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File
Spdc to OL - He and JR were
not talking to DOE & AG's
Dept
AT 30/4 3

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PRIME MINISTER

John Redwood mentioned that the Policy Unit had some reservations about the draft Bill on Commissioners. The attached note sets them out. They feel it would be preferable to relate the Bill specifically to Liverpool, with Parliamentary action to set aside the constraints of hybridity, rather than make it general with an Order to activate it for specific local authorities. They recognise, however, that E(L) and L Committees consciously decided to make the legislation general and so they do not intend to pursue this point further.

Nevertheless, they still feel there are amendments which could be made which could ease the fears of Government supporters and help secure the speedy passage of the Bill which will be required.

Agree Policy Unit be authorised to talk to DOE and the Attorney General's Office about these proposals?

Yes. I shall
be asking them to doubt
about the legislation.
It is very sweeping
& structure with strongly
reviled. But I have not
seen alternative
limited possibilities nor
heard the arguments.

27 April, 1984

SECRET

However I should be very
reluctant to see the legislation
at all.
not

Policy Unit
27 April 1984

MR TURNBULL

LIVERPOOL: COMMISSIONERS BILL

The right decisions have now been made about the timing of the Government's response to the crisis in Liverpool. But the draft Commissioners Bill still needs attention.

The powers that the Bill at present confers on the Secretary of State will certainly enable him to impose an effective Commission on Liverpool and on any other local authority that engages in similar tactics. But the powers are so great that they will inevitably cause very considerable Parliamentary opposition, even from some of our own supporters: the Government will be accused of playing big brother. This will not only prove damaging in the long run, but may also impede the progress of the Bill through both Houses.

We continue to believe that the best way to reduce opposition, and to make clear that the Government does not intend to use its powers arbitrarily would be to amend the Bill so that it referred specifically to Liverpool and did not challenge any other interests. This would also remove the possibility of a future Labour government using the general Bill, once enacted, as a means of taking over Conservative councils. Given that both Houses have the right to overrule their own Standing Orders on hybridity, such an amendment would be technically feasible. But E(LF) decided long ago that the Bill should be general rather than specific; Patrick Jenkin continues to support this view; and L Committee has recently endorsed it. Nor do we know of any replacement for Commissioners legislation that would serve the same purposes: a writ of mandamus could probably be used to enforce the setting of a rate in case of default, but we are told that it could not set the size of that rate or make the city viable.

It is therefore of the utmost importance to ensure that the the general Bill can be carried quickly through both Houses. We suggest a number of fairly small drafting changes that would improve presentation and reduce opposition without making the Bill less effective:

SECRET

- 1 Change the long title. The present title suggests that the purpose of imposing commissioners is to 'protect the interests of the inhabitants'. This is unwise, since the Bill will probably first be used when the local inhabitants have recently re-elected left-wing councillors to represent their interests. The words 'for protecting the interests of the inhabitants' should read, 'for meeting the financial or other obligations which the authority has failed to meet.
- 2 Remove Clause 1, subsection 1(b). This subsection gives the Secretary of State power to impose a Commission by statutory instrument on any council that has 'failed to discharge its functions to such an extent as seriously to prejudice interests of the inhabitants of that area'. It is all too easy to imagine a Secretary of State appointed by Mr Kinnock using this power to impose Commissioners on a Conservative authority that in his view 'prejudices the interests of inhabitants' by refusing to implement Labour policies. Our supporters will not be slow to point this out.
- 3 Remove Clause 3, subsection 5(a). This subsection states that rate limitation under the Rates Bill will not apply to the Commissioners. It would be a catastrophic error for the Government to use this power: if the Commission were allowed to set a higher rate than would be allowed under the Rates Bill, this would make a laughing stock of the Rates policy; it would also open the door for irresponsible councils to embarrass the Government by overspending, refusing to fix a rate, getting a commission in to levy an unlimited rate and then getting their comrades re-elected in triumph. If the Government, for these reasons, does not intend to use the power, why provoke opposition and ridicule by including it in the Bill?
- 4 Change Clause 4, subsections (2) and (4). These subsections give power to the Secretary of State to extend the life of a commission indefinitely, subject only to annual negative resolutions. This will be seen as undemocratic. The best solution would be to impose an absolute time limit of two financial years. If this is unacceptable, extensions should at least be subject to affirmative resolution by both Houses. The Bill should make it abundantly clear that the duty of the Commissioners is to return to local democracy as soon as possible.
- 5 Change Schedule 2, paragraph 5. This paragraph empowers the Secretary of State to exempt a commission from any statute or instrument, subject only to negative resolution. This too, will be seen as undemocratic. The proper solution is for the Bill to insist on an affirmative resolution for any exemption not specified in the schedule.

SECRET

We are told by DoE and the Attorney General's office that it is entirely feasible to make such changes at this stage. We know that there has been extensive debate, and that participants have been aware of the dangers both of having inadequate powers and of eroding the local democratic principle too far. But we fear that excessive weight has been given to the first consideration, and not enough to the second.

The Bill is only a draft; it is not on the Parliamentary timetable; and it is unlikely to be needed before 3 May. The Government has the time to get this right, and should take the opportunity.

We recommend that the Prime Minister should invite Patrick Jenkin to consider these ideas.

- Speed
mt.

Oliver Letwin

Oliver Letwin