agreed by the Chancellor.

The Chancellor has it in mind, if the paper is agreed by the Prime Minister and Cabinet colleagues, to circulate it by means of a cyclostyled letter to all Members; I enclose a draft of this letter for the Prime Minister's consideration. If this approach is agreed we will make arrangements with the House Authorities for the circulation of the letter and the consultative paper.

You will see that the draft letter to MPs proposes a further debate on the issues discussed in the paper as soon as possible after the start of the new Parliamentary session; in the House on 7 August the Chancellor promised an opportunity for a vote on further proposals relating to pensions after the recess and also to undertake consultations in the Autumn on linkage of salary through the usual channels and with the Parliamentary parties. It will of course be necessary for Ministers collectively to consider the line to be taken in a further debate in the light of the consultations and of any response from MPs to the document. In the circumstances the Chancellor thinks it better to promise a debate early in the new session rather than in the overspill period of the present session, which is in any event likely to be heavily overburdened. Perhaps you will let me know if the Prime Minister is agreeable to this.

I am sending copies of this letter to the Private Secretaries to members of the Cabinet, to Tony Mayer, Murdo MacLean and David Wright.

Yours ever,

Robin Birch

R A BIRCH

N Sanders Esq

DRAFT LETTER FROM THE CHANCELLOR OF THE DUCHY TO MEMBERS OF PARLIAMENT

PAY AND PENSIONS OF MPS

You will recall that in my statement to the House on 7 August on the pay, pensions and allowances of MPs, I announced that the Government had accepted the resolution of the House on allowances for secretarial assistance and were asking the Fees Office to give effect to it forthwith, backdated to 13 June. On the matters relating to pensions however, while the Government had noted the view of the House, there were considerable complexities arising from the need to consider the repercussions for public service groups and the implications for public expenditure. The Government had therefore decided that before making further proposals to the House they should prepare a factual paper and place it before Members for consideration. Members would have an opportunity to vote on further proposals in the light of that paper after the recess. I said that the Government also proposed to discuss linkage of salary in the same paper and to undertake consultations on this subject in the autumn through the usual channels and through the Parliamentary parties.

I now enclose a copy of the promised paper. I intend to arrange a further debate on the issues discussed in it as soon as possible after the start of the new Parliamentary session, and in the meantime you will no doubt wish to consider the material set out in the paper.

DRAFT

PAY AND PENSIONS OF MEMBERS OF PARLIAMENT

Introduction

1. On 21 July 1980 the House of Commons debated the Government's proposals on the pay, pensions and allowances of MPs. The House accepted that Members' salaries should be increased by 9.6% as the Government proposed, but expressed its opinion that the Government's proposed motion should be amended in the following four respects:-

i. That Members' notional salary for pension purposes should be set at £13,750 - the full rate recommended by the Top Salaries Review Body - with effect from 13 June 1980.

ii. That Members' pay should correspond in future to the salary paid to "a specified grade in the Public Service".

iii. That the accrual rate for MPs' pensions should be increased from $\frac{1}{60}$th to $\frac{1}{40}$th of final pensionable pay for each year of service.

iv. That Members' secretarial allowance should be increased to £8,000 pa - the full rate recommended by the Review Body - plus £800 pa for provision of a pension for the secretary or other employee.

2. The Chancellor of the Duchy of Lancaster announced on 7 August that the Government accepted the resolution of the House in respect of the secretarial allowance, but that because of the wider repercussions of the other three aspects of the resolution they would circulate a factual paper for the consideration of hon. Members after which the House would have an opportunity to vote on further proposals.

PENSIONABLE PAY

3. The House voted in favour of increasing the notional rate of Members' salary applying for pension purposes to £13,750, as against the Government's proposal of £13,150, which the House accepted as the salary rate from 13 June 1981. The immediate extra cost to public funds of putting this into effect would amount to some £60,000 in the twelve months from June 1980, in respect of the 16% Exchequer contribution alone. If Members' pay were supplemented, as in the past, to enable them to meet the cost of their extra contribution towards the extra £600 (although the motion passed by the House of 21 July did not specify this), a further £20,000 would be incurred.

4. There are, however, wider implications. None of the other groups covered by the Top Salaries Review Body (TSRB) have had their pensionable pay based on the rate recommended by TSRB in their most recent report. The Government believe that it would be virtually impossible to allow the full TSRB rate for Members' pensions and not for the other groups. In addition, Assistant Secretaries and some Senior Principals in the Civil Service are being paid substantially less than was indicated by the evidence collected in the 1980 pay research exercise, and no notional adjustment has been made for pension purposes. The Government believe that in equity if the TSRB rate is to be used for MPs, a notional pension rate would also need to be set for these grades.

5. The cost of these consequential adjustments to pensions would be met directly from public funds in pension payments to those retiring before April 1982. The approximate additional cost is estimated to be about £1¼ million (at current prices) in this and the next financial years and about £0.65 million per annum thereafter, made up as follows:-

B

	£000 1980 prices		
	1980-81	1981-82	Continuing Annual Cost
Exchequer contribution to PCPF	65	15	-
Pensions and lump sums: Civil Service Under Secretaries and above.	200	200	100
Pensions and lump sums: other TSRB groups	300	200	150
Pensions and lump sums: Civil Service Assistant Secretaries and equivalents	600	800	350
Pensions and lump sums: Civil Service Senior Principals and equivalents	100	100	50
	1,250	1,300	650

LINKAGE

6. The House voted in favour of the following amendment:

"In the light of the continued difficulty in providing fairly for the salaries of Members of this House, the salaries of Members should be regulated to correspond with the amounts of salary paid to a specified grade in the Public Service".

These issues have been considered before. In 1975 a resolution stating that it was desirable in principle that Members' pay should be linked with the Civil Service Assistant Secretary grade was passed by the House, and the Government of the day invited the Top Salaries Review Body to consider the question. The Review Body recommended firmly against linkage in their twelfth Report (Cmnd 7598, published in June 1979). The Government asked them to consider further the possibility of relating the salary of a Member to one or more analogues in the professional field but in their Report No 13 (Cmnd 7825 , published in February 1980) they once again advised against any form of link. Extracts from the relevant TSRB reports are attached at Annex A.

7. The reports of the Review Body include the following arguments against linkage:

i. The House ought not in principle to give up making the

decision on the level of Members' pay. Circumstances change from year to year and there is no guarantee that any link would lead to salaries that Members would consider appropriate at a particular time. The House has both a right and a duty to settle the pay of Members taking into account all the relevant factors.

ii. A link between the pay of two groups ought to be based on the close similarity of their work, otherwise an increase for one is no grounds for giving an increase to the other. But there are no outside groups whose work is comparable to that of MPs. The job of a Member of Parliament is unique. It would be quite unjustified to change Members' pay in response to factors which have no bearing on Members' work.

iii. A link with an individual comparator would be highly undesirable as the sensitivity attached to Members' pay would probably be transferred to the comparator. One of the arguments put forward for linkage is that it would take MPs' pay out of the political arena but with a single comparator a more likely effect would be to transfer the political pressures to the pay of this group.

iv. A link with a pay index of a general kind would be less open to the objection above but it would make the pay increases of Members automatic in a way that is enjoyed by few employed groups. Moreover, indices reflect a wide variety of pay movements, many of which would be inappropriate as determinants of MPs' pay.

8. These are serious objections and Members may feel that they rule out the possibility of a single linkage of the type envisaged in the Motion. It might however be possible to devise a scheme that avoids the worst defects of the points considered above. It would seem necessary to retain a system of periodic independent reviews of Members' pay to ensure that the rate in payment is at a level which is not out of line with the tasks and responsibilities of Members and which takes account of all the relevant circumstances. This would also enable the House to express its views on Members' pay from time to time. Reviews once every four or five years, or once each Parliament, would seem appropriate and these periodic

reviews might continue to be conducted by the Top Salaries Review Body. Some form of linkage might then be operated between these reviews.

9. For the adjustments made between periodic reviews the objection to an automatic link with a general pay index given in paragraph 7 remains very strong. But a link might perhaps be established with the rate of increase in the pay of a "basket" of comparators. There is no outside group whose work is remotely comparable to that of MPs so private sector comparators seem out of the question. Possibly the least unsatisfactory course might be to use a "basket" of non-industrial Civil Service grades whose salaries are clearly known; and it would be sensible to include a wide selection of grades to avoid identification of MPs with any one of them and the problem mentioned in paragraph 7(iii).

ACCRUAL RATE OF PARLIAMENTARY PENSIONS

10. The Motion on 21 July recommended that Parliamentary pensions should accrue at the rate of $\frac{1}{40}$th of final pensionable salary for each year of reckonable service. The amendment did not specify whether the change should be non-retrospective (ie applying to service from a current date only) or retrospective in respect of past service of existing Members. The following paragraphs therefore consider the implications of both a retrospective and a non-retrospective scheme.

BACKGROUND

11. Parliamentary pensions accrue at the rate of $\frac{1}{60}$th of final pensionable salary for each year of service. About two-thirds of members of occupational pension schemes receive pensions of $\frac{1}{60}$th of salary at or near retirement for each year of service (or equivalent benefits). Within the public service, about 87% have $\frac{1}{60}$th accrual, or the broad equivalent in pension and lump sum. Members may of course opt to commute part of their $\frac{1}{60}$th pension to a lump sum. Annex B sets out the position for the main public service pension schemes.

12. With an accrual rate of $\frac{1}{60}$th, a full pension of $\frac{2}{3}$ final salary

is earned after 40 years. The intention is that full pensions are accrued over a full career. The extension of transfer and preservation facilities in recent years enables many people to earn a full pension without the need for more rapid accrual rates. The few examples of more rapid accrual in the public services date from a time when the present day facilities did not exist, and apply only to occupations where very late entry (ie judges) or relatively early retirement (eg policemen, firemen, armed forces) is the norm.

13. Parliamentary pensions are paid from the Parliamentary Contributory Pension Fund, to which Members contribute 6% of salary and the Exchequer a further 16%. Just under half the Exchequer contribution is to give credit for service before the pension scheme was introduced in 1964 in respect of which Members serving at that time paid no contributions. The Exchequer contribution is the actual charge on public funds. The average length of service as a Member of Parliament is 17-20 years, giving a pension from Parliamentary service alone of some 30% of final pensionable salary. TSRB has twice considered whether Parliamentary pensions should accrue faster than at present. The relevant extracts from TSRB 8 and 13 are attached at Annex C. TSRB drew particular attention in their latest report on these matters to two provisions of the scheme: the facilities for transferring pension rights from previous employment and for purchasing added years of service. These are discussed further in paragraphs 19-22 below.

Inland Revenue rules

14. The tax treatment of occupational pension schemes generally is governed by the Finance Acts 1970 and 1971. The Acts do not apply directly to statutory schemes, such as the Parliamentary scheme, but it has always been taken as axiomatic that such schemes should conform to the law and the practice which apply to the general run of occupational pension schemes. For a scheme to qualify for full tax reliefs, the Inland Revenue rules require:

a. that the pension at normal retirement age must not exceed $\frac{2}{3}$ final remuneration;

b. that employees' periodical contributions must not exceed 15% of salary.

A scheme not satisfying these requirements would enjoy no tax relief on employee contributions, or on benefits.

15. The effect of a. is that a full pension accruing at $\frac{1}{40}$ths would be earned after 26 years 8 months service, with no extra entitlement after that time. Any pension rights earned in other schemes would be largely or wholly lost once the Member had served more than 26 years 8 months in the House. However, the effect of b. is more restrictive. It would not be practicable to finance a $\frac{1}{40}$th accrual rate from employee contributions of less than 15% of salary. The balance would have to be met from public funds. This is discussed further in paragraph 16(i)-(iv).

Cost of $\frac{1}{40}$th rate of accrual

16. Four basic options are discussed below: a retrospective and non-retrospective improvement, financed wholly by Members themselves or by the Exchequer respectively. All figures quoted are approximate and would need to be re-examined if any of these proposals were adopted.

i. Retrospective improvement financed by the Exchequer

This would mean that all existing Members would have the whole of their pensions calculated on the $\frac{1}{40}$th basis, at no extra cost to themselves. This would require an increase in the Exchequer contribution of about 15% of salary, (making a total of 31%), falling to some 8½% (a total of 24½%) after about 20 years. This would approximately double the present Exchequer contribution of £1.4 million a year. At 37% (ie 6% from hon Members and 31% from the Exchequer) the initial total contribution would make the scheme one of the most costly in the country. The Exchequer share of $\frac{5}{6}$ would place Members in a privileged position compared to other groups of employees. For example, the majority of public servants pay between about a third and a half of the accruing cost of their pensions. And employees who participate in the earnings-related part of the State scheme pay just over a third of the cost.

ii. Retrospective improvement financed by Members

This could not be achieved by a flat rate increase in all Members' contributions, because those with long service would gain at the expense of those with short service. Contributions would have to be calculated for Members individually: the new rates of contribution would range up to about 50% or more of salary, with an average around 25%. This is clearly unrealistic, and would of course far exceed the Inland Revenue limit even for relatively new Members.

iii. Non-retrospective improvement financed by the Exchequer

If the improvement applied from a current date only, at no extra cost to the Member, the Exchequer contribution would have to increase initially by about 10% of pay roll to a total of 26%. The cost would be about £1 million a year, an increase of some $\frac{2}{3}$ in the present Exchequer contribution. The total contribution would be 32% (ie 6% from hon Members and 26% or so from the Exchequer). Again, with $\frac{4}{5}$ of the cost being from public funds, this would be considerably more generous than schemes available elsewhere.

iv. Non-retrospective improvement financed as far as practicable by Members

In this case, Members' contributions would need to increase from 6% to an average of 16%. To avoid breaching the Inland Revenue limit, the contribution would need to be limited to 15%, so that the Exchequer would meet some of the cost. Such an arrangement would be little different from the present added years facility (see paragraph 20 below), but without the flexibility of the present arrangements. If the Scott Committee, which is currently investigating the value of inflation-proofed public sector pensions, were to recommend an increase in Members' contributions, the scope for Members themselves financing an improved accrual rate would be further curtailed.

Repercussions and reactions

17. The benefits of the Parliamentary pension scheme are broadly in line with those of the main public service schemes. Despite its small size, the Parliamentary scheme influences public service schemes. Setting the accrual rate at $\frac{1}{40}$th would make it more favourable than virtually all the public service schemes, including those, such as the armed forces and the police, with enforced early retirement. Virtually all public servants in late-entry occupations, where, for example, there may be a need for lengthy professional and vocational training, accrue their pensions at $\frac{1}{60}$th. Even where early retirement is not the norm, few public servants serve the full 40 years: the average civil servant retiring today, for example, does so with 27-28 years' service. For all these reasons, pressure from public service staff interests for a similar improvement would almost certainly follow an improved accrual rate for Members. If $\frac{1}{40}$th accrual were conceded throughout the public service, the ultimate cost might exceed £1 billion a year at 1980 prices. Most private sector organisations could not march an improvement of this order at the present time. It would therefore tend

to widen the existing differential between public and private sector schemes.

Transfer of pension rights and purchase of added years

18. It would however be possible to achieve the objective of the motion in most cases without altering the accrual rate and in a way that would allow individual Members more freedom in determining the accrual rate to apply to their own pensions. There are two features of the Parliamentary scheme which enable Members to retire on pensions which are nearer to the maximum $\frac{2}{3}$ of final salary than might normally be earned by service in the House: the transfer provisions, and the purchase of added years.

19. Where a Member has been in pensionable employment before entering the House, his former pension scheme may pay a sum of money to the Parliamentary Contributory Pension Fund representing his accrued pension rights, which is then translated into additional reckonable service in the Parliamentary scheme. The option to transfer in pension rights may only be exercised within 12 months of first entering the House, and TSRB have pointed out that this is not a satisfactory arrangement: no further option is offered to a Member who loses his seat and is re-elected at a later date, or to a Member who becomes a Minister and has to relinquish outside employment. The Chancellor of the Duchy of Lancaster announced in February that the Government accepted that these anomalies should be put right, and it is intended that legislation to achieve this should be brought before the House as soon as possible.

20. However, even when a Member has transferred in such pension rights as he may have earned before entering the House, his prospective service up to age 65 may not be sufficient to earn a full pension. For this reason, Members have since January 1979 been able to purchase extra years of reckonable service, meeting the full cost themselves. The most advantageous means of doing this is by "periodical contributions". Under this method, the Member's contribution is increased from the present 6% (or, in future, whatever higher contribution may be introduced in the light of the Scott Committee's recommendations) by an amount depending on his age and the number of added years brought, subject to the 15% maximum, and on which he is entitled to tax relief. To take

a representative range of examples within the contribution limit of 15%, Members entering the House for the first time between the ages of 45 and 55 could purchase between 9 and 4.2 added years. This gives an effective accrual rate of approximately $\frac{1}{40}$th for their service up to age 65.

A good many Members are already availing themselves of this facility.

21. Members may also purchase added years by lump sum within 12 months of entering the House at a cost which varies between some £1,700 and £2,800 per year purchased, depending on the Member's age. This buys an inflation-proofed benefit currently worth £220 a year. Although this option is less attractive than periodical contributions - the lump sum payment does not attract tax relief - it can supplement the pension of a Member already contributing at the 15% maximum rate. If the House takes the view that it could improve the entitlement of Members to pension, the Government would think that an appropriate solution could be found by a new option to purchase added years by lump sum.

Extract from TSRB 12 (Cmnd 7598, June 1979)

SALARY LINKAGE

62. We have recommended the salaries appropriate to Members of Parliament, Ministers and other office holders. The problem of how those recommendations, once implemented, can be kept up to date remains: it is a problem that has engaged the attention of those covered by our recommendations and a substantial amount of evidence has been put to us advocating some form of linkage between the pay of Members and certain other groups or to a particular index.

63. Such an approach is not new. Similar evidence was put to the Lawrence Committee in the course of its review of Parliamentary remuneration in 1964, and to us in relation to our reviews in 1971 and 1975. Each time it was rejected. Nevertheless, the underlying pressures for linkage remain. There is a wish to remove from the political arena the decisions on Parliamentary salaries, which under any system of independent review must be made by Parliament itself, and to provide greater protection against the effects of inflation. The combination over recent years of the high rate of price inflation, of relatively infrequent reviews of Parliamentary remuneration, and of general restraint measures has made it difficult for Parliament to be seen to vote itself the size of salary increase that is justified simply to catch up with the general movement of earnings outside.

64. It is therefore no surprise that the concept of linkage has continued to be canvassed in Parliament. In the House of Commons debate that took place in the context of our 1975 recommendations, Members of Parliament adopted a Resolution in the following terms:

> "It is desirable in principle that the salaries of Members should be regulated to correspond with a point on the scale paid to an Assistant Secretary in the Public Service not later than three months after the next General Election and annually until that date the salaries of Members should be increased by not less than the same amount of increase as the Assistant Secretary."[1]

No action has been taken on the Resolution. It was an expression of opinion which neither has legislative effect nor places an obligation on the Government. But during that debate the Government of the day gave a commitment that we would be asked to look at linkage in our next review. Our terms of reference reflect that commitment.

65. All Members were invited to comment on linkage in the questionnaire sent to them in the course of this review. Fifty three per cent of all MPs responded to the questionnaire, and nearly all of these replied to this question. Ninety per cent of those who did so (47 per cent of all MPs) preferred an automatic adjustment. Of the 307 proposals put forward by 271 Members, 59 per cent favoured a link with the civil service in one way or another, 7 per cent a link with the judiciary and 14 per cent a link with other professions. Just over 10 per cent of the proposals supported adjustment by reference to movements in general

[1] Hansard, Vol. 896, Columns 441–514.

indices; of these average earnings or average wages were most favoured. Most of the respondents who suggested a civil service link did not specify any particular grade, although the Assistant Secretary[1] was the most popular choice among those who did so. Many of those who have advocated some system of automatic adjustment have been more concerned with the advantages in principle than with the practical implications of a particular method.

66. Further support for the concept of automatic adjustment came in separate written or oral evidence. We include in this category the 62 Members who put forward a joint submission in favour of a link with the Assistant Secretary in the civil service. But we should also record that we have had other evidence to the contrary. Some Members oppose the idea of linkage for many of the reasons we have advanced in our earlier reports, reasons to which we would now like to return.

67. Proposals for links with other specific groups seem to us to have two major disadvantages. They tend to be based upon the assumption that there is a high degree of affinity between the work of MPs and that of the comparator group, rather than on evidence. This means that if, as we consider it to be, the job of an MP is *sui generis*, an MP could benefit from increases that are germane to the 'parent' group but not to MPs. There is also the danger, which is likely to increase as the size of the comparator group diminishes, that where the pay of the 'parent' group is settled by negotiation, the attachment of MPs' pay to it will impose an undesirable political pressure upon the negotiating process.

68. Linkage to an index of some sort, by its more general nature, would at least reduce these objections. But it would prevent the rational evaluation of the pay for the job against the background of the changing circumstances of the work. Furthermore, since an index reflects all forms of pay movements in the private as well as the public sector, Members might well find themselves in the position of benefiting from levels of increase which were, for example, in times of pay restraint, inconsistent with the Government's publicly stated policies.

69. A link to another group or to an index is not a solution that we can commend. We sympathise with the objective of those who advocate it, but remain of the view that the regular adjustment of salaries can be achieved more satisfactorily by the commissioning of regular independent reviews and by the implementation of the recommendations that result from them. Nevertheless, while we adhere to this view which we have expressed in our earlier reports, we do recognise that others are deeply sceptical about reliance on such a system in the light of the experience of recent years; and that this may lead to continued pressure to adopt some form of linkage. We have therefore set out below the principles that we consider should be observed if Parliament itself decides to go ahead with the introduction of the concept of automatic updating in relation to Parliamentary remuneration.

70. First, and most important, a system of updating should not attempt simply to replace periodic assessment of Parliamentary remuneration by an independent body. Its use should be limited to keeping an independently assessed salary level reasonably up to date between reviews. In this context, the maximum interval between such reviews should be 4–5 years.

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[1] Final agreement has not yet been reached on the salary scale for 1 April 1979 for the Assistant Secretary. An interim agreement provides for a scale of £10,947 to £13,378 by 4 annual increments from that date.

71. Second, the form of updating will be critical. It will be clear from what we have already said (paragraph 67) that we regard the idea of a link to a particular group as wholly inappropriate. A link to an index also involves difficulty. A general index related to the total work force in the UK is inappropriate; its use would increase the risk that the level of salary would be found to be higher than was justified at the next review. This is because in percentage terms increases at lower income levels have in recent years usually been higher than those at higher income levels; and we have no reason to believe that this relationship will change in the future. A better course would be to reflect movements at levels of pay comparable to the salary of an MP.

72. For this purpose, we consider that the most suitable procedure would be to make use of the Department of Employment's New Earnings Survey[1]. Percentage movements in earnings at an appropriate NES percentile, one that is close in annual terms to the recommended salary level of an MP, would be applied annually to that salary between reviews. The NES is based on data for April of each year, but it is not published until November. The present 'settlement' date for MPs is in June. For the purposes of an updating system between regular reviews, there would seem to be no reason why MPs' pay should not be adjusted in November of each year using movements derived from April – April data. It is for this reason that we have suggested that, if the full implementation of the salary level that we now recommend has to be staged, and MPs' pay is to be the subject of some form of updating, the staging should be completed by November 1980 (paragraph 21). The updating arrangement could operate from that date.

73. In forming the view that the New Earnings Survey is the most suitable source available for this purpose, we have not overlooked its disadvantages. It takes no account of superannuation and other relevant benefits or of pay settlements reached after, but retrospective to a date before the date of the survey. Nevertheless, we are clear that these disadvantages are less significant than those that would be associated with any other form of linkage.

74. A similar updating arrangement between regular reviews could notionally be applied to the Parliamentary salary of Ministers and other paid office holders in the House of Commons. But we do not consider that this is an option that should be applied to the salaries attached to the offices themselves, because the sample size in the New Earnings Survey at the higher Ministerial salary levels would be small and possibly unreliable statistically. Moreover, we consider that it would not be appropriate for the salaries of Ministers, who have a responsibility for the national economy, to be adjusted automatically in this way.

75. Nevertheless it would be wrong if an appropriate differential were not maintained between the salaries of Ministers and of backbench Members. In these circumstances, relative salary levels across the whole field of Parliamentary remuneration would be distorted, and it would be increasingly difficult to fill Ministerial appointments, particularly at the junior level, with men and women of the calibre required. We consider that the proper solution is a standing arrangement for a regular independent review of the pay of Ministers. Reviews should be at least biennial and should be conducted in the knowledge of an assurance that subsequent recommendations would be implemented.

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[1] The New Earnings Survey analyses information for a random sample of 1 per cent of employees in Great Britain.

Extract from TSRB 13 (Cmnd. 7825, February 1980)

SALARY LINKAGE

90. In Part I of our report we examined the possibility of a salary link for MPs[1]. We have been asked subsequently to consider further the possibility of relating the salary of a Member to "one or more analogues in the professional field". Our starting point must be the position we adopted in Part I. Whilst recognising the underlying pressures that had led to the inclusion of the linkage issue in our terms of reference, we decided that in principle we could not recommend any form of link, either to another group or to an index. We concluded that the right approach to MPs' pay is regular independent review coupled with the swift implementation of the resulting recommendations.

91. In reaching that conclusion we considered evidence in which a variety of different forms of linkage were proposed, including links with particular professional groups, and we examined the underlying principles upon which any form of link would need to be based. Consequently, our conclusions were not related to a particular analogue but were intended to be of general application. It may therefore be helpful if we set out those principles.

92. The basic requirement for a link between the salaries of any two groups is a close similarity between the work, both in function and in weight of job. To fulfil its purpose a link must operate automatically, thereby updating pay from one year to the next. The result must also appear reasonable to the general public.

93. Even if these requirements are met, there remain serious objections to using any individual comparator, since the arrangements for settling its salaries could be subjected to the undesirable pressures that would inevitably arise from the knowledge that what was agreed would also apply to MPs. The different circumstances of the comparator could well generate a further difficulty. Factors might need to be taken into account which would not be relevant to the pay of MPs and which, if allowed to influence the level of MPs' pay, could lead to increases which on subsequent independent review might be found not to have been justified.

94. A link with a pay index of some kind would be more general in nature and would therefore be less open to the objections to a link with an individual comparator. But the use of a general index related to the total workforce in the country would reflect some pay movements that, for the reasons set out in Part I of our report[2], would not be appropriate to the salary of MPs. A less unsatisfactory approach would be to reflect only the movements at parallel levels of pay. In that case, we remain of the view that if such an approach were thought desirable the most suitable procedure would be to make use of the movement in the nearest percentile in the Department of Employment's New Earnings Survey[3]. The data from that survey is published

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[1] Review Body on Top Salaries. Report No. 12: Ministers of the Crown and Members of Parliament and the Peers' expenses allowance: Part I—Cmnd 7598 (paragraphs 62–75).

[2] *ibid*, paragraphs 71 and 72.

[3] *ibid*.

in November each year, and we suggested that this date might be used each year for updating MPs' pay. The change to a November date has been criticised in Parliament because it might influence pay negotiations elsewhere in the community. We see the force of this criticism. However, it would be possible to use the New Earnings Survey and at the same time to retain a June date for change if Parliament were prepared to make use of information from the previous Survey. Yet even this course is open to serious objections of a kind that, in our view, would further undermine the case for the creation of any automatic link. For instance, in a period of falling inflation, the use of data that would be fifteen months out of date could lead to higher increases in MPs' salary than the general rate of increases current at the time of updating.

95. Since the publication of Part I of our report one fresh suggestion has been made to us, namely that some form of automatic updating of MPs' pay might be based on the increases that are recommended for the four groups specified in our standing terms of reference. These are the Chairmen and members of the Boards of nationalised industries, the higher judiciary and certain other judicial appointments, senior civil servants, and senior officers of the armed forces.

96. But we are bound to conclude that an updating system on this basis would not be appropriate either. The appointments in these groups cover a wide range both of functions and responsibilities. As a consequence, pay too covers a wide range and has to take account of many factors peculiar to individual appointments. There is no similarity between the functions and responsibilities of these groups and those of a Member of Parliament. Furthermore, there is no relationship in terms of pay level between these groups and MPs.

97. All the proposals for a link of one kind or another have one aim: the introduction of an automatic system that will effectively remove the decision on MPs' pay from the Parliamentary arena. We repeat that we do not consider that a pay link is the right way to deal with the problem. In Report No. 7 in 1975, we recommended that the salaries of Members of Parliament and of Ministers and paid office holders should be subject to biennial review by an independent body. The Government have accepted that the salaries of Ministers and paid office holders should be reviewed in this way every two years; it would be consistent to review the salary of Members with the same frequency, but with a full reassessment of the Member's job only taking place every 4 years. This is the method that we recommend.

98. As for the adoption of some form of link between independent reviews, this is not, for the reasons which we have given (paragraphs 91–96) a course we can recommend. But if Parliament resolves to take such a course then the least unsatisfactory method of updating that we can suggest is, as we have said, by reference to the appropriate percentile of the Department of Employment's New Earnings Survey.

THE MAIN PUBLIC SERVICE PENSION SCHEMES

The benefits of public service pensions schemes are broadly in line with each other: all are equivalent to a maximum pension of $\frac{2}{3}$ final salary, with provision for death benefits, widows' (and widowers' in the Parliamentary scheme) and dependants' pensions, etc. In most of the schemes, a quarter of the pension is automatically commuted to a lump sum. In some (notably the police and fire, and Parliamentary schemes) such commutation is optional.

2. In most schemes, the maximum $\frac{2}{3}$ pension is earned after 40 years' service, ie an accrual rate of 1/60th per year of service. There are however exceptions: police, fire, armed forces and prison officers' pensions accrue more rapidly because the jobs require a high standard of physical fitness. Hence, these groups retire earlier than is usual and cannot enjoy a full 40 year career. Judges' pensions accrue even faster, because they have no opportunity to enter the scheme other than relatively late in life. This benefit has roots going back many years, and is the only example in the public service of rapid accrual based on late entry rather than early retirement.

3. The table overleaf sets out the accrual rates in the main public service schemes (including, for this purpose, the Parliamentary scheme), together with the numbers of employees in the schemes and the employee contributions paid. 1/40th accrual would reduce the period over which a full pension can be earned from 40 years to 26 years 8 months.

ic ce ce accrual and contribution rates

ngth of time er which full nsion accrues	Scheme	Number of scheme Members	Employee Contribution (% of salary)
or 20 years	Judiciary	700	3 or 4% (widows' contribution only)
years (1)	Police Fire Prison Officers	127,000 38,000 20,000	7%(men), 5%(women) $6\frac{3}{4}$% $8\frac{1}{2}$%(men), 7%(women)
years (from e 21) years(from 18)	Armed Forces Officers Armed Forces other ranks	37,000 276,000	Not quantified
years	MPs Civil servants Local Government NHS Teachers	630 680,000 (2) 1,098,000 728,000 662,000	6% $8\frac{1}{2}$%(men), 7%women (3))5% (manual))6% (non-manual) 6%

es

Police, fire and prison officer pensions accrue at the rate of 1/60th for the first 20 years of service and 1/30th (ie double accrual) for the nest 10, up to a maximum of 30.

Excluding prison officers.

The Civil Service Scheme is non-contributory, but in pay research salaries are reduced to take account of pensions. If the scheme were contributory, male civil servants would pay $8\frac{1}{2}$%.

Annex C

TSRB COMMENTS ON RATE OF ACCRUAL
Extract from TSRB 8 (Cmnd 6574, July 1976)

Rate of accrual

36. During our current review, we have received a number of representations about the rate at which pension entitlement is accrued under the Parliamentary scheme. Some 72 per cent of the Members who replied to our questionnaire said that they favoured a faster rate of accrual: and the respondents who specified a particular rate of accrual were evenly divided between those who advocated a rate of one-fortieth of final salary a year and those who advocated other rates[1]. A wide range of rates of accrual was also suggested to us in other evidence.

37. The point most often put forward in support of a faster rate of accrual is that it is rare for an MP to be able to serve in the House of Commons for the 40 years necessary under the present arrangements to qualify for full pension entitlement. We have been told that the average length of service as an MP is 17–20 years. Nevertheless, certain other points also have to be taken into consideration. A career in Parliament is not unique in being a late-entry career, and a 40-year accrual period is standard elsewhere in the public services (with one or two exceptions that are mainly related to particularly hazardous and physically demanding jobs – for example, in the police and fire services – and the judiciary where it is unusual for a judge to be appointed under age 50). Moreover, it is becoming increasingly common for pension entitlement to be preserved or transferred from one scheme to another and MPs may benefit from this in the same way as other people. Finally, the cost of a faster rate of accrual could be high, particularly if Members had to bear the whole cost themselves.

38. The recommendations that we make in this chapter will achieve some of the objectives of a faster rate of accrual and will, we believe, prove more beneficial to Members as a whole. We consider that the rate of accrual under the Parliamentary scheme should not be changed.

[1] Appendix A, Tables 23 and 24.

Ext ct from TSRB 13 (Cmnd 7825, February 1980)

Rate of accrual

41. The present scheme provides for an even rate of accrual of pension entitlement of one-sixtieth of final salary for each year of service up to a maximum of 40 years, giving a maximum pension of two-thirds of final salary. What is, by comparison with practice elsewhere, a favourable rate of accrual means that the maximum benefit available to MPs is equal to that available in most public service schemes.

42. The survey of Members carried out for the review indicated less concern with the rate of accrual than in 1975. But it is the area in which most suggestions for improvement were made—about one-third of the total number of suggestions. Faster accrual has also featured in oral evidence on pensions. The most common specific proposal put to us has been that the rate should be one-fortieth of final salary for each year of service. The main argument in support of this rate is that it is extremely unusual for an MP to be able to serve the 40 years necessary under the present arrangements to qualify for full pension entitlement.

43. We can understand Members' feelings on this issue: the great majority of Members are unable to complete 40 years service in the House. However, as we explained when we considered this question in our 1975–76 review[1], a number of other points have also to be taken into account. A career in Parliament is probably a 'late entry' career to a greater extent than most others. Nevertheless, MPs are by no means alone in being unable, in most cases, to qualify for maximum benefit from the scheme to which they belong. An accrual rate which provides maximum benefit equivalent to two-thirds of pay at retirement after 40 years is widespread in the public services although in practice, because of late entry, the average reckonable service of public service pensioners is well below 40 years. A similar rate of accrual is common among the better private sector schemes, but many private sector schemes offer a less favourable rate. Faster rates of accrual are not common and are mainly related to particularly hazardous and physically demanding jobs (such as the police and fire services). Moreover, the cost of a faster rate of accrual could be high, particularly were Members to bear the whole cost themselves. Within the public sector it is common for an entitlement to a pension to be preserved or transferred from one scheme to another. In the private sector the preservation of pension entitlement is common and a number of private sector schemes now make provision for transfers; however, many people do not elect to transfer—partly because of problems created by current pensions legislation and partly because preservation can be financially advantageous. Where these changes have taken place, MPs have the same opportunities as other people. Against this background we consider that the present accrual rate for MPs is satisfactory. Moreover, the ability to purchase additional years of reckonable service goes a long way towards meeting the criticisms of the present rate of accrual without imposing any further financial burden on those MPs who regard the present rate as adequate.

[1] Review Body on Top Salaries, Report No. 8: Ministers of the Crown and Members of Parliament and the Peers' expenses allowance: Part II—Cmnd 6574 (paragraphs 36–38).

File

TMP

BF 26/9/80

10 DOWNING STREET

From the Private Secretary

26 August 1980

TAX ALLOWANCES FOR MINISTERS AND MPs

The Prime Minister has seen your letter to me of 15 August and the attached legal opinions.

She has commented that she disagrees strongly with the points made by the Revenue Solicitor in the exchange with your Minister of State, Mr. Peter Rees, which were at Annex D to your letter. In her view, Ministers per se cannot vote at Westminster. Only Members can vote. A Minister cannot vote unless he is a Member, and then he votes because he is a Member. The Prime Minister thinks that the proposition that on appointment to a Ministerial post a Member's duties at Westminster become essentially Ministerial in character is nonsense.

The Prime Minister would therefore like this matter to be taken further. Unless you can suggest an alternative, I think that it will be necessary for the Treasury to seek the Law Officers' advice.

Perhaps you could let us know how you intend to proceed.

I am copying this letter for information to David Wright (Cabinet Office).

N. J. SANDERS

M.A. Hall, Esq., M.V.O.,
HM Treasury.

1

10 DOWNING STREET

I discuss shortly with the Ministers & the Solicitor G. & the C.R.

PRIME MINISTER

You asked about tax relief. If what is here is the advice for Ministers. At my request we must take it the Treasury have supplied all their advice. I have flagged the most important passages, and draw your attention in particular to the section at flag X.

If you want to take it further, we could consult the Law Officers.

Do you want to do so?

MS 15/8

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

15 August 1980

N.J. Sanders, Esq.,
Private Secretary,
10, Downing Street

Dear Nick,

TAX ALLOWANCES FOR MINISTERS AND MPs

You wrote to me on 12 August about the Chancellor's minute of 11 August, saying that the Prime Minister was not clear why the consensus of legal opinion was that Ministers might not be allowed relief for that part of their Parliamentary life which required them to spend time in London as Members. You suggested that I should let you have the full text of the legal opinions on this question, drawing attention to those parts which cover the point raised by the Prime Minister.

.... I now enclose at Annexes A and B copies of Counsel's Opinion of 30 November 1979 and the Solicitor of Inland Revenue's Opinion dated 12 March 1980, to which the Chancellor referred in his minute. These do not however touch directly on the point raised by the Prime Minister, since Counsel concluded that it was not necessary to consider the position of Ministers as in their view Members were not entitled to relief either; and the Revenue Solicitor's Opinion is devoted to explaining why he disagrees with Counsel, concluding that Members are entitled to relief.

The best thing therefore is for me to send you in addition - at Annex C - copies of the Revenue Solicitor's instructions to Counsel, drawing particular attention to paragraphs 13 to 15, which set out the legal arguments for denying relief to Ministers, and - at Annex D - of the covering note to Counsel containing comments by the Minister of State (Commons) and by the Solicitor of Inland Revenue which are directly relevant to the point raised by the Prime Minister. I am not sending copies of all the mass of documents which accompanied the instructions, but I am enclosing - at Annex E - the Revenue Solicitor's Opinion of 8 March 1952 (Document 7(a)) and - at Annex F - extracts from the Lawrence Committee Report on the Remuneration of Ministers and MPs (Document 2), drawing particular attention to paragraphs 122 to 128, which contain comments on the incidence of taxation on ministerial salaries.

/I apologise

I apologise for the voluminous supporting material; but it is necessary for a thorough examination of the case.

M.A. HALL

15 AUG 1980

Annex (A)

JOINT ADVICE

MINISTERS IN THE HOUSE OF COMMONS

SCHEDULE 'E' DEDUCTIONS

1. We are asked whether the Revenue practice, that has been in operation at least since 1952, whereby a "London deduction" is refused to a Member of Parliament during such time as he holds office as a Minister of the Crown is sound in law.

2. The reasoning upon which the practice is based is founded on the proposition that the London deduction granted to non-ministerial M.P.'s is a deduction from the gross emoluments of their office that is permissible under the provisions of Section 189(1), Income and Corporation Taxes Act, 1970. This means that for the deduction to be justified it must represent either

(a) expenses of the M.P. of travelling in the performance of his duties as an M.P. which he is necessarily obliged to incur; OR

(b) money expended by him wholly, exclusively and necessarily in the performance of his duties as an M.P.

3. From this basic assumption the reasoning proceeds by asserting that when an M.P. becomes a minister he is obliged to live in London because his duties as a

minister have to be carried on in London. The ministerial office ties him to London. (See minute of Mr. Parratt of 8th March, 1952, and memorandum prepared at the request of the Financial Secretary, both in enclosure 7 with our instructions).

4. Thus, it is argued, when once an M.P. becomes a minister the extra expense of running his London pied a terre, which represents the London deduction, is no longer laid out "wholly and exclusively" in the performance of his duties as an M.P. It is laid out, partly at least, in the performance of his duties as a minister.

5. The first thing that we feel we should say is that we are clearly of the opinion that the reasoning we have set out above is founded on a false premise. In our view the London deduction granted to non-ministerial M.P.'s cannot be justified in law. If this is right the refusal of the deduction to M.P.'s who are also ministers is clearly sound, as their position is a fortiori the position of the ordinary non-ministerial M.P. If the latter is not entitled in law to the deduction, the former is even less entitled.

6. We should, perhaps, set out fully why we take the view that the London deduction granted to M.P.'s cannot be justified. As we have said above an M.P. would be entitled to deduct the extra cost of his London pied a terre if he could show that it fell into either of the

two categories of expenditure defined in Section 189(1). We consider below each category in turn.

7. Is the extra expense of running his London pied a terre "expenses of travelling in the performance of the duties of his office of M.P. which he is necessarily obliged to incur"?

The extra expense of running a London home is obviously not an expense of travelling in any ordinary sense of those words, but there have been cases where the cost of accommodation has been held by the courts to be properly included in the expenses of travelling. One must look, therefore, to see the principle behind those cases and see whether it can fairly be said to apply to the situation we are considering. The first such case, and the one usually relied upon, is Nolder v. Walters 15 T.C. 380, in which Rowlatt J., had to consider the expenses incurred by an Imperial Airways pilot in providing himself with accommodation overnight when, having piloted an aeroplane to its destination overseas, he had to spend the night in an hotel before returning to England the next day.

8. Rowlatt J., in his judgment recognised that some offices and employments involve the duty of travelling,

> "it is not" he said "a question of getting to the place of employment, but the employment may be actually to travel, as in the common case of the commercial traveller, and, as some

people say, in the case of the Member of Parliament. The duties may be actually to travel ... therefore both, I should have thought under the general words of the later part of the section, and, I think, under the head of travelling expenses, he is allowed the expenses of so travelling".

He went on to agree that

> "when you get a travelling office, so that travelling expenses are allowed, those expenses do include the extra expense of living which is put upon a man by having to stay at hotels and inns, and such places, rather than stay at home."

This remark may have been obiter as it is not clear from the rest of the judgment whether the judge held that the extra cost of overnight accommodation (which he allowed as a deduction) was to be regarded as deductible as travelling expenses under the first limb of the section or as expenses falling under the second limb.

9. A case in which the judge held that expenses of this type were to be regarded as travelling expenses was MacLean v. Trembath 36 T.C. 653. In that case Roxburgh J., said at p.664

> "I am not going to treat the £50 for hotel expenses as a separate item because it only looks like stopping a night or two in the course of a journey and I think, for practical purposes, it is fairly to be treated as

travelling expenses, and not, as it would be if it had been for a long period of time, something quite different".

In Elwood v. Utitz 42 T.C. p.482 the Crown conceded that a director of a business in Northern Ireland who had to visit London from time to time for short periods of a day or two was entitled to deduct the cost of staying at London hotels during such visits, and also that the amounts paid to two clubs for bed and breakfast were allowable expenses. It is not clear whether the concession was made on the basis that it was justifiable under the first or under the second limb of the rule. We think that if it was justifiable at all it can only be under the first limb on the basis that the expense was part of the travelling expenses that he was necessarily obliged to incur in the performance of his duties. For reasons which we will indicate below we do not consider that the deduction could possibly be justified under the second limb which contains the requirement that the expenses must be 'wholly and exclusively' as well as 'necessarily' laid out in the performance of the duty.

10. We think it is plain from these cases and from a common sense interpretation of the words "expenses of travelling" that the kind of case where the extra cost of staying in an hotel may be included in travelling expenses under the first head of the rule is limited to the sort of case that involves a person (whose job involves travelling as part of the duties of his office) is bound to stay in hotels etc. for a day or two in the course of

his work. In Ricketts v. Colquhoun 10 T.C. 118 (in which the House of Lords held that the travelling and hotel expenses of the Recorder of Portsmouth were not deductible) Lord Blanesburgh at p.136 described the expenses permissible under the first head as limited to "itinerant expenses". The case of M.P.'s who retain a pied a terre in London where they live during their time in London even if they are only in London during the sitting of Parliament and not at weekends does not seem to us to fit into this type of case because it cannot be said that the expense is incurred 'necessarily' nor is it incurred 'in the course of the performance of his duties'. Where the line would be drawn between the type of case for which deduction was legitimate and the case of an M.P. would depend upon the precise facts of different cases, but on any factual basis that we can imagine we are confident that an M.P.'s London pied a terre would be on the non-deductible side of the line.

11. The second question is - Can the London deduction be justified on the basis that it is "money expended by the M.P. wholly, exclusively and necessarily in the performance of his duties as an M.P.?

We think that they cannot. In Ricketts v. Colquhoun the House of Lords considered the wording of the section governing the position in relation to the second as well as the first head and, in our view, what was then said precludes the allowance. It is true that Ricketts v. Colquhoun was not a case of a person who had

to travel in the performance of his duties or like Pook v. Owen 45 T.C. 571 a case where the taxpayer had two places of work into which category Lord Simon of Glaisdale (in Taylor v. Provan 49 T.C. 579 at p.618) put a Member of Parliament. We do not however think that this alters the applicability of what was said in Ricketts v. Colquhoun to the present problem.

12. Viscount Cave L.C. said that as a rule a man does not eat or sleep in the course of performing his duties. Logically therefore money expended in making available to a taxpayer a place where he can eat and sleep is excluded by the fact that such expense is not incurred "wholly and exclusively" in the performance of his duties. Lord Blanesburgh put it rather differently, but, it seems to us in a way which equally has the effect of precluding the deduction. Lord Reid in Taylor v. Provan 49 T.C. at 604 said that the speech of Lord Blanesburgh has generally been regarded as best expressing the ratio of the decision. Lord Blanesburgh said

> "The language of the rule points to the expenses with which it is concerned as being confined to those which each and every occupant of the particular office is necessarily obliged to incur in the performance of its duties ..... The deductible expenses do not extend to those which the holder has to incur mainly, and it may be only, because of circumstances in relation to his office which are personal to himself, or are the results of his own volition."

Applying what he had said to the facts of that case Lord Blanesburgh said of the claim for the expense of the hotel room used while the taxpayer was sitting as Recorder at Portsmouth, that it was, like the claim for the cost of his breakfast, lunch and dinner, not wholly, exclusively and necessarily attributable to the performance of his duties. "The truth is" he said "that these expenses cannot in either case be properly so described; they are personal in each case to the Recorder ..." There have been a number of cases since Ricketts v. Colquhoun in which the expenses necessary to enable a person to live as a human being e.g. to eat or clothe himself have been held not to have been laid out "wholly and exclusively" in the performance of the duties of the office, see e.g. Cailebothe v. Quinn 50 T.C. 222; Hellyer v. Leeke 51 T.C. 90. The cost of providing a roof over one's head or a bed to sleep in does not seem to us to be in any different case.

13. The one case which at first blush affords some assistance to the Minister M.P. is Elwood v. Utitz 42 T.C. 482 to which we have already referred in paragraph 9 above. The only question calling for decision in that case was whether the club subscriptions paid by the taxpayer were deductible, and the Northern Ireland Court of Appeal decided that they were expenses wholly, exclusively and necessarily incurred in the performance of his duties. The Court was plainly influenced by the Crown's concession which in our view could not have been justified under the second head, and in our opinion the

decision is irreconcilable with the rigorous interpretation put upon the statutory wording in Ricketts v. Colquhoun. In any event we think that there is a significant distinction between the expense of providing temporary accommodation for a few nights and the expense of a more permanent pied a terre.

14. Having for these reasons formed our view as to the deductibility of the London deduction in the case of ordinary M.P.'s it follows, as we indicated above, a fortiori that it would not be in our opinion a legitimate deduction in the case of an M.P. who was also a minister, and we can see no exceptions.

15. We think that an M.P. who is also a minister must be regarded as holding two offices and not one composite office. This is because there is, it seems to us, no doubt that each office may exist separately. Thus a member who is also a minister could be elevated to the House of Lords and cease to be an M.P. and yet retain his office of minister. Equally he might cease to be a minister and retain his office of M.P. But this does not affect our opinion.

16. We would only add that if a Minister M.P. were to litigate the question we have debated above we would see great difficulty in the Crown adhering in a court to the concession that is made in relation to non-ministerial M.P.'s. We do not see how the Crown could properly in these circumstances make a concession

of law which it knows to be erroneous particularly as the Crown has been seen to adopt the correct but harsh stance of insisting on the strict application of section 189(1) in other areas such as those which we have mentioned in paragraph 12. Moreover even if the Crown sought to make a concession of law on the question of non-Ministerial M.P.'s we think that the court would, rightly, be unable to accept such a conclusion. The effect of a proffered concession in favour of M.P.'s being rejected by the court would not, we think, be other than most unfortunate.

TEMPLE, E.C.4.
30th November, 1979.

Patrick Mead

Brian Davenport

(B)

MINISTERS IN THE HOUSE OF COMMONS

SCHEDULE D ELECTIONS

JOINT ADVICE

SOLICITOR OF INLAND REVENUE,
Somsert House,
London, WC2.

Annex B

Mr BITTON
POLICY DIVISION 1/2

SCHEDULE E DEDUCTION FOR EXPENSES OF ACCOMMODATION AWAY FROM HOME

COUNSEL'S OPINION OF 30 NOVEMBER 1979 ON MINISTERS IN THE HOUSE OF COMMONS

1. You ask me to advise on the implications of the Opinion. I will do that first, before expressing a view on the conclusion Counsel reached.

2. In general terms the essential conclusion in the opinion is that the expenses of accommodation away from home -

(i) may be allowable under the first limb of s.189(1), but only in the limited class of case where a person is bound to stay in hotels, etc. for a day or two in the course of his work (para 10);

(ii) cannot be allowable under the second limb because they are not incurred "wholly and exclusively" in the performance of the duties (para 12).

The second proposition may be subject to exception for certain special cases like hotel inspectors, but for present purposes that can be ignored.

IMPLICATIONS

3. In the first place I confirm that in principle the Opinion would apply equally to the extra cost of living in the constituency in the case of an MP who treats London as his main base. But this is on the assumption that he has long-term accommodation in the constituency. The facts of parliamentary life make it practically impossible for an MP to live in a distant constituency and make only short visits to London, staying in hotels for no more than a few days at a time before returning. But the converse is quite possible. The London based MP therefore has potentially more scope for claiming that his expenses of staying in the constituency can be regarded as "expenses of travelling".

4. The view that accommodation expenses cannot be allowed under the second limb of s.189(1) must, if valid, be of general application. It cannot possibly be confined to MPs by reason of any special features peculiar to them. It must apply to all cases of long-term detached duty, as well to itinerant jobs, two places of work jobs, and any other categories that may be invented. It follows that in all these cases expenses of accommodation would only be legally allowable if they are properly to be regarded as part of the travelling expenses. As a matter of law it is really impossible to say much more than this without danger of departing from the statutory test. But I think one can say that the proposition involves the conception of stopping which is incidental to the travelling rather than vice versa. On this approach the cost of a stop in mid-journey might qualify more easily as travelling expenses than the cost of a stop of the same length at the journey's destination. But this is not a distinction of any practical utility. If you wanted to formulate a general rule of practice in quantitative terms it would be legitimate to stretch the "day or two" mentioned in the Opinion far enough to leave all or most of the debateable area on the allowable side of the line. But even doing this, I think it could hardly be stretched beyond a fortnight without becoming obviously concessionary. This is not to rule out the possibility of exceptional circumstances where a longer period was justifiable, e.g. where a traveller got snow-bound in mid-journey.

5. Where all or part of the costs of accommodation are met by a lodging allowance that can be shown to be no more than reimbursement, lower paid employees would escape under the illogical rule established by the majority of the House of Lords in POOK v OWEN 45 TC 570 that the mere reimbursement of even non-deductible expenses is not an emolument. But this of course would not help anyone above the benefits-in-kind threshold.

6. So far I have mentioned only the implications of the Opinion for other situations dealt with under Sch E. But para 12 of the Opinion seems to me to have even more far-reaching implications for Sch D. If the cost of sleeping accommodation is to be disallowed under Sch E because it is not incurred "wholly and exclusively" in the performance of the sleeper's duties, I think the sleeping costs of a trader must equally be disallowed under ICTA s.130(a) as not being incurred "wholly and exclusively" for the purposes of the trade. And of course the trader has no separate rule allowing "travelling expenses" to fall back on. One of the supporting cases mentioned in para 12, CAILLEBOTTE v QUINN 50 TC 222, is in fact a Sch D decision disallowing eating expenses under s.130(a).

VALIDITY

7. To put the soundness of the Opinion to a practical test we should have to alter our existing practice by refusing to allow expenses of overnight accommodation under Sch E except so far as they can be accepted as coming within the narrow limits of "travelling expenses", and by refusing to allow them at all under Sch D. Even if we made no change under Sch D, we should inevitably face an early challenge in the courts under Sch E. I have little doubt that in the outcome we should be defeated. In other words I do not agree with the view that accommodation expenses are not allowable under the second limb of s.189(1). My disagreement is based partly on the view that ELWOOD v UTITZ 42 TC 482 is an authority directly in point. But before coming to that case in detail it is best to consider the question more generally.

8. I will begin with the general comment that the case law on Sch E deductions is peculiarly rich in judicial glosses and paraphrases of the statutory language, which, whatever utility they may have in explaining or supporting the particular decision, are

an unsafe guide if applied literally to other situations that were not in mind when they were formulated. In a well-known passage in QUINN v LEATHEM [1901] AC 495, 506 Lord Halsbury said that "...every judgment must be read as applicable to the particular facts proved ... since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found". That was in a common law context, but the principle is just as applicable to cases on statutory interpretation . For instance, in PAISNER v GOODRICH [1955] 2 QB 353 Lord Denning said (p.358), "When the judges of this court give a decision on the interpretation of an Act of Parliament, the decision itself is binding on them and their successors, but the words which the judges use in giving the decision are not binding. This is often a very fine distinction ... Nevertheless it is a real distinction which will best be appreciated by remembering that, when interpreting a statute, the sole function of the court is to apply the words of the statute to a given situation ... Whenever a new situation emerges, not governed by previous decisions, the courts must be governed by the statute and not by the words of the judges". And in the same case on appeal, GOODRICH v PAISNER [1957] AC 65, Lord Reid said more shortly to the same effect, (p.88), "No court is entitled to substitute its words for the words of the Act".

9. One of the best-known paraphrases in the Sch E deductions field is that of Lord Cave in RICKETTS v COLQUHOUN 10 TC 118, where he says (p.133) of travelling expenses that they must be incurred "in, that is, in the course of," the performance of the duties. And in dealing with the second limb of the rule (on p.134) he uses a similar paraphrase when he says that a man does not, as a rule, "eat or sleep in the course of performing his duties, but either before or after their performance".

Similarly in McKIE v WARNER 40 TC 65, at p.72 Plowman J says, "the necessity for expenditure 'in the performance of the duties' means that the sum in question must be defrayed in the actual discharge of the duties". Language of the kind used in these passages, if divorced from its original factual context, comes near to suggesting as a general rule that expenses can only be allowed under the second limb if paid out, or at least incurred, in working hours. At the most literal level the wording of s.189(1) itself may not positively reject an interpretation of this kind, but it certainly does not invite it, let alone demand it.

10. Such an interpretation would not make good sense when applied to various expenses of a different kind from those in issue in RICKETTS v COLQUHOUN, for example the expense of special protective clothing purchased by an employee. The Revenue practice of allowing the cost of special clothing has by implication been accepted - one could even say approved - in two recent cases where the cost of clothing that was not special was disallowed: HILLYER v LEEKE, 51 TC 90, WOODCOCK v CIR TL 2644. I think it would be quite artificial and unrealistic to try and reconcile the treatment of special clothing with Lord Cave's language by saying that when an employee in his own time goes into a shop and buys protective clothing he is then acting in the course of the performance of his duties. This is so even if there is a contractual obligation on the employee to wear special clothing. But the reality will normally, or at least often, be that there is no such obligation. It is simply a matter of the employee providing for himself what the employer does not undertake to provide.

11. One can introduce a comparable question into the RICKETTS v COLQUHOUN context by supposing that before leaving London the Recorder had purchased the notebooks necessary forhis use in court in Portsmouth. Such notebooks may indeed have been included in the item "stamps and stationery" for which the Recorder claimed to be

allowed a deduction of 3 shillings from his emoluments (see 10 TC p.119). This claim was allowed by General Commissioners (p.120) and was not thereafter in dispute. If such an item had still been in dispute in the House of Lords, I find it preposterous to suppose that it would have been disallowed on the ground that the Recorder had bought the notebooks before he reached the court where he "entered upon" his duties. The deduction would have passed Lord Blanesburgh's tests, and I doubt if Lord Cave's well-known paraphrase would ever have seen the light of day.

12. In TAYLOR v PROVAN 49 TC 579 (a case concerned only with travelling expenses) Lord Reid (at p.605A) rejected Lord Cave's paraphrase in saying of an office-holder who has to travel because his duties have to be performed at several places in succession, "I would doubt whether such travelling is always 'in the course of' the performance of his duties". He went on in effect to say that the statutory phrase is satisfied in such a case (not of course in a single-place-of-work case) if the office holder is travelling "to enable him to perform his next duty when the time comes". Lord Morris said (at p.608C), "The phrases 'in the performance of the duties' or 'in performing the duties' may to some extent be inexact. There may be cases in which someone who has performed certain duties at place A is then obliged to go on to place B and to perform certain duties there. While actually travelling between A and B he might or might not be able to perform any of his specifically assigned duties, but yet he might be incurring travelling expenses in the performance of or in performing the duties of his office or employment. On those facts he would be necessarily obliged to get from A to B: his duty would require him to travel. He would be travelling on his work." Of course the reference to "specifically assigned duties" distinct from the travelling itself in one sense begs the question. A particular employer may express his orders in a form which treats

the journey, and not merely the work to be done at the journey's end, as a duty, e.g. by saying, "Go to Glasgow on Monday and do X, and then go on to Perth on Tuesday and do Y". Another may simply say, "You are to do X at Glasgow on Monday and Y at Perth on Tuesday". But it would clearly be absurd to distinguish cases for deduction purposes according to whether the travelling is expressed as a duty or is left unstated as a necessary implication of the duty.

13. In the passage just cited Lord Morris himself paraphrases the statutory wording when he speaks of someone "incurring travelling expenses in the performance of the duties". This attaches the phrase "in the performance" to "incurring" instead of "travelling". Similarly, judgments dealing with the second limb of s.189(1) commonly - I think almost universally - paraphrase it by falling into the usage of "expenses incurred" instead of "money expended" although the word "incur" does not feature in the second limb at all. Thus, (to cite a few examples only) in RICKETTS v COLQUHOUN Lord Cave (p.134): "It seems to me that the words quoted, which are confined to expenses incurred in the performance of the duties of the office, and are further limited in operation by the emphatic qualification that they must be wholly, exclusively and necessarily so incurred, do not cover such a claim." And Lord Blanesburgh (p.136): "Nor of the Appellant's hotel expenses at Portsmouth can it, in my judgment, be said that they were incurred 'wholly, exclusively, and necessarily in the performance' of the duties of the office of Recorder of Portsmouth.". In LOMAX v NEWTON 34 TC 558, Vaisey, J. (p.561): "In order to satisfy the terms of the Rule it must be shewn that the expenditure incurred was not only necessarily but wholly and exclusively incurred in the performance of the relevant official duties.". In HALSTEAD v CONDON 46 TC 289, Megarry J (p.292): "The word which perhaps above all restricts the operation of the paragraph, quite apart

from the cumulative effect of 'wholly, exclusively and necessarily', is the word 'in'; the allowance is to be made only in respect of expenditure incurred 'in' the performance of the duties." In HILLYER v LEEKE 51 TC 90, Goulding J (p.93B): "It cannot be said that the expense of his clothing*is wholly or exclusively incurred in the performance of the duties of the employment". ELWOOD v UTITZ, referred to more fully below, provides further examples. Paraphrases like these, which treat the conception of "incurring" expense as central to the second limb as well as the first might be supported by reference to the operative wording at the end of s.189(1), "there may be deducted ... the expenses so necessarily incurred and defrayed". The language echoes the wording of the first limb only. "Defray" might be regarded as synonymous with "expend" in the second limb, but it seems to me unrealistic to suppose that the draftsman, clumsy though his structure is, did not regard the whole composite phrase used at the end as applying indifferently to both limbs of the preceding condition.

14. There is in my view a more fundamental reason justifying the kind of paraphrase that focusses attention on the "incurring" of expenses. This conception facilitates a rational operation of the rule, because in the light of it the expression "in the performance" can be seen as requiring a relationship of cause or implication between the duties and the expenses, rather than a merely temporal relationship. Other variant formulations which emphasize the causal relationship are almost as common, e.g. Donovan LJ's in BROWN v BULLOCK 40 TC 1, at p.10 "...the taxpayer must show that any expense he wishes to be deducted ... was, inter alia, necessarily incurred in the performance of the duties of the office or employment... The test is not whether the employer imposes the expense but whether the duties do, in the sense that, irrespective of what the employer may prescribe, the duties cannot be performed without incurring the particular outlay. This result follows, in my opinion, from the decision of the

*This refers to "ordinary" clothing

House of Lords in RICKETTS v COLQUHOUN." There is no point in multiplying citations any further. In practice of course the distinction between causal and temporal connection is more often than not immaterial. It is immaterial if the act on which money is expended is itself a duty, because then the expense is allowable by either test. It is also immaterial if the act is neither within the time span of performance nor necessitated by the duties, because then the expense is disallowable by either test. RICKETTS v COLQUHOUN was a case of the latter kind. It was a single-place-of-work case, and it is understandable in that context that Lord Cave should have seized on the time aspect for emphasizing the difference between travelling to work and travelling on work. But, as Lord Reid and Lord Morris pointed out in TAYLOR v PROVAN, this aspect does not provide an adequate criterion in other situations.

15. When Lord Cave comes to deal with the hotel expenses in RICKETTS v COLQUHOUN he says that they "must depend" on the second limb of the rule (p.133). His reasoning on its application is as follows (p.134): "A man must eat and sleep somewhere, whether he has or has not been engaged in the administration of justice. Normally he performs those operations in his own home, and if he elects to live away from his work so that he must find board and lodging away from home, that is by his own choice, and not by reason of any necessity arising out of his employment; nor does he, as a rule eat or sleep in the course of performing his duties, but either before or after their performance". The first part of this passage (down to "employment") is in terms appropriate only to a man whose duties are all performed in one place, or at least within an area so limited that he can reach all the places of performance from a single permanent home. The second part was probably not intended to have any wider application. But if it is to be construed in a wider sense, as being intended to rule out the deduction of hotel expenses even where the need to lodge away from home is (in the objective

sense) a necessity arising out of the employment, it will not, in my view, stand up. Taken in that sense it is certainly obiter. It involves a substantial paraphrase of the statutory language which is incompatible with the views of Lord Reid and Lord Morris in TAYLOR v PROVAN. And it is also incompatible with other decided cases, as well as being inherently unreasonable.

16. As Counsel point out in paragraph 8 of their opinion, Rowlatt J. was somewhat ambiguous in NOLDER v WALTERS 15 TC 380 about whether the airline pilot's hotel expenses were allowable as "travelling expenses" under the first limb of the rule. But it seems clear enough that he thought them allowable under the second limb since he discussed the point in the terminology of the second limb when he said (p.388), "...the cost of his food and lodging is not wholly and exclusively laid out in the performance of his duties, but the extra part of it is... In this case, therefore, he would be entitled to charge something for the extra expense which he is put to by having to go and spend all the day, and often the night, away from home because that is part of his duty....".

17. There are two other reported cases (apart from ELWOOD v UTITZ below) in which hotel expenses have been treated as deductible under the second limb. IN LOMAX v NEWTON 34 TC 558 Vaisey J upheld (p.563) that part of the Commissioners' decision which allowed a Territorial Officer's hotel expenses under the second limb. He hesitated over this item, not on general principle, but because of doubts arising from the paucity of evidence. He said: "A hotel bill is certain to include charges for 'extras' involving some measure of extravagance and personal indulgence as well as charges for necessaries, and it is really only the latter which should have been taken into consideration...". The case is generally cited for Vaisey J's introductory observation (p.561) that "the provisions of the Rule are notoriously rigid, narrow and restricted in their operation. In order to satisfy the terms of the Rule it must be shewn that the

expenditure incurred was not only necessarily but wholly and exclusively incurred in the performance of the relevant official duties". He in fact disallowed all the items claimed except the hotel expenses.

The second case is MACLEAN v TREMBATH 36 TC 653. This was concerned with the expenses of a trip to Australia incurred by a husband and wife who held all the shares in a private company and were its only directors. The Special Commissioners held in relation to the husband that "the expenditure on his sea passages, on his travel in Australia ... and on his hotel accommodation, was incurred wholly, exclusively and necessarily in the performance of his duties as director of the company" (p.662-3). With more doubt the Commissioners made a similar finding about the wife, whose directorship was scarcely more than nominal. Roxburgh J dealt first with the husband and upheld the Commissioners' finding (p.663). Then, in dealing with the wife, he said (p.664) that it was "an impossible finding" that her expenditure was expended wholly and exclusively in the performance of the duties of her office". But that was not the end of the matter, because if her expenditure was "necessarily incurred in the performance of the duties of her office" he would have allowed it under the first limb. In this connection he was prepared to treat the £50 for hotel expenses on the same footing as the other items since he thought in the circumstances it was "fairly to be treated as travelling expenses". In the end (p.667) he disallowed the whole of the wife's expenditure on the ground that it was not necessarily incurred in the performance of her duties. The fact that he was prepared, if it would help the wife, to treat her hotel expenses as travelling expenses, does not affect his conclusion that the husband's hotel expenses were properly allowed under the second limb.

18. Paragraphs 11 and 12 of the Opinion give the reason for saying that the MP's London deduction cannot be justified under the second limb of s.189(1). The reasons

are not peculiar to MP's and I will for the moment continue to discuss the matter in general terms applying to all office-holders and employees who have to incur expense on sleeping accommodation away from home. The main reason Counsel give is that what was said in RICKETTS v COLQUHOUN precludes the allowance. Reference is made in particular to Lord Cave's statement that a man does not, as a rule, eat or sleep in the course of performing his duties. I have already given my reasons for thinking that this statement is unreliable authority. The conclusion drawn by Counsel from the statement is that the cost of providing sleeping accommodation for a tax-payer is not incurred "wholly and exclusively" in the performance of his duties. The conclusion would in fact conform more closely to Lord Cave's statement if the words "wholly and exclusively" were omitted, since in this passage Lord Cave placed no reliance on those words. Reliance is also placed on the passage where Lord Blanesburgh deals with the hotel expenses (p.136-7). But in my view this passage does not bear the meaning Counsel give it. Lord Blanesburgh here takes the statutory expression "wholly, exclusively and necessarily in the performance of the duties" in one piece without distinguishing the elements. He compares the cost of a hotel room to the actual Recorder with the "appropriate expenditure" of a hypothetical Recorder living in Portsmouth in his own home, and sees no relevant distinction. "The truth is that these expenses cannot in either case be properly so described [i.e. in the statutory terms]; they are personal in each case to the Recorder - expenses to be defrayed out of his stipend but in no way essential to be incurred that he may earn it.". The cases referred to as "either case" and "each case" are those of the actual and hypothetical Recorders, which is not apparent from the context in Counsel's Opinion. Lord Blanesburgh has several times before this used the word "personal" to describe expenses that are not allowable; first on p.135 where he says that "the terms employed [in the Rule]

are strictly, and, I cannot doubt, purposely, not personal but objective". I think that in the final passage on hotel expenses Lord Blanesburgh is pointing to substantially the same distinction, that between expenses personal to the office-holder and those "essential to be incurred". I see nothing in this to indicate a view that hotel expenses cannot be allowable when they are, in the objective sense, necessarily incurred.

19. In paragraph 13 of their Opinion, Counsel recognise that the decision in ELWOOD v UTITZ 42 TC 482 is not at first sight consistent with their view. However they dismiss the case on the ground that the court was influenced by a concession by the Crown, and that the decision is irreconcilable with RICKETTS v COLQUHOUN. The reference to the Crown's concession is explained in paragraph 9. There is in fact only one thing referred to in Lord MacDermott's judgment as a concession. This appears on p.493 and relates solely to the class of hotel which the Appellant was justified in using, namely a first-class hotel. This was purely a matter of degree and was relevant to the finding that the Appellant had achieved an economy by joining two clubs. What Counsel are referring to as a concession is simply the acceptance by the Crown that hotel expenditure was allowable in principle. As Lord MacDermott points out on p.492, the fact that the provision of appropriate accommodation in London meant the expenditure of money necessarily in the performance of the Appellant's duties was not in dispute, but I see no ground for saying that the court was influenced in its decision by the absence of dispute on this point. Lower on the same page Lord MacDermott cites the finding that the Appellant "was necessarily obliged in the performance of his duties as managing director of the company to travel to London for these visits and to stay there for the period specified, and the cost of travelling and staying in London was incurred by him wholly, exclusively and necessarily in the performance of his said duties". He then goes on to say that subject to the question

whether the words "wholly, exclusively and necessarily" had been used in the true statutory sense, "it seems impossible to challenge the other findings". I read this as meaning that, subject to the question he reserves, the findings were inevitable. He then goes on for several pages to consider the reserved point in relation to the club subscriptions. He first discusses (on p.494) whether the subscriptions were money expended "necessarily in the performance of" the Appellant's duties. He upholds the affirmative finding and says that "it would have been hard for the Special Commissioners to reach a different conclusion. The Appellant had to have accommodation facilities of the quality provided by these clubs, since the performance of his duties necessitated accommodation and facilities of that sort". On p.495 he discusses the "more difficult question" of whether the subscriptions were paid "wholly" and "exclusively" in the performance of the duties. The point of difficulty which he regarded as "the main issue" in the appeal was whether the incidental butunsought benefits of membership ruled out the deduction. He concluded that they did not. The whole basis of the decision is further elucidated on p.498 where he distinguishes BROWN v BULLOCK 40 TC 1 on the ground that the present case was one "in which the subscriptions were paid not to gain membership as an end in itself but to obtain accommodation and facilities which the Appellant had to get if he was to perform the duties of his office". (The other "facilities" referred to were the use of a room in the club for business meetings.) It is plain that the club subscriptions were allowed simply as being part of the cost of obtaining the accommodation and facilities. This conclusion could not have been reached except on the basis that the more direct costs of the accommodation were allowable, and I find it impossible to suppose that the court had any reservation about the soundness of that basis. I therefore regard the decision as a direct authority on the point that accommodation expenses are allowable under the second

limb of s.189(1). There is no room for doubt about which limb the court regarded as applying. The whole discussion turned on the terms of the second limb and at the end of his judgment Lord MacDermott expressly doubted whether the first limb could apply.

20. For reasons I have already given I do not regard this decision as being inconsistent with the ratio decidendi of RICKETTS v COLQUHOUN although it may well be inconsistent with certain of Lord Cave's dicta. But even if there were strong grounds for arguing that ELWOOD v UTITZ is inconsistent with RICKETTS v COLQUHOUN, the argument is not really open in any court below the House of Lords. RICKETTS v COLQUHOUN was considered by the court in ELWOOD v UTITZ and there is no question of the later decision being per incuriam. Any inconsistency could only be due to misinterpretation, but, if this were so, the misinterpretation is nevertheless binding until overruled by the House of Lords. A decision of the Court of Appeal in Northern Ireland (particularly when presided over by Lord MacDermott) would, in tax matters, be treated as binding by other courts in the United Kingdom below the House of Lords on the principle explained by Lord Evershed in ABBOTT v PHILBIN 39 TC 82 at p.112, and approved by Lord Reid at p.122. In my view it is not open to any court, which on normal principles is bound by ELWOOD v UTITZ, to disregard its authority on the ground that it conflicts with RICKETTS v COLQUHOUN. Lord Simon explained the principle in MILIANGOS v FRANK (TEXTILES) LTD [1976] AC 443 at p.478E: "It is the duty of a subordinate court to give credence and effect to the decision of the immediately higher court, notwithstanding that it may appear to conflict with the decision of a still higher court. The decision of the still higher court must be assumed to have been correctly distinguished (or otherwise interpreted) in the decision of the immediately higher court."

21. In general, then, I consider that there is a firm basis in case law for saying that the expenses of

accommodation away from home are allowable under the second limb of s.189(1) when the need to incur them is imposed by the nature of the duties. This is in no way inconsistent with the fundamental principle of objectivity for which RICKETTS v COLQUHOUN stands as the leading authority (reaffirmed in TAYLOR v PROVAN). The "wholly and exclusively" requirement does not automatically rule out the allowance although it may of course do so in cases where there is a dual purpose. The general principle appears to me quite capable of covering the cost of long-term accommodation away from a normal place of work. The "necessity" for incurring long-term costs of this kind cannot be judged in the abstract without regard tothe alternatives available. A man cannot sensibly be expected to sell his home and move because he is sent on detached duty for six months. There is no point at present in considering where the line should be drawn in general practice.

22. MP's have been treated as falling within the general principle on the ground that it is impossible (except for those with constituencies in or near London) for them to have a single permanent home within adequate reach of both their Westminster duties and their constituency duties. So far this, in my view, is a legitimate application of the general principle. There are however almost certainly concessionary elements in the general treatment of MPs. The option they are given of having a London deduction or a constituency deduction is based on the assumption that the duties in neither place are so predominant as to give the office an undoubted centre of gravity in one place or the other. One of the practical problems is that the "duties" of an MP are, to a considerable extent, within his own power to mould. (He is not unique in this respect, since the same can be said of many directors of private companies.) But however much flexibility he has I think it is probably rather unrealistic at the present day not to regard Westminster as at least the presumptive centre of gravity of the office.

23. Finally, I should make it quite clear that what I have been saying is directed only at the expenses of accommodation away from home, not at the expenses of eating away from home. Lord Cave expressed himself as if the two things were necessarily on all fours, but I think that must be wrong. The "cost of sleeping" away from home when the duties require it is normally the cost of temporary accommodation additional to the traveller's unused permanent accommodation. And the whole of that cost would be an extra cost imposed by the duties. The same cannot be said of the cost of eating away from home. The case of CAILLEBOTTE v QUINN (supra) illustrates the problems, and they may be insoluble on any statutory basis except by total disallowance.

12 March 1980

R S BOYD

INSTRUCTIONS TO ADVISE

DOCUMENTS HEREWITH:

1. Extract from the Report of the Royal Commission on the Taxation of Profits and Income, 1955, Cmnd 9474 ("Radcliffe Report").

2. Extracts from the Report of the Committee on the Remuneration of Ministers and Members of Parliament, 1964, Cmnd 2516 ("Lawrence Committee").

- Extracts from Reports of the Review Body on Top Salaries -

3. First Report, 1971, Cmnd 4836 ("Boyle (1)")

4. Report No.7, 1975, Cmnd 6136 ("Boyle (7)")

5. Report No.12, 1979, Cmnd 7598 ("Boyle (12)")

6. "Notes on Income Tax for Members of Parliament" (being explanatory notes provided by the Revenue for MP's)

7. Revenue Notes and Minutes on the disallowance of the "London deduction" to Ministers :-

   (a) Opinion of Solicitor of Inland Revenue (8th March 1952)

   (b) Minute of 18th February 1953

   (c) Memorandum prepared in 1956

   (d) Note for the Lawrence Committee (May 1964)

   (e) Note for the Chancellor (28th April 1971).

1. A Member of Parliament for an out of London (or "country") constituency whose home is outside London is allowed a Schedule E deduction for the cost of accommodation in London to enable him to carry out his Parliamentary duties at Westminster. This is referred to as the "London deduction". An MP in this position who is given a Ministerial appointment is, under a long standing practice of the Board, no longer entitled to the London deduction. The Board have been asked to re-examine this practice and Counsel's opinion is required on its soundness as a matter of law.

BACKGROUND

2. The main Schedule E deduction rule, the only one now in point, is contained in s.189(1) of the Income and Corporation Taxes Act 1970, and is here set out with a break between what are referred to below as the first and second limbs.

> If the holder of an office or employment is necessarily obliged to incur and defray out of the emoluments thereof the expenses of travelling in the performance of the duties of the office or employment, or of keeping and maintaining a horse to enable him to perform the same,
>
> or otherwise to expend money wholly, exclusively and necessarily in the performance of the said duties, there may be deducted from the emoluments to be assessed the expenses so necessarily incurred and defrayed.

As many cases (including RICKETTS v COLQUHOUN infra) show, the restrictive force of the rule lies in the phrase "in the performance of the duties" as well as in the adverbs "wholly", "exclusively" and "necessarily". The importance of the particular restrictive elements in the rule varies of course with the facts of different cases.

3. It is well established that under this rule the expense of travelling between home and work is not deductible. This was decided as long ago as 1887 in

COOK v KNOTT, 2 TC 246 (solicitor practising in Worcester who held the office of Justice's Clerk at Bromyard, 14 miles out of Worcester). It was confirmed by the House of Lords in RICKETTS v COLQUHOUN 10 TC 118 (the case about the Recorder of Portsmouth) which is also the leading case for the proposition that the rule imposes an objective, not a personal, test. There is a further illustration in NOLDER v WALTERS 15 TC 380 (cost of upkeep of a pilot's car used for travelling between his home and Croydon aerodrome). The general rule disallowing the expense of travel between home and work was fully recognised in TAYLOR v PROVAN 49 TC 579 although the majority in the House of Lords held that the case was not governed by that rule: see e.g. Lord Morris at p.608A-C; Lord Wilberforce at p.612E; Lord Salmon at p.621G, 623A.

4. It is a cognate application of the general restriction imposed by s.189(1) that no deduction is allowed for any additional cost of living near to the place of work. The only cases directly in point here appear to be BOLAM v BARLOW 31 TC 136 and COLLIS v HOARE 31 TC 173, in both of which the reasoning is scanty.

5. The justification for the rule disallowing a deduction both for the cost of travelling between home and work and for the additional cost of living near the place of work is explained in the Radcliffe Report (Document 1).

WORK INVOLVING TRAVEL

6. The cases of course recognise that under the first limb of s.189(1) the cost of travelling in the performance of work is allowable, and are mainly concerned with expounding the difference between travelling on the work and travelling to reach the place of work. In the earlier cases there was a tendency to classify all jobs where travelling expenses are allowable as "itinerant" jobs, the commercial traveller being the example most frequently given. The work of a Member of Parliament hardly fits comfortably into the "itinerant" conception and Rowlatt J

was clearly sceptical of this way of classifying it in RICKETTS v COLQUHOUN 10 TC at p.121 and NOLDER v WALTERS 15 TC at p.388. More recently the House of Lords in POOK v OWEN 45 TC 571 and TAYLOR v PROVAN 49 TC 579 developed the conception of jobs involving two or more places of work to cover situations where travel is a necessity of the job even though the job is not truly itinerant. In TAYLOR v PROVAN Lord Wilberforce, although in the minority on its application to the facts of the case, expounded the conception in a way that the majority would no doubt have accepted. He said at p.612E -

> To do any job, it is necessary to get there: but it is settled law that expenses of travelling to work cannot be deducted against the emoluments of the employment. It is only if the job requires a man to travel that his expenses of that travel can be deducted, i.e., if he is travelling on his work, as distinct from travelling to his work. The most obvious category of jobs of this kind is that of itinerant jobs, such as a commercial traveller. It is as a variant upon this that the concept of two places of work has been introduced: if a man has to travel from one place of work to another place of work, he may deduct the travelling expenses of this travel, because he is travelling on his work, but not those of travelling from either place of work to his home or vice versa.

Lord Simon (the other dissentient) also, at p.618B-E, subdivided cases where travelling expenses are allowable into those where the work is inherently itinerant and those where there are two places of work. He cited the Member of the House of Commons as a classic example of the second type of case, saying -

> He was necessarily obliged to perform part of the duties of his office at Westminster and part in his constituency; so that travel between the two was an obligation arising by the nature of the office itself, and not by the circumstances of the particular Member....

MEMBERS OF PARLIAMENT

7. The pay and allowances of Members of Parliament and Ministers have been reviewed in the various Reports mentioned in items 2-5 of the list of Documents herewith. (Two other Boyle Reports - No.5, 1974, Cmnd 5701; and No.8, 1976, Cmnd 6574 - have also dealt with the subject, but there is nothing in them of relevance that is not adequately covered by the extracts annexed from Nos.1, 7 and 12.) Boyle(7) recommended a salary for MP's of £8,000 but immediately before Boyle(12) the salary actually in payment was still only £6,585 - £6,897.

8. In addition to the basic salary MP's get various allowances and free facilities. Only those having some possible relevance to the present topic are mentioned here. The typical pattern of travel by a provincial Member and the range of London accommodation used by provincial Members is indicated in Boyle(1) paragraphs 18-19. The current system of allowances and facilities stems mainly from the recommendations made in chapter 4 of Boyle (1). Travel expenses that are allowable for tax purposes are nowadays mainly covered by car allowances and free facilities for travel by rail, air and sea. Indeed these allowances to some extent cover expenses not deductible for tax purposes, so that they give rise to taxable emoluments. To help with the provincial Member's burden of providing accommodation in London Boyle(1) recommended in paragraphs 39-41 the introduction of an Additional Costs Allowance. London Members were not within the benefit of this recommendation since in their case there was no need for accommodation away from home, but the extra cost of living in London was recognised in the recommendation that they should receive a London supplement comparable with the London weighting for civil servants working in London. The Additional Costs Allowance and the London supplement were introduced, the former in a simpler form than recommended (see Boyle(7) paras 32-37).

9. The tax treatment of MP's is set out at length in

the Notes prepared for their guidance (Document 6). For present purposes the relevant paragraphs are 5-7. The treatment of a Member for a country constituency depends on whether his main home is in London or in the constituency or in neither. If his home is in London he gets a deduction for the additional cost of living in his constituency when he is there on Parliamentary duties. If his home is in the constituency he gets the corresponding London deduction. If his home is in neither he is given the option of getting the London deduction or the constituency deduction but not both. The question of where the main home is is one of fact. Given the range of London accommodation used (as described in Boyle(1) para 19) there is in many cases no problem about deciding where it is. In the case of an MP who is able to maintain accommodation appropriate for a main home in more than one place the question of fact may not have an obvious answer and the Member may in effect be able to choose which ever suits him best. Since a larger deduction is usually obtainable by treating the London accommodation as the additional accommodation the profitable choice would normally be to treat the out of London accommodation as the main home. The treatment of Members whose main home is neither in London nor in the constituency may well be more generous than the law really justifies. It is logical to accept that whatever he did the Member could not avoid some additional costs either in London or in his constituency, but the legal grounds are not exactly clear for giving him the option to claim the larger rather than the smaller deduction.

10. When considering the position of a Member who holds a Ministerial post it may be material to know whether the Member's entitlement to the additional cost of living deduction derives from the first limb or the second limb of s.189(1), because the limiting words "wholly" and "exclusively" occur only in the second limb. In MACLEAN v TREMBATH 36 TC 653 Roxburgh J clearly accepted at p.664-5 that travelling expenses were deductible even

though not wholly and exclusively incurred in the performance of the duties. On the other hand Lord MacDermott in ELWOOD v UTITZ 42 TC 482 at p.497 seemed inclined to the view (although he did not profess to decide the point) that "wholly" and "exclusively" were to be implied in the first limb as well as the second. For present purposes it is probably best to assume that the view taken by Roxburgh J in MACLEAN v TREMBATH is the correct one. On this footing it is necessary to consider whether the expenses incurred by an MP in maintaining London accommodation are to be regarded as part of his "expenses of travelling" in the performance of his duties as an MP. In the case of a truly itinerant office or employment the Board has generally treated the expenses of lodging while travelling as being themselves travelling expenses, see para 3 of Document 7(d). This view of the matter was apparently accepted by Rowlatt J in NOLDER v WALTERS 15 TC at p.388. It was also accepted by Roxburgh J in MACLEAN v TREMBATH at p.664 where he says -

> I am not going to treat that £50 for hotel expenses as a separate item because it only looks like stopping a night or two in the course of a journey and I think, for practical purposes, it is fairly to be treated as travelling expenses, and not, as it would be if it had been for a long period of time, something quite different.

The contrast indicated at the end of this passage is very much in point when considering the application of s.189 to MP's. It would indeed be "something quite different", and would involve stretching the meaning of the words beyond normal limits, to treat the long term provision of accommodation by an MP for use during Parliamentary sessions as "expenses of travelling".

MINISTERS

11. The position of MP's has been dealt with at some length because if a Minister is entitled to the London deduction it can only be as an MP that he is entitled.

In other words the sole question is whether his position as a Minister operates to bar any entitlement he would otherwise have as an MP.

12. The remuneration of Ministers has been reviewed in the series of Reports already referred to. A Minister in the House of Commons receives two distinct salaries, a Ministerial salary and a Parliamentary salary. The Lawrence Committee saw the purpose of the Parliamentary salary as being "to provide Ministers and the others mentioned with a Parliamentary salary against which they could obtain tax relief ..... in respect of their Parliamentary expenses as Members of the House" (Document 2, para 54). Boyle(1) discarded this conception and recommended that the Parliamentary salary should incorporate some element of remuneration for the time spent by Ministers in attending to the interests of their constituents. At the same time the Report rejected suggestions that Ministers should receive the full Parliamentary salary paid to back bench Members (Boyle(1), paras 86-7). The revised conception has been maintained in subsequent Reviews (see Boyle(12) para 23). Ministers also receive the London supplement mentioned in para 8. above (see Boyle(7) para 10).

13. The tax treatment of a Minister qua Member of the House of Commons is dealt with in the Notes already referred to (Document 6). The disallowance of the London deduction is dealt with in para 6(iii), which in stating baldly that "a Minister is required by his Ministerial office to live in London" perhaps sacrifices a little too much to brevity. The Revenue practice is more fully expounded and justified in the opinion and minutes included in Document 7. Document 7(d) is the Note explaining the basis of the practice to the Lawrence Committee. The explanation was accepted by the Committee and they concluded that the practice could not be altered without an alteration in the law: Document 2, para 128. (The Chairman of the Committee, Sir Geoffrey Lawrence QC, at

that time Chairman of the National Incomes Commission, was appointed a High Court Judge in 1965 and died in 1967.)

14. There is a factual assumption underlying the Revenue practice that a Minister's job carries what, by any normal standards , are substantially full time duties, quite apart from any duties he may also have to discharge as an MP. There is also a subsidiary assumption (except in the case of certain Ministers with offices in Edinburgh or Cardiff) that the job is properly regarded as London based. There may no doubt be room for substantial differences between different Ministerial posts and even between different holders of the same post but a practice of general application can only be based on the typical case. Counsel will probably not need persuading, at least in relation to departmental Ministers, that the factual assumption is justified. There is little explicit factual information on the question in the Lawrence Committee Report or any of the Boyle Reports. The Lawrence Committee however (para 123) said that they had considered the whole matter (i.e. the disallowance of the London deduction to Ministers) with care and were satisfied that the situation complained of was the unavoidable result of applying the Schedule E principles. The factual basis of the Revenue practice was fully set out in para 125 and it is plain that the Committee saw no reason to question it. The Boyle Reports also have been made in full knowledge of the practice and the factual basis it assumes, see e.g. Boyle(1) para 82. The same factual basis underlies the recommendations of Boyle (1) concerning the Parliamentary salary of Ministers: see para 86, which points out that on appointment to a Ministerial post a Member's duties at Westminster become essentially Ministerial in character. The same assumptions are implicit in the fact that Ministers, as well as MP's for London constituencies, are paid the London supplement: see Boyle(7) para 10. There are also some relevant factual indications in Tables 19, 20A, 20B and 20C in

Boyle(12) App.C. These Tables are based on answers to questionnaires issued to Members. (The introduction to App.C however points out that the response rate for Ministers was particularly low at 40%.)

15. Assuming the soundness of the underlying factual assumptions the legal basis for the Revenue practice can be stated in three ways, in ascending order of generality.

(1) The office of Minister is a separate office from that of MP. A Minister as such is in the same position as any other office holder or employee who has regular full-time work in London. He must live within reach of that work but the cost or additional cost of doing so is not deductible by reference to that work; nor is it deductible by reference to the office of MP because that office is no longer the only reason or indeed the primary reason for requiring accommodation in or near London.

??

(2) Even if the offices of MP and Minister could be regarded as a single composite office, the centre of gravity of that composite office would be in London. The necessity for having living accommodation in or near London would therefore be no different from that affecting any office holder or employee whose main duties lie in London but who also has outlying duties elsewhere.

(3) If an office holder with duties both in London and elsewhere has other reasons, even reasons unconnected with that office, for living in or near London the provision of living accommodation in or near London is in any event not an expense imposed exclusively by the office.

The separation between the two offices on which the first formulation is based is undoubtedly a fact even though they are closely linked in performance. The offices carry separate salaries, and most Ministerial offices may be

held by Members of the House of Lords as well as by MP's. Relevant to the third formulation is the fact that the Board have never accepted that the London deduction is properly allowable to an MP for a country constituency if his main home is in fact in London or if he has other non-Parliamentary occupations which make it necessary for him to live in or near London (see e.g. Document 7(b) para 5). On this point the decision in McKIE v WARNER 40 TC 65 has some bearing. All three formulations rest mainly on the restrictive force of the word "exclusively" in the second limb of s.189(1).

OTHER OFFICE HOLDERS

16. The Revenue practice affecting Departmental Ministers has always been applied without distinction to other paid office holders who are also MP's. The offices in point are those of the Government and Opposition whips, the leader of the Opposition and the Chairman and Deputy Chairman of Ways and Means. There may be possible grounds for distinction in the case of some of these other office holders but the question might require detailed examination not only of the general nature of the office but also of the manner of exercising it by the particular holder. A few small gleanings of information are to be found in Boyle(1) paras 104-7 and Boyle(12) para 45.

ADVICE REQUIRED

17. Counsel are asked to advise -

(1) Whether in their view the general practice of refusing the London deduction to Ministers is well founded in law; and

(2) If so, whether they see any actual or possible ground for particular exceptions, either in the case of any of the office-holders mentioned in para 15 above, or in any other case.

MINISTERS IN THE HOUSE OF COMMONS

SCHEDULE E DEDUCTIONS

INSTRUCTIONS TO ADVISE

Solicitor of Inland Revenue
Somerset House
Strand WC2

1

(1)

MINISTERS IN THE HOUSE OF COMMONS:
SCHEDULE E DEDUCTIONS

Only Members can vote. A Minister can vote only when he is a Member. He votes because he is a Member-MP

See this page and the next two

NOTE TO COUNSEL

Counsel's opinion is being taken on this subject at the instance of Ministers. The original proposal was that an opinion should be obtained from the Law Officers together with Revenue standing Counsel and a Revenue leader. However the Attorney General considers it better that the Law Officers should not be formally involved. Nevertheless it has been arranged that a copy of the instructions will go to the Attorney General's chambers so that the Law Officers can be consulted by Counsel advising if, for instance, they are in need of first-hand information about the pattern of life of MP's and Ministers. In any event the Attorney General would like to see the opinion in draft before it is delivered.

The instructions have been seen by the Minister of State (Commons), Mr Peter Rees QC, and the exchange of comments set out below indicates one factual matter on which, if Counsel think it may affect their conclusion, they may wish to consult the Law Officers.

The Minister of State -

wonders whether the Instructions sufficiently emphasise a point, touched on in paragraph 14, which Counsel may regard as of importance. This is that a Minister in the House of Commons is a Member before he is a Minister and performs two functions. Furthermore his duties as a Member require his presence at Westminster more insistently and to a later hour than his duties as a Minister. Similarly - and whatever his Ministerial commitments - a Minister's position as a Member requires his attendance in his constituency. On this basis, the Minister of State feels it would be

wrong to regard a Minister in the Commons as someone who incidentally and only to a limited extent is a Member with interests at Westminster and in his constituency.

The Solicitor of Inland Revenue :-

It is certainly implicit in the instructions, and also in the Boyle Reports and other annexed documents, that because of his Ministerial duties a Minister has a great deal less time available for doing what he would or might otherwise be doing as a Member. This I take to be undoubted fact. And apart from this I think there is nothing in the instructions to suggest that because he is a Minister he is only incidentally and to a limited extent a Member. I think the only other proposition advanced by the Minister of State which is at variance with the instructions is the proposition that a Minister's duties as a Member require his presence at Westminster more insistently and to a later hour than his duties as a Minister. I do not think we can accept this as fact. The question of the capacity in which a Minister-Member is present in the House on any particular occasion must often be a somewhat artificial and abstract one. Artificial, because overall his capacity can most sensibly be regarded as a dual one; abstract, because there is often no tangible criterion for making the distinction. When a Minister is dealing in the House with his departmental concerns it is sensible to treat him as being there primarily as a Minister. On a free vote debate it may be right to treat him as a Member only. But most of the ground would normally fall between these extremes. Given the general obligation on Ministers to support and represent the Government on all questions, I think the only general proposition we can embrace is the one stated in para 86 of the First Boyle Report, that on appointment to a Ministerial post a Member's duties at Westminster become essentially Ministerial in character.

That is a sufficient point. Peter Rees makes it - different, one - and it should be explicit.

No - he votes as a Member

No

???

???

this is the heart of it, and the proposition seems to me to be nonsense NJS

- I agree - it is nonsense.

The Minister of State -

would like to record his view of what the facts are in this matter. He is of the opinion that, except in the case of the Leader of the House and the Government Whips, about 90% of a Minister's attendance in the House is likely to be in his capacity as a Member. Support of the Government in the Division Lobbies, even on a subject for which he has Ministerial responsibility, is as a Member and not as a Minister.

MINISTERS IN THE HOUSE OF COMMONS:

SCHEDULE E DEDUCTIONS

NOTE TO COUNSEL

Solicitor of Inland Revenue
Somerset House
Strand WC2R 1LB

7 (a)

E

Secretary (Taxes)
(Mr. Barrett)

Deductions - Schedule E - Members of Parliament and Junior Ministers

1. As I understand it, the Board's refusal to allow the "London deduction" in the case of Members of Parliament who are also Junior Ministers proceeds on the footing that:

(a) The extra expense caused to the member by his having to live in London is an expense of the office of a Member of Parliament if, but only if, he incurs it wholly, exclusively and necessarily in the performance of the duties of that office.

(b) Since the office of a Member is one which has to be performed in two places - at Westminster and in the constituency - such extra expense in the case of a Member who has no other occasion to maintain a pied-à-terre in London qualifies for allowance. Thus a Member for a country constituency who is not also a Minister is regarded as fulfilling condition (a) wherever his normal place of residence may be, so long as it is outside London.

(c) Where some other factor compels the member's presence in London, condition (a) is not fulfilled, for the necessity for his having an additional residence in London and thereby incurring the extra expense represented by the "London deduction" then arises at least partly from that other factor. Such a factor could arise by reason of the member's holding some other office, for example that of a junior Minister, which also requires him to be available in London.

2. It will be apparent from this analysis of the Board's standpoint - which in my opinion is perfectly tenable, and correct in its interpretation of Rule 9 of the rules applicable to Schedule E - that it is the fact of the Member holding the ministerial office tying him to London that disqualifies him from entitlement to the London allowance, not the receipt of the

ministerial salary. Confusion has possibly arisen from a misapprehension of the position which arises where a member does not draw his salary as such. Members who were paid Ministers of the Crown were all in that position before 1946. In that event there is naturally no possibility of the allowance of any expenses as a Member, because there is no income against which they could be allowed, even though the Member may draw a ministerial salary. Now if the position is reversed so that the Minister draws no ministerial salary but does take all or part of his entitlement as a Member, the result admittedly is that he becomes entitled to set off such allowances as are properly attributable in those circumstances to his office of Member. That result, however, is not brought about by the waiver of the ministerial salary, but by the fact that there is now some member's pay against which to set the allowances. Those allowances do not, on the principles discussed in paragraph 1 of this report, include the "London deduction" in the case of a Member who is also a Minister, whether the salary of the ministerial office be drawn or waived.

S R Clark

March, 1952.
S.L. 23800

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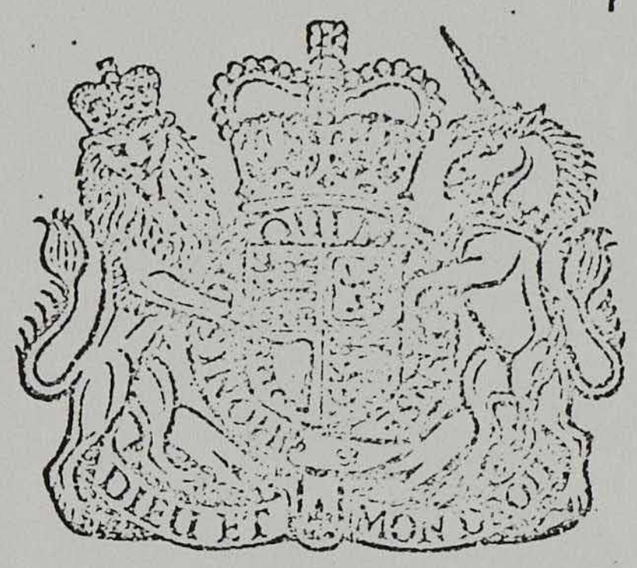

Report of the Committee on the Remuneration of Ministers and Members of Parliament

Presented to Parliament by the Prime Minister
by Command of Her Majesty
November 1964

LONDON
HER MAJESTY'S STATIONERY OFFICE
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(2) We took steps by meeting representative Members of the House of Lords to ascertain the views of Members of that House.

(3) We interviewed leading Members of all three political parties in both Houses of Parliament.

(4) We interviewed Officers of both Houses of Parliament.

(5) We received written statements from and had discussions with some holders and former holders of certain ministerial posts regarding which we felt the need for special information and views.

(6) We had meetings with representatives of the Board of Inland Revenue and with the Government Actuary and we received factual memoranda from them and from H.M. Treasury.

(7) We requested and received factual information from the Foreign Office and the Commonwealth Relations Office on the remuneration received by members of certain overseas legislatures.

(8) We received and considered letters and memoranda from a number of Members of both Houses, as well as from members of the public.

6. We are grateful to all those who furnished us with information and views and who gave of their time and expert knowledge to assist us in our enquiry. In particular we would express our thanks to the Advisory Panel with whom we had several meetings in the course of which we discussed and received advice upon the matters within the scope of our review. The wide experience of both Houses enjoyed by the members of the Advisory Panel and their willingness to place the benefit of that experience at our disposal have been of inestimable value to us.

REMUNERATION OF MEMBERS OF THE HOUSE OF COMMONS

(a) *History*

7. Remuneration for Members of the House of Commons from public funds was first established by a Resolution of the House of the 10th August, 1911, and by a Supplementary Estimate of the 14th August, 1911. The terms of the Resolution were :*

> "That, in the opinion of this House, provision should be made for the payment of a salary at the rate of four hundred pounds a year to every Member of this House, excluding any Member who is for the time being in receipt of a salary as an officer of the House, or as a Minister, or as an officer of His Majesty's Household."

8. By 1910 there had been criticism of the continuance of the tradition of unpaid parliamentary service. This criticism was based on changes in the composition of the House which had occurred since the Reform Acts and on changes in the character of its work. The intention of the Government, if they were returned to power at the next General Election, to propose the provision out of public funds for the payment of Members was announced by the Prime Minister on the 18th November, 1910, immediately

* *Hansard*, 10th August 1911, col. 1365.

before the election took place. Thereafter this new charge on public funds was foreshadowed by the Chancellor of the Exchequer in his Budget statement made on the 16th May, 1911, and was embodied in the Resolution of the 10th August, 1911.

9. At that time the proposal met with considerable opposition in the House, mainly on the grounds that payment to Members would tend to lower its reputation, to compromise the independence of Members and to lead to a number of Members becoming whole-time professional politicians. The arguments of the Government in supporting the Resolution were to the effect that in no other parliament was no contribution at all made to the expenses incurred by members in the performance of their duties; that these expenses had grown with the increase in the work of the House and with the greater number of attendances which this required; and that membership of the House should become more representative of the nation as a whole by enabling it to include persons whose qualities fitted them for parliamentary service but whose lack of means precluded them from taking it up.

10. The incidence of taxation soon gave rise to controversy because, in accordance with the use of the word "salary" in the Resolution and with a statement of the Chancellor of the Exchequer in answer to a Parliamentary Question on the 18th May, 1911, to the effect that the salaries of Members of the House would be liable to tax as earned income, the Inland Revenue had so assessed the payment for tax. Representations were made to the Chancellor of the Exchequer by a deputation of Members on the 12th July, 1912, and, after subsequent investigations had been made into the possibility of a flat rate deduction allowable to all Members as a reasonable average to cover the expenses necessarily incurred in the performance of parliamentary duties, an allowance of £100 a year as such a deduction with effect from the beginning of the financial year 1912/13 was authorised by Treasury Letter of the 30th August, 1912.

11. This concession led to the inclusion of section 3* in the Finance Act, 1913, which provided that:

> "Where the Treasury are satisfied with respect to any class of persons in receipt of any salary, fees, or emoluments payable out of the public revenue that such persons are obliged to lay out and expend money wholly, exclusively, and necessarily in the performance of the duties in respect of which such salary, fees, or emoluments are payable, the Treasury may fix such sum as in their opinion represents a fair equivalent of the average annual amount laid out and expended as aforesaid by persons of that class, and in assessing the income tax on the salary, fees, or emoluments of persons of that class, there shall be deducted from the amount thereof the sums so fixed by the Treasury. Provided that if any person would, but for the provisions of this section, be entitled to deduct a larger amount than the sum so fixed, that sum may be deducted instead of the sum so fixed."

On the 23rd October, 1913, in pursuance of this section, the Treasury issued a Minute covering the deduction of £100.

*This section was subsequently re-enacted as Rule 10 of the rules applicable to Schedule E by the Income Tax Act, 1918, and as Rule 8 by the Income Tax Act, 1952.

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12. The great increase in the cost of living which had taken place during and after the first war led to the appointment on the 26th November, 1920, of a Select Committee " to consider the salary allotted to Members of this House, the travelling and other expenses incurred by them in connection with their parliamentary duties ". This Select Committee reported to the effect that, if the sum of £400 was necessary in 1914, such an amount was inadequate in 1920 but that in the existing economic circumstances they found themselves unable to recommend any immediate increase in the salary. At the same time they expressed the opinion that the financial difficulties of some Members made it desirable that further consideration should be given to the matter in the near future.

13. The Government decided that it was reasonable to treat the whole of the £400 as an allowance for expenses exempted from tax. The view of the Inland Revenue was that there was nothing unreasonable in this if the Treasury was of the opinion that £400 had become the fair equivalent of the average annual expenses of a Member of the House for the purpose of Rule 10 of Schedule E.

14. The Government's proposal, however, encountered so much public opposition that on a free vote of the House, taken on the relevant Supplementary Estimate on the 1st June, 1921, it was rejected. In reply to Parliamentary Questions on the 8th and 23rd June, 1921, the Chancellor of the Exchequer took the opportunity to explain the kind of expenses in excess of £100 for which Members could claim tax relief, drawing a clear distinction between the allowable expenses of travel between Westminster and a Member's constituency (the two branches of a Member's " place of business ") and the expenses of travel between home and a place of business which were not allowable to any taxpayer.

15. After 1921 the cost of living began to fall and continued to do so for many years thereafter. Apart from the introduction in 1924 of certain privileges in respect of free travel and a temporary abatement of salaries between 1931 and 1935, no further action was taken in the matter of the remuneration of Members until 1937.

16. In that year in the debate on the Ministers of the Crown Bill the Prime Minister (Mr. Baldwin) undertook to carry out informal and confidential enquiries among Members to see whether there was an acceptable case for an increase in the salaries of Members. On the 27th May, 1937, he announced the Government's intention to propose an increase from £400 to £600. In moving the appropriate Resolution on the 22nd June the new Prime Minister (Mr. Chamberlain) explained that his enquiries had revealed a number of cases of Members who, with no other resources than their Parliamentary salaries and despite undesirable economies, were unable to keep within their means. In recommending the increase of £200 the Prime Minister said:*

" It is obvious that the circumstances are different in the case of almost every individual Member. On the one hand, one does not want to fix the salary so high that it becomes an inducement to people to enter this House for the purpose of earning more than they would

* *Hansard*, 22nd June 1937, col. 1052.

earn outside and, on the other, we do not want to fix it so low that men or women who could give valuable service to the House should be prevented from doing so merely by the fact that they have not sufficient means to afford it. I do not think it is possible to fix any figure and say that is the exact amount that is appropriate, but the late Prime Minister and I, having given the best consideration we could to the matter, came to the conclusion that of the alternative figures that we considered, £500 and £600, £500 still would not be sufficient for a certain number of Members, and that it would be better, therefore, to adopt a figure which would settle the matter for an indefinite period rather than fix again a sum which would give rise to complaints, and a feeling that sufficient allowance had not been made for the altered circumstances. After that consideration, therefore, we resolved to recommend to our colleagues in the Ministry, and subsequently to this House, the figure of £600 . . . "

The appropriate Supplementary Estimate providing for the increase to take effect from the 1st July, 1937, was agreed to on the 26th July, 1937.

17. After the second war the situation again called for investigation in the light of the greatly increased cost of living. A Select Committee was duly appointed " to consider the expenses incurred in connection with their parliamentary and official duties by Members of this House, including Ministers whose salary is less than £5,000 per annum ; their remuneration ; and their conditions of work." This Committee reported on the 6th March, 1946, that an analysis by the Inland Revenue of claims for expenses which had been allowed for the first nine months of the financial year 1945/46 showed that in the Committee's view the sum which should be allowed for expenses lay between £450 and £600. They recommended that the salaries of Members should be increased to £1,000 of which £500 should be allowed to Members as an expense allowance free of income tax.

18. Parliamentary and public opinion was opposed to a flat rate allowance for expenses of £500. The Government proposed a simple increase in parliamentary salaries to £1,000, leaving the procedure for claiming tax relief in respect of parliamentary expenses unchanged. This proposal was embodied in a Resolution passed on the 29th May, 1946.

19. The cost of living continued to rise and another Select Committee was appointed on the 4th November, 1953, to consider and report on *inter alia* " the nature and extent of the expenditure incurred by Members of this House in the performance of their duties ". This Committee reported on the 2nd February, 1954, that the then salary of £1,000 was not enough to enable Members to meet the expenses necessarily entailed by membership of the House and to keep themselves and their families in reasonable circumstances while attending to their parliamentary duties unless they were possessed of financial resources other than their parliamentary salaries ; and that any relief given should not be by way of additional free services or special tax concessions but by a straightforward increase of salary. They recommended that the salary should be increased to £1,500 and that the automatic allowance of £100 (first established in 1912 and then still in force) should be discontinued.

20. In the light of their economic policy of urging restraint in salary and wage claims the Government were unable to accept the Select Committee's recommendations. After a Resolution of the House to the effect that Members' allowances should be raised by £500 a year had been carried on a free vote of the House notwithstanding the intervention of the Government in favour of an amendment providing for the reimbursement to Members of Schedule E expenses within a limit of £500 a year, the Prime Minister announced on the 24th June, 1954, that the Government were prepared to discuss with Leaders of the Opposition Parties methods of dealing with the problem of the financial difficulties of some Members alternative to the increase in salaries from £1,000 to £1,500 proposed by the Resolution.

21. As a result of these discussions the Prime Minister on the 8th July, 1954, announced the Government's intention to introduce a sessional allowance, payable to those Members who chose to draw it, of £2 for every day (other than a Friday) on which the House sat. The Prime Minister explained the proposed allowance in the following terms:*

> "This allowance will constitute a cash reimbursement, related to the actual sittings at Westminster, of the subsistence and other expenditure which Members are obliged to incur. Members will still remain eligible under the existing law for relief from Income Tax on their salaries (as distinct from the new allowance) in respect of expenses 'wholly, necessarily and exclusively' incurred in the performance of their duties. They will continue under their existing obligation to justify to the Inland Revenue authorities their claims in respect of their total expenses. The justification to the Revenue will therefore include those expenses in respect of which they draw the sessional allowance. The sum drawn in the form of the new allowance will be deducted by the Inland Revenue from the total expenses on which the Member would otherwise be entitled to claim relief."

On the 26th July, 1954, a Supplementary Estimate was agreed to providing for this sessional allowance and the automatic deduction of £100 was abolished by Treasury Minute of the 21st July, 1954.

22. Further rises in the cost of living and increases in salaries and wages both in the public service and in outside employment led to renewed pressure on the Government from Opposition Leaders to increase the remuneration of Members of the House. The Prime Minister, while admitting that "some increase in the salary of Members would be justified if there were not certain special consideration"†, refused any immediate increase on the ground that if at the very moment when the success of their efforts in the battle against inflation was in the balance the Government appeared themselves to be taking steps to contribute to the inflationary spiral, the nation would not believe that they took a serious view of that battle. He promised, however, that the Government would not maintain their refusal longer than was absolutely necessary in the broadest national interest.

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* *Hansard*, 8th July 1954, cols. 2347-48.
† *Hansard*, 12th July 1956, col. 624.

23. On the 4th July, 1957, the Prime Minister announced proposals for an increase in Members' salaries, using the following words to describe the nature of the proposals:*

"... the Government have decided to propose to the House that the total emoluments of hon. Members of this House should be increased to £1,750 a year. The basic salary would remain unchanged at its present level of £1,000. But, in view of the Select Committee's findings, the Government consider it appropriate to add to it a sum of £750 which will take the place of the present sessional allowance.

"Like the basic salary, this sum will be liable to tax. Hon. Members will be entitled, as hitherto, to claim that, before assessment of tax, the expenses incurred in the discharge of their Parliamentary duties shall be deducted from their gross emoluments of £1,750."

24. The Select Committee referred to was the Select Committee appointed on the 4th November, 1953. The relevant findings in their Report were that in 1946 the average amount allowed by the Inland Revenue as expenses was £550 but that in 1953 the average was £750. A Resolution giving effect from the 1st July, 1957, to this proposed increase in salary was moved by the Government and carried on the 9th July, 1957.

25. By 1960 further rises in the cost of living and in the general level of salaries had caused the financial position of Members again relatively to suffer deterioration and thereafter the Government were once more subjected to pressure to take steps to increase their salaries. The Government did not accede to the representations made to them and the remuneration of Members of the House has remained at £1,750 a year until the present time.

(b) *Basic Principles*

26. It is now 53 years since payment from public funds for parliamentary service was first made to Members of the House. The Government Motion approving the payment was moved on the 10th August, 1911, by the Chancellor of the Exchequer, Mr. Lloyd George. The purpose which this payment was intended to serve was expressed by him in both positive and negative propositions. We think that the concluding passage of his speech may well be recalled in this Report. It ran as follows:—†

"... When we offer £400 a year as payment of Members of Parliament it is not a recognition of the magnitude of the service, it is not a remuneration, it is not a recompense, it is not even a salary. It is just an allowance, and I think the minimum allowance, to enable men to come here, men who would render incalculable service to the State, and whom it is an incalculable loss to the State not to have here, but who cannot be here because their means do not allow it. It is purely an allowance to enable us to open the door to great and honourable public service to these men, for whom this country will be all the richer, all the greater, and all the stronger for the unknown vicissitudes which it has to face by having here to aid us by their counsel, by their courage, and by their resource."

* *Hansard*, 4th July 1957, cols. 1308-09.
† *Hansard*, 10th August 1911, col. 1383.

The wording is oratorical rather than precise but the sense is clear. By the decision to sanction payment to its Members the House appears to have recognised the force of the criticisms of unpaid parliamentary service and to have accepted the arguments of the spokesmen for the Government in support of the Motion, to which criticisms and arguments we have already referred in paragraphs 8 and 9 above. This decision has never since been successfully challenged: its strength and validity have grown with the passing of time. The principle of payment and the nature of its purpose we take to have been established in this way by the House of Commons more than half a century ago.

27. The considerations, however, which have determined the amount of the payment are more important for our present purpose. It is useful again to go back to the first enunciation of principle. This is to be found also in the same speech by Mr. Lloyd George where he said:—*

> ". . . The only principle of payment in the public service is that you should make an allowance to a man to enable him to maintain himself comfortably and honourably, but not luxuriously, during the time he is rendering service to the State. That is the only principle, and it is the principle on which we have proceeded."

28. The principle so stated is capable of a wide variety of paraphrase. It has been frequently paraphrased in discussions which have taken place since 1911. Without attempting a similar exercise of our own we think that it is important to analyse the conception behind the words used and to draw attention to their implications.

29. In the first place they appear to us to postulate the existence of candidates for parliamentary service who have neither the private means nor the opportunity of earnings outside Parliament which will enable them to assume this form of political life. Secondly, for such persons the payment offered should not be so high as to include any element of "luxurious" living but should recognise that parliamentary service calls for and should be willingly accorded a measure of personal sacrifice. At the same time the payment should not be so low as to deter such persons for financial reasons from entering or remaining in the House. Poised between these two extremes the payment should be such as not only to enable the man with no external means to become a Member of the House without financial embarrassment but to allow him to discharge the proper expenses of conscientious and efficient membership and to live at a level consistent with the dignity of the service. He should not be forced to resort to sacrifices which impair the quality of his service and lower the reputation and prestige of Parliament itself.

30. Although in the end we have concluded that this analysis of the principle provides the only practical working basis on which we can proceed, it would be misleading to convey the impression that there are no difficulties in the way of its uncritical adoption.

31. The first difficulty involves the question whether the salary should be regarded as recognition of full-time or part-time service. This question has never received any authoritative answer in the various recommendations

* *Hansard*, 10th August 1911, col 1382.

which have been made from time to time on the subject of the salary. Our questionnaire to Members of the House specifically included this question (see Appendix A to this Report). The replies did not provide a conclusive answer. Many were to the effect that in present conditions, whatever may have been the case in the past, the salary should be regarded as a recognition of full-time service. On the other hand a substantial number of replies disclosed a firm belief that the House would suffer considerably in the quality of its work if it consisted entirely of "full-time professional politicians" and thus lost the benefit of the counsel of those Members who spend some part of their time actively engaged in professions and occupations outside the House. It was frequently said that the strength of the House lay in its great variety of membership and that continuous contact with the outside world on the part of a substantial number of Members contributed greatly to the reality of its debates.

32. It is unnecessary for the purposes of our review that we should express any opinion on this question. It is enough that we should consider and take into account the pertinent and relevant facts. These are that the House of Commons contains and no doubt will continue to contain not only a number of Members who have the opportunity of supplementing their parliamentary salary by earnings made outside the House but also a number (and possibly a growing number) of those who simply cannot do so. The possibility of making such earnings varies greatly from Member to Member, being dependent largely on the nature of their training, skills and previous occupations. In some cases these are of a nature which precludes altogether the opportunity of making any outside earnings. As has often been observed before, a railwayman and a miner cannot follow their occupations on a part-time basis as can a journalist and a lawyer. Thus the fact is that for some Members of the House their membership is the only occupation from which they are able to draw a remuneration.

33. The second difficulty arises from the variety of the personal circumstances of Members themselves. First, there is the possession of other sources of income. Some Members have a private income, and this is likely to remain a feature of membership of the House for some time. Some Members can follow a part-time occupation or profession outside the House. This is also a feature which will no doubt continue to attach to parliamentary life. The possession of these extraneous sources of income and the commendable readiness to devote this income in whole or in part to meeting the expenses of parliamentary service are factors which reduce the financial needs of some Members below the level which would be the result of applying the principle first enunciated in 1911 and analysed in paragraphs 26–29 of this Report. Secondly, in addition to this complication there are the results affecting the expenditure of Members which arise from the geographical and other differences between their constituencies. We refer to this matter in more detail later in our Report (see paragraph 50 below).

34. This lack of homogeneity is a central feature of membership of the House and it necessarily precludes the fixing of a salary at a level which will exactly meet the needs of all Members, simply because these needs are by no means uniform.

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35. These difficulties lead to two possible conclusions. The first alternative is that the salary for all Members, whatever the type of their constituency, should be such as will enable those Members who are without private means or the opportunity to earn income outside the House efficiently to discharge the duties of the service without undue financial worry and to live and maintain themselves and their families at a modest but honourable level. The second alternative is some system of differential remuneration which would attempt to meet, if only very broadly, the variation in the circumstances of individual Members.

36. The latter alternative would in our judgment give rise in practice to insuperable difficulties of assessment, even if it were intrinsically desirable. It would be impossible to assess the value of the difference between part-time and full-time service or the degree to which time available for external earnings is equivalent to the real opportunity or ability to make them. Nor would it be possible or desirable to take account of the private sources in income or capital of Members or of the varying burden imposed by different types of constituency in assessing the salary to be paid to them. We are convinced that such a system would give rise to far greater difficulties than those which it sought to meet.

37. We therefore reach the conclusion that the first alternative is the one which must be adopted. In so far as this solution will put money into the hands of those who do not need it, the surplus to some extent will be taken back by taxation. To the extent to which this does not happen, it must in our opinion be accepted as the unavoidable result of the variegated nature of membership of the House. There is, however, nothing to prevent a Member, who so wishes and who has the necessary means, from regarding his membership as a voluntary service and from foregoing his parliamentary salary in whole or in part.

(c) *Amount*

38. It remains to determine a figure. Its assessment can only be an act of subjective judgement. Parliamentary service is an occupation of which the nature is unique and therefore neither the principle of "fair comparison" nor any comparative method can give guidance towards the appropriate figure. Nor is the remuneration of this service something which ought properly to be governed by the forces of competition or by market value.

39. One suggestion repeatedly made to us was that the remuneration of Members of the House should in some way be linked to a level of salary in the Civil Service on the ground that this approach would not only indicate some comparative level of salary to be initially adopted but would ensure that as and when salaries in the Civil Service were adjusted in accordance with the established principles affecting those salaries, the salaries of Members of the House would likewise be maintained at an appropriately up-to-date level. This is a suggestion which we firmly reject. In the first place we are fully satisfied that there is no basis of comparison at all between the two types of service. Secondly we are far from accepting the principle that the remuneration of Members of the House should be

linked to any external scale: it should be determined on its own and should not enjoy any automatic built-in protection. A third point which can be made against the suggestion is that any link between salaries of Members of the House and salaries in the Civil Service might involve the latter at times in political controversy.

40. In the end therefore we have been left to exercise our own judgement on the facts disclosed to us against the background of all the matters which we are required to bear in mind by our terms of reference.

41. We have read the evidence given to Select Committees in the past and we have given close attention to all the evidence written and oral given to us, in particular to the answers to the questionnaire sent to Members and to the views expressed at the interviews we have had with Members and Officers of both Houses. The effect of this evidence is to leave us with the conviction that the present salary of £1,750 a year falls far short of the standard originally adopted in 1911. Moreover, we are satisfied that in this sense the earlier level of salary have for many years been inadequate to a substantial degree even if the amount fixed in 1911 met the standard on which it was said to be based.

42. The evidence which we have received has demonstrated that Members who have neither private income nor outside earnings have been and are suffering hardships which impair the efficient performance of their duties and detract from the dignity of Parliament in its proper place in the national life. These Members, of whom there is an increasing number not limited to one side of the House, are forced to endure the discomfort, in spite of tax relief, of cheap and shabby lodgings in London; they cannot afford to use the Members' Dining Room; they have to submit to the humiliation of not being able to return hospitality even at the most modest level of entertainment; they are forced to impose considerable sacrifices upon their families and they find it necessary to cut down the number of days on which they can attend sittings of the House. The result of all this is that if they do not receive help from some external source they are continually harassed by financial anxiety. We are satisfied that this is a situation which has been present for a long time and well before the present salary was fixed in 1957. The hardships described in the answers to the questionnaire which we addressed to all Members of the House are matched by similar descriptions in the evidence given to Select Committees in the past. The addition of £750 in 1957 did not in our view fully remedy the situation existing at that time. It follows that the inadequacy of the existing salary is not merely the result of the fall in the value of money and the rise in the cost of living since 1957. It has been endemic in the House for a longer period than that.

43. We draw attention to this aspect of the matter not only on account of its intrinsic importance, but also to make it clear that in our view a proper level for the remuneration of Members of the House of Commons cannot be found by taking 1957 (or indeed any other date) as a base and adding to the figure of £1,750 an amount calculated by reference either to the fall in the purchasing power of the pound or to the rate of growth in national productivity. In our view this is an exceptional case.

(d) *Deductable Expenses*

44. In any assessment of the proper level of the remuneration of Members of the House the amount of their expenditure incurred in the performance of their parliamentary and other duties must be a vitally important factor. The short historical review with which we began this section of our Report has indicted how often this matter of the amount of their expenditure has arisen in the past and how much at all stages it has been affected by the incidence of taxation. The assessment of the remuneration of Members of the House and of Ministers for purposes of income tax is the duty of the Inland Revenue. This duty has to be discharged in accordance with the law and practice of taxation which does not differentiate between Members of Parliament and the general body of taxpayers. In discharging this duty the Inland Revenue must apply established principles to all the relevant circumstances. These circumstances are of course multifarious and general rules lead to what are thought to be anomalies in certain cases. One instance is the treatment for tax purposes of the salaries of Ministers to which we draw attention later in this Report (see paragraphs 122-129 below). Another difficulty arises from the fact that the total remuneration of Members and of Ministers is liable to tax under Schedule E, deductions being allowed only for expenses incurred "wholly, exclusively and necessarily in the performance" of the duties of their respective offices. In this context some fine distinctions have arisen between parliamentary duties and political activities. Consistently with the established principles of taxation under Schedule E the Inland Revenue allows the deduction of expenses under the following main heads:

(1) the additional cost of living away from home when engaged in parliamentary duties either at Westminster or in the constituency but not in both (applicable only to Members who have constituencies outside the London area);

(2) the cost of stationery, postage, telephone, telegrams and similar items incurred for parliamentary duties;

(3) the cost of secretarial and clerical assistance for parliamentary duties;

(4) travelling expenses on parliamentary duties
   (a) within the constituency and
   (b) between Westminster and the constituency,

   being the excess over the cash allowance made to Members in respect of travel by car;

(5) other necessary expenses incurred for parliamentary duties such as, for example, the cost of hiring rooms to meet constituents, of pamphlets etc. informing constituents of the Member's parliamentary activities, and subscriptions to a local agent or party association in return for which the Member obtains help in his parliamentary work.

45. On the other hand the same principles of assessment have resulted in the following heads of expenses not being allowed:

(1) literature issued for canvassing purposes;

(2) election expenses;

(3) periodicals, books, newspaper cuttings, etc. ;
(4) charitable subscriptions or donations ;
(5) entertaining ;
(6) extra costs arising out of late night sittings ;
(7) expenses incurred by wives of Members, e.g. in deputising for or accompanying Members ;
(8) payments to political organisations for political purposes ;
(9) generally, expenses which the Member incurs not as a Member of Parliament but as a member of a political party.

46. The effect of these rules is that by no means all the reasonable expenditure of a Member is deductible for tax purposes. The expenses of Members of the House were obviously a matter to which we had to give detailed consideration.

47. The foregoing review of the history of the remuneration of Members has necessarily included the vicissitudes of an allowance for expenses as an ingredient in their total emoluments. The present amount of these, namely £1,750, is made up of what the Prime Minister in making his statement on the 4th July, 1957, referred to as the " basic " and unchanged salary of £1,000 and an addition of £750 which was in substitution for the then existing sessional allowance and was equivalent to the amount which the Select Committee had reported on the 2nd February, 1954, was the then average amount allowed for expenses by the Inland Revenue under Schedule E.

48. We have been supplied by the Inland Revenue with the latest available figures of allowances for tax purposes made to Members of the House of Commons and to Ministers who are also Members of that House. These are reproduced in the tables in Appendix B to this Report. We were informed that the median amounts of the expenses of Members (excluding Ministers) shown in the first of these tables were for 1960/61, £1,033 ; for 1961/62, £1,066 ; and for 1962/63, £1,088. Taken in conjunction with the figures in the similar Appendix VI to the Report of the Select Committee of 1954, these figures show the trend of increase in these expenses and the extent to which the figure of £750 is now out of date.

49. It would be wrong and misleading to take these figures as an indication of the financial circumstances of every Member of the House and to deduce from them that after payment of expenses all Members are left with a sum of about £700 to meet their living expenses.

50. In the first place there is the considerable extent of the dispersion. In relation to the latest figure of £1,088 it is to be noted that there were 20 Members whose expenses allowed for tax purposes did not exceed £500 : at the other end of the scale 55 Members were allowed expenses to the extent of the whole of their parliamentary salary. One reason for this dispersion may be that many Members are compelled to restrict their expenses to what they can afford. Another may arise from geographical and other differences between constituencies. At our request the Inland Revenue supplied us with figures showing in separate detail the expenses allowed for tax purposes to Members (excluding Ministers) for London

constituencies, for urban constituencies and for rural constituencies. These figures are reproduced in the table in Appendix C to this Report. This table shows that the incidence of these expenses is much higher in rural and in provincial urban constituencies than it is in the London constituencies and that the overall median figures mentioned in paragraph 48 above are less than the median figures for rural constituencies. No doubt there is also an individual difference in this matter between each of the constituencies in the three categories.

51. In the second place the expenses referred to are only those which are allowable under Schedule E. From these are excluded expenses which, according to the evidence we have received, many Members find themselves bound to incur for purposes such as those referred to in the sub-headings (1) to (9) in paragraph 45 above.

52. The examination which we have made of the expenses incurred by Members of the House reveals a fact which we think is not generally appreciated outside the House. That fact is that a Member of the House must incur exceptionally heavy expenses in order to discharge his duties. The total amount of a Member's salary is often referred to in terms which imply that the whole of it, less tax, is available to him for his living expenses: industrial and other wages and incomes are then contrasted unfavourably with it. Such an attitude is wholly wrong and can lead to seriously mistaken impressions on the public mind. Unlike an industrial or office worker, a Member of the House has no employer who provides him with the equipment necessary for his work and who pays his expenses. A Member does enjoy the allowance for travel and the few and limited free facilities which we discuss in paragraphs 55–69 below where we refer to the question, brought to our notice by many Members, of their extension. For the reasons there given we think that we must take the present system as we find it. On this basis a Member for the most part himself has to pay the cost of the services and assistance which he needs for the purpose of his duties. This cost can amount to a very substantial proportion of his emoluments. If any reference is made to a Member's remuneration in comparison with other incomes, the relevant figure is not that of his total emoluments but what is left to him after he has paid the expenses of his service. The two figures may be greatly different.

(e) *Conclusions*

53. Having regard to all the matters mentioned in our terms of reference, in particular to the changes which have taken place, since the existing emoluments were fixed, in general standards of remuneration (nearly all of which have been substantially upward changes), and to the increases in expenses borne by Members of the House in the discharge of their duties; taking careful account of all the evidence we have received; adopting the principle formulated in 1911 in all its modern implications; bearing in mind what we have to say later about other benefits, and particularly pensions, and using the best judgement we can upon all these matters, we recommend that the salary of Members of the House of Commons should be increased from the present figure of £1,750 to £3,250 a year.

54. As we have pointed out in paragraph 23 above, this present figure of £1,750 at its inception was, at any rate notionally, divided into two parts: a basic salary of £1,000 and an addition of £750, being the amount found by the Select Committee in 1954 to be the average amount of the expenses allowable under Schedule E. Use was made of this division to enable all Ministers in the House of Commons, Mr. Speaker, the Chairman and Deputy Chairman of Ways and Means and the Leader of the Opposition to draw £750 a year of the total parliamentary remuneration in addition to their salaries, the purpose being to provide Ministers and the others mentioned with a parliamentary salary against which they could obtain tax relief up to that amount in respect of their parliamentary expenses as Members of the House. We refer to this matter later in the section of this Report which deals with the remuneration of Ministers of the Crown, where we make a recommendation that the present practice should be continued in an enhanced amount. We are of opinion that this amount should be £1,250 a year.

FACILITIES FOR MEMBERS OF THE HOUSE OF COMMONS

(a) *Travel*

55. Members of the House of Commons are entitled to vouchers exchangeable for railway and steamship tickets and sleeping berths for travel on parliamentary duties between London and constituency, constituency and home, and home and London.

56. They are also entitled to vouchers for the same categories of journey by scheduled air services where such services exist.

57. A railway season ticket can be obtained by a Member who certifies his intention to travel from his place of residence to the House on at least four days a week during the parliamentary sessions but such tickets are not available for use during the summer and Christmas recesses.

58. We were informed by the Inland Revenue that these travelling facilities (which are not given in the form of cash payments and are not convertible into money) are not subject to income tax. In that respect they differ from the car allowance referred to in paragraph 59 below.

59. Members may claim mileage allowance for the use of their cars for the same types of journeys as those for which free travel by rail or air is provided. The allowance is intended only to cover the cost of motor fuel and is subject also to the upper limit of the cost of first class rail fare. It takes the form of a cash payment and is subject to income tax in respect of journeys between home and constituency and home and the House of Commons but not between the constituency and the House of Commons.

60. We received many representations suggesting additional or altered facilities for travel allowances. We think it necessary, however, to comment on only two specific suggestions, viz. a proposal that Members should be entitled to a limited number of vouchers for use by their wives (or husbands) for travel to Westminster and to the Members' constituencies, and various proposals for improving or simplifying the car allowance.

OTHER MINISTERS, EXCEPT THE LORD CHANCELLOR AND THE LAW OFFICERS

(a) *History of Remuneration*

98. The salary being paid to senior Ministers to-day is £5,000 a year, a figure fixed on the recommendation of the Select Committee appointed in the year 1830. The salaries of all other Ministers discussed in this section of our Report were and still are at levels below this figure.

99. The recommendations of the Select Committee of 1830, made in their Report of 1831, were accepted by the Government of the day. From these recommendations the framework emerged of what are now the salary bands in the structure of ministerial salaries. Broadly, with one or two exceptions, the salaries of senior Ministers were recommended and fixed at £5,000 a year: those of junior Ministers, generally, at £2,500, £2,000 or £1,500 a year. A table of salaries at the levels of the years 1780, 1830 and 1831/32 was submitted to us by the Treasury and is reproduced in Appendix E to this Report.

100. Another Select Committee to which we have already referred in paragraph 89 above was appointed in 1850 for the purpose of a wide review of the salaries and emoluments of public offices of various kinds. This review included the salaries attaching to ministerial offices. The Committee did not recommend any large alterations in the then existing levels of these salaries. We may recall from the quotation from their Report made in paragraph 89 of this Report their conclusion with regard to the highest offices, namely the First Lord of the Treasury, the Chancellor of the Exchequer, the three Secretaries of State and the First Lord of the Admiralty, that the salaries of these offices were "at the lowest amount which is consistent with the requirements of the Public Service". They recommended, however, reductions in the remuneration of some junior Ministers as follows:

	Salaries assigned in 1831	1850 *Select Committee's recommendations*
	£	£
Joint Secretaries to the Treasury ..	2,500	2,000
Junior Lords of the Treasury ..	1,200	1,000
Junior Lords of the Admiralty ..	1,000 with residence	1,000

These recommendations were accepted by the Government.

101. The next Select Committee to consider the matter was appointed in 1920. In the meantime certain offices had been newly created or revived and others had disappeared. Salaries attaching to new offices in newly formed Departments were provided for in the statutes setting up the new ministries. The general rule adopted in the assessment of the salaries of the junior Ministers in the Departments of State was to assign a salary of £1,500 where the Minister in charge of the Department received £5,000 and £1,200 where the Minister in charge received £2,000. Exceptions were the Secretary of the Department of Overseas Trade who was paid a salary of £2,000 and the Assistant Postmaster General (appointed in 1909) who was

paid a salary of £1,200 (the salary of the Postmaster General then being £2,500).

102. The Select Committee of 1920 on Ministers' remuneration, while recognising that conditions had changed since the existing scales had been established, did not think that it was then a suitable time to recommend by a general increase in minsterial remuneration a large addition to the total amount of money allocated to the payment of Ministers. They confined themselves to the consideration of the relative position between one Minister and another, having regard to their responsibilities or to the work of the office held. Their main recommendations were:

(1) that the salary of the Prime Minister should be raised to £8,000 in recognition of the increasing burdens and responsibilities which recent Prime Ministers had had to bear (see paragraph 92 above);

(2) that all members of the Cabinet, apart from the Prime Minister, should receive the same total salary irrespective of the office held (see paragraph 92 above);

(3) that no Minister should receive an allowance in respect of a house which he did not occupy nor suffer a reduction of salary if he chose to accept the offer of an official residence;

(4) that the salary of the Lord Chancellor paid from the Consolidated Fund should not exceed that of a Cabinet Minister (but see paragraphs 133-134 below);

(5) that offices, with the exception of those of the Prime Minister and the Law Officers, should be classified in five classes, namely:

Class I: all members of the Cabinet at £5,000 a year;

Class II: senior Ministers outside the Cabinet at £3,000 a year;

Class III: junior Ministers and senior Under Secretaries at £2,000 a year;

Class IV: other Under Secretaries at £1,500 a year;

Class V: Lords Commissioners of the Treasury at £1,000 a year.

In the economic and other circumstances then prevailing the Government were unable to implement these recommendations.

103. In 1930, as we have mentioned in paragraph 93 above, another Select Committee was appointed to consider whether the Report of the Select Committee of 1920 required any modification in the light of the then existing circumstances. We have already referred in paragraph 93 to the material part of the conclusions of this Committee. It was that the existing scale of ministerial salaries was in some respects anomalous and in others inadequate but that the time was inopportune for a general revision. The Committee endorsed the classifications recommended by the Committee of 1920. Owing to the adverse economic conditions at the time the Government did not take any action on the Committee's Report.

104. Apart from the temporary abatement in salaries between 1931 and 1935 no further step was taken until 1936, when the House of Commons

resolved in effect that the recommendations of the Committee of 1920 should be implemented as soon as possible. The result was the passing of the Ministers of the Crown Act, 1937, which was the first comprehensive enactment relating to ministerial salaries.

105. This Act made a number of individual salary changes within the classification bands but apart from providing for a salary of £10,000 (and a pension of £2,000) for the Prime Minister, it generally gave statutory confirmation to the levels of remuneration which had then been paid for something over a century. The highest salary for senior Ministers was still fixed at £5,000. Four Ministers, the Lord President of the Council, the Lord Privy Seal, the Postmaster General and the First Commissioner of Works received £3,000 (£5,000 if they were in the Cabinet); the Parliamentary Secretary to the Treasury received £3,000 and the Minister of Pensions £2,000; junior Ministers ranged from £2,000 to £1,000. The Act also provided for the payment of an annual salary of £2,000 to the Leader of the Opposition.

106. In 1945 another Select Committee was appointed to consider the expenses incurred in connection with their parliamentary and official duties by Members of the House of Commons, including Ministers whose salary was less than £5,000; their remuneration; and their conditions of work. This Committee recommended (see paragraph 17 above) that the salaries of Members should be increased from £600 to £1,000, of which £500 should be allowed to Members as an expense allowance free of income tax, and that this tax free allowance should be drawn by Ministers with salaries under £5,000 a year in addition to their ministerial salaries. Members' salaries were increased to £1,000 a year but the recommendation that £500 should be treated as an expense allowance was not accepted.

107. The recommended extension to Ministers of the allowance of £500 was achieved by the Ministerial Salaries Act, 1946, which gave to Ministers being paid less than £5,000 a year the right to receive not more than £500 a year by way of salary or allowance in respect of their membership of the House of Commons. This Act also increased the salary of the Postmaster General from £3,000 to £5,000; that of the Minister of Pensions from £2,000 to £3,000 and that of the Assistant Postmaster General from £1,200 to £1,500. It made no change in the position of senior Ministers.

108. The salaries of senior Ministers were abated between 1951 and 1954. Another Select Committee was appointed in 1953 to consider the nature and extent of the expenditure incurred by Members of the House of Commons in the performance of their duties. The recommendations of this Committee included a recommendation that Ministers who were Members of the House should receive the same payment as other Members in respect of their parliamentary duties. It was pointed out that this payment would enable Ministers to claim relief from income tax on their parliamentary expenses in the same way as other Members, thus removing an existing anomaly. The Government were unable to accept the recommendations of the Select Committee.

109. The situation remained unchanged until the passing of the Ministerial Salaries Act, 1957. This Act followed immediately after the increase

in the emoluments of Members of the House to a total of £1,750, of which £750 took the place of the existing sessional allowance. By repealing section 6(2) of the Act of 1937* it enabled all Ministers to receive this allowance of £750 in addition to their salaries. The Act also made certain changes in ministerial salaries by providing that salaries not exceeding £3,000 should be increased as follows:

(1) that the salaries of the Financial Secretary and the Economic Secretary to the Treasury should be £3,750;

(2) that other salaries should be increased by

(*a*) £1,000 where they were less than £2,000 and

(*b*) £750 in any other case.

This Act also increased the salary of the Leader of the Opposition from £2,000 to £3,000. No further changes have been made since the passing of this Act. Ministerial offices in the Government as constituted shortly before the recent dissolution of Parliament and their salaries are shown in the table reproduced as Appendix F to this Report.

(b) *Amount of Remuneration*

110. It was the consensus of all who expressed views to us on the matter that ministerial salaries should be substantially increased. We have no doubt whatever that this view is right. Particularly is this so in relation to junior Ministers. The evidence left us in no doubt at all that at the present level of salaries for these appointments it has become increasingly difficult to secure the services of younger men of the right quality and that there have been refusals and relinquishments of office from sheer inability to meet the financial sacrifices involved. On appointment a Minister in the House of Commons not only has to give up all but £750 of his parliamentary salary, but he is at once debarred, as of course is also a Minister in the House of Lords, from supplementing his ministerial salary by engaging in an occupation outside Parliament.

111. In approaching the question of what should be the amount of the substantial increase in ministerial salaries which is now required, we have found no assistance of a direct nature which would guide us to a satisfactory answer. In our view the present levels of these salaries have become irrelevant to the question and provide no starting point whatever from which an answer may be deduced on any basis. The exercise is of an entirely novel nature. The highest salary of £5,000 for a senior Minister was first established 133 years ago and upward changes in the salaries of other Ministers have all taken place below this maximum.

112. Further, as in the case of Members of the House of Commons, no criterion of direct comparison is available. The office of a Minister of the Crown in all its incidents is unique.

113. One point which was taken several times in the evidence submitted to us and which has some relation to specific figures was that it was wrong that a senior Minister should be paid less than the permanent head of his Department. That this happens is true because there has been

* This sub-section prevented any Minister in receipt of a salary under the Act from receiving "any sum out of moneys provided by Parliament by way of salary or allowance in respect of his membership of the House of Commons".

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adjustment from time to time of the salaries of the Civil Service and no change in the salaries of senior Ministers. In 1937, the year of the Ministers of the Crown Act, the salary of a Permanent Secretary was £3,000 ; in 1963, with effect from the 1st August of that year, it had risen to £8,200 : £3,200 more than the salary of the Minister with responsibility for the Department. This indicates that salary is out of line with status and illustrates the utterly obsolete and archaic nature of present ministerial salaries. We think it is inappropriate that a senior Minister should be paid less than his " Chief of Staff " but no adjustment of ministerial salaries to restore old relativities or to create new ones can lead to a realistic answer to the problem.

114. Thus in order to make a recommendation we have again to exercise our own subjective judgement, guided by a consideration of the matters referred to in our terms of reference, namely, the responsibilities of Ministers, the place of Parliament in the national life and the changes which have taken place, since the existing emoluments were fixed, in general standards of remuneration.

115. The responsibilities of a Minister of the Crown are grave and weighty and the position of a Minister of the Crown is intimately related to the place of Parliament in the national life, which should be so maintained that it commands the respect of all citizens. There can be no doubt that general standards of remuneration in all walks of life have very substantially increased, certainly in the last twenty years.

116. All these considerations point towards a large measure of increase. On the other hand we were urged by some not to neglect the element of sacrifice in the taking up of public service and not to regard parliamentary service and ministerial promotion solely in terms of a professional career. We accept these submissions and are clearly of opinion that the salaries of Ministers cannot and ought not to be measured by the amounts which can now be earned outside the public service at the top of the professions and at the higher executive levels in the world of business.

(c) *Conclusions*

117. Having regard to all these considerations and using the best judgement we can we have reached conclusions on the matter which will form the subject of our recommendations. In our opinion the most convenient way of expressing them is to take the salaries set out in Appendix F and to indicate in each case the revised figures which we recommend for adoption.

118. For the groups of Ministers mentioned next after the Prime Minister and the Lord Chancellor in Appendix F we make the following recommendations :

Present salary	*Recommended salary*
£	£
5,000	12,000
4,500	10,750
3,750	7,500
3,000	6,000
2,500	5,000
2,200	4,400
2,000	4,000

119. We think that we should briefly explain the reasoning behind these recommended figures, because an analysis of them will show that they do not reflect the existing relativities between the various levels of salary. The prolonged maintenance of the figure of £5,000 for senior Ministers and the need from time to time to make increases in the salaries of other Ministers but still to keep them below this figure have led to what we think is an artificial and undesirable compression of the relativities, having regard to the differing responsibilities and status of the offices concerned. In our judgement the opportunity of a comprehensive review of the whole scale of salaries and of its re-establishment on an up-to-date and realistic basis should be taken in order to get rid of a pattern which appears to us not to be the result over the years of the free play of all proper and relevant influences but to be the effect of the maintenance of a rigid and obsolete ceiling which has unduly restricted the possibility of comprehensive adjustment. This accounts for the element in our recommended scale which gives more by way of increase to senior than to other Ministers. We are quite satisfied that the salaries which we recommend for senior Ministers are not more than is commensurate with the status and responsibilities of their offices, taking into account all the relevant matters to which we have referred in the course of this section of our Report. At the same time the salaries which we recommend for other Ministers in our opinion not only are appropriate to their offices but should be enough to remedy the situation in which the nation is said to be losing the services of suitable Ministers, a situation which has so cogently been represented to us.

120. In this connection we draw attention to the fact that those Ministers who are Members of the House of Commons are entitled to draw at present £750 of their parliamentary salary. We have referred to this matter in paragraphs 54 and 109 above and we recommend that the same Ministers should continue to be entitled to this allowance but in the increased amount of £1,250. The reasons for our adoption of this figure as part of the salary of Members of the House of Commons to represent an average amount of expenses have already been given. We were told that in each of the three years for which figures of expenses are shown in Appendix B the median figure for expenses of Ministers was £750. In each year that was also the amount of their parliamentary allowance. It seems to us to be a fair inference that this allowance has become inadequate to cover all properly deductible expenses.

121. We recognise that the result of the recommendation in the immediately preceding paragraph is that Ministers in the House of Commons will continue to receive by the aggregation of their salary and their parliamentary allowance a total of emoluments which will be greater than the salary paid to Ministers in the House of Lords to whom no such allowance is payable. The view was put to us that we should not make any recommendation which would establish a difference in remuneration between Ministers in the House of Commons and Ministers of the same status in the House of Lords. In our opinion our recommendation does not do this. The parliamentary allowance in the House of Commons has been made for the purpose of providing the recipient with means to discharge the expenses not of any part of his ministerial office but of performing the parliamentary

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duties which arise from his representation of a constituency. These expenses do not fall upon a Minister in the House of Lords and an allowance additional to his salary is not required to meet expenses of this kind. There is nothing new in the payment of the allowance to Ministers in the House of Commons: all we recommend is that the amount of it should now be put at a realistic figure.

(d) *Incidence of Taxation*

122. Having stated our conclusions and recommendations on ministerial salaries we desire to add some comments on the incidence of the law of taxation as it falls on these salaries. Our reason for doing this is that we have received numerous complaints of what has been called the anomalous treatment for tax purposes of a Minister in the House of Commons who after appointment continues to represent a constituency outside London compared with the treatment accorded to him by the Inland Revenue before he became a Minister. A Member for a constituency outside London, where his home is in London, is entitled to deduct the expenses of the additional cost of living in his constituency; where his home is in his constituency, he is entitled to a deduction for the additional cost of living in London and where his home is neither in London nor in his constituency, he is entitled to a deduction for the additional cost of living either in London or in his constituency but not in both. On the appointment of such a Member as a Minister, however, he is regarded by the Inland Revenue as being required by his ministerial office to be in London* and his entitlement to deduct living expenses is limited to the additional cost of living away from his home when visiting his constituency, which he is obliged to incur in carrying out his parliamentary duties. To this extent, and it may have a substantial effect on the amount of his tax relief, a Minister in the House of Commons is in a disadvantageous position compared with non-ministerial Members of that House.

paras 122-128

123. It was urged upon us that we should recommend the abolition of this "anomaly". We have inquired of the Inland Revenue the reasons for this difference in treatment and have considered the whole matter with care. We are satisfied that the situation which is the subject of the complaints is the unavoidable result of the principles established by the terms of Schedule E under which Members and Ministers are taxed. It has also been made clear to us that any alteration of the present practice to enable Ministers, to whom the relevant circumstances apply, to receive the same treatment as is given to Members in this regard either would constitute a discrimination in favour of ministers in the application of the existing law or, if this result was to be avoided, would, unless the law were amended in favour of Ministers alone, open the door to similar relief being granted to a number of taxpayers among the general public. We understand the sense of injustice which has given rise to the submission made to us but, taking

* Certain Ministers concerned with Scottish and Welsh affairs are regarded as being stationed for the purpose of their ministerial duties in Edinburgh or Cardiff. When such Ministers travel to London they are entitled to claim the subsistence costs and travelling expenses available to all Ministers who travel on duty: they cannot therefore claim against their parliamentary salaries for the cost of living in London. They can, however, like other Ministers claim in respect of additional living expenses incurred on parliamentary duties in their constituencies when they are away from their "base" in Edinburgh or Cardiff.

the law as we find it, we cannot make the recommendation which has been requested.

124. The reason for the discrepancy in treatment lies in the wording of paragraph 7 of the Ninth Schedule to the Income Tax Act, 1952, which is the latest statute to contain the basis of taxation under Schedule E. A similar rule appeared as long ago as 1853 in section 51 of the Income Tax Act of that year. Its terms are as follows:

> "If the holder of an office or employment of profit is necessarily obliged to incur and defray out of the emoluments thereof the expenses of travelling in the performance of the duties of the office or employment, or of keeping and maintaining a horse to enable him to perform the same, or otherwise to expend money wholly, exclusively and necessarily in the performance of the said duties, there may be deducted from the emoluments to be assessed the expenses so necessarily incurred and defrayed."

It has been explained to us that it is well established that the cost of living at or near the place where the duties of an office or employment are performed is incurred not *in* the performance of those duties but in order to put the office holder or employee in a position to perform them. This expense therefore is not covered by the wording of paragraph 7. If, however, the holder of an office or employment has to travel in the performance of his duties (e.g. a commercial traveller), and to bear these expenses out of his remuneration, he is entitled to a deduction for expenses which he incurs for travel in carrying out his duties and such travelling expenses are regarded by the Inland Revenue as including the extra cost of living (e.g. hotel expenses) necessarily incurred when travelling in the course of his duties. A Member for a constituency outside London is regarded as holding a travelling occupation on the footing that he has equally important duties at Westminster and in his constituency. He is thus entitled to regard one of those places as his "base" and the other as a place where he performs his duties when travelling away from his "base".

125. The position of a Minister is said to be different because his duties require him to be present in London, whether or not Parliament is sitting, in the sense that other persons holding appointments centred on a London office are required to be present in London. On becoming a Minister, a Member of the House of Commons is looked upon as having continuing duties as a Minister at the seat of Government in London. These duties, which can be exercised only in London, are regarded as predominant over his duties in his constituency. It follows that his living expenses in London are the ordinary living expenses of a man who must live within reach of his work. They are not therefore incurred "in the performance of his duties" and only the extra cost of living away from his home when he visits his constituency can be charged against his parliamentary allowance as a Member of the House.

126. We were satisfied that this position is not confined to the case of Members who become Ministers but has analogies over a fairly wide field of the world of business.

127. If we may venture an opinion on the matter it seems to us that this is only one more of the grievances of the taxpayer which from time

to time have originated from the system of taxation under Schedule E, particularly in comparison with that under Schedule D. The former system has been repeatedly criticised by the Courts and compared unfavourably with the latter. The Royal Commission on the Taxation of Profits and Income discussed the matter at length in paragraphs 118 to 143 of their Final Report* issued in 1955. In the light of this latest complaint made to us against the application of Schedule E it is significant that the Commission came to the conclusion that there was no good reason for treating Schedule E expenses less generously than Schedule D expenses, except to the limited extent that some difference of treatment is inherent in the nature of the two kinds of income. They recommended that paragraph 7 of the Ninth Schedule should be reworded on less restricted lines and proposed that an allowance should be made in respect of "all expenses reasonably incurred for the appropriate performance of the duties of the office or employment" in order to bring the wording of Rule 9 into a closer conformity with the wording of the Schedule D Rule. Nothing has been done to implement this recommendation.

128. We do not express any view on the desirability or otherwise of an alteration of the law. We can only say that unless and until some such alteration is made, the so-called "anomaly" affecting Ministers in the House of Commons and other taxpayers in similar case cannot be avoided for Ministers unless they are to be placed in a special position.

129. A further point arising from the terms of paragraph 7 of the Ninth Schedule which may conveniently be noted here is that the allowance is made only in respect of expenses defrayed out of the emoluments of the office; thus if in any one year a Minister's permissible expenses chargeable against his parliamentary remuneration are more than this sum, he is unable to obtain any tax relief for the excess, which cannot be charged against his ministerial or other income.

THE LORD CHANCELLOR

130. It has appeared to us to be part of our duty to consider the office of the Lord Chancellor and to make a recommendation with regard to his salary. There can be no doubt in our view that the office of the Lord Chancellor is a ministerial office in that he is a member of the Cabinet exercising in this capacity executive functions. For this reason we think that his remuneration falls within the scope of our terms of reference.

131. This is not the place to discuss at length the comstitutional position of the Lord Chancellor. It is an office which historically has combined the high judicial functions of the head of the English judiciary with the duties of a member of the executive Government. It was the view of the first Lord Birkenhead that it was of vital importance to the Gewernment that they should have the constant advantage of the daily counsel and experience of a colleague who was the head of the judicial system and possessed the

* Cmd. 9474 : H.M.S.O.

Paul Monks

VMS

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Norman St John-Stevas MP
Chancellor of the Duchy of Lancaster
68 Whitehall
London SW1A 2AS

15 August 1980

Dear Norman.

TSRB 13: RECOMMENDATION ON PARLIAMENTARY PENSIONS

Thank you for your letter of 7 August.

I note that you expect no additional expenditure to arise from this proposal in 1980-81 and that there is to be an estimating adjustment reducing the amount provided in the relevant PES programme base line by £3.1 million a year.

However, as you point out, this adjustment is not a real saving of the type mentioned in my letter of 28 July, even if it does obviate the necessity for an additional bid for the new pension payments. I can therefore only feel content about this proposal going ahead on the lines you suggest if we can look forward with reasonable confidence to real savings in Parliamentary expenditure which will more than cover this additional requirement. To this end, I am sure we can rely on your firm support in the forthcoming discussion with the Commission, which you mention at the end of your letter, and in other ways within your power. You will realise I am sure that our misgivings about this additional expenditure have been largely based on the fact that it has come forward, (and not in isolation) at a time when in all other parts of the public sector we are cutting back hard on costs and manpower, and when we have seen no significant corresponding economies in Parliament.

I am copying this letter to Members of E Committee, the Chief Whip and Sir Robert Armstrong.

Yrs

John Biffen

JOHN BIFFEN

15 AUG 1980

Part Members JS

BF 22.8.80

12 August 1980

TAX ALLOWANCES FOR MINISTERS AND MPs

The Prime Minister was grateful to see the Chancellor's minute of 11 August. She has commented, however, that Ministers are still Members and are therefore required as Members to spend a considerable amount of time in London. She is not clear why the consensus of legal opinion is that Ministers may not be allowed relief for that part of their Parliamentary life.

As I said to you, I think that the best way to proceed would be for you to let us see the full text of the legal opinions which have been offered on this question, drawing special attention to those parts of the opinions which cover the particular point raised by the Prime Minister.

I should be grateful to have something from you by Friday 22 August.

NJS

Sd.

M.A. Hall, Esq., MVO,
HM Treasury.

Surely we still
MPs, & therefore required
as MPs to spend a considerable
amount in London.
Why can they not deduct
relief, [illegible] for, that?
MT

PRIME MINISTER

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

1

PRIMEMINISTER

To see. This clearly got rather tangled. Content, reluctantly, to accept the Chancellor's conclusion that nothing can be done for Ministers?

MS 4/8

TAX ALLOWANCES FOR MINISTERS AND MPs

In a meeting held in the Cabinet Room on 16 June 1979 you asked me to explore the implications of changing the present rules under which, when Members for provincial constituencies become Ministers, they cease to be able to offset the cost of living in London against tax. I asked Peter Rees to take this matter up with the Inland Revenue, who explained that, when a Member living out of London becomes a Minister, the extra costs of living in London are, in their opinion, no longer expenses incurred wholly, exclusively and necessarily in the performance of his duties as a Member, because they are in part incurred in the performance of his duties as a Minister (which could be said to require him to be in London) and do not therefore qualify for tax relief.

2. This interpretation of the law was based on an opinion given by the Solicitor of Inland Revenue in 1952 and supported by the Lawrence Report on the Remuneration of Ministers and Members of Parliament (Cmnd.2516) in 1964, which concluded that to enable Ministers to obtain tax relief on such costs, a change in the law would be necessary and that such a change could not be confined to Ministers but would apply over a fairly wide field in the world of business.

3. In view of the length of time since legal opinion had been sought on the point, Peter Rees asked the Revenue to seek Counsel's

opinion on it. Counsel duly delivered their Opinion (which was seen by the Attorney-General). This came to the rather unexpected conclusion that Members were not entitled to tax relief in respect of the extra cost of living in London, and that consequently Ministers were not so entitled either.

4. This Opinion would have very wide implications for the Revenue's current practice, not only as regards the tax treatment of Members but also that of all employees who have to be away from their home and normal place of business for more than a few days, and, by inference, for the self-employed who have to travel in the course of their business. They therefore sought their own Solicitor's advice on Counsel's Opinion.

5. The Revenue Solicitor disagreed with Counsel's Opinion, which he considered would not find favour in the Courts, and advised that the allowance of relief to Members for country constituencies for the extra cost of living away from home was within the legitimate application of the general principle, though there were probably concessionary elements in the general treatment accorded to them in practice. The Revenue have agreed therefore not to disturb their existing practice of allowing Members to claim tax relief.

6. This leaves the original question, whether Ministers are entitled to relief, unanswered. The Revenue remain of the opinion that, under the law as it stands, they do not in general qualify for relief in respect of the extra cost of living in London, save in exceptional circumstances (e.g. if they stayed in London hotels only on nights where they had Parliamentary business unconnected with their departmental duties). Ministers for Scottish, Welsh and Northern Ireland affairs are regarded as based in those areas rather than London, but are entitled to tax-free reimbursement of any reasonable expenses incurred in

staying in London, so that no problem should arise in their case.

7. I share the view expressed by the Lawrence Committee in their report that a specific change in the law to enable such expenses to be allowed, which was confined to Ministers, would not be acceptable. I have considered the possibility of a more general relief to cover expenses incurred wherever more than one office or employment is held by the same person, but have rejected the idea on two grounds. Firstly, its implementation would involve enormous administrative cost (millions of people have part-time second jobs); and secondly, it would in any event be unlikely to assist Ministers; relief would have to be limited to expenses (including those of accommodation) incurred in travelling to any job except the main one and, on any objective test, the office of Minister rather than Member would have to be regarded as the main one. (It could not be left to an individual to select his own main job for this purpose, since this would be an open invitation to manipulation.)

8. I have therefore reluctantly come to the conclusion that there is nothing we can do about this problem at present. Members for provincial constituencies who become Ministers do not lose out altogether of course; although they can no longer claim a tax allowance for the extra cost of living in London, they can in its place claim relief for extra expenses incurred in visiting their constituencies on Parliamentary business; where their homes are in the constituency these will normally include part at least of the cost of running these homes.

(G.H.)

11 August 1980

11 AUG 1980

cc: Mr Townley

Chancellor of the Duchy of Lancaster

PRIVY COUNCIL OFFICE

WHITEHALL, LONDON SW1A 2AT

11 August 1980

✓
MS

Dear Jim,

MPS' PAY, PENSIONS AND ALLOWANCES

You will recall that at their meeting on 31 July, Cabinet decided (CC(80) 31st conclusions, item 3) that a factual paper should be prepared, suitable for publication to MPs, discussing the implications of the various elements in the House of Commons resolutions carried on 21 July. The discussions show that the paper should deal with the questions of the two improvements sought to pension entitlements (the revised pensionable rate of pay and the change in the basis of accrual of pension) and the linkage of salary to a suitable grade in the civil service. On the latter question, Cabinet also invited the Chancellor together with the Chief Whip, to pursue consultation on the question of linkage of MPs' salaries through the usual channels and with the Parliamentary parties.

In relation to the increase in the pensionable rate of pay, it was clear from the minute that Cabinet took the view that if, when all the facts were known, the House still wished to vote for an increase in the pensionable rate of pay, they should also be invited to vote on the Government's recommendation that such a step must in equity be extended to the other TSRB and civil service groups similarly affected.

... I now attach a copy of the extract from Hansard for 7 August including the Chancellor's statement to the House and the subsequent discussion. You will see that he has announced the Government's acceptance of the view of the House on allowances for secretarial assistance, and following the statement we have asked the Fees Office to give effect to this and to the revised rates of pay for which the House voted. The Chancellor announced that the factual paper for which Cabinet asked would be prepared and placed before Members for their consideration. He said that the House would then have an opportunity to vote for further proposals in the light of that paper after the recess. I am writing now to ask that the Civil Service Department should begin work in consultation with the Cabinet Office on the preparation of the factual paper with a view, if possible, to circulating it to Members in the course of September so that they can have considered it on their return after the recess.

Contd...

In preparing the paper you will no doubt wish to take account of the points made in discussion on the Chancellor's statement, with particular reference to the problems of linkage, and the need to consider the terms in which the Government is to place further motions before the House in due course.

I am sending copies of this letter to David Wright (Cabinet Office) and Nick Sanders (10 Downing Street).

Yours ever,

Robin Birch

R A BIRCH

Jim Buckley Esq
Private Secretary to the
Lord President of the Council
Civil Service Department
Old Admiralty Building
SW1

KK.

c LPO.
CO

10 DOWNING STREET

THE PRIME MINISTER

8 August 1980

original filed on:- Econ Pol: Future of the TSRB: June 80.

When we met on 21 July I explained to you the reasons for the Government's proposals on the pay of the groups covered in TSRB Reports Nos. 14 and 15. I have since written to you to tell you that the Government wished TSRB and the other two Pay Review Bodies to continue to make recommendations on the groups within their terms of reference. I made a public announcement to that effect on 4 August.

I am writing now to let you know formally of the Government's decisions on TSRB 14 and 15 in the light of the debate in the House of Commons on 21 July. As you know, the Government believe that it is essential to reduce the level of pay increases in the public sector and that it is right to expect those in positions of responsibility to give a lead in this respect. We therefore proposed that the groups covered in TSRB 14 and 15 should receive pay increases substantially below those recommended by the Review Body. I attach a table showing the increases for each group. In the case of MPs' pay, the House of Commons was required to vote on our proposals and Members accepted that their salaries should increase by only 9.6 per cent. However, the House passed the following amendments to the Government's motions:

(i) That MPs' pay for pensions purposes should be £13,750; our proposed rate was £13,150.

/(ii)

B

(ii) That MPs' salaries should be linked to a "specified grade in the Public Service."

(iii) That the accrual rate for MPs' pensions should increase from 1/60th to 1/40th of pensionable pay for each year of service.

(iv) That the secretarial allowance should be £8,000; our proposed rate was £7,400 (a 9.6 per cent increase on the current rate).

We have decided to accept the views of the House on the secretarial allowance. £8,000 is, of course, the rate which the Review Body recommended. The other three amendments raise serious difficulties. If we accept that the pensionable pay of MPs should be £13,750, the full TSRB recommended rate, we do not believe that we could, in equity, deny a similar concession to the TSRB 14 groups and this would be relatively expensive. You will be aware of the problems with linkage: the Review Body has argued cogently against it several times. The 1/40th's accrual rate is the most difficult of all. If accepted it could have very widespread and expensive repercussions indeed.

In the light of these considerations, we have decided to circulate a factual paper to individual Members pointing out the implications of the amendments on pensions and linkage. The House will be offered a further opportunity to debate these matters in the autumn in the full knowledge of the effects of their decisions.

You have previously indicated that the Review Body would be willing to review MPs' and Ministers' pay on an annual basis and I would now like to ask you formally to undertake such a review for 1981. The resolution of the linkage question will of course have implications for your work on MPs' pay and I will write to you again when matters are clearer, probably in the autumn. I would also be grateful if you could review next year MPs' secretarial allowance, Peers' expenses allowance and the secretarial allowance of Ministers in the Lords.

/As you know,

As you know, the Government has decided to take nationalised industry board members' salaries out of the Review Body's terms of reference, a change which you yourselves recommended. We do not wish to change the Review Body's terms of reference in any other way but, as you suggested when we met on 21 July, the Government will consider putting in evidence on relevant economic considerations during the course of the Review Body's deliberations.

Finally may I clarify one small point. The Government have given a lead of £1,000 to medical Major Generals and their equivalents over the ordinary Major General salary. This is a new departure, the reason for which is that the Armed Forces Pay Review Body recommended a rate for Medical Brigadiers of £21,000. The Government accepted this recommendation and in order to give medical Major Generals a differential over Medical Brigadiers, decided to give the former a salary of £21,500.

Let me thank you and the other members of the Top Salaries Review Body once again for all your efforts. They are greatly appreciated by the Government.

(sgd) M T

The Rt. Hon. Lord Boyle of Handsworth.

Parl. Mem.

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

7 August 1980

VMS

Dear Sir,

HOUSE OF COMMONS MEMBERS' FUND

Thank you for your letter of 28 July about our proposed legislation to allow automatic grants to pre-1964 Members of Parliament. I am now writing with firm proposals as to the level of grant to be awarded.

Our ceiling of £0.2m additional expenditure over and above the current Exchequer grant of £15,000 a year allows us to pay £1,000 grant a year to former Members and £500 a year to their widows. I therefore propose that the new grants should be introduced at this level. I am advised by the Government Actuary's Department that the most appropriate method of financing these grants would be to build up the Fund by annual payments over a period of ten years. The additional payments on this basis would start at about £220,000 a year, declining over the period in constant-price PESC terms, and ceasing after ten years, by which time the Fund should have sufficient resources to meet all future liabilities.

I have also had the existing level of provision on the relevant PES programme re-examined and I am now advised that an estimating saving of £3.1 m has been found for each year from 1981-82 onwards. These can be scored against the baseline and are being notified separately to your officials. Of course this is not strictly speaking a reduction in the planned volume of expenditure, but it does mean that the scheme could be accommodated against a baseline which would notwithstanding be reduced by £2.9m.

As far as 1980-81 is concerned, there will be no need to adjust the Vote. There is little likelihood, if any, of the legislation's being enacted before the end of the current financial year, and I am prepared to agree that in any event the date of commencement should be after 31 March 1981.

As regards your reference to the 'Cost of Parliament' initiative, the House of Commons Commission has, I believe, already shown its readiness in a number of ways to co-operate with the Government in exercising a tighter control over the administrative expenses of the House. The Chancellor of the Exchequer and I are due to take up this matter again with the Commission after the recess.

I am copying this letter to members of E Committee, the Chief Whip and Sir Robert Armstrong.

Yours ever Nigel

The Rt Hon John Biffen MP
Chief Secretary to the Treasury
HM Treasury
Whitehall

E 8 AUG 1980

(File with NJS)

DIO

With the Compliments
of the
Private Secretary
to the
Secretary of the Cabinet

N.J. Sanders, Esq.

Cabinet Office,
London, S.W.1.

CABINET OFFICE

70 Whitehall, London SW1A 2AS Telephone 01-233 8319

From the Secretary of the Cabinet: Sir Robert Armstrong KCB, CVO

6th August, 1980

Ref. A02820

VMS

PA

In your letter of 4th August, you asked for comments on the draft of a possible statement by the Chancellor of the Duchy on Parliamentary Pay, Pensions and Allowances. I am sorry I have not been able to let you have these until this morning.

The Cabinet Office have one comment on the last two sentences. As at present worded, the final sentence could be taken to imply that the practice of reimbursing the cost of the 6 per cent employee's pension contribution will be applied in full to whatever rate of notional pay is finally agreed by the House. This implication could be held to foreclose the option of making Members bear the full cost of any improvements in pension which they awarded to themselves. To avoid this implication, it might be preferable to omit the final sentence.

I am sending a copy of this letter to Nick Sanders (No. 10) and Murdo Maclean (Chief Whip's Office).

D. J. WRIGHT

(D.J. Wright)

R.A. Birch, Esq.

E 7 AUG 1980

Ref. A02836

MR. LANKESTER

TSRB 14 and 15: Letter to Lord Boyle

Jim Buckley sent me a copy of his letter of 4th August to you with which he enclosed a draft letter for the Prime Minister to send to Lord Boyle.

2. When MPs' Pay, Pensions and Allowances were discussed in Cabinet on 31st July, the implications for TSRB 14 groups of accepting the full TSRB recommended rate for the pensionable pay of MPs were considered. The Cabinet minutes record that if the House accepted the full TSRB recommended rate for MPs, they would then be invited to vote on the consequences for other TSRB groups. In the light of this, you might wish to consider making the relevant sentence of paragraph 3 of the draft letter somewhat less explicit. It could read:

> "If we were to accept that the pensionable pay of MPs should be £13,750, the full TSRB recommended rate, the question would then arise whether we could, in equity, deny a similar concession to the TSRB 14 groups; and this would be relatively expensive".

D.J. Wright

D.J. WRIGHT

6th August, 1980

4 pps

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

5 August 1980

R A Birch Esq
Principal Private Secretary to the
Chancellor of the Duchy of Lancaster
Privy Council Office
Whitehall
London
SW1A 2AT

PARLIAMENTARY PENSIONS AND ALLOWANCES

Thank you for sending me a copy of your letter of 4 August to David Wright together with the revised text of a possible statement.

The Paymaster General has seen all the correspondence on this subject and although he is content with the revised text he feels it would be most unwise for the Government's proposals to be announced by means of a written reply. The Minister thinks that to do so would be very controversial and provoke an unnecessary row in the House.

I am copying this letter to David Wright (Cabinet Office), Nick Sanders (No 10), Murdo Maclean (Chief Whip's Office) and Geoffrey Green (CSD).

R E S PRESCOTT
Private Secretary

-5 AUG 1980

MPs pay
to TL this
morning

PA
MS

3 pps.

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

4 August 1980

1

Have discussed
with CDL.
MT.

PRIME MINISTER

The Chancellor of the Duchy still wants to make an oral statement about Members pay (and adheres to his view despite today's events). Mr Maude agrees (flag A). Content to leave this to be settled on Thursday - after we see how tomorrow goes? MS 5/8

(ie George Cunningham) MS

Dear Nick,

Thank you for your letter of 4 August about the Chancellor's proposal to make a statement on MPs' pay, pensions etc. I have shown the Chancellor your letter and he has commented that, while he sees the point of the argument that in view of his reply during Business Questions last Thursday there is no need for a further statement, nevertheless he is committed by his words to the House on 21 July (col 203, Hansard) to say something rather more substantial. He is confirmed in this view by an approach by Opposition quarters expressing the strong view that a statement (as opposed to a written reply on which questions cannot be raised) should be made this week. It is apparent that while there may not be too much difficulty over the deferment of decisions on the method of pensions accrual and on linkage, there is likely to be a desire to probe the decision to include the pensionable rate of pay in the forthcoming consultative paper. The Chancellor, therefore, hopes that it may be possible for him to make a brief statement, of which you have already seen a draft, preferably on Wednesday this week. I know that if this is seen as presenting major difficulties at your end he would wish to have a personal word with the Prime Minister about it.

I am copying this letter to Murdo MacLean (Chief Whip's Office) and to David Wright (Cabinet Office).

Yours ever,

Robin

R A BIRCH

Nick Sanders Esq
Prime Minister's Office
10 Downing Street
SW1

-5 AUG 1980

Chancellor of the Duchy of Lancaster

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

4 August 1980

Dear David,

On Friday evening I sent you the first draft of a possible statement by the Chancellor of the Duchy on Parliamentary pensions and allowances. It is still not certain whether this text is to serve as the basis for a statement or a written reply, and this point will be resolved in the next day or so; but in the meantime I am circulating to the private secretaries of members of the Cabinet a copy of the text in its current form (including certain revisions), in order to fulfill the Cabinet instructions that the Chancellor should clear it with his colleagues. I should be glad to receive any comments that departments may have by close of play tomorrow, Tuesday 5 August.

Yours ever,

Robin

R A BIRCH

D Wright Esq
Private Secretary to
Sir Robert Armstrong
Cabinet Office
SW1

PARLIAMENTARY PAY, PENSIONS AND ALLOWANCES

Draft statement by the Chancellor of the Duchy of Lancaster

With permission, Mr Speaker, I should like to make a statement about Parliamentary pay, pensions and allowances.

On 21 July the Government proposed to the House a motion on these matters which would have reduced the cost of implementing the recommendations of the 15th Report of the Top Salaries Review Body by about £1m in the coming year. The House accepted the Government's recommendation about the pay of Members of Parliament but rejected that on the allowances to be paid for secretarial and other assistance to Members. In addition, the House expressed the opinion that the notional rate of pay used for calculating the pension entitlements of Members in the coming 12 months should be set at £13,750 a year rather than the £13,150 proposed by the Government; that the pay of Members should correspond to the salary paid to a specific grade in the public service; and that the rate of accrual of Members' entitlement to pension should be raised from 1/60th to 1/40th of final salary for each year's service.

On allowances for secretarial assistance, the Government accept the resolution of the House and we are asking the Fees Office to give effect to it forthwith, on the basis (in respect of contributions to an approved pension scheme) given in my written answer to my hon Friend the Member for Runcorn on 17 July (Hansard Written Answers cols 639/40). I think not MS

On the matters relating to pensions the Government has noted the view of the House. There are however considerable complexities arising from the need, if the Government were to comply with the wishes of the House, to consider the repercussions for other public service groups. The Government have therefore decided that before making further proposals to the House they should prepare a factual paper and place it before Members for their consideration. The House will then have an opportunity to vote on further proposals in the light of that paper after the recess.

On linkage of salary, the Government propose to discuss this also in the proposed factual note and also to undertake consultation on it in the autumn through the usual channels and with the Parliamentary parties.

In the meantime the Government are asking the Fees Office to put into payment the revised rates of Parliamentary salary for which the House voted on 21 July. For the time being the pensionable rate of pay will remain at its present figure of £12,000, but when the House in due course votes on a substantive motion on the revised pensionable rate this will operate with retrospective effect from 13 June 1980. Accordingly, Members of this House and their dependants will not suffer from the delay in reaching a conclusion on the pensionable rate. As, for the time being, the difference between pensionable pay and actual pay will be only £250, the supplement payable to hon Members to cover the cost of the 6% employee's pension contribution will be £15. This will be adjusted when the revised pensionable rate is agreed.

AUG 1980

2 PPs

Civil Service Department
Whitehall London SW1A 2AZ
01-273 4400

From the Private Secretary

4 August 1980

Tim Lankester Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON SW1

Dear Mr Lankester

TSRB 14 AND 15: LETTER TO LORD BOYLE

Now that the Government have agreed on their response to the House of Commons' amendments on MPs' pay and pensions, the Prime Minister will no doubt want to write to Lord Boyle explaining the outcome of the Government's consideration of TSRB Reports Nos 14 and 15. I attach a draft letter. The penultimate paragraph has been included at MOD's request.

I am not sure when the Chancellor of the Duchy intends to make his statement to the House but, if possible, it would be helpful for the letter to reach Lord Boyle just before that statement.

Much of this is for the Chancellor of the Duchy and I am copying this to Robin Birch in case there are any comments. I am also copying it to Brian Norbury in the Secretary of State for Defence's Office, and to David Wright in Sir Robert Armstrong's Office.

Yours sincerely

R B Nash

pp
J BUCKLEY

GR
for PM to sl
MS

DRAFT LETTER FROM THE PRIME MINISTER TO LORD BOYLE

REPORTS NUMBERS 14 AND 15 OF THE TOP SALARIES REVIEW BODY

When we met on 21 July I explained to you the reasons for the Government's proposals on the pay of the groups covered in TSRB Reports Nos 14 and 15. I have since written to you to tell you that the Government wished TSRB and the other two Pay Review Bodies to continue to make recommendations on the groups within their terms of reference. I made a public announcement to that effect on 4 August.

I am writing now to let you know formally of the Governments decisions on TSRB 14 and 15 in the light of the debate in the House of Commons on 21 July. As you know, the Government believe that it is essential to reduce the level of pay increases in the public sector and that it is right to expect those in positions of responsibility to give a lead in this respect. We therefore proposed that the groups covered in TSRB 14 and 15 should receive pay increases substantially below those recommended by the Review Body. I attach a table showing the increases for each group. In the case of MPs' pay, the House of Commons was required to vote on our proposals and ~~I am pleased to say that~~ Members accepted ~~the main point, which was~~ that their salaries should increase by only 9.6%. However the House passed the following amendments to the Government's motions:

i. That MPs' pay for pensions purposes should be £13,750; our proposed rate was £13,150.

ii. That MPs' salaries should be linked to a "specified grade in the Public Service."

iii. That the accrual rate for MPs' pensions should increase from 1/60th to 1/40th of pensionable pay for each year of service.

iv. That the secretarial allowance should be £8000; our proposed rate was £7,400 (a 9.6% increase on the current rate).

We have decided to accept the views of the House on the secretarial allowance. £8000 is, of course, the rate which the Review Body recommended. The other three amendments raise serious difficulties. If we accept that the pensionable pay of MPs should be £13,750, the full TSRB recommended rate, we do not believe that we could, in equity, deny a similar concession to the TSRB 14 groups and this would be relatively expensive. You will be award of the problems with linkage: the Review Body has argued cogently against it several times. The 1/40th's accrual rate is the most difficult of all. If accepted it could have very widespread and expensive repercussions indeed.

In the light of these considerations, we have decided to circulate a factual paper to individual Members pointing out the implications of the amendments on pensions and linkage. The House will be

offered a further opportunity to debate these matters in the autumn in the full knowledge of the effects of their decisions.

You have previously indicated that the Review Body would be willing to review MPs' and Ministers' pay on an annual basis and I would now like to ask you formally to undertake such a review for 1981. The resolution of the linkage question will of course have implications for your work on MPs' pay and I will write to you again when matters are clearer, probably in the autumn. I would also be grateful if you could review next year MPs' secretarial allowance, Peers' expenses allowance and the secretarial allowance of Ministers in the Lords.

As you know, the Government has decided to take nationalised industry board members' salaries out of the Review Body's terms of reference, a change which you yourselves recommended. We do not wish to change the Review Body's terms of reference in any other way but, as you suggested when we met on 21 July, the Government will consider putting in evidence on relevant economic considerations during the course of the Review Body's deliberations.

Finally may I clarify one small point. The Government have given a lead of £1000 to medical Major Generals and their equivalents over the ordinary Major General salary. This is a new departure, the reason for which is that the Armed Forces Pay Review Body recommended a rate for Medical Brigadiers of £21,000. The Government accepted this recommendation and in order to give medical Major Generals a differential over Medical Brigadiers, decided to give the former a salary of £21,500.

Let me thank you and the other members of the Top Salaries Review Body once again for all your efforts. They are greatly appreciated by the Government.

No 15

Parliamentary Manager

10 DOWNING STREET

From the Private Secretary

4 August 1980

The Prime Minister has seen a copy of your minute of 1 August to Peter Le Cheminant which you sent to me. She has commented that in her view a written announcement would now be sufficient, given the Chancellor of the Duchy's replies during Business Questions last Thursday.

The Prime Minister also raised a point about the payment of pensions to the dependant of a Member who died between now and the introduction of the retrospective pension arrangements outlined in the last paragraph of the draft statement. The Prime Minister's concern was that the widow of a Member who died in the immediate future should not be at a disadvantage. I gather from the enquiries that were made this morning that there should be no such problem, and that the full rates of pension would be payable in the event of a death between now and the time of the vote in the House on the relevant resolution.

I am copying this letter to Murdo Maclean (Chief Whip's Office) and David Wright (Cabinet Office).

N. J. SANDERS

KBB

R.A. Birch, Esq.,
Office of the Chancellor of the Duchy of Lancaster.

MR LE CHEMINANT

cc: Mr Wright (CO)
Mr Maclean
Mr N Sanders (No 10)
Mr Williams) CSD
Mr R B Saunders)
Mr Prescott (PMG)
Mr Hyde

N.B. Such the revised rate of pension should be £13.150 quickly for. If we have legally in the new order we could in the relevant clause? It is not quite clear. MT

Following our discussion on the possible terms of a statement to be made by the Chancellor early next week on Parliamentary pay etc, I now attach a copy of the text which I have sent to the Chancellor for his consideration over the weekend. You will see that I have also canvassed the question of the possible timing of this statement and that the choice is effectively between Monday and Tuesday. I should be glad of any comments which you or recipients of copies of this minute may have as soon as possible, and if Mr Williams and Mr Saunders in particular would consider urgently the preparation of supporting question and answer material for dealing with the follow-up to the statement in the Commons.

My own view is that Tuesday would be better from the point of view of preparing the material properly but parliamentary considerations may force us to do it on Monday.

RAB

R A BIRCH

1 August 1980

PRIME MINISTER

In view of the Chancellor's reply ~~[illegible]~~ on Thursday! Given that the CDL gave at least some of the answers in Business Questions on Thursday, I am not convinced that a statement is essential – we are after all to vote on the motions on Thursday night and the CDL could speak the? MT 1/8

Should have thought a written reply would suffice. It would save his schedule. We must keep Tuesday free

Chancellor

PARLIAMENTARY PAY ETC

I attach a draft statement on the lines of that for which you asked when we spoke this morning. I have tried to keep it as short as possible in the interests of avoiding discussion about the complexities which would be better covered in the forthcoming factual paper. It is, however, likely that you will need some more detailed supporting material relating to the two questions on pensions and also about linkage and I shall arrange with the CSD for this to be prepared on Monday.

On timing, it would be possible to do the statement on either Monday or Tuesday but not later, since there are two written PQs about MPs' salaries due for answer on Tuesday which will certainly incite interest in this topic. I understand that the Chief Whip would prefer to keep Tuesday free of statements (because of the Housing Bill etc) but to do the statement on Monday may not give time for everyone to consider the terms of the text and to prepare the necessary supporting material. We can, however, decide about this more firmly at your meeting with the Chief Whip on Monday morning.

RAB

RAB

1 August 1980

PARLIAMENTARY PAY, PENSIONS AND ALLOWANCES

Draft statement by the Chancellor of the Duchy of Lancaster

With permission, Mr Speaker, I should like to make a statement about Parliamentary pay, pensions and allowances.

On 21 July the Government proposed to the House a motion on these matters which would have reduced the cost of implementing the recommendations of the 15th report of the Top Salaries Review Body by a sum approaching £1M in the coming year. The House accepted the Government's recommendation about the pay of Members of Parliament but rejected that on the allowances to be paid for secretarial and other assistance to Members. In addition, the House expressed the opinion that the notional rate of pay used for calculating the pension entitlements of Members in the coming 12 months should be set at £13,750 a year rather than the £13,150 proposed by the Government; that the pay of Members should correspond to the salary paid to a specific grade in the public service; and that the rate of accrual of Members' entitlement to pension should be raised from 1/60th to 1/40th of final salary for each year's service.

On allowances for secretarial assistance, as I said to the House during business questions on 31 July, the Government accept the resolution of the House and ~~were~~ we are asking the Fees Office to give effect to it forthwith.

On the matters relating to pensions the Government has noted the view of the House. There are however considerable complexities arising from the need, if the Government were to comply to any extent with the wishes of the House, to consider the repercussions for other groups. The Government have therefore decided that before making further proposals to the House they should prepare a factual paper and place it before Members for their consideration. The House will then have an opportunity to vote on further proposals in the light of that paper after the recess.

On linkage of salary, the Government propose to discuss this also in the proposed factual note and also to undertake consultation on it in the autumn through the usual channels and with the Parliamentary parties.

In the meantime the Government are asking the Fees Office to put into payment the revised rates of Parliamentary salary for which the House voted on 21 July. For the time being the pensionable rate of pay will remain at its present figure of £12,000, but when the House in due course votes on a substantive motion on the revised pensionable rate this will operate with retrospective effect from 13 June 1980. Accordingly, Members of this House and their dependants will not suffer from the delay in reaching a conclusion on the pensionable rate.

(In that case, if it covers a death in the interim, why not put it up now.)

CONFIDENTIAL

Ref. A02771

MR LANKESTER

PL 2817

PARLIAMENTARY PAY, PENSIONS AND ALLOWANCES

Sir Robert Armstrong has briefed the Prime Minister separately in advance of tomorrow's Cabinet discussion on Parliamentary Pay, Pensions and Allowances. If it were to be decided at Cabinet tomorrow that the Chancellor of the Duchy should make a statement to the House that afternoon, it would be useful to have a draft available. I therefore attach a first draft of such a statement with this minute. I am sending a copy to Robin Birch.

D J Wright

(D J WRIGHT)

Enc

CONFIDENTIAL

PARLIAMENTARY PAY, PENSIONS AND ALLOWANCES: DRAFT STATEMENT

(Subject to the decisions to be taken at Cabinet on 31 July)

With permission, Mr. Speaker, I would like to make a statement about Parliamentary pay, pensions and allowances.

On 21 July the Government proposed to the House a Motion on these matters which would have reduced the cost of implementing the recommendations of the 15th Report of the Top Salaries Review Body by approaching £1 million in the coming year. The House accepted the Government's recommendation about the pay of Members of Parliament but rejected that on the allowances to be paid for secretarial and other assistance to Members. In addition the House expressed the opinion that the notional rate of pay used for calculating the pension entitlements of Members in the coming 12 months should be set at £13,750 a year rather than the £13,150 rate proposed by the Government; that the pay of MPs should correspond with the salary paid to a specified grade in the public service; and that the rate of accrual of MPs' entitlement to pension should be raised from one-sixtieth to one-fortieth of final salary for each year's service. I have to tell the House that the concessions asked for on each of these points would, subject to the working out of precise details on the pensions proposals, have imposed an additional direct burden on the Exchequer of up to £1 million in the coming year over and above the cost of implementing the TSRB recommendation as against the reduction of £1 million which the Government was looking for. In addition, a decision to base MPs' pension entitlements on the full rates of pay recommended by the TSRB could not in equity be made without being extended also to the groups of public employees whose pay was the subject of the 14th Report of the TSRB. Nor could a parallel concession be withheld from those civil servants - Assistant Secretaries, Senior Principals and their equivalents - whose pay was cut by the Government below the likely

outcome of arbitration under the Civil Service Pay Agreements and for whom arbitration was refused. The cost of these concessions would amount to about £1½ million in the present year and to continuing expenditure thereafter.

As to the proposed change in the rate of accrual of MPs' pension entitlement, I have to tell the House that were similar concessions to be sought - as they would be - and granted - as in equity they might have to be - to other public service pensioners the ultimate cost to public funds might be of the order of £1,000 million a year. The Government has considered whether it might be possible to isolate improvements in the Parliamentary pension arrangements from these repercussive effects by providing that the full costs of the improved pension entitlement should be met by the Members concerned. But the advice we have is that the scale of contribution then necessary from individual Members would take the scheme well outside the normal Revenue rules governing tax relief for pension contributions.

Either

/With this account of the financial and other consequences in mind, I believe that hon. Members will understand why in the Government's view the House needs to take more time than is now available to consider what are the right decisions to take on the questions of pension entitlement and accrual and on the matter of linkage - a suggestion which the Review Body has already considered and rejected. We propose therefore that the House should at this stage take no further the issues raised in the amended advisory Motion of 21 July. Instead we propose to reintroduce our original Motion and to invite the House to accept it. It is the Government's view that no other course is compatible either with our present economic situation or with the decision of the House to accept a measure of restraint on this year's pay increase./

Or

/In these circumstances the Government is clearly unable to accept the recommendation that the rate of accrual of Members' pensions should be improved from one-sixtieth to one-fortieth for each year of service. We are however prepared to consider whether any new arrangement could be justified for enabling Members to buy further added years - perhaps by lump sum - in the present pension scheme and I will report further to the House after the Recess. Similarly, although again there are well-known difficulties, we are prepared to look further at the question of linking MPs' pay in some way with that of a suitable grade or grades in the public service. I should tell the House that our first impression is that the best arrangement would be to create a link with the rate of change in public service pay rather than with the absolute salary of a particular grade. There will also be difficult questions about the correct starting salary from which any linkage should apply. Again we will think further about these matters and make recommendations to the House after the Recess.

For the rest, the Government are prepared to accede to the wishes of the House on secretarial allowances and on notional pay for pensions purposes. We will also be making consequential changes in the pension arrangements for the relevant groups of public servants to whom I have already referred. I will not hide from the House, however, that the additional expenditure involved is not welcome. I am already in touch with the House authorities about expenditure on Parliament generally and it will be the Government's intention to seek offsetting economies for the extra expense to which the decisions of the House have given rise./

Parliament Members.

Ref: A02766

PRIME MINISTER

PAY, PENSIONS AND ALLOWANCES OF MEMBERS OF PARLIAMENT
(C(80) 50)

BACKGROUND

On 21 July the House of Commons amended the Government's Motion on MP's pay so that, while accepting the proposed cut in this year's increase to 9.6 per cent, they sought four offsetting improvements in their total remuneration package:-

a. Restoration of the Government's proposed cut of £600 a year in the secretarial allowance.

b. An increase of £600 from £13,150 to £13,750 - in the proposed notional salary for pensions purposes in 1980/81.

c. Linkage of their salary so that it corresponded with "the salary paid to a specified grade in the public service".

d. An improvement in the rate of accrual of MPs' pension entitlement from one-sixtieth to one-fortieth of final pay for each year's service.

2. The Chancellor of the Duchy of Lancaster proposed to Cabinet last week (C(80) 47) that the Government should accept these improvements. The Cabinet hesitated to come to a decision in the absence of more information about the financial consequences of the proposed concessions and officials were asked to examine them and report. The resulting report has now been circulated under cover of my note (C(80) 50).

3. The Government's original proposals would have resulted in a saving in public expenditure in the year from June 13 1980 of rather under £1 million (a little under £400,000 in MPs' pay, up to a similar amount on secretarial allowances and about £80,000 in Exchequer contributions to the Parliamentary Pension Fund - it being the practice for the Exchequer to bear, and provide to the Fund, its own and MPs' contributions on the difference between notional and actual salary).

4. The Motion as amended by MPs would wipe out the last two of these savings (except that they failed to adjust the amount to be created by way of refund of Member's contribution to take account of revising the notional salary from £13,150 to £13,750); and would, if the Exchequer were to bear the whole cost of improving the rate of accrual for MPs' pensions, add a further annual charge on the Exchequer of £1.4 million. These are of course only the direct costs. Indirect costs of meeting the wishes of the House could be much higher. Basing MPs' pensions on the full recommended TSRB rate would carry an almost inescapable commitment to do the same thing for the other TSRB groups and for the senior PRU grades (Assistant Secretaries, Senior Principals and their equivalents). This would cost £1½ million in 1980/81 and 1981/82, £600,000 in 1982/83 and a diminishing sum thereafter. But the potentially horrifying consequential would arise from changing the accrual rate of MPs' pensions. Their present pensions, although calculated somewhat differently, are equivalent to those applicable throughout wide ranges of the public service. If other schemes were improved pari passu with the improvements sought in MPs' pensions the cost would build up over a period of several decades to a total of the order of £1,000 million a year. Moreover, as the report shows, it is not necessary to improve the basic rate of accrual of MPs' pensions to one-fortieth in order to enable MPs to come closer than at present to a full two-thirds pension (the maximum allowed) when they retire. The same effect can be achieved by utilising the right to buy "added years" - a right of which many MPs have already taken advantage. The report also shows that an attempt to isolate the improved rate of accrual for MPs' pensions from the wider public service schemes by making MPs bear the full cost of the improvement would not work because the rates of contribution would have to be so high as to take the schemes outside the normal Revenue rules for schemes qualifying for tax relief. Strictly speaking these rules do not apply to the Parliamentary Pension Fund - because it is a statutory scheme - but it is inconceivable that MPs should vote themselves larger tax concessions than those available to the public at large.

5. The Chancellor of the Duchy will continue to argue in Cabinet, as he did last week, that relations with the House require the Government to find some way of meeting MPs' wishes, and the central question for the Cabinet is whether they are prepared to refuse any concessions or, if concessions are to be made, how limited they should be. In ascending order of cost, including consequential costs, the concessions run:-

i. Secretarial allowances (up to £400,000 a year).

ii. Notional pay for pensions at £13,750 (direct cost £80,000, indirect costs £1½ million in the current year).

iii. Accrual at fortieths (immediate cost up to £1.4 million a year, depending on how the contributions are split between MPs and the Exchequer, ultimate potential indirect cost around £1,000 million a year). A new arrangement limited to reinstating the right of MPs to buy added years in their present pension scheme by lump sums (a possibility referred to in para 14 of the paper by officials) ought not however to cost much - if the price is correctly calculated.

6. As to "linkage", the implicit advice of officials is that MPs' pay should be linked to the rate of change in a suitable basket of public service salaries rather than to the salary of a specific grade. To go down the latter route, as the House has asked, would involve the invidious task of picking the "right" grade in a situation where comparisons are odious and would leave MPs open to the temptation of seeking to change the comparator grade to their own advantage. But if linkage to a rate of change in public service salaries is chosen, the Government will face the difficult job of recommending the starting level of salary to which the linkage should be applied. Members of Parliament might not be prepared to accept that the present parity - with the middle of the scale for principals - was right, though in terms of future rates of change that might be more advantageous than a link with a higher grade.

HANDLING

7. You might open the discussion by briefly recalling the background, and then invite your colleagues to work their way through the specific questions for decision set out in paragraph 20 of the Officials' Report. The final question for decision (paragraph 20(i)) relates to the timing and context of any announcement. The Chancellor of the Duchy is, we know, likely to press for a statement to be made in the afternoon following Cabinet. He may argue that he is committed to this by what he said in the House last week, though he was asked by the Cabinet not to promise a statement this week. But, despite the crowded timetable, there is no reason why a statement should not be deferred long enough for you and other

colleagues, to know what is to be said and to have a chance to comment. If nevertheless the view of Cabinet is that a statement should be made at once, you will wish to ask that its terms be cleared in advance with you, the Chancellor of the Exchequer and the Lord President of the Council. Preliminary work has in fact been taken as far as it can be, ahead of Cabinet decisions.

CONCLUSIONS

8. The essential need is for a decision on the question in paragraph 20(a) - are any concessions at all to be made to MPs? If not, the only remaining issue is when and how should the House be told. If colleagues feel some concessions to be inescapable, the minimum decisions needed now are on questions 20(b), (c), (d), (h) and (i). Decisions on questions 20(e), (f) and (g) (on 'fortieths' and 'linkage') could be deferred and the House simply told that these proposals raise considerable difficulties which the Government needs to study further before coming to a view (after the Recess). Cabinet may also wish to consider whether, in announcing any concessions the Chancellor of the Duchy should make it clear that the Government will be seeking to persuade the House authorities to look for offsetting savings so that the concessions can be accommodated without extra expenditure.

RCA

ROBERT ARMSTRONG

30 July 1980

Parliament Members

VMS

Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Norman St John-Stevas MP
Chancellor of the Duchy of Lancaster
70 Whitehall
London SW1A 2AS

28 July 1980

Dear Norman,

TSRB 13: RECOMMENDATIONS ON PARLIAMENTARY PENSIONS

Thank you for your letter of 30 June about the proposal to pay automatic grants to pre-1964 Members and their dependants up to £0.2 million a year.

I am still very reluctant to agree to a net addition to public expenditure for this purpose in the present situation, particularly as we have yet to see any significant effort to reduce the cost of Parliament. However I note your view that it is possible that the initiative on the cost of Parliament on which you reported to Cabinet last week may well lead to savings which will more than offset the cost of this proposal.

I am therefore content to agree to this recommendation in principle if you will undertake to ensure that the additional expenditure in 1980-81 is absorbed within the existing provision on Vote XIII,2, and that no extra provision will be sought for this purpose in future years. Should this prove difficult, there is of course scope for modifying your original proposals, either by bringing the age of eligibility back towards age 75 which Boyle suggested if the cost were thought excessive, or by reducing the amount of the grant.

I am copying this letter to Members of E Committee, the Chief Whip and Sir Robert Armstrong.

Yours
John Biffen

JOHN BIFFEN

28 JUL 1980

cc:
Mr D Wright
Mr C Whitmore
Mr P le Cheminant
Mr W Hyde
Mr A Williams

Parliament
Members

✓ MS

CHANCELLOR

MPS' PAY ETC

In view of the decision by Cabinet this morning that further work needed to be done on several aspects of the questions outstanding on MPs' pay, pensions and allowances, and that there should therefore be no statement today but that it might be possible (though not yet certain) to make a statement next week, you will need to consider what to say during Business Questions if you are asked for the Government's response to the vote on Monday night.

Cabinet Office strongly advise that you should say no more than that "I shall make a statement to the House as soon as possible". If you are pressed you might add that these are complicated matters and that the Government needs a little more time to consider all the implications of the views expressed by the House. It is strongly advised however, that you should go no further.

Although it would be possible in principle for you to refer to the decision to accept the increase in the secretarial allowance to the Boyle rate, it is advised that you should not do this since this would only provoke further discussion and would also pin-point by implication the areas which need further consideration.

RAB

R A B
24 July 1980

Item 2

Parliament

CONFIDENTIAL

Ref. A02709

PRIME MINISTER

MPs' Pay, Pensions and Allowances

(C(80) 47)

BACKGROUND

In accepting the Government's recommendations on their pay for the coming year, in the debate last Monday, the House of Commons imposed the four conditions set out in paragraph 1 of the Chancellor of the Duchy of Lancaster's paper (C(80) 47). The Chancellor of the Duchy in effect recommends that all four conditions should be accepted - two of them (pensions to be based on the TSRB's recommended rates and full implementation of the TSRB recommended secretarial allowance) for immediate implementation and two (MPs' pay in future to be linked to "a specified grade in the public service" and an increase in the accrual rate of MPs' pensions from one-sixtieth to one-fortieth) to be accepted "in principle" for later implementation. This is potentially a very expensive deal (much more expensive than implementing the TSRB recommendations without amendment) and the Cabinet will need to consider very carefully how far they are prepared to go. Key points on the four proposals are set out in the following paragraphs.

2. Pensions to be based on the TSRB recommended rates: The immediate cost of basing MPs' pensions on the TSRB recommended rate of pay for this year (£13,750 as against the £11,750 actually to be paid) will be small though it would grow in future years to the extent that the TSRB continues to recommend rates of pay higher than those which the Government believes can be afforded. But the indirect cost could be more substantial. In particular, as the Chancellor of the Duchy recognises, the other TSRB groups (judges, generals, senior civil servants) will expect comparable treatment which it would be invidious to deny. In addition there would be a particular problem with Civil Service Assistant Secretaries and Senior Principals where, because of the denial of arbitration,

CONFIDENTIAL

no current "notional" rate exists. If the Cabinet feels that MPs' wishes must be met on this point and that, by extension a similar arrangement must be conceded for the other TSRB groups, the Lord President will need to advise what, if anything, can be done for PRU grades affected by the Government's recent decisions.

3. Linking MPs' salaries to a public service grade: The question of linkage was exhaustively considered by the TSRB in their 13th Report in 1979. They recommended against linkage and the Government accepted their recommendation. The gain from linkage is clear - it avoids the annual hassle and attendant publicity; the disadvantages are that linkage absolves MPs from taking a responsible view of the impact of changes in their pay on the national economic situation and that, more remotely, it gives them a built-in incentive to side, in pay arguments, with the staff against the Government. The cost of linkage is unquantifiable and may not be large. The Cabinet will have to decide whether a concession here will help the Government to resist the potentially very expensive concession being sought on the accrual rate for MPs' pensions.

4. Increase the accrual rate for MPs' pensions to one-fortieth of pensionable salary for each year's service: This is potentially a very expensive concession indeed. The proposal has been made before and was considered in detail in the 13th Report of the TSRB. They concluded that the present arrangements (one-sixtieth of pensionable pay for each year's service) "is satisfactory". Three points need to be made:-

(a) The present rate for accrual for most public service pensions (civil servants, nurses, etc.) is one-eightieth of the final salary for each year's service - with a maximum pension of one-half final salary - plus a lump sum accruing at the rate of three-eightieths for each year of service. The MPs' rate of accrual of one-sixtieth with a maximum of two-thirds final salary and provision to convert part of the pension to a lump sum amounts to the same thing. To improve the rate of accrual for MPs would lead to considerable pressure from very large numbers of public servants for parity of treatment which, if conceded, would ultimately increase the public service pension bill substantially.

The Cabinet may well judge this risk to be quite unacceptable and as settling the matter so far as MPs are concerned.

(b) MPs already pay less for their pensions than major groups of public servants. For example MPs pay 6 per cent whereas civil servants pay $8\frac{1}{2}$ per cent. If the cost of improving MPs' pensions were to be borne by MPs themselves the pension contribution they would have to make would rise to 15 per cent (the Inland Revenue limit) and still leave extra costs to be borne by the Exchequer.

(c) Pensions are a form of deferred pay. A quick calculation by the CSD suggests that acceptance of this particular demand would raise MPs' total remuneration by 10 per cent above the TSRB recommendations instead of cutting it by 5 per cent below those recommendations.

5. If the Cabinet has any hesitations about turning down this proposal the Lord President might be asked to provide urgently a note comparing the relative costs and benefits of MPs' pensions as against the main groups in the public services. If the Cabinet wants to accept the proposal detailed recommendations will be needed on contributions etc. The Lord President should be asked to provide these.

6. Secretarial allowance: The decision of the House to increase secretarial allowances from £7,400 to £8,000 would cost up to £400,000 in a full year. The Cabinet may well feel disposed to concede ground here in order to resist change elsewhere but this concession, along with the others, raises again the question of setting a cash limit on Parliamentary expenditure. The current agitation by some Members about overseas travel by Select Committees (admittedly arguing for more not less expenditure) points to where offsetting savings could be made. You will want the Chancellor of the Duchy to report further on where he is getting to in his discussions with the House authorities on these questions following his remit from last week's Cabinet.

HANDLING

7. You will want to ask the Chancellor of the Duchy of Lancaster to introduce his paper and then take the Cabinet through the four specific points at issue. You will also want to make sure that the Cabinet is fully aware of the timing and

nature of the procedural steps which would be necessary to give effect to any concessions the Cabinet may be prepared to make.

CONCLUSIONS

8. You will want to record specific conclusions on each of the points at issue, namely:

(i) Whether or not to allow MPs' (and Ministers') pensions to be based on the TSRB recommended rates of pay rather than those actually in payment.

(ii) If so, whether the concession of basing pensions on TSRB recommended rates of pay should be extended to the other TSRB groups.

(iii) If the decision on (ii) is 'yes', to invite the Lord President to make proposals for handling the problem of pensions for Assistant Secretaries, Senior Principals and other equivalents.

(iv) Whether or not to accept in principle that MPs' pay should in future be linked to a public service or other suitable analogue.

(v) Whether or not to increase the accrual rate of MPs' pensions to one-fortieth of final salary for each year of service.

(vi) In case of doubt on (v) to invite the Lord President to provide a quick study comparing Parliamentary pensions and the contributions made by Members and the Exchequer with the pension arrangements for the main groups of public servants.

(vii) If the decision is to accept the one-fortieth basis to invite the Lord President to propose the specific conditions needed to accompany the change.

(viii) Whether or not to accept that the Secretarial Allowance for MPs should be increased to £8,000.

(ix) To invite the Chancellor of the Duchy to propose ways in which offsetting savings in Parliamentary costs might be achieved to finance whatever concessions the Cabinet is prepared to adopt.

(x) To note the procedural and timing elements in giving effect to the Cabinet's decisions and to approve the general lines of the statement to be made by the Chancellor of the Duchy later in the day (if indeed something has to be said so quickly).

RTA

(Robert Armstrong)

23rd July, 1980

File

UNR

10 DOWNING STREET

From the Private Secretary

22 July 1980

Original filed on:- Econ Pol : Future of the TSRB : June 80.

Dear Tim,

As you know, Lord Boyle called on the Prime Minister yesterday evening.

The Prime Minister started by explaining the reasons for the Government's decisions on the T.S.R.B. Reports nos. 14 and 15. She mentioned, in particular, that the Government had regarded it as essential that M.P.s and senior public servants should set a good example for the beginning of the next pay round.

Lord Boyle made the following points. First, while accepting that wider economic considerations had led the Ministers to override the recommendations of the Review Body, he was nonetheless particularly anxious about the resultant salary relationship between judges and barristers. Second, he was somewhat surprised at the extent to which the recommendation for Under Secretaries had been pulled back, for the Government had specifically asked the Review Body to consider carefully the erosion of the differential, which had occurred in recent years, between Assistant Secretaries and Under Secretaries. Third, assuming Ministers wanted the Review Body to continue, it would be most helpful if the Prime Minister could say this publicly and soon. In view of recent Press criticism of comparability and the tendency to lump the Review Bodies with the Clegg Commission in this criticism, some members of the T.S.R.B. were wondering whether the Government wanted it to continue. Fourth, the Review Body

/ had not

had not fully realised the extent to which Ministers would be regarding the settlement for M.P.s and senior public servants as part of the run-in to the next pay round. While this difficulty might not have arisen if the Report had been completed earlier, it would have been helpful if the Government could have given the Review Body its views on the link - as they saw it - with the next pay round. He was sceptical about changing the Review Body's terms of reference; but he believed that it would help if in future Ministers and/or officials could put in evidence during the course of the Review Body's deliberations. Fifth, he was pleased that the Government had decided to remove the nationalised industries from the Review Body's remit. Apart from the argument on merit, this would make it easier to complete next year's Report by the end of April. Finally, he noted that an amendment had been put down in the House which would link M.P.s' pay with Civil Service pay. The Review Body had looked carefully at this option in Report no. 13, and he very much hoped that the amendment would be voted down.

The Prime Minister said that Ministers were considering the whole future of comparability, but she was sure that they would want to continue with the T.S.R.B.. She took Lord Boyle's point about the need to announce this publicly as soon as possible; she would also like to invite the members of the Review Body to No. 10. She also agreed that it would be useful if in future the Government were to put in evidence to the Review Body. Finally, she agreed with Lord Boyle's views on "linkage". (We have now heard, of course, that last night's "linkage" amendment was carried.)

I am sending copies of this letter to John Wiggins (H.M. Treasury) and David Wright (Cabinet Office).

Yours ever,

Tim Lankester.

Jim Buckley, Esq.,
Civil Service Department.

SUBJECT

Parliament

10 DOWNING STREET

From the Principal Private Secretary

21 July 1980

cc. Master set.

Dear Robin,

MEMBERS' PAY

When the Chancellor of the Duchy of Lancaster called upon the Prime Minister this afternoon about another matter, he raised the subject of tonight's debate on Members' Pay.

The Prime Minister said that she had seen the amendments which had been put down. The most difficult one from the Government's point of view was the amendment put down by Mr. Willey and supported by Mr. du Cann which advocated increasing MPs' pay for pensions purposes by the full amount recommended by the Boyle Committee. If this amendment was carried, as it was very likely to be, this would mean that Members were treating themselves better for pensions purposes than senior civil servants whose salary for this purpose was the salary they were actually receiving and not the salary recommended by Lord Boyle. It would be important for the Chancellor of the Duchy to make this point in his speech.

Nor could the Government vote for the amendment seeking linkage between Members' pay and the pay of a specific grade in the Civil Service. Since this amendment did not specify what the Civil Service grade would be, it would not be an effective amendment. The Government should also stand by the decision taken by Cabinet last week that no undertaking should be given to have an annual pay review beyond that needed to update next year's third stage of the present award. The Government should also vote tonight against the motion on secretarial allowances.

I am sending a copy of this letter to Murdo Maclean (Chief Whip's Office).

Yours ever,

Clive Whitmore.

Robin Birch, Esq.,
Office of the Chancellor of the Duchy of Lancaster.

CONFIDENTIAL

file

JD

cc HO LPO SO DOT
LCO D/Emp WO D/En
FCO LPS NIO DES
D/md MAFF DHSS CST
MOD DOE CAL PGO
CO D/Trans

10 DOWNING STREET

From the Private Secretary

21 July, 1980.

Dear Tim,

Annual Review of MPs' Pay and Secretarial Allowance

The Prime Minister has read the Chancellor of the Exchequer's minute of 18 July.

As regards the question of an annual review, the Prime Minister does not think the Chancellor of the Duchy of Lancaster should go further than what was agreed in Cabinet last Thursday - namely that next year's third stage increase will be reviewed by the TSRB.

As regards the implementation of next year's recommendations, the Prime Minister agrees that the Chancellor of the Duchy should stick to the "clear and compelling reasons" phraseology, and make it clear that this includes the possibility that the Government will take action similar to that taken this year if it is justified by wider economic circumstances.

I am copying this letter to the Private Secretaries to members of the Cabinet, to Anthony Mayer (Department of Transport) and David Wright (Cabinet Office).

Yours ever,

Tim Lankester.

A.J. Wiggins, Esq.,
HM Treasury.

CONFIDENTIAL

ds

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

18 July 1980.

PA
MS

My dear Margaret,

I have sent you an official minute about the events in the House on Thursday. I feel as we are such old friends that I should send you a private note to tell you of my feelings over the whole matter.

As you know I am completely loyal to you and our MPs pay have had to put my loyalty to you & the Government before my own views and my pledged word. Now our procedure I am being asked to go back on a pledge again - which I made in plenum & on a clear pledge as to the line of conduct I outlined to you in

2

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

My minute of October 1st.

I have managed to get through the Commons and put continental legislation programme for 1945 with that a major row because I have secured the Goodwill of the House. They trust me because I have made clear to them I will be loyal to the government I obey most for them as well. All that has been put at risk and we are clinging the House an opportunity which we promised them:

I had spent weeks on that cabinet paper – closing up all the loopholes

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Chancellor of the Duchy of Lancaster

in order to protect the government position
and it was swept aside until any
discussion. Ask that in the House there was
that planned question for Mrs Thatcher
on the 2 topics discussed in Cabinet. What am I
to make of all this? I know the Chief Whip's
position - it is that of any business manager & I
take it fully into account but I have to
consider longer & wider issues. If we go on
like this we will be forced into a much
worse position by the House. The issues will
continue to plague us and we will be goodness
knows what we face in the programme.

Yours ever

Prime Minister.
JR Bower
Duty Clerk
19/7

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

(1). We dealt with the Annual Review point at lunch. There will be a review next year of stage 3 - we do not need to commit ourselves beyond that.

(2) On page 2 - agree with the Chancellor.

PRIME MINISTER

ANNUAL REVIEW OF MPs' PAY AND SECRETARIAL ALLOWANCE

I have seen Norman St John Stevas' minute to you of 14 July. As I explained at yesterday's Cabinet, the timing is very difficult, since the debate is next Monday, whilst we are discussing pay, including our attitude to the Review Bodies, in E Committee next Wednesday. My present view, in line with the overall strategy of dethroning comparability, is that we shall need to retain the TSRB or something like it. On this basis, I do not think we need object to Norman confirming that MPs' pay should be reviewed annually by TSRB, and that the review be extended to the secretarial allowance.

2. I am quite sure, however, that Norman must be circumspect in what he says about the Government's commitment to implement. The form of words in his minute appears to go beyond the normal position that the Government will implement unless there are "clear and compelling reasons" to the contrary. In fact, if there is to be any move, it needs to be in the opposite direction. I therefore suggest that Norman might stick to the normal phraseology, but make it clear that this most certainly

includes the possibility that we will again take action similar to that taken this year if it is justified by wider circumstances, including broad economic considerations.

I am sending copies of this minute to Cabinet Colleagues, Norman Fowler, and Sir Robert Armstrong.

for (G.H.)

18 July 1980

(Approved by the Chancellor and signed in his absence)

V
MS

SECRETARY OF STATE FOR SCOTLAND

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

The Rt Hon Norman St-John Stevas MP
Chancellor of the Duchy of Lancaster
Privy Council Office
Whitehall
LONDON
SW1A 2AS

18 July 1980

ANNUAL REVIEW OF MPs' PAY AND SECRETARIAL ALLOWANCE

I have seen your minute of 14 July on the above subject to the Prime Minister.

I am content, for my interests, that we confirm our earlier decision to ask the Top Salaries Review Body to undertake annual reviews of parliamentary pay and that we should ask them also to review the secretarial allowance annually.

I am copying this letter to recipients of yours.

Approved by the Secretary of State
and signed in his absence.

21 JUL 1980

JJ

Parliament

Overtaken by Cabinet discussion

2 MARSHAM STREET
LONDON SW1P 3EB

MJC
21/7

My ref: H/PSO/15605/80

Your ref:

18 July 1980

Dear Chancellor of the Duchy

ANNUAL REVIEW OF M.Ps. PAY AND SECRETARIAL ALLOWANCE

I have considerable reservations about your proposal to announce during Monday's debate that the TSRB will be asked to undertake annual reviews of Parliamentary pay and of the secretarial allowance and to confirm that the Boyle recommendations will be implemented save in the most exceptional circumstances.

We could not accept the recommendations in full this year and I believe it will be even more difficult to do so next year. Any undertakings to that effect will, I am afraid, simply not be believed by the majority of members and with good reason.

I would much prefer to say something to the effect that the Government undertake to review Parliamentary pay annually and to place before the House proposals for any adjustments which seem justified in the context of general pay movements and the economic situation then prevailing.

I am copying this letter to the recipients of yours.

Yours sincerely

pp MICHAEL HESELTINE

Approved by the Secretary of State and signed in his absence

The Rt Hon Norman St John Stevas MP

18 JUL 1980

File

Parliament RH
Members

cc CDL
CSD

10 DOWNING STREET

THE PRIME MINISTER

17 July 1980

Dear Richard,

I last wrote to you about the Review Body's Thirteenth Report on 14 February 1980 to tell you that we intended to propose acceptance of the recommendations contained in the Report subject to certain modifications.

Since then the Report has been debated in the House and, as you will be aware, a number of amendments to the Government motions on the secretarial allowance, and on severance pay, and an amendment which introduces free travel in the UK were passed. The amendment on the secretarial allowance provides for a further sum of £675 to be available solely for payment into an approved scheme for a secretary's pension; and that on severance pay doubled the improved payments which the Review Body had recommended. The amendment on free travel accords with your recommendations but, as I explained, the Government was reluctant to propose its acceptance because of the potentially very high costs involved.

Given the strength of feeling on these matters we have decided to accept the will of the House on the amendments. However we are mindful of your statement that it is important that Parliament should be seen to apply the standards of accountability it would expect to see elsewhere. We therefore propose to introduce measures to enable rather closer monitoring by the Fees Office in the House of Commons of the secretarial allowance and Members' travel.

Yours ever

Margaret

The Rt Honourable Lord Boyle of Handsworth

dl

Parliament
Members

PRIME MINISTER

Parliamentary Affairs

There are a number of items which you might want to raise under Parliamentary Affairs. Perhaps you might take them in the following order:-

(1) Trident

A note from Robert Armstrong is attached.

(2) Business for next week

There are two major matters arising, which you might take separately, as we suggest below.

(3) Housing Bill An advance copy of the H minutes is attached.

You might ask Mr Heseltine to outline his proposals.

The Lord Chancellor and the Solicitor-General will want to comment.

(4) Members' Pay: Future Reviews

The Chancellor of the Duchy minuted you about the line he wants to take in next Monday's debate. His minute is attached, together with a Cabinet Office brief.

MJS

16 July, 1980

Ref. A02642

PRIME MINISTER

Annual Review of MPs' Pay and Secretarial Allowance

In his minute of 14th July the Chancellor of the Duchy of Lancaster asks for Cabinet agreement that the House should be told in the debate next Monday:-

(a) That the Government would stand by its earlier commitment to ask the TSRB to review Parliamentary salaries annually.

(b) That the Government would confirm that the recommendations of the TSRB "would be implemented save only in the most exceptional circumstances".

(c) That the arrangement should extend to an annual review of the secretarial allowance made to Members.

2. Obviously such commitments would ease the Government's task in the debate. On the other hand a commitment to annual reviews and implementation "save only in the most exceptional circumstances" could not be given to MPs alone. The doctors and dentists and the other TSRB groups would expect comparable treatment and could hardly be refused (the fact that the armed forces already have a parallel commitment to that now proposed for MPs would make discrimination doubly difficult).

3. I understand that this issue will be raised under Parliamentary business at Cabinet tomorrow. The essential point for decision then is perhaps whether the Chancellor of the Duchy's proposals are necessary to carry the day on Monday. If not the Cabinet [redacted] may prefer to refuse any commitment to MPs about the future rather than see all of the Review Bodies' clients receive what would be likely to be substantial increases in pay next year.

(Robert Armstrong)

(approved by Sir R Armstrong and signed on his behalf)

16th July, 1980

PRIME MINISTER

ANNUAL REVIEW OF MPs' PAY AND SECRETARIAL ALLOWANCE

When we discussed MPs' pay in Cabinet on 1 and 3 July, there were two issues which we did not resolve: (i) whether to confirm our earlier decision to ask the Top Salaries Review Body to undertake annual reviews of parliamentary pay, and (ii) whether to ask them in addition to review the secretarial allowance annually.

I very much hope that you and other members of Cabinet can agree to these two steps. It would help us in securing support for the salary level of MPs of £11,750 that we are urging in the House if I could make a positive announcement on annual reviews in my speech at the beginning of the forthcoming debate. In the case of annual reviews of pay, we decided in February that these should take place and I told the House so on 4 March (a copy of the relevant extract from Hansard, cols 266/7 is attached). It would therefore only be a matter of confirming that this was still our view. Not to do so would, I fear, mean considerable pressure on this point from Members, and our position in the debate would be made needlessly difficult. No previous announcement has been made about annual reviews by TSRB of the secretarial allowance but as this allowance has in fact been increased annually since 1974, asking TSRB to examine it each year would merely regularise the position.

I should of course make it clear in my speech that (as we said in March) any recommendations by Boyle would be implemented save only in the most exceptional circumstances.

As the debate on MPs' pay is on Monday, 21 July, I would be very grateful for the views of colleagues by Friday, 18 July.

I am copying this letter to members of Cabinet, Norman Fowler and Sir Robert Armstrong.

NStJS.

14 July 1980

N St J S

EXTRACT FROM HOUSE OF COMMONS HANSARD

4 MARCH 1980 COLS 266-7

Furthermore, we propose that the review body undertake annual reviews of parliamentary salaries from next year onwards. It is the Government's firm intention, save in the most exceptional circumstances, that any recommendations made by the review body will be implemented. I believe that this method rather than indexing is the right way to approach the problem. In the prevailing economic situation, I do not believe that the indexing of Members' salaries is a viable political option.

PRIME MINISTER

MEMBERS' AND MINISTERS' PAY AND ALLOWANCES

The necessary draft Order and draft Resolutions to give effect to the Government's decisions on the pay and allowances of Ministers and Members have now been laid in the Commons (they will be laid in the Lords tomorrow), and the debate will take place in the Commons at 10.00 pm on Monday, 21 July. I expect that the Lords will take them on either 22 or 23 July. Assuming that the Order is safely passed by both Houses, this will then be brought into effect by the Privy Council on 28 July. As I think you know, this is the date of the next regular meeting of the Privy Council; we considered whether it might be possible to hold a special meeting of the Privy Council a few days before 28 July, but this might have presented difficulties for the Palace, and I understand that in any event you did not wish to press the case for an early special meeting.

NStJS.

14 July 1980

N St J S

① JPC
② ~~CAW~~ to see

MS

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

14/7

Chancellor of the Duchy of Lancaster

11 July 1980

Dear Alan,

FORTHCOMING DEBATE ON MPs' AND MINISTERS' PAY

We discussed the question of what, if anything, can be said in the debate on 21 July about annual reviews by the TSRB on the pay of MPs and Ministers. I have confirmed with Peter le Cheminant and Nick Sanders that there was no decision on this point, and that before any announcement can be made Ministers will need to address their minds to this point. We noted in discussing the PQ to the Prime Minister on which you were working, that in Col 42 of Hansard, 7 July, the Prime Minister said:

> "Honourable Members' pensions are geared to £12,000, which is the figure for the third stage. We are updating that figure to £13,150, which increases the £12,000 by 9.6%. We are gearing the pensions to that figure. To go beyond that would presume upon the results of next year's updating."

This text appears to imply that TSRB will performing on this subject next year, but the point requires Ministerial confirmation and nothing is implied about subsequent years. It will clearly be better if possible that the Chancellor should be able to say on 21 July what the Government's decision is on the subject of annual reviews, although this may be difficult in as much as Peter le Cheminant tells me that E Committee will be considering terms of reference of the Review Bodies and the pay of nationalised industries chairmen etc only on 23 July. I should therefore be grateful if you would consider what the Chancellor might be advised to say to his colleagues on this point as early as possible next week.

I am copying this letter to Peter le Cheminant (Cabinet Office) and Nick Sanders at No 10.

Yours ever,

Robin

R A BIRCH
Private Secretary

A Williams Esq
Pay 3
Civil Service Department
Old Admiralty Building
Whitehall
SW1

12 JUL 1980

File

DSG

bc: ~~Miss Porter~~
~~Miss~~ Edmunds

10 DOWNING STREET

From the Private Secretary

MR. WRIGHT
CABINET OFFICE

MINISTERIAL SALARIES

During the discussions preceding the Prime Minister's Statement last Monday, it was agreed to look into the possibility of introducing a revised Ministerial Salaries Act, next Session if possible. I thought I ought to put on record the thought that if this idea is taken further, the Assistant Private Secretaries in No. 10, and Daphne Edmunds and Joan Porter in particular, have a lot of experience in the mechanics of Government forming and salary allocation. I am sure that it would be helpful for whoever is doing the work to have a word with them at a fairly early stage, so that some of the problems which have arisen in practice over the past few years can be considered.

N. J. SANDERS

11 July 1980

NM

Barry Wright

MR. SANDERS

Ministerial salaries

Thank you for letting me have a sight of the Order - I have given a copy to Daphne for any comments she may have.

Just to clear my mind. Presumably there is now no difference between salaries paid to Ministers in the Commons and in the Lords? And the Prime Minister receives the same amount as all other members of the Cabinet?

There is still no provision for a Minister in charge of a Department (other than Agriculture) to be a member of the Cabinet and paid a Cabinet Minister's salary unless he is in Part I of Schedule I. On the whole this matters not, as they would generally be Secretaries of State, but it would make for greater flexibility. When Mr. Reg Prentice succeeded Mrs. Judith Hart as Minister of Overseas Development (then a separate Department) in 1975 he was given a seat in the Cabinet on a personal basis, but he had to become a Minister of State (Minister for Overseas Development) otherwise it would not have been legally possible for him to receive a Cabinet salary.

I notice that the wording of (3) of the middle section of Schedule I has been changed from that used in the previous Order. Does this mean that a Minister in charge of a Department who is not a member of the Cabinet can be called a Secretary of State? I'm not sure. Don't know

But presumably any re-arrangement of the Schedule would have to wait until the 1975 Act was revised.

10 July 1980

J.P.

PART 2 ends:-

PMG Note 52/80. Top Salaries

PART 3 begins:-

Iran Power to NJS 10.7