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10 DOWNING STREET

From the Private Secretary

BC. MR. REDWOOD

*File
JRH/ls*
SUBJECT
cc Master Set.
EDUCATION: Future
Policy
Part 2.

22 May 1984

*cc Mr Buckley
Cab. Off*

LIVERPOOL CITY COUNCIL

The Prime Minister held a meeting today to discuss developments in Liverpool. Present were your Secretary of State, the Chancellor of the Exchequer, the Home Secretary, the Lord Privy Seal, the Secretaries of State for Defence, Education and Science, Trade and Industry, Social Services, the Chief Secretary, the Attorney General, Sir Robert Armstrong, Mr. Buckley and Mr. Redwood.

The meeting first discussed Liverpool's statutory proposals for the reorganisation of its County secondary schools. The Secretary of State for Education and Science said the choices remained as set out in his minute of 15 May. He could reject the proposals and seek to persuade Liverpool to produce a scheme closer to the wishes of parents; or he could seek to modify the proposals so that more single-sex schools with a proven record of success would be retained. If the reorganisation were to begin in September, his decision was needed by the end of May. Any delay would postpone the start by a year, though the saving in the first year was only £80,000. In his letter of 21 May, the Attorney General had advised that to modify the proposals to the extent of seeking four single-sex schools would run a real risk of successful challenge in the courts as being a different scheme rather than merely a modification.

In discussion, it was argued that accepting the proposals, subject only to insistence on two single-sex schools, was a lesser evil than rejecting the proposals. A refusal would cause delay and would perpetuate the present unsatisfactory structure of schools which was also damaging educationally. Refusal could also allow the Council to argue that it was being prevented from securing necessary savings. Against this it was argued that on educational grounds even the modified proposals suggested by the Secretary of State for Education and Science were

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unsatisfactory and that he should hold further discussions to seek greater provision for single-sex schools on the basis of the representations that had been received. Given the small savings in the first year, a delay of one year would be preferable to accepting the proposals as they stood.

Summing up this part of the discussion, the Prime Minister said that the meeting had noted the Attorney General's advice. In the light of this, she invited the Secretary of State for Education and Science to see whether he could persuade Liverpool Council to agree to further modifications which would provide up to four single-sex schools.

Education
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Your Secretary of State then gave an account of his recent meeting with Dr. Cunningham and the Labour Group on the Liverpool City Council along the lines set out in his minute of 21 May. He had detected a distinct change in attitude, though it was not clear how far this represented a genuine shift towards a more conciliatory approach and how far it represented tactical manoeuvring. He had made it clear that he could not re-open RSG or HIP allocations, nor could he divert resources to Liverpool from other local authorities, nor seek extra resources from the contingency reserve. The scope for providing additional resources was therefore extremely limited.

Your Secretary of State said he had identified £2½ m. so far unallocated in the Urban Programme which could be allocated to Liverpool. Although Urban Programme money could not replace existing programme expenditure, it could substitute for additional projects which would otherwise have been financed from the regular budget. Because of the operation of the hold-back scheme the benefit to the Council would be about £7 million. If Liverpool were to achieve a rate increase of no more than 25-30 per cent, it would have, through its own efforts, to make savings substantially greater than this.

In discussion, it was argued that an offer of this kind would be advantageous if it helped Liverpool out of the corner into which it had manoeuvred itself. While the Government should not be seen to be rewarding intransigent Councils, it should not be seen to turn its back on a Council which was prepared to help itself.

The Prime Minister said it was agreed that such an offer could be made, provided it was clear this was all that was available, that it was not being taken from other authorities and that Liverpool should bring in a legal rate as a matter of urgency.

/ The discussion

The discussion then turned to legal action. The previous meeting had considered a Liberal proposal that a ratepayer, with the support of the Attorney General, should bring a relator action against the Council for failing to rate or for introducing an illegal rate. To do this, however, the ratepayer would need sufficient to bear the costs of an action and to indemnify the Attorney General. Since then, the Liberals had failed to identify such a ratepayer and it was considered that this form of legal action was now unlikely. Should such a ratepayer come forward, however, the Attorney General should still be prepared to give his support.

The Attorney General set out a separate channel of legal action initiated by the District Auditor. Within the next ten days the latter was likely to determine that extra expenditure had been incurred as a result of borrowing rather than rating. The Councillors responsible would then be notified, giving them a chance to make representations or offer explanations. The District Auditor could issue a certificate around mid-July which would surcharge the Councillors responsible. They would be disqualified immediately unless they appealed. This process would alter the balance of the Council until the disqualified Councillors were replaced at by-elections. It was noted that this course would work more slowly than a relator action where the court itself could disqualify or surcharge Councillors for actions contrary to the law. The decision of the previous meeting that the Attorney General should not intervene in his own name was confirmed.

It was noted that Liverpool City Council probably had sufficient funds as a result of a large repayment by Knowsley Council and of new borrowing from the PWLB whose Commissioners were continuing to lend in the absence of an illegal rate. It was agreed that it was helpful that the Commissioners were taking this view.

Discussion then turned to the Commissioners Bill. The Prime Minister was concerned at its very sweeping powers which Parliament might find difficult to accept. One way to meet these concerns was to relate the Bill specifically to Liverpool, while passing a Motion in both Houses overruling the objection of hybridity. (It was noted that in the case of shipbuilding nationalisation the Conservative Party had fiercely opposed such a Motion when in Opposition). It would not be possible to predict exactly the circumstances in which the Bill might need to be introduced, and it would be prudent to have a draft of a specific Bill available. Another possibility was to set a time limit or require periodic renewal of the powers. A distinction was made between the period during which an affirmative resolution could be passed installing Commissioners in a new Council,

and the period allowed to the Commissioners to complete their work. It was essential that the latter were given a mandate of adequate length, as otherwise they would encounter delay and non-cooperation. A further distinction was between the circumstances in which Commissioners could be introduced, which should be tightly drawn, and the powers of Commissioners once installed, which would need to be extensive.

Summing up, the Prime Minister said the drafting of the Bill should be further examined to ensure that the powers taken were not greater than needed for the task in hand. Although the meeting felt that a general Bill, time-limited in some way, would be preferable, a draft of a specific Bill should be prepared as a precaution.

Your Secretary of State sought views on whether he should now begin to approach possible Commissioners in order to ensure that the Government was adequately prepared if it were necessary to go down this route. Against this, it was argued that these approaches would become known, which would be damaging while the Government was seeking to guide Liverpool back towards legality. The Prime Minister said your Secretary of State should continue to identify candidates, consulting colleagues as necessary, but no approaches to individuals should be made.

I am copying this letter to David Peretz (H.M. Treasury), Hugh Taylor (Home Office), David Morris (Lord Privy Seal's Office), Richard Mottram (Ministry of Defence), Callum McCarthy (Department of Trade and Industry), Elizabeth Hodgkinson (Department of Education and Science), Steve Godber (Department of Health and Social Security), John Gieve (Chief Secretary's Office, HM Treasury), Henry Steel (Law Officers Department) and Richard Hatfield (Cabinet Office).

Andrew Turnbull

John Ballard, Esq.,
Department of the Environment.
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