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The Rt Hon Nicholas Edwards MP

Oddi wrth Ysgrifennydd Gwladol Cymru

From The Secretary of State for Wales

De Pains

31 May 1984

RATES BILL: INVALID RATES AND PRECEPTS

You wrote to Willie Whitelaw on 22 May, copying to E(LA) Members and others, about the inability of rating authorities, under existing legislation, to levy a higher substitute rate in the grant year, when the various circumstances you outlined made that necessary. You asked if we agreed that a tightly drawn amendment to the Rates Bill to deal with the problem should be tabled as late as possible for the Lord's Report Stage.

I agree with your proposal. While we all hope that the kinds of situation you describe will not take place we cannot ignore them and must ensure that in those circumstances an authority would be able to levy the lawful rate necessary to cover it's and any precepting authority's budgetted expenditure. I appreciate the difficulty of timing in respect of Liverpool and that the amendment might be seen as a relaxation of pressure on the council to set a legal rate if it has not already done so. However I think the disincentive effect is more than overridden by the more powerful incentive to the council of the prospect of surcharge and disqualification. Hopefully Liverpool will have set a legal rate by the time the amendment has to be tabled but even if the position remains unresolved I agree that the amendment should be tabled as you propose.

I am copying this to the recipients of your letter.

J. C.
for

The Rt Hon Patrick Jenkin MP
Secretary of State for the
Department of Environment
2 Marsham Street
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SW1P 3EB

Local Govt R 2

Relating



2 MARSHAM STREET
LONDON SW1P 3EB

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My ref:

Your ref:

22 May 1984

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Dear Willie,

RATES BILL: INVALID RATES AND PRECEPTS

During the Commons Committee Stage in a debate on an Opposition amendment, the Government gave an undertaking to consider the problem that would arise if a precepting authority issued a precept which was invalid (eg because it exceeded the amount specified in an order made under Clause 4 of the Rates Bill) and which was therefore ignored by the rating authority in making its rate. As matters stand, the rating authority would have no power to issue a higher substitute rate to cover a later valid precept. Having considered the matter further I have concluded that we need to table an amendment to the Rates Bill to deal with this during the report stage of the Lords proceedings.

Since then, a wider and altogether more sensitive issue has arisen concerning Liverpool. The Attorney General has advised that if the Liverpool City Council were to make a demonstrably inadequate rate and if this rate was then quashed by the court, there would be no power, because of the ban on supplementary rates introduced by the Local Government Finance Act 1982, to replace the unlawful rate with a valid rate at a higher level. In effect, the authority having put itself in the wrong would have no means of recovering the situation.

The Prime Minister's group on Liverpool has already agreed to the preparation of an amendment to deal with the "Liverpool" point. Having considered the two issues carefully, I have come to the conclusion that the right answer is to table an amendment which will deal with both points. (I deal in the penultimate paragraph below with the question of timing).

There is also a particular problem with the proposals on abolition: outgoing metropolitan county councils or the Greater London Council could, under present law, levy insufficient precepts knowing that the incoming transitional councils would be unable to increase them on taking office. We have no evidence that the GLC or metropolitan county councils have any such intention, but it would be helpful if, by means of a simple amendment to the Rates Bill, we were able to block this possible obstruction.

The Opposition have tabled an amendment to the Local Government (Interim Provisions) Bill to set aside the duty on the outgoing councils to set an adequate precept by 11 March 1985. We shall resist the amendment which, if selected, would be debated on 22 May. But such a debate might draw attention to the

practical problems that would arise if a precepting authority failed in its duty, whether by setting an inadequate precept or by setting no precept at all before the relevant rating authority set its rate. Such action would leave the transitional councils for the GLC and metropolitan county councils in an impossible position, with no remedy. If this is raised, we would have to undertake to consider the problem. In practice, the amendment I seek to the Rates Bill would resolve it satisfactorily.

The amendment needed would not imply any reversal of our ban on supplementary rates. It could be achieved by disapplying section 3(2) of the 1982 Act (which required that substituted rates and precepts shall not be set higher than the original level) in very tightly defined circumstances. Substitution at a higher level would only be allowed where the original rate or precept had been quashed by a court because it was insufficient to meet budgeted expenditure. This would not be a supplementary rate - merely a rate sufficient to meet the budget (as required by the General Rate Act 1967). The amendment would deal also with the problem outlined in paragraph 1.

If colleagues agree that this amendment is desirable I shall need to table it for Report Stage of the Rates Bill in the Lords during the week beginning 11 June. I would propose that the amendment should apply to rates set for the current year, so that it may be available should Liverpool set an insufficient rate. I would intend to leave the tabling of the amendment as late as possible, in the hope that Liverpool will meanwhile make a legal rate, but if necessary I believe that it should go down even if the position in Liverpool is by then still unclear.

I should be grateful for your agreement and that of colleagues on E(LA) Committee to whom I am copying this letter. I am copying it also to the Prime Minister, John Biffen, Michael Havers, John Wakeham, Bertie Denham and Sir Robert Armstrong.

You are

Paul

. PATRICK JENKIN



NBPM

AF

22/5

11

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE, YORK ROAD, LONDON SE1 7PH

TELEPHONE 01-928 9222

FROM THE SECRETARY OF STATE

22 May 1984

Jan Willie,

E(LA)(84)6, 7 and 8

Like you, I am becoming something of a veteran of RSG settlements; and it may be helpful if I record what seem to me to be the main points that arise from these three papers and from Patrick Jenkin's letter of 18 May. *with AT?*

2. First, as Peter Rees rightly reminds us, we must persist in our efforts to restrain total local authority expenditure. It looks as though 1984-85 will be a rather better year than its predecessors. But the real test of our success will be the ability and willingness of local authorities to deliver our plans. Overspending of low White Paper figures by up to £1 billion, which we have seen again and again, brings no more benefits to the economy than achievement of correspondingly higher but more realistic figures; and indeed it damages our credibility.

3. Second, we must try to ensure that our policy commitments for particular services - education, police, social services, transport and the rest - are implemented, after making due allowance for likely levels of inflation on the one hand and both greater efficiency and lower costs on the other. Not all authorities are managing resources effectively but the Audit Commission should help here. On costs, I myself have repeatedly said that while some of the improvements we want to see in education will cost extra money, excessive pay settlements will destroy jobs and bring spending on books, maintenance of buildings and so on below acceptable levels.

/Third -

The Rt Hon Viscount Whitelaw PC CH MC
 Lord President of the Council
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4. Third - and this is an issue which has long troubled our supporters but has come to a head in recent months - we need, as Patrick put it in the debate in January on the 1984-85 RSG Report, to "set targets which take greater account of GREs and thus recognise the efforts which low-spending authorities have made." It cannot be right in logic, or politically sensible, to set many of the shire counties and districts severe targets which allow no room for their growing needs (eg as a result of increasing population), while at the same time they are spending well below their GREs, on which the distribution of grant is based and which are our declared assessment of spending need.

5. Fourth, a new feature for 1985-86, we must set expenditure levels (ELs) for authorities to be rate-capped that are achievable, and therefore defensible both in Parliament and in the courts. At the same time the expenditure targets for these same authorities must not be such that spending up to the ELs leads them into grant holdback on a scale which causes their rates to rise steeply. It would be perverse if the first consequence of the rate-capping legislation were a big increase in rates in London and elsewhere.

6. We have to try to reconcile these different objectives in the RSG settlement for 1985-86. Much will depend on our decisions on the level of aggregate Exchequer grant, the block grant mechanisms and the holdback schedule, which we shall have to consider very soon. But these are my provisional conclusions on the specific issues now before us.

7. I believe that there is a good prospect that something very like Patrick's Option 2, if accompanied, as he proposes by very tough holdback (eg as much as 10p for the first percentage point compared with 2p this year) will ensure that nearly all authorities keep within their targets. This would be a major achievement. Spending within plans increased by £1 billion produces much the same effect on the economy as overspending of £500m on plans increased only by £500m! Either can be accommodated, if with difficulty, within the expenditure reserve of £3¾ billion for 1985-86, but the first is infinitely preferable in political terms, not least because the second would mean higher rates, which are particularly harmful to industry and are just the opposite of what we are pledged to achieve, as Patrick points out.

8. A settlement on the lines of Option 2 would not mean a spending spree. Annex C to E(LA)(84)6 shows that it would allow a cash increase of about 2 per cent in 1985-86 on budgets for 1984-85 - a reduction of 2 per cent in real terms. For education, which accounts for half the total, the real terms

/reduction might

reduction might be nearly 4 per cent, twice the rate of decline of the school population. For this reason I think that we should go for a smaller unallocated margin than £600m, in line with what we said in paragraph 2.18.11 of Cmnd 9143. I need at least an extra £100m or so for allocation to education through GREs both to maintain our present rigorous policies for the service as pupil numbers decline and to improve standards of performance in the schools, especially for more and better inservice training as teacher numbers decline.

9. I could only defend even this package if, in the other features of the settlement, we made it clear that we intended fully to honour our commitments to the moderate spenders. Patrick's proposal to set targets in 1985-86 at the higher of 1984-85 GRE + 5 per cent and 1984-85 target + 4 per cent (which we might later decide to reduce to 3 per cent to strengthen the emphasis on GRE), subject to a maximum increase of 5 per cent from 1984-85 budget, would just about do this. By contrast, Peter's formula - targets for next year equivalent to a 2½ per cent increase in the average of GRE and target for this year, subject to a maximum increase of 1¾ per cent over this year's budgets - would clearly not. Patrick refers to Cambridgeshire. Let me illustrate from Norfolk, a thrifty authority but by no means an extreme case. This year it is spending at target, £217m, which is £14m below its GRE of £231m. Patrick's formula would give it a target for next year of £228m. But on Peter's figures the starting point of £224m (the average of GRE and target this year) would be reduced by the 1¾ per cent constraint to £221m, a real terms reduction of at least 2½ per cent, almost certainly to a point as far below GRE as this year. Norfolk is only one of many low-spending authorities which would justifiably claim that we had failed to fulfil our undertakings to them. The others include Berkshire, East and West Sussex, Leicestershire, Suffolk and Wiltshire.

10. There are two issues on rate-capping. On the selection of authorities I much prefer the 15 in column 1 in the Annex to E(LA)(84)7 to the 18 in column 2. Annex 2 to Patrick's letter of 18 May shows that the three omitted from column 2 (Brent, Merseyside and Sheffield) face very large rate increases even with holdback arrangements no more severe than this year if targets are constructed as Peter proposes.

11. On ELs themselves Patrick and Peter virtually agree that we should set figures broadly equivalent in cash to this year's budgets. A cash reduction would be difficult for ILEA in particular, which plans nearly all its expenditure mainly by reference to academic rather than financial years and therefore could not readily make big savings from April 1985. But if we agree to the shorter list of 15 authorities I think we should also consider the possibility of a 1 per cent cash reduction for all of them and thus align their targets with their ELs.

/Peter wants

12. Peter wants targets for these authorities based on a "cash cut of 7 per cent or more" ie a 11-12 per cent real terms reduction. This is clearly unattainable: otherwise it is the formula he would ask us to adopt for ELs. In consequence, as Patrick shows, we would either face huge rate increases in some of these authorities as a result of penalties derived from a very tough holdback schedule or be compelled to moderate the schedule in such a way as to give the next group of high spenders (those which just escape rate-capping) too easy a time. Neither result would be in line with our objectives. I believe that we should endorse Patrick's proposals on rate-capping, modified as to the choice of authorities in the way suggested above.

13. If most of our colleagues generally agree with Patrick and me when we meet on Thursday, perhaps we can then ask him to exemplify his proposals for our subsequent meeting in terms of the rating consequences at alternative levels of spending of a grant total say 2 per cent less in real terms than in 1984-85 and of a severe holdback schedule.

14. I am sending copies of this letter to the Prime Minister, the other members of E(LA) and Sir Robert Armstrong.

Emeru.

Kevin.