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10 DOWNING STREET

From the Private Secretary

19 October 1983

SIMPLIFYING THE TAX LEGISLATION

The Prime Minister was grateful for the Chancellor of the Duchy's minute of 17 October about Mr. Rowland's ideas for simplifying tax legislation. The Prime Minister has asked for a meeting to discuss this minute, together with the note sent to this Office by Judith Simpson on 5 October. I will be in touch with you, and with the Private Secretaries to the Lord Chancellor, the Leader of the House, the Chief Secretary and First Parliamentary Counsel to arrange a time.

MR. D. BARCLAY

Alex. Galloway, Esq.,
Chancellor of the Duchy of Lancaster's Office.

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PRIME MINISTER

Simplification of Tax Law

Lord Cockfield offers two ideas for responding positively to Mr. Rowland's views on simplifying tax law:-

1. Set up a special body analogous to the Law Commission,
2. Ask every Inland Revenue specialist to review his area of legislation, and to propose improvements for enactment when the opportunity arises.

Agree we add Lord Cockfield's note to the agenda for your meeting about Mr. Rowland? (We may have to postpone this a few weeks, to allow the new Financial Secretary time to familiarise himself with the arguments.)

DMG

Yes ✓

18 October 1983

There would be much more point in discussing Peter Russ about it. MB



Revised minute for Prime
Minister's meeting on
17 October attached.
Please destroy earlier
version of the same date.
Thank you.

with compliments

Private Secretary to

CHANCELLOR OF THE DUCHY OF LANCASTER

Whitehall London SW1A 2AS

Telephone 01-233 8550

C. Am. S. Hawker

Chancellor of the Duchy of Lancaster

PRIME MINISTER

SIMPLIFYING THE TAX LEGISLATION

1. I have now seen Mr Rowland twice and I have also discussed the matter with the Lord Chancellor. I have read the Treasury memorandum sent to your Private Secretary on 5 October.
2. Mr Rowland believes that the present income tax and corporation tax statutes, which run to some 1000 pages, could be rewritten in simpler, more intelligible language and that the total length could be reduced by 40%. He tells me that given the services of one parliamentary draftsman, with an assistant, and suitable back up from the Inland Revenue, he could do this himself in twelve months.
3. Mr Rowland's plaint finds an echo in what the Royal Commission said in 1955 -

"We are not satisfied that it is impossible to introduce greater clarity and concision into the drafting of income tax legislation. The point is so often a matter of public criticism, and for more than a generation it has been a subject of judicial complaint."

4. The Lord Chancellor has already put in hand, through the Law Commission, preparatory work on consolidating the Income Tax and Corporation Tax Acts. The present estimate is that it will take 5 years for this work to be completed.
5. Mr Rowland however wishes to go further than pure "consolidation". It is of the essence of consolidation that it does not change the law, and it is on this basis that Parliament accepts that consolidation bills should be passed on the nod. Mr Rowland wishes to take the opportunity of correcting anomalies and eliminating what he regards



Chancellor of the Duchy of Lancaster

as unnecessary or unduly pernicketty provisions. A great deal of the shortening he envisages probably comes from this source. But - coupled with the process of extensive rewriting in the interests of clarity and brevity - this would inevitably mean that the law would be changed. As a result the special Parliamentary procedure for consolidation bills could not be used: and experience shows that even the smallest changes can prove contentious.

6. Mr Rowland's objective is wholly admirable. But he seriously underestimates the magnitude of the task and of the problems involved. Indeed the basic problem goes back to the approach adopted by the Courts to the interpretation of statute law. And nowhere do the Courts interpret statutory provisions more strictly than in the fiscal field. The Courts do not concern themselves with the broad intent of the statute but only with its precise terms. This approach is mirrored by that of Parliament which is unwilling to permit an area of discretion to the judges but insists on spelling out with great exactitude what the rights and obligations of the subject are. As a practical matter, there is little prospect of ever achieving a change in this situation.
7. The question we have to face is how, given this background, do we make progress?
8. One possibility would be to make a frontal attack upon the problem: to set up a special body analogous to the Law Commission with its own draftsmen and supporting staff, charged with the task of rewriting and improving the taxing statutes. Such a body could divide up the corpus into a number of quasi independent parts (for example, personal allowances, Schedule D, PAYE and Schedule E and so on) which it would work through in sequence, producing a preliminary draft and consultation paper on each, followed by a final draft. At the end of the day all the pieces would be brought together in a single, new Bill.



Chancellor of the Duchy of Lancaster

This is all very reminiscent of the Consolidation Committee which operated for many years before the War and which indeed was still in being when I first joined the Inland Revenue. Its efforts finally ran into the sand. But this is no reason why we should not try again.

9. If we were to pursue this approach, the first essential step would be to work out the modus operandi in some detail; to make at least a broad estimate of the resources required and the time it would take; and to assess the implications in relation to Parliamentary procedure and time required.
10. An alternative approach - which lacks the glamour but might well produce worthwhile and much earlier results - would be to ask every Inland Revenue specialist to go through the legislation for which he is responsible and identify the opportunities with the intention (and determination) of acting in the ordinary Finance Bill whenever the opportunity arose. There is in fact a precedent for this in the reform of the discretionary trust provisions for capital transfer tax proposed in the 1982 Finance Act a matter for which I had Ministerial responsibility. Instead of proceeding by way of amendment to the existing provisions, we simply rewrote the whole of the relevant law in its new guise and this was incorporated in the Act.
11. The final point I would make is that there is a large element of policy involved in all recasting of statutory provisions even if the objective is primarily simplification and not change. It follows that close Ministerial involvement and direction would be essential.
12. I am copying this to the Lord Chancellor and to the Chancellor of the Exchequer.

A.C.
A C

17 October 1983