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My ref:
Your ref:

16 November 1984

Dear Andrew

RATE CAPPING: ILEA

In your letter of 12 November to John Ballard you asked for a note on ILEA's reported decision to set a budget and precept which are inconsistent with its expenditure level under the provisions of the Rates Act.

I attach a note by officials explaining the background. The crucial point is that the setting of a budget at this stage is no more than a gesture: it has no legal effect, and no question of illegality need arise before the rate limit for ILEA is set under the normal parliamentary procedures next year. Furthermore, any such illegal action would be futile since the effect would be to make it impossible to collect such a precept. So our conclusion is that this is posturing designed to provide a high figure against which the expenditure level can be represented as a swingeing cut.

I understand that Sir Keith Joseph, who has been taking various opportunities to comment on the extravagance of ILEA, will be writing to the Prime Minister shortly about the line he will be taking publicly should ILEA indeed propose a budget in excess of its EL. My own Secretary of State issued the enclosed press notice about ILEA's stance through central office yesterday, and is being interviewed about it by Thames television this afternoon. He will stress the futility of ILEA's move and in particular make it clear that the EL is reasonable and that there is no intention to alter it, nor indeed any power to do so in the absence of any application by ILEA for a redistribution.

I am sending copies of this letter to David Peretz, Elizabeth Hodgkinson, Henry Steel and Richard Hatfield.

Yours ever
Alan

ALAN DAVIS
Private Secretary

Andrew Turnbull Esq

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RATE CAPPING: ILEA

1. We cannot be certain what ILEA will do, but it does seem from a Press conference which Mrs. Morrell gave early this week that ILEA will indeed be proposing a 1985/86 budget on 20 November. The purpose of such a budget would seem to be to provide a basis on which ILEA can campaign publicly, since they would then have set a hypothetical spending figure with which they would compare the substantially lower figure represented by their rate limit.

2. ILEA will probably also give a precept figure consistent with their budget proposal. But ILEA does not itself raise a separate precept. The legal position is as follows. ILEA has the status of a special committee of the GLC (section 30 of the London Government Act 1963). Section 30(3) expressly provides that ILEA does not have power to issue a precept, but that it determines the amount for which the GLC is to precept in respect of ILEA's expenditure. Whatever action ILEA is proposing to take, it cannot therefore be the issue of a precept. It may be that ILEA will pass a Resolution determining the amount of the precept for 1985/86, and the GLC may in turn adopt that Resolution. However, such Resolutions would not give rise to any duty on the part of a rating authority to make any payments. No duty arises until a precept is properly issued in accordance with the provisions of the General Rate Act 1967 and the Rates Act 1984. If the GLC ultimately issues a precept which exceeds the prescribed limit, then it will by virtue of the Rates Act be an invalid precept.

3. The expenditure level set for ILEA under the Rates Act provisions is £900m. This is derived from their 1984/85 budget of £923m, on the basis (subject to some technical adjustments) of a 1½% cash cut. Their original consultation document proposed spending in 1985/86 of £975m. The budget which they are likely to approve and publicise next week could be of the order of £965m, some £65m above the EL. However a statement at this stage of intention to incur this level of spending does not constitute illegality. The question of illegality will not arise until a precept limit has been set in an Affirmative Order, probably in mid-February, and the ILEA "precept" can be compared with it.

4. The ILEA action is the first public rate-making action by any of the rate capped authorities, and it comes at an early stage. While Brent and Portsmouth have indicated that they will live within their ELs, the other 16 Labour authorities including ILEA have generally given indications that, while they consider that the ELs set would mean savage service

reductions, they are not prepared to apply for redeterminations. Some have suggested that they will not make a rate at all. The GLC have specifically said to us that they are not able to produce a budget so early in the planning cycle, and will not be able to do so until January at the earliest.



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RT HON PATRICK JENKIN MP

Release Time: IMMEDIATE Thursday 15th
November 1984 731/84

Statement by Rt Hon Patrick Jenkin MP (Wanstead and Woodford), Secretary of State for the Environment:

ILEA - THE CONSEQUENCES OF ILLEGALITY

Let me give ILEA's Labour Group an explanation and a warning.

ILEA has been one of the most irresponsible over-spending authorities in the whole of the country. Since 1978/79 it has doubled its net current spending whilst, at the same time its school population has been falling. Its primary school population has fallen by about 16% and its secondary by over 20%.

Overspending by ILEA has meant that responsible councils have had tougher targets in order to hold down total local government spending.

This year ILEA is spending £923 million. Next year the expenditure level for the purposes of rate limitation is £900m. This is a very reasonable limit and the necessary savings are well within ILEA's capability.

If ILEA thinks differently, there is a simple course open to it. They can approach me for a re-determination and - by law - I must take what they say into proper account.

The truth is that the Labour Group on ILEA is not primarily interested in educational welfare. What it really wants is political confrontation.

In the next few months Parliament will approve a maximum ILEA precept. ILEA is now trying to pre-empt this by asking the GLC to issue a precept that they expect to be above the maximum. It will not work. That precept will be invalid: it would have no legal force: no ratepayer need pay it.

/The law

The law provides that the GLC must fix a proper ILEA precept by 10th March. Any councillor who thinks otherwise should be aware of the consequences.

Councillors who fail to precept lawfully will face surcharge, bankruptcy and disqualification. Nor can they rely on motions passed by the Labour Conference to indemnify them - as the Clay Cross councillors discovered to their cost. Dr. Cunningham, Labour's front-bench spokesman, has said: "I do not think any such guarantee can be provided by the Party".

My message to any ILEA Councillors contemplating illegality is simple:-

"You cannot pick and choose which laws to obey. If you attempt to do so, the law will take its course and the consequences for individual councillors could be dire - surcharge, bankruptcy, disqualification and disgrace."

If that's the way they want it - so be it. But the law will be upheld.

ENDS



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10 DOWNING STREET

From the Private Secretary

20 November 1984

The Prime Minister has seen and noted the report on ILEA attached to your letter to me of 16 November.

I am sending copies of this letter to David Peretz (H.M. Treasury), Elizabeth Hodgkinson (Department of Education and Science), Henry Steel (Law Officers' Department) and to Richard Hatfield (Cabinet Office).

ANDREW TURNBULL

Alan Davis, Esq.,
Department of the Environment.

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From the Private Secretary

12 November 1984

RATE CAPPING: ILEA

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The Prime Minister has received reports that ILEA intends, on 20 November, to set a budget, and possibly also a precept, which would be inconsistent with its expenditure limit. The Prime Minister would be grateful for a report on the implications of this development and on how the Government should respond.

I am copying this letter to David Peretz (H.M. Treasury), Elizabeth Hodgkinson (Department of Education and Science), Henry Steel (Law Officers' Department) and Richard Hatfield (Cabinet Office).

ANDREW TURNBULL

John Ballard, Esq.,
Department of the Environment.

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