



HOUSE OF COMMONS
LONDON SW1A 0AA

John
Mack.
Norman,
Ivan.

P.C.'s Committee

TO: MRS THATCHER
FROM: HUMPHREY ATKINS

Shadow Cabinet Meeting 6th December 1978

There are two matters you will wish to discuss under the heading "Any Other Business".

1. The response which we make to the Government's suggestion that a Special Commission should be set up to enquire further into the matters reported upon by Bingham.
2. The response which we should make to the Government's suggestions about the use and control of public money in connection with the European Elections. These fall under two heads:
 - a. A proposed Bill to reimburse candidates in the European Elections for part of their expenses.
 - b. An All Party Committee to exercise surveillance over the European money available for "information" before the Election.

Attached are the notes which you asked me to prepare about 1. above (these will be circulated to all members of the Shadow Cabinet at the meeting), and the answers to the questions which you asked me to put to the Lord President of the Council about 2.b. above.

H.A.

HA
6th December 1978

Quintet - Not a Judge
AC
L.S.

DRAFT ORDER OF REFERENCE (originating in the Commons).
(must not be done, with
points)

Special Commission on Oil Sanctions (Joint Committee) -

That it is desirable that a Joint Committee of both Houses to be known as "the Special Commission on Oil Sanctions" be appointed to consider, following the Report of the Bingham Inquiry, the part played by those concerned in the development and application of the policy of oil sanctions against Rhodesia with a view to determining whether Parliament or Ministers were misled, intentionally or otherwise, and to report:

That a Select Committee [of 3 Members] be appointed to join with such Committee as the Lords may appoint to consider the said matters and to report accordingly:

That Mr X, Mr Y and Mr Z be Members of the Committee.

That the Committee have power to send for persons, papers and records; to sit notwithstanding any adjournment of the House; and to report from time to time.

That two be the quorum:

That the Committee have leave to hear Counsel to such extent as they shall see fit:

That Mr Attorney General shall give such assistance to the Special Commission as may be appropriate:

That the Committee have power to appoint persons to carry out such work relating to the Special Commission's inquiry as the Special Commission may determine:

That no person not being a Member of the Special Commission shall be present during any of the proceedings of the Special Commission unless required by the Special Commission to be present for the purposes of their inquiry:

OTHER) [That it be an instruction that the Chairman of the Special Commission do determine which of the papers and records received by the Special Commission be included in or referred to in any report:]

OR) [That the Committee have power to report to the House such papers and records only as should appear to them essential to such reports as they should make:]

That it be an instruction that all papers submitted to the Special Commission shall first be examined by their Chairman who shall determine, if necessary after consultation with other Members of the Special Commission, which of the papers should be seen by the Members of the Special Commission for the purposes of the Inquiry and which of the said papers and records should be shown to parties interested or their Counsel or agents, or to witnesses, and which of such papers and records may be retained by Members of the Special Commission or such parties, Counsel agents or witnesses:

Notes

- (1) It is not appropriate for one House to purport to give power to the joint body and this has made it necessary not always to refer to the Special Commission as desired. But reference is made to the Special Commission, rather than the Commons Committee, wherever possible.
- (2) No mention is made of the chairmanship as it is considered to be far better (and will avoid questions of order being taken) for the chairman to be named in the Lords Order and for this to come back to the Commons for their concurrence.
- (3) It is not necessary to include in the Order an invitation to the Lords to concur in the setting up of the Special Commission. Such an invitation is added as a book entry after the House has agreed to the Motion.



SPECIAL COMMISSION ON OIL SANCTIONS

Objections to Government Proposals

1. The Special Commission should be a "joint committee of both Houses". In view of the possibility (indeed the probability) that the Special Commission may be interrupted by a General Election, this severely limits the range of people who can be asked to serve on it. We can not ask anyone who is not standing again, nor can we ask anyone who might be considered for inclusion in a Conservative administration. The Lord President's view is that members of the Special Commission could be replaced if necessary. It is our view that no Member joining the Special Commission half way through its work would be prepared to sign any report whose conclusions were based upon work done before he joined.
2. The proposed membership of the Special Commission is not confined to Privy Councillors but, at the same time, provision is made for the members to see Cabinet and Cabinet Committee papers. We have doubts as to the wisdom of allowing Cabinet and Cabinet Committee papers to be seen by anybody but feel that while it might just be possible to agree to Privy Councillors seeing these papers it would be unacceptable for Members not bound by the Privy Council oath to have access to them.
3. The Government prefer a membership of the Special Commission of eight, (one Law Lord, three Conservative, three Labour and one Liberal Member, drawn from both Houses of Parliament). There is some view that, since the judgements made by the Special Commission are to be of a 'political nature', a Law Lord is an inappropriate Chairman. There is a further view that it will be extremely difficult to find three Members (even on the assumption that there are two from the Commons and one from the Lords) to serve on a Commission whose business it is to interrogate former Prime Ministers and Secretaries of State. N.B.: It is worth noting that the Government's verbal proposals included the alternative of a Commission of six (one Law Lord, two Conservative, two Labour, and one Liberal Member) and that the draft resolution (attached) supports the suggestion that the Commission might be of this smaller size.
4. At the meeting on 4 December, the Lord President indicated that it would be the Government's intention to appoint one or more Members from their side of the House whose service in Parliament was very limited, i.e. Members who entered Parliament in 1974.
5. It is proposed by the Government that Members appearing before the Special Commission can be represented by Counsel if the Commission think fit. It is not clear whether Counsel's fees would be paid by persons interrogated by the Commission or out of public funds. Either course seems inappropriate.
6. It is proposed by the Government that the Chairman shall exercise his discretion if necessary after consultation with other members of the Special Commission which Cabinet and other papers should be seen by members of the Special Commission. It is easy to envisage circumstances where a junior member of the Special Commission, not bound by the Privy Council oath, would insist on being consulted and might not preserve the degree of secrecy which is desirable.



Possible alternatives that might be suggested

1. That the Special Commission should consist solely of Privy Councillors. This would have certain advantages, as follows:

- a) It would be possible to nominate Privy Councillors even if they were not standing for re-election.
- b) Greater confidentiality would be more likely.

2. That the Special Commission should consist of six members rather than eight. This would have the advantages that:

- a) The Commission's work might be more speedily concluded.
- b) That it would be possible to nominate sufficient Privy Councillors.

It is to be noted that this size of Commission was suggested (although as a second preference) by the Government themselves.

3. It might be considered right to urge upon the Government the undesirability of having a Law Lord as Chairman. The view has been put forward that the work of the Special Commission is wholly political and that a judge is an inappropriate figure to involve in such an examination. No alternative name as yet been considered.

Humphrey Atkins
6 December 1978

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EUROPEAN ASSEMBLY ELECTIONS

POSSIBLE SCHEME FOR PROVIDING NATIONAL FUNDS FOR ASSEMBLY ELECTION

1. The Government are considering a possible scheme to assist candidates in the European Assembly election to meet part of the cost of their campaigns. The scheme would be on a 'one-off' basis in that it would not extend to other national or local elections, and would be limited to the present Assembly election alone. The main features of the scheme are:

- a) The Government would reimburse 50% of the maximum permitted election expenses (or actual expenses, if lower) of candidates who demonstrate they have a sufficient measure of popular support, ie those who save their deposits;
- b) Candidates who save their deposits would be reimbursed retrospectively on the basis of the returns of election expenses which all candidates are required to furnish to returning officers, subject, possibly, to some central financial control to ensure that public money is being properly spent.

2. Reimbursement to candidates, though an innovation in itself, is regarded as preferable to a scheme of direct assistance to political parties because British electoral law is geared to the candidate rather than to his party; and because the scheme would be seen as fairer and more impartial as between the political parties. Reimbursement would be linked to performance in the Assembly election itself, and use of the deposit threshold to determine which candidates would be eligible for funds should avoid making public money available to fringe or frivolous candidates.

3. The Home Secretary has not yet finally determined for purposes of the Assembly election the share of voter needed to save the deposit; the size of deposit; or the maximum permitted election expenses per candidate per constituency. Representations made to him on the subject of the draft regulations published earlier this year are now being considered, and will be put before Parliament shortly.

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ALL PARTY COMMITTEE TO SUPERVISE COMMISSION/ASSEMBLY INFORMATION SPENDING

4. The Commission and Assembly have sizeable budgets (just over £1 million) for financing a joint information programme on the European Assembly election. These funds cannot be diverted for use by the political parties for election campaign expenses. The London offices of the Commission and Assembly have stated that they will be joining in a common programme of factual information about the Assembly and direct elections, which will end before the election campaign itself begins.

5. It would nevertheless be desirable to bring the Commission and Assembly information activities under the supervision of the political parties in order to avoid controversy about their spending programmes. This would suggest an all-party committee which would work closely with Commission and Assembly representatives. Similar committees have already been set up in the Netherlands and Germany.

6. The Labour Party is now considering this idea, and it would be desirable to have an early view on it from the other parties. Details of the composition of the all-party committee and how it might operate might be discussed further by the parties if the general principle is endorsed.

ASSEMBLY FUNDS FOR THE POLITICAL PARTIES

7. The political parties already represented in the Assembly are to receive financial help from Assembly funds towards the cost of information activities concerning the Assembly election. There has been some uncertainty about what will qualify as legitimate information expenses as opposed to election campaign expenses as such. Recent contacts with the Secretary General of the Socialist Group in the Assembly now suggest that the printing and distribution of election addresses by the political parties may qualify as a legitimate information activity on which Assembly funds may be used.

8. The Labour Party has been advised to put this point on record with the Secretary General of the Socialist Group in the Assembly well in advance of the election campaign. Other parties represented in the Assembly (i.e. Conservative, Liberal, Scottish Nationalist) might wish to follow suit with their respective Groups.



COMMISSION/ASSEMBLY INFORMATION SPENDING

1. Precisely how much money is involved? The Cabinet Office paper mentions "just over £1 million". At the meeting with the Lord President the figure of £600,000 was mentioned.
2. Has this money been voted or authorised by the Assembly?
3. Is the money already available in this country?
4. Under whose control is the money at the moment?
5. Has any of the money already been committed, for example by the engagement of advertising agents/ public relations consultants?
6. What discussions have taken place and with whom about the proposal in the Cabinet Office paper/ e.g. has the Commission/Assembly been consulted?
7. What was the result of these discussions?
8. What power would the proposed Committee have?
9. Where would final responsibility for the spending of the money rest?

ASSEMBLY FUNDS FOR THE POLITICAL PARTIES

1. Has money already been voted or authorised by the Assembly for this purpose?
2. What is the total sum of money involved, and how is it divided between the Parties?
3. What conditions are laid down as to how it can be spent, who laid them down and how are these conditions to be enforced?
4. Are there any other grounds apart from the opinion of a paid official of the Socialist Group in the Assembly for supposing that the printing and distribution of election addresses may qualify as legitimate activity?
5. What cost to public funds in this country is envisaged for the conduct of these elections, e.g. will there be a free post for candidates?

5.12.78

COMMISSION/ASSEMBLY INFORMATION PROGRAMME

1. The total available in the UK will be 1.7 million ECU or some £1,000,050. Of this 7,000,000 ECU will come from the Commission and 1,000,000 ECU from the Assembly budget. The figure of £600,000 referred to possible advertising contracts.
2. The sums mentioned in (1) above derive from the 1978 and 1979 budgets. The 1978 budget has been finally adopted; that for 1979 is expected to be adopted shortly before Christmas.
3. The money has not yet been transferred. That part deriving from the Commission budget will be paid by the Commission's London office as the need arises; that from the Assembly's budget will be paid directly by its secretariat in Luxembourg.
4. At the moment the money is under the control respectively of the Commission in Brussels and the secretariat of the Assembly in Luxembourg.
- 5-7. We understand that the Commission and Assembly Information Officers in London have drawn up with professional help a programme of information about direct elections. This has not been discussed by them in any detail with others; but at the request of the Government they have agreed to try to avoid any action in the immediate future that would pre-empt the setting-up of an all-party Committee, and no major contracts have yet been signed. We believe that the Commission and Assembly Officers would be ready to cooperate with an all-party Committee. The idea is also being discussed with the Labour and Liberal Parties.
8. We envisage that the proposed Committee would work closely with the Commission and Assembly representatives in an advisory, consultative and supervisory role.
9. The final responsibility for the spending of the money would rest, under the Community budget, with the Commission and Assembly respectively.

ASSEMBLY FUNDS FOR THE POLITICAL PARTIES

1 and 2. The 1979 budget (which is expected to be adopted shortly before Christmas) provides 11.68 million ECU for the Assembly (some £7.73 million) for information related to direct elections. The Assembly have taken an internal administrative decision that these funds should be allocated equally between the European Assembly Information Service and the political groups. The sums allocated to the latter are again divided according to an internal decision of the Assembly.

3. The money is voted under Article 1001 of the 1979 draft budget, and its purpose is described as "to cover the European Parliament's contribution to information on election by direct universal suffrage". These conditions were laid down by the Assembly themselves and it is on them that the initial responsibility for enforcing them devolves. This responsibility will presumably be exercised by the Assembly's Budget Committee and Bureau. If there remained any doubt as to whether expenditure under this heading had been made in a regular and lawful manner it would be subject to review by the Court of Auditors.

4. In the first place it will be for each political group (of which the Socialist Group is of course only one) to decide for itself whether funds can correctly be disbursed for a given purpose. So far the only indication we have had is from within the Socialist Group, whose views are presumably formulated with the consideration of (3) above in mind.

5. The financial memorandum covering the European Assembly Elections Bill estimated the cost of the Assembly election at £10 million. This is mainly attributable to payments for election staff and to postal charges for the free delivery of candidates' election addresses, which will be provided for this election in the same way as for Parliamentary elections.
