

Govt.
MachineryPRIME MINISTERRole of the Comptroller and Auditor General
(E(82)8)

BACKGROUND

The Chancellor of the Exchequer makes proposals in E(82)8 on the Government's response to the views put forward during the Debate in the House of Commons on 30 November 1981 on the role of the Comptroller and Auditor General (C & AG). He seeks authority to open discussions, on the basis of the draft Statement at Annex A of his memorandum, with Mr Du Cann and Mr Barnett who put down an Early Day Motion supporting the report of the Public Accounts Committee (PAC) on the C & AG and calling on the Government to reconsider its position.

MAIN ISSUES

2. The Chancellor of the Exchequer's objective is to move sufficiently to avoid the risk of defeat in the House but not so far as to retreat from the main points of principle in the Government's White Paper of July 1981, Cmnd 8323. The draft statement brings out that there is already wide scope for the C & AG to investigate and it encourages the PAC to concern themselves more than at present with nationalised industry questions. The Chancellor of the Exchequer recommends no changes in the method of appointing the C & AG but suggests that he should be made responsible to the House, through the PAC. His proposals are governed in part by a wish to avoid legislation which, he judges, would be highly contentious.

The Status of the C & AG

3. The PAC recommended that they should be able to give the C & AG directions to investigate particular programmes or projects. The Chancellor of the Exchequer proposes that, as a substantial concession, the Government should now agree that the C & AG "should be independent of the Government and should be responsible to the House, through the PAC". He suggests that it should be possible to give practical effect to this now but the draft states that in the event of legislation "the Government would be prepared to make the C & AG directly accountable to the House".

4. Before approving the opening discussions on the draft, the Committee should establish clearly what the Chancellor of the Exchequer means by "responsible to the House" and whether the implications are acceptable; Mr Du Cann and Mr Barnett will undoubtedly probe him on this and seek to get the maximum mileage out of it. On one interpretation the concession means little. The C & AG is already accountable to the House in that the 1866 Act requires that "every appropriation account shall be examined by the C & AG on behalf of the House of Commons". He takes heed in practice of the wishes of the PAC and, through them, the House; he is open to criticism for any shortcomings in his performance. (1)

5. But the Chancellor of the Exchequer suggests, in paragraph 6(a) of E(82)8, that he has in mind a substantial concession which "could compromise [the C & AG's] independence by exposing him to direction by the House". It would be helpful if he could clarify for the Committee what would be the consequences of such direction and what in practice would be the difference from the present situation. The only example which he cites is that other Committees of the House could ask the C & AG to investigate on their behalf; the inference is that this could be a major development in that C & AG might then be concerning himself not with how policies are put into effect, which is the main concern of PAC, but with the policies themselves. If this is considered objectionable, would it be possible and desirable to ensure that members of the C & AG's staff loaned to other committees did not have the same rights of access to departmental papers that they have when operating for the PAC? (2)

6. The Committee will also wish to consider whether a proposal that the C & AG should be independent of the Government and responsible to the House, through the PAC, is consistent with maintaining that he should not be appointed by the House.

Appointment of the C & AG

7. In its report of March 1981 the PAC recommended that the C & AG should become an Officer of the House appointed by the Queen by letters patent on the recommendation of the House of Commons. The proposed draft statement - sub-paragraph (a) on page 2 of Annex A - reaffirms the Government's view that responsibility for advice on this appointment should remain with the Prime Minister who, as a matter of practice, should consult the Chairman of the PAC.



8. If the Government is to stand on the principle that the C & AG should be appointed on the recommendation of the Prime Minister, and not on the recommendation of the House of Commons, I strongly recommend you to resist any suggestion which might be made in discussion that the Government should go further by giving an assurance that the advice of the Chairman of the PAC would "normally" be followed by the Prime Minister in making a recommendation to the Queen. Such an assurance would put the nomination effectively in the hands of the Chairman of the PAC; the exercise of your responsibilities for the appointment would be devalued to the point where a recommendation other than that of the Chairman's nominee would be exceptional and abnormal, and therefore the cause of some kind of crisis.

Exchequer and Audit Department (E & AD) and 1921 Act

9. The PAC want the staff of the E & AD to become servants of the House. The draft statement - sub-paragraph (b) on page 2 of Annex A - maintains that E & AD staff should remain civil servants but points out that the E & AD has been exempted from the current manpower cuts so as not to thwart its current expansion programme. If at any stage E & AD staff were to become servants of the House - as might be thought appropriate if the C & AG himself were to be appointed by the House - legislation would be necessary and the question would arise of whether they should continue to have salaries linked with civil service grades or whether they should have their own salary structure.

10. The points in sub-paragraph (c) of the draft statement are intended to meet the criticism, largely based on misconceptions, that the C & AG is unduly vulnerable to Treasury influence. The statement gives assurances on the Treasury's use of discretionary powers under the 1921 Act and proposes that in future the Treasury should appoint auditors for the E & AD rather than carry out the audit itself.

Nationalised Industries, Public Corporations and Local Authorities

11. The PAC proposed that the C & AG should have access to the books of the nationalised industries, public corporations, and all companies and other bodies in receipt of public funds; and that he should take control of the District Audit Service.

12. The draft statement stands firmly on the principle that the C & AG's responsibilities should not extend beyond the range of Ministerial responsibility and that he should not have access to the books of the nationalised industries and other bodies. While warning against burdening the nationalised industries with a multiplicity of enquiries, it says that the Government would welcome systematic hearings by select committees on nationalised industry questions - either by the PAC itself, or by the departmental select committees or by reviving the Select Committee on Nationalised Industries. It further proposes that the Government should consult the PAC about the programme of references of nationalised industries to the Monopolies and Mergers Commission (MMC) and encourages the PAC to take an interest in the follow-up to MMC reports. The Chancellor of the Exchequer acknowledges that discussion of the programme of MMC references with the PAC could lead to difficulties and delay.

13. The question of whether the C & AG should have access to the books of the National Enterprise Board (NEB) is left over for consideration when the Government decides on the audit arrangements for the combined NEB and National Research and Development Corporation. The clear implication, however, is that the C & AG will not be allowed access to the books of the new organisation in any way which would infringe the general principle that the C & AG's responsibilities should match Ministerial responsibilities.

14. The Government has already, in introducing the current Bill to set up an Audit Commission for local authorities in England and Wales, rejected the proposals for bringing local authority audit under the C & AG.

HANDLING

15. After the Chancellor of the Exchequer has introduced his paper you might suggest that the Committee should first consider what are the implications of the general proposition that the C & AG should be "responsible to the House, through the PAC"; should then go on to look at each of the proposals in the draft statement at Annex A of E(82)8 under the two main headings of the status of the C & AG and his staff and of the range of C & AG and PAC activity; and should finally consider whether the package as a whole is likely to meet present criticisms of the Government's stance.



16. The Committee will wish to hear the views of the Lord President of the Council on the recommendations affecting the status of the C & AG and his staff and also to have his advice, and that of the Chief Whip, on the likely reception of the package as a whole. The Secretaries of State for Industry, Energy, Transport, Trade and Scotland will want to comment on the recommendations for the scrutiny of nationalised industries' accounts and for the proposed role for the PAC in relation to MMC enquiries.

CONCLUSIONS

17. In the light of the discussion you will wish to reach conclusions on the following matters:

- (i) whether the draft statement at Annex A of E(82)8 is approved as a basis for consultations either in full or subject to any changes which might be agreed in discussion;
- (ii) if it is approved, whether the Chancellor of the Exchequer, in consultation with the Lord President of the Council and the Chief Whip, should be authorised to enter into discussions with Mr Du Cann and Mr Barnett and perhaps other back-bench Members;
- (iii) if there is disagreement over points of substance, whether the Chancellor of the Exchequer, in consultation with the Lord President of the Council and the other Ministers primarily concerned, should be invited to reconsider the position and to make further proposals urgently.

ROBERT ARMSTRONG

8 February 1982