



Ref A05634

PRIME MINISTER

Local Authority Rates
(E(81) 90 and 93.)

BACKGROUND

In E(81) 93 the Secretary of State for the Environment makes recommendations on how best to give effect to the Committee's decision last week that any second supplementary rate increases should be subject to mandatory referenda; he still thinks, however, that elections would be better. In E(81) 90 the Secretary of State for Scotland recommends that he should add to legislation already in the programme provisions to enable him to direct Scottish local authorities to reduce their proposed rates unless the higher rate were endorsed by referendum.

2. In his letter of 18 September to the Attorney General, the Secretary of State for the Environment sought advice on whether there was any way of deferring the date by which the Bill had to reach the Statute Book while still making its measures effectively binding upon rating decisions to be taken in March 1982. In his reply of 21 September the Attorney General advises that, provided that the legislation is in force before the rate demand is issued the question of retrospection does not arise and that, even if it were not in force until after the rate demand was issued, limited retrospection could be justified in the circumstances. The Lord Chancellor in his letter of 22 September advises against retrospection and warns of the opposition which the proposals are likely to meet in the Lords.

3. The Secretary of State for the Environment will briefly refer to this correspondence tomorrow. He will probably say that, in view of the differences in the advice offered to him, he will wish to discuss the constitutional issues further with the Attorney General and the Lord Chancellor and with the

business managers. He would then report the outcome of this separately. It would not affect the policy issues in the main papers now before E. It could ease the problems of managing the legislative programme next Session, but it would be most unlikely to remove the need for dropping one or two other Bills now in the programme to permit acceleration of the legislation on rating measures; this question will be discussed by Cabinet on Thursday when they consider the Home Secretary's paper (C(81) 47) on the Queen's Speeches.

England and Wales

4. The main features of the Secretary of State for the Environment's proposals in E(81) 93 for referenda are -

(i) The question 'do you agree that a supplementary rate of - p should be levied?' to be specified in the legislation.

(ii) The local authority to be free to finance from its own funds the issue of a leaflet justifying the second supplementary rate and to be required to finance the largest opposition party in preparing a leaflet opposing the proposal.

(iii) If the answer is No, a limit on the authority's temporary borrowing for the rest of the financial year and prior approval by the Secretary of State of its budget for the following year.

- This is necessary because, by November when a referendum result would be known, some local authorities would not be able to cut back their expenditure sufficiently in the remaining months of the financial year and provision would be necessary to stop the problem recurring in the following year.

(iv) Surcharges on Councillors would be confined to instances where they tried to maintain expenditure higher than that approved by the Secretary of State for their budget (paragraph 10).



5. The Secretary of State for the Environment would be willing to go through with a scheme of referenda on these lines but he would strongly prefer a system of re-election. He fears that, following a No vote in the referendum, he and his Department could be dragged into direct confrontation over detailed and contentious expenditure decisions with a hostile authority reluctant to make economies - eg whether to close an old people's home rather than go over a borrowing limit. In his judgement it is a situation which a skilful Labour authority could exploit to the full. He continues to believe that the threat of re-election, and the risks that would entail, would be a powerful deterrent on high spending authorities.

6. You will recall, however, that, in their discussion last week, an overwhelming majority of the Committee favoured referenda, despite the difficulties which will undoubtedly arise. They feared that elections would be on much wider issues than the rate increase and could risk supporters of the Government's policies losing their seats. The ILEA, which is a major over-spender, would not be caught by elections.

7. If the Committee confirms its decision in favour of referenda, there is one point of detail which you may wish to examine. Is it defensible for the Government to require the local authorities to finance leaflets prepared by the largest opposition party, but to do nothing for other opposition parties which could be pretty big? (eg situations could arise of the local authority financing a Liberal/SDP leaflet but not a Conservative leaflet, and vice versa). Would it be preferable for the local authority to finance one leaflet opposing the proposal, irrespective of which party or parties sponsored it?

8. Whether the Committee decides on referenda or elections, the Secretary of State for the Environment wishes to announce the outcome, and the Government's broad proposals for the interim measures, on Thursday afternoon when he is to speak in Torquay to a joint meeting of the Local Authority Associations.

Scotland

9. The Secretary of State for Scotland already has powers to reduce grants to individual local authorities planning excessive and unreasonable expenditure.
 → Scottish local authorities cannot raise supplementary rates. The Secretary of State for Scotland now proposes, in E(81) 90, that he should take powers to intervene in the rate fixing process if he thinks that in determining its rate poundage an authority is planning for excessive and unreasonable expenditure. He would then prescribe a lower rate which would stand unless a proposal to re-adopt the original rate were endorsed by referendum by 31 July. He would thus have powers to operate either on rates or on grants or on both. The provisions would be added to the Local Government and Planning (Scotland) Bill, though this would not be enacted in time for them to be effective in the financial year 1982-83. This will mean that the Second Reading of the Bill will have to be taken on the Floor of the House, rather than in Scottish Grand Committee, and this is a problem which the business managers will need to consider; the proposals do not, however, present the timetabling problems which arise with the legislation for England and Wales. The Secretary of State would announce his proposals as soon as possible.

HANDLING

10. After the Secretary of State for the Environment has introduced his paper, you might ask the Secretary of State for Scotland briefly to explain his proposals. The Home Secretary has specific responsibility for electoral procedures and he will wish to comment. The Committee will also wish to hear, in particular, the views of the Secretary of State for Wales and the Chief Secretary.

11. The main questions seems to be -

(i) Does the Committee still prefer referenda to re-elections?

(ii) If so, do they approve the Secretary of State for the Environment's proposals in E(81) 93?



- Do they see any difficulties in the proposal that the Government should require the local authority to finance leaflets prepared by the largest opposition party?

If not, should the arrangements for re-elections be on the lines proposed in the earlier paper, E(81) 85, and should the ILEA be subject to referenda?

(iii) In either event can the Secretary of State for the Environment announce the Government's decisions on interim measures in general terms in his speech in Torquay on Thursday afternoon?

(iv) Does the Committee approve the Secretary of State for Scotland's proposals in E(81) 90?

- If referenda are approved for England and Wales the Scottish proposals should be straightforward, but otherwise would it be defensible to have referenda in Scotland and elections South of the Border?

CONCLUSIONS

12. You will wish to record conclusions on the questions listed above. Any detailed issues on the management of the legislative programme could be considered separately by the business managers and the Ministers concerned; the implications for other Bills in the programme will be considered by Cabinet the following day.

ROBERT ARMSTRONG

22 September 1981