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PRIME MINISTER

ABOLITION OF THE GLC AND METROPOLITAN COUNTY COUNCILS

In the past month it has become clear that some of the abolition authorities possess significant amounts of 'spare' cash which they will not require to discharge their functions up to 31 March next. The GLC are reported as having £200-400 millions available. We wish to ensure that this money remains available to hold down rates in the immediate post-abolition period.

For the most part, the abolition authorities are not actively obstructing the transfer of functions, and are indeed cooperating with the successor authorities. There is now evidence of concerted efforts to spend as much as possible of the available money before abolition, in particular for the purpose of "forward funding". In the case of the GLC these efforts clearly involve giving money to organisations now for them to spend over a 3-5 year period after abolition. The bodies for which forward funding is proposed will be involved in perpetuating the policies of the GLC and otherwise providing substantial resources for use by the GLC's sympathisers in the London boroughs.

In view of the amounts of money involved, I regard these threats with considerable concern. I also consider such plans to be fundamentally at variance with our proposals for abolition which are intended both to achieve significant savings and to give the boroughs and districts the resources and the discretion to discharge the abolition authorities' functions from 1 April 1986. Not all forward funding proposals are undesirable, especially where the boroughs and districts support them.

To some extent this sort of activity was foreseeable. But following the House of Lords' rejection of our proposals for interim councils we have hitherto considered it impossible to control these authorities'



activities to an extent which would in effect put them into commission. The existing controls do not prevent the GLC/MCCs from providing resources to other organisations except where a disposal of land, or assistance direct to another local authority, or expenditure under section 137 of the Local Government Act are involved. In formulating their proposals, it is clear that the GLC (encouraged by certain London Boroughs) will give assistance to voluntary bodies and other agents under the many specific expenditure powers which permit this and which do not require my consent.

I have considered with the Lord President and the Solicitor General what, if any, steps could be taken to forestall such activities. I am not content simply to let matters take their course, in the knowledge that the political activities of the GLC will be able to continue for the next four or five years. The choice lies broadly between encouraging legal challenge, relying on audit action and introducing new legislation.

The Solicitor General advised that, unless it could be shown that the GLC and the Metropolitan County Councils were acting ultra vires under existing powers conferred by statute, any decision to make a grant to an organisation could only be successfully challenged on the ground that the decision was one which no authority, properly directing itself to relevant criteria, could have made. The fact that an authority was shortly to be abolished would not be held to be sufficient to establish that a grant was unreasonable; and the courts would be disinclined to exercise their discretionary powers to grant relief in circumstances in which the Crown would be seen as seeking to persuade them to fill a gap in recent local government legislation in which a number of specifically "anti-avoidance" provisions had been included. The Solicitor General accordingly advised that an application for judicial review, whether made by a ratepayer, a successor authority or the Attorney General, would be very unlikely to succeed.



Although it is possible that the auditor might seek to issue an immediate report questioning the vires of any particular expenditure, he would be very much disinclined to do so in the face of a protective counsel's opinion obtained by the GLC. Such an opinion would also offer protection to the councillors involved against surcharge and disqualification. Any successful challenge would not prevent the recipient bodies from continuing to spend the money.

Legislation

I am therefore forced to the conclusion that we must introduce legislation. This could take three forms:

- (1) legislation describing the activities which must not be carried out without my consent, preceded by an announcement, and effective from the date of that announcement;
- (2) legislation which made all forward funding unlawful from the date of a preceding announcement;
- (3) legislation after abolition having retrospective effect which would undo any damage that had been done.

I consider that only the first of these is acceptable.

With your and colleagues' agreement I propose therefore to announce my intention to introduce this legislation. A draft of the announcement is attached; this describes the form of the legislation. It should be made in the near future to limit evasion.

The legislation would then have to be introduced very quickly after the announcement in order not to create uncertainty, given the penalties which it would carry. Also, in order for the sanction of



recovery to be effective, it would be important to try to achieve Royal Assent by Abolition Day or as soon afterwards as possible. The timetable for the present Local Government Bill precludes proceeding by amendment to the Bill (which must be law by 24 March), given the effect that such an amendment would have on the Bill's progress.

A short bill is needed. It will catch everything and be Draconian. It will be controversial in the House of Lords, where it will be seen as an attack on the voluntary sector, and also as another centralist and unconstitutional step by the Government. Moreover, we can expect the Church of England report on inner city deprivation to be considered there in the New Year and there will be arguments linking the two issues on the grounds that we are stopping resources from being directed to the areas of greatest need.

Conclusion

We cannot now ignore the clear threat that the large amounts of money available to the GLC and some of the MCCs will be used to perpetuate those councils' policies for several years after abolition to the denigration of the Government, and the detriment of successor authorities and ratepayers. I am advised by the Solicitor General that legal challenge is unlikely to succeed and new legislation to control immediately all remaining extramural expenditure of the abolition authorities is therefore necessary. It must be introduced quickly and have Royal Assent by or soon after Abolition Day. It will be highly controversial, and might be amended in, or even not pass through, the House of Lords. But this is a risk which we should take, compared with the damage that could result from inaction.

If you and colleagues agree, I propose to:



(1) announce within a matter of days my intentions for early legislation having effect from the date of announcement, in terms of the draft attached;

(2) put in hand immediately the drafting of a new Bill.

I am of course ready to discuss this urgently if you wish.

I am copying this to the Lord President, the Lord Privy Seal, the Solicitor General, the Chief Whip, the Chancellor of the Duchy of Lancaster and Sir Robert Armstrong.

R. May

pp K B

6 December 1985

(Approved in draft by the Secretary of State and signed in his absence.)

DRAFT PARLIAMENTARY ANNOUNCEMENT

Question

To ask the Secretary of State what steps he intends to take to prevent the GLC and MCCs from providing funds to be used to perpetuate their policies after they are abolished.

Answer

I have heard that the GLC, and possibly some of the metropolitan county councils, are continuing to take steps to deprive successor authorities of resources which they should inherit in order to discharge the outgoing authorities' functions from 1 April 1986. In particular, it appears that plans are being made to provide very substantial funds out of which activities favoured by those presently in control at the GLC and their political allies in certain of the London Boroughs can continue to be supported after abolition. The recipients of such funds would not be accountable to ratepayers, and I regard such actions as being in flagrant disregard of Parliament's wishes as enshrined in the Local Government Act 1985, and an affront to the ratepayers of London as a whole. Now that we are within a few months of abolition, I consider that steps must be taken to prevent such behaviour by the authorities concerned.

Letters are therefore being delivered today to the GLC and MCCs to say that I intend to seek Parliament's approval as soon as possible to new legislation which requires the authorities to obtain my consent to any expenditure incurred by way of grants, loans, or other forms of assistance to any person or body. The legislation will have effect from the time of this announcement. Where my consent is not obtained it is my intention that, at the court's discretion, the councillors responsible would be liable to surcharge and disqualification, and the value or amount of the assistance given would be recoverable from the persons concerned and paid over to the appropriate Residuary Body.

I have no doubt that I shall wish to give my consent to a variety of worthwhile activities, and I would propose to exempt from the legislation any matter which requires my consent under existing statutes. The legislation would not fetter the authorities' activities as an employer or their ability to borrow money. Nor would consent be required to any expenditure which the authorities were bound to incur under contract concluded before the time of this announcement.

SRW



file

10 DOWNING STREET

From the Private Secretary

9 December 1985

**ABOLITION OF THE GLC
AND METROPOLITAN COUNTY COUNCILS**

A meeting has now been arranged to discuss your Secretary of State's minute to the Prime Minister of 6 December which proposed legislation to deal with the problem of "forward funding". You should, however, know that the Prime Minister was dissatisfied with the draft Parliamentary announcement, both the question and the answer. She believes that the reasons for legislation could be set out far more cogently.

I am copying this letter to Joan MacNaughton (Lord President's Office), David Morris (Lord Privy Seal's Office), Henry Steel (Solicitor General's Office), Murdo Maclean (Chief Whip's Office), Andrew Lansley (Office of the Chancellor of the Duchy of Lancaster), Richard Broadbent (Chief Secretary's Office) and Michael Stark (Cabinet Office).

(David Norgrove)

Robin Young, Esq.,
Department of the Environment

BM



10 DOWNING STREET

Prime Minister

To be aware. I am told that the Lord President knows of this proposal, but has not expressed a view.

The proposal may well be right, but I suggest await colleagues' views before giving your own.

DW

6/12

The papers will, if you agree, come back to you on Wednesday.

~~Prime Minister~~
~~Agree subject to the views of~~
~~colleagues?~~

PRIME MINISTER

6 December 1985

ABOLITION OF GLC/MCCS

Kenneth Baker is right. GLC and MCC grants have entered a new era: money is now being scattered in all directions to ensure that there is no spare cash on abolition day. Something must be done to stop this if you want low rate rises in the successor authorities following abolition.

I attach a 200 page computer print-out of GLC grants in 1984/5, as an indication of the scale of the problem.

The legislation proposed by DoE will indeed be controversial; but Ken Livingstone's profligacy is now legendary, and the mood of the press - following Liverpool's antics - is favourable to the government.

We recommend that you should agree to a short Bill giving Kenneth Baker power to stop the GLC and MCCs scattering cash before they are abolished.

OL

OLIVER LETWIN

① We must have a better worded
more potent question and a
better reply. The reasons for the legislation
are far more powerful than the
entire the question of the answer.

PRIME MINISTER

ABOLITION OF THE GLC AND METROPOLITAN COUNTY COUNCILS

The Lord President has asked for a meeting about the proposal to legislate to prevent "excessive spending and forward funding" by the authorities which are heading for abolition. I imagine he is exercised about the difficulty of getting this legislation through the House of Lords.

DN

David Norgrove
9 December 1985

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