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Parliament

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

Prime Minister

The Lord President proposes (page 2)

(a) that the Chancellor should hold a meeting ~~7~~ 8 December 1982 with Mr St John Stevas, Edward du Cann, Noel Barnett, and the Lord President to discuss this Bill, with a view to putting recommendations to Cabinet next week; and

(b) that the best course would be to reach agreement with the Bill's supporters on instructions to be sent to Parliamentary Council before Christmas.

Dear Geoffrey

PARLIAMENTARY CONTROL OF EXPENDITURE (REFORM BILL)

GH
7/12

I have now had an opportunity to discuss this Bill informally with both Norman St John-Stevas and Edward du Cann. Norman tells me that he has already had a draft prepared which, in broad terms, would give effect to the proposals put forward in the Public Accounts Committee's First Special Report. He has agreed to let me see this draft on a confidential basis and for me to pass to you a copy on the same basis. I will forward this on as soon as it arrives. The Bill is down for Second Reading on 28 January and I think it clear that we need to proceed quickly with a reassessment of the position we have adopted to date on the status and powers of the Comptroller and Auditor General and his Department.

When we met, Norman made evident his determination to press ahead with implementing the changes envisaged by the PAC. He expressed very considerable confidence in the support the Bill would receive from MPs generally and I have to say that he has good reason for taking this view of the will of the House. Nevertheless he emphasised his wish to proceed in agreement with the Government on as many points as possible and hoped that an early meeting could be arranged. Edward du Cann is also anxious for a meeting in the near future. From our own point of view

.../...

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1P 3AG

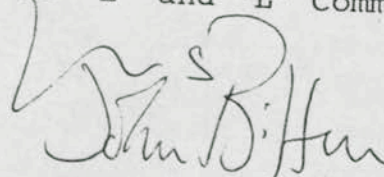
(a) I judge that such a meeting is essential, so that a collective discussion with colleagues can then take place before Christmas. I suggest therefore that we ought to aim for a meeting as soon as possible next week, perhaps at Number 11 with you in the Chair and with Norman St John-Stevas, Edward du Cann, Joel Barnett and myself also present. The objective would be to establish exactly what scope there may be for negotiation so that Cabinet on Thursday that week can take decisions on the Government's negotiating position and on the Bill's handling. Thereafter, I imagine detailed negotiations might best be carried forward in a small group consisting of a Treasury Minister, Norman St John-Stevas, Edward du Cann, and Joel Barnett.

..
(b) First Parliamentary Counsel has indicated the timing constraints affecting the Government's handling of this issue (I attach a copy of his recent letter to the Private Secretary to the Government Chief Whip). The best course would undoubtedly be to reach speedy agreement with the Bill's supporters on the points at issue in order to allow drafting instructions to go to Parliamentary Counsel before Christmas, with a view to an agreed Bill being published by Friday 21 January. But this may prove impractical, in which case it might be necessary to allow Norman St John-Stevas to publish his own Bill before Second Reading and to make amendments agreed with the Bill's supporters in Committee. However the first course is much to be preferred because the Government will be in a weaker negotiating position once Norman St John-Stevas' PAC-inspired version of the draft legislation has become public.

Finally I must stress the importance of reaching an understanding with the Bill's promoters. As you know support for changes along the lines proposed by the PAC is widespread in all parts of the House. This is evident both from the debate held in November last year and from the consequent Early Day Motion which attracted 288 names. In the absence of agreement there is a substantial risk that any attempt to block either the whole Bill, or any part of it, will fail, and nor do I see any attraction in resorting to procedural devices, such as withholding of Financial Resolutions, where the views of the House are so clearcut.

If you believe it would be helpful to discuss this question before arranging a meeting for next week I would of course be happy to do so.

I am copying this letter to members of 'E' and 'L' Committees and to Sir Robert Armstrong.



JOHN BIFFEN

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3 December 1982

Dear Murdo

PARLIAMENTARY CONTROL OF EXPENDITURE (REFORM) BILL

It may help if I put on paper a few thoughts on the procedural and timing aspects of this Bill which is down for Second Reading on 28 January.

PROCEDURE

2. I understand that Mr St John Stevas ("the promoter") has had a draft Bill prepared for him in the Commons Public Bill Office and that this covers all the proposals for legislation contained in the P.A.C.'s 1980-81 First Special Report. If he hands in this or any other text of his own devising, what he hands in will be published as the Bill. He could in theory withdraw this version before Second Reading and hand in another version; but this would cause the Bill to lose its place as first order on 28 January and would, as regards the substitute version, put the promoter in no better position than the successful mover of a ten-minute rule Bill.

3. The promoter will obviously not be willing thus to throw away his present advantage as first order on 28 January; from which it follows that, if he hands in his own version of the Bill, the only courses open to the Government (if they cannot deny it a Second

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Reading) will be -

- (a) to amend it in Standing Committee;
- (b) to refuse to move any necessary Financial Resolution;
- (c) to withhold Queen's consent (should this be required).

4. As regards course (a), there is nothing to prevent every single clause of the Bill as introduced being left out in Committee in favour of new clauses, which would not have to cover the whole of the ground covered by the original clauses. But it may well be difficult for the Government or the Member in charge of the Bill to persuade the Committee to leave out a clause on a given topic if nothing is to be put in its place.

5. Course (b) is open to the Government; but it would not prevent any clause not requiring a Financial Resolution from being considered, and might be unpopular.

6. Course (c) is also open to the Government, though the usual practice is for Queen's consent to be signified even for private Members' Bills to which the Government is opposed. The only mooted proposal aware of that would require Queen's consent is the restriction or removal of the Queen's present power to appoint (subject to Ministerial advice) whoever she likes as Comptroller and Auditor General. This, unless it emerged as a leading feature of the Bill, would not require Queen's consent to be signified until Third Reading; and its prospective non-signification would not affect the earlier progress of the Bill. So there seems little or no future in this course.

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TIMING

7. If the idea is for the Government to afford the promoter drafting assistance with a view to the publication of a Bill drafted by Parliamentary Counsel, the timing considerations are as follows. The Bill could in theory be published as late as the day before 28 January (the day named for Second Reading); but in practice it ought to be published not later than Friday 21 January. Unless Legislation Committee is bypassed, the Bill would have to be considered by Legislation Committee on, say, Wednesday 19 January, and for this purpose it would need to be sent to the ^{printer} ~~promoters~~ on 12 or 13 January. So there will be only two weeks between the end of the Christmas break and the date of printing for Legislation Committee. And there is only a week between 17 December (the day after the Cabinet is to discuss the matter) and Christmas Eve. So even if firm and complete drafting instructions were delivered on 17 December, this would leave only three weeks in which to draft the Bill. This might be long enough for a short and simple Bill, but is obviously not long enough for anything large or difficult.

3. If the promoter publishes his own text and the Bill gets a Second Reading on 28 January, the position will be as follows. Standing Committee C will not start work until Wednesday 2 February, when it will consider Mr Corrie's Diseases of Fish Bill. If that Bill's Committee stage takes only one day, then Mr St John Stevas' Bill could start in Committee on 9 February; so any amendments ought to appear not later than Monday 7 February (and be handed in on 4 February). This would allow five weeks after Christmas for drafting suitable amendments. The draftsman would be in some

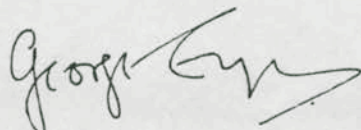
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difficulty if the promoter delayed publication of his Bill until well after Christmas, since he would not know what text he was trying to amend. But this difficulty could probably be avoided or overcome by arrangement with the promoter.

I am sending copies of this letter to David Hilary, David Heyhoe and Anthony Rawlinson.

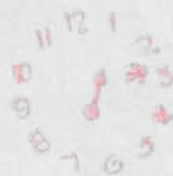
Yours sincerely

A handwritten signature in cursive script, appearing to read "George Engle". The signature is written in dark ink and is positioned below the typed name.

GEORGE ENGLE

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-7 DEC 1982



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Burton



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

*1 Mr. G. Howe
2 Prime Minister*

The Rt Hon Sir Geoffrey Howe, QC, MP
Chancellor of the Exchequer
HM Treasury
Treasury Chambers
Parliament Street
SW1P 3AG

*GH
14/12*

14 December 1982

Dear Sir

MS

PARLIAMENTARY CONTROL OF EXPENDITURE (REFORM BILL)

John Biffen has sent me and other colleagues a copy of his letter to you of 7 December about this Bill, and his discussions with Norman St John Stevas and Edward du Cann.

I recognise from the preliminary discussion at Cabinet that the position is really very awkward. But acceptance of this Bill will mean a reversal of a decision which we took in "E", and will also have fundamental implications for our policies for nationalised industries, following the CPRS report. In these circumstances, it seems to me that it would be most undesirable to have a discussion with Norman St John Stevas, Edward du Cann and Joel Barnett, in which you would inevitably have to extend the discussion beyond the limits agreed in 'E' until we have had an opportunity to consider this collectively. It may be that our broad plan for changing the character of our 'nationalised industries' can be harmonised with, even strengthened by, the changes proposed in the Bill. But we have to be quite clear about the direction in which we are going.

Copies of this go to those to whom John Biffen copied his letter.

*Yours ever
Daw*

DAVID HOWELL

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Parliament House of Commons Procedure ; B Pt 5.

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4 DEC 1982



Prime Minister (2)

Mus 13/12

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref: H/PSO/18528/82

Your ref:

13 December 1982

PARLIAMENTARY CONTROL OF EXPENDITURE REFORM BILL

I have seen your letter of 7 December to Geoffrey Howe. My first concern is that the Bill should not cover local authorities. As you will know, following pressure from Joel Barnett and Edward du Cann, a provision was inserted in the legislation setting up the Audit Commission requiring the Commission to undertake studies of the impact of statutory requirements on value for money in the provision of local authority services. The C and AG is to have access to the documents relating to the studies and is to report to Parliament on matters arising from them.

Joel Barnett made it clear at the time that, although the provision did not go as far as the PAC's original proposal for local authority audit, it was a step in the right direction and he was well satisfied with it. At the back of his mind, no doubt, was the fear that closer involvement by the C and AG in local authority audit would undermine the constitutional position of the local authorities in relation to their electors. In the light of local authority sensitivity on this point and of the fact that we are on the point of setting up the Audit Commission, it is essential to reach an agreement now with the Bill's promoters that it will not cover local authorities.

Water authorities should also be excluded. With minor and specific exception their activities are financed by charges and by NLF borrowing. They have commercial auditors whom I will appoint from 1 April 1983, and I am arranging for continuation of VFM work and reports by the auditors to the Department. We have preserved the public right of access to water authority auditors who are required to make special public interest reports if necessary. The annual reports of the authorities contain very full information on their financial and other affairs and they are laid before Parliament and can be debated. We use the machinery of external investigations - MMC reports and consultants - fully. I do not see that there is anything useful that the C and AG can do in addition to what is already being done nor do I think he has the right sort of resources.

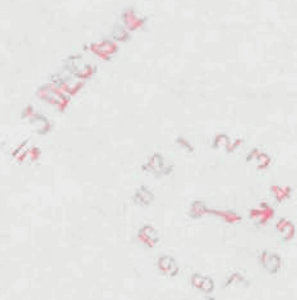
As regards the other non Departmental Public Bodies for which I am responsible I do not object to E and AD having access to the books, but I would be concerned if there was any proposal to cut across the work of the private sector auditors I have appointed to bodies such as the Urban Development Corporations. I am sure that our own supporters would readily recognise the

dangers of the dead hand of bureaucracy stifling sound commercial practice.

It may also be worth suggesting to the promoters that there should be some de minimis exemption. It is patently absurd that large private sector companies should be subject to E and AD scrutiny for relatively insignificant amounts of government assistance or that every voluntary group in receipt of government assistance should have its books turned over.

I hope these points can be given due weight when you meet the promoters.

I am copying this to members of "E" and "L" Committees and to Sir Robert Armstrong.



Yours
MHE

MICHAEL HESELTINE