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The Rt Hon Michael Heseltine, MP
Secretary of State for the Environment
2 Marsham Street
LONDON SW1P 3EB

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20 February 1981

Dear Secretary of State,

LEGISLATION ON PRIVATISATION ETC

Thank you for your letter of 5 February about the possibility of introducing an enabling Bill which would allow activities to be privatised and quangos to be abolished without the need for separate pieces of legislation in each case. If I have understood correctly, what you have in mind is that, once the enabling Bill had been passed, Ministers would be able to proceed by means of statutory instrument.

I entirely share your concern about the implications for the legislative programme of our policies on quangos, privatisation and the size of the Civil Service. So any ideas are welcome that would reduce the need to find space in the programme for separate Bills to achieve our objectives. But I also share the doubts that Francis Pym has expressed about whether the approach you suggest would be practicable.

An enabling Bill of the kind you outlined would be bound to run into difficulties on a number of fronts. For example, the Bill would have to be drafted so broadly as to give Ministers something of a blank cheque to override specific statutory powers and duties. This would be strongly criticised on constitutional grounds as reducing the scope for proper Parliamentary scrutiny of the Government's legislative proposals, in both Houses. Moreover, Francis Pym has pointed out the dangers of creating an undesirable precedent which could be used in different contexts by our political opponents; I need not elaborate the point. Finally, I understand that the sheer range and complexity of the existing statutory provisions governing quangos and the various activities which we might wish to privatise would make it formidably difficult - if not impossible - to draft an enabling Bill. For instance, the terms "privatise" and "quango" are unknown to the law and I am assured that the chances of drafting anything like workable definitions are remote in the extreme.

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For these reasons, attractive as your idea seemed, I do not think it would be profitable to pursue the idea of general enabling legislation of the kind suggested in your letter. But I am at one with you in the search to find ways to avoid a log-jam of legislation on privatisation and quangos and to help us to achieve our objectives. I shall be in touch with colleagues about this shortly.

I am copying this letter to the recipients of yours.

Yours sincerely,
Juckley
(Private Secretary)

SOAMES

(Dictated by the Lord President
and signed on his behalf)

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