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New Rep'n. *PERB*

THE CIVIL LIST, AND THE STEVAS BILL

You asked for a short note on the extent to which
Mr St John Stevas' Bill, in its published form,
... protects the Civil List position. The attached
note shows that it does so pretty well, but that
the problem of possible Amendments of course remains.

Yours ever,
J O Kerr

J O KERR
Principal Private Secretary

PARLIAMENTARY CONTROL OF EXPENDITURE (REFORM) BILL

CIVIL LIST AUDIT

The Chancellor's minute to the Prime Minister of 23 December sets out the implications of Mr St. John-Stevas' Bill for the Civil List audit.

Mr Flesher's letter of 29 December suggested, on behalf of the Prime Minister, that the Chancellor had a private word with Mr St. John-Stevas.

The Chancellor did this on 12 January and received assurances from Mr St. John-Stevas that he would make the Bill as presented "as fire proof as possible".

The Bill as presented appears to be intended to achieve this as follows :

"4(1) The C & AG shall have access..... to bodies mainly supported directly or indirectly from moneys provided by Parliament and/or moneys issued from the NLF

4(3) In subsection (1) above "bodies" shall not include any person in receipt of emoluments, expenses, pensions, allowances or benefits paid out of moneys provided by Parliament."

This form of words will keep the Civil List payments themselves out of the C & AG's range because they are paid direct from the Consolidated Fund. The supplements financed from Votes are excluded by virtue of the exclusion in Clause 4(3)

... There remains the threat of amendments which might be put down by e.g. Mr Hamilton, or by Mr English who submitted the views attached to the PAC during their inquiry into the role of the C & AG. (The Committee did not make any recommendations about the Civil List in its report.).

The Clause may attract amendments anyway because the word "person" is far too wide, in law, for Mr St. John-Stevas' purpose.

25. An odd omission from the Green Paper is Northern Ireland. The Government of Ireland Act, 1920, devolved expenditure and created a separate Consolidated Fund of Northern Ireland but did not devolve the audit of it. This was surely correct but unfortunately the Act did devolve the power to legislate about the audit so Stormont passed the Exchequer and Audit (Northern Ireland) Act, 1921, which deprived the C&AG of his functions and gave them to the C&AG for Northern Ireland. This principle was then inserted into the recent abortive Scottish and Welsh Devolution Acts which would have both devolved the audit. This shows, however, a misunderstanding of the whole situation. If one devolves a power to tax, eg to impose rates, it is arguable that the devolved authority should audit the expenditure of its own taxes (though this is not exactly what happens with English local authorities) but, if the taxing power is not devolved, if central money is paid as a grant, the audit should not be devolved. The Northern Ireland Committee of the House should be asked to consider this with a view to repealing the 1921 NI Act and returning the situation to that intended by the United Kingdom Parliament in 1920, bringing the nearly 70 staff of the E&AD (NI) into the E&AD (UK).

26. That there should be a principle (with perhaps a list of exceptions), as the Select Committee proposed, rather than merely a list of bodies included within the C&AG's audit (as the Green Paper seems to propose, though it is not clear upon this point) is illustrated, rather singularly, by the Green Paper itself. The Civil List and its auditor is not mentioned and, since he happens to be the Permanent Secretary to the Treasury, it shows how easily particular bodies and their audit can be forgotten if the author (presumably in the Treasury) of the Green Paper was not aware of this. The reason why the Auditor of the Civil List is not the C&AG is twofold. The office was created by the Civil List Audit Act, 1816, 60 years before the posts of CG and AG were united to create the post of C&AG. The 1816 Act's ss. 8 & 9 gave the Treasury power to appoint "a proper person" to the office of ACL, required him to "obey such orders" as the Treasury gave him and gave the Treasury power to instruct him. In other words, he was not independent. It might be thought that "a proper person" would be an accountant or, at least, a person with audit experience but since 1831 the ACL has always been a Treasury civil servant and no change was ever made in this after the modern accountancy institutes came into existence. Originally the ACL was the second civil servant in the Treasury but nowadays the job is given to the Treasury's Permanent Secretary, presumably on the advice of the same Treasury Permanent Secretary. He could have had the C&AG appointed but prefers to have himself appointed. Clearly the posts of ACL and C&AG should be combined by law, leaving the Treasury as accountants, not auditors and accountants.

27. The full flavour of this almost incredible omission from the Green Paper will only be understood when it is realised that the Green Paper makes no mention of who audits the C&AG and E&AD. It would appear that the C&AG is legally required to audit his own accounts and did so until 1889. This was obviously somewhat unsatisfactory, as the PAC pointed out. Thereafter the ACL was associated with the C&AG in auditing the E&AD accounts. There was obviously no particular reason against this (given that the law had not been changed) but then, under the 1921 E&AD Act, the Assistant Comptroller and Auditor's post was abolished. The Assistant C&A had been the Accounting Officer but thereafter the C&AG became the Accounting Officer of the E&AD. He (the C&AG) then, from 1922 onwards, ceased to certify his department's accounts. This seems to be a breach of the law. The 1866 E&AD Act provides in its s. 22 that: "... the Comptroller and Auditor General should certify and report upon such accounts ..." (ie all appropriation accounts, including those of the E&AD) "and the reports thereon shall be signed by the Comptroller and Auditor General ..." They are not. They are signed by the Permanent Secretary to the Treasury (in his capacity as Auditor of the Civil List; of course, neither the C&AG nor the E&AD staff are paid from the Civil List), an illustration of how far Treasury influence over the auditor has gone, even against the law.

28. Whilst the law has been ignored, consideration of what is really necessary has also been ignored in the Green Paper. The temptation of all auditors is narrowness and someone outside E&AD (and outside the Executive) ought to look at it regularly,



Govt Machinery
22 AH

10 DOWNING STREET

31.1.83

From the Principal Private Secretary

Dear John,

THE CIVIL LIST AND THE STEVAS
BILL

Many thanks for your letter of 26 January covering a note on the Stevas Bill in relation to the Civil List.

I have shown the note to the Prime Minister, who is grateful to the Chancellor for having persuaded Mr Stevas to deal with this matter in the way he has.

Yours ever,

Robin Butler

John Kerr Esq.,
HM Treasury.

AH



10 DOWNING STREET

Prime Minister

Since the Stevas Bill
is going ahead, you may
like to see the attached.
It shows that the Bill has
been drafted in a way
which excludes grants to
the Civil List, without
advertising the fact that it
does so.

FERB
28.1.



10 DOWNING STREET

Prime Minister

Norman St John Stevas Bill
had an unopposed second
reading. There were 111 votes
for the closure motion.

The Chief Secretary did not get a
very favourable reception. The
mood was generally that there was
a chance for Parliament to
reassert its control, though several
backbenchers spoke against the Bill.

The Chief Secretary's office feel there
is ~~not~~ enough support for some
amendment of the Bill, but not
for amendments that would be
sufficient to satisfy nationalised
industry ministers such as Nigel Lawson.

ms

WRL
28th