

PRIME MINISTER

RATE SUPPORT GRANT: GREENWICH COURT CASE

The note attached sets out the background to the Greenwich case on RSG. It shows that Barnet would lose £2.7 million in RSG if the judgement against the Government is allowed to stand.

E(LA) will probably discuss this before Cabinet on Thursday. DOE expect that the Government will wish to appeal. If the Appeal Court finds in favour of the Government, well and good. If not (as Robert Alexander expects), the Government would have to bring in legislation, perhaps by introducing a clause at the Report Stage of the Local Government Bill. The legislation would apply to the 1987/8 financial year.

Barnet and the other authorities concerned will be told of the Government's intention to appeal, and they will be given every encouragement to set their rate on the basis that the appeal will be won. However the Government cannot say that it will legislate if the appeal fails: the advice is that to do so would vitiate the appeal.

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DAVID NORGROVE

3 March 1987

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GREENWICH COURT CASE

Background Note

One of the aims of the 1986-87 RSG Settlement was to ensure that abolition of the GLC and the metropolitan county councils would not of itself result in sharp changes in rates paid by ratepayers in different parts of the areas concerned. To achieve this "multipliers" were to be calculated to adjust authorities' grant entitlement in the desired way. The calculation of these multipliers required the GLC's expenditure to be disaggregated and distributed amongst its various successor authorities. For highway maintenance expenditure it was intended that the estimated additional expenditure by each borough should take account of the total length of ex-GLC roads which was being taken over and the traffic density on those roads but nothing else. Unfortunately when the multipliers came to be calculated, the pre-abolition expenditure figures were mistakenly compared with ones which, in addition to the ex-GLC roads and their usage, also reflected the higher cost of maintaining roads in London for which the Boroughs had previously been responsible. As a result, the estimated cost of maintaining ex-GLC roads was much too low for some authorities and much too high for others. The error was discovered after the London Borough of Bromley, which had taken over about 90km of ex-GLC roads, pointed out that it was assumed to have taken on hardly any extra spending.

Ministers agreed that the effect of this error was unacceptable and Mrs Angela Rumbold announced to the House of Commons that the error would be corrected in the first Supplementary Report for 1986-87.

A Rate Support Grants Bill was introduced in 1986 to restrict the purposes for which multipliers could be redetermined, but drafted (we believed) so as not to preclude the correction of

the "Bromley error". The provisions were drafted by the present First Parliamentary Counsel and seen by Robert Alexander QC. The Bill became the Rate Support Grants Act 1986 and it was its terms which have been the subject of scrutiny and argument in the recent court case brought by Greenwich.

Greenwich had sought judicial review of the Secretary of State's intention to correct the error because it stood to lose up to £3.8 million grant if this were done. Their action is therefore understandable, but not wholly defensible in view of the fact that the £3.8 million was unfairly gained at the expense of other London Boroughs.

The following authorities will gain or lose significant amounts of grant if the error is NOT corrected:

<u>LOSERS</u>		<u>GAINERS</u>	
Bromley	(£3.1m)	Greenwich	(£3.8m)
Barnet	(£2.7m)	Tower Hamlets	(£2.7m)
Hillingdon	(£2.3m)	Lewisham	(£2.1m)
Kingston upon Thames	(£1.4m)	Newham	(£1.9m)
Sutton	(£1.3m)	Islington	(£1.1m)
Bexley	(£1.0m)	Hackney	(£0.9m)

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2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

David Norgrove Esq
Private Secretary to
The Prime Minister
10 Downing Street
LONDON
SW1A 2AA

My ref:

Your ref:

Prime Minister²

16 July 1987

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Dear David,

RATE SUPPORT GRANT

Thank you for your letter of 13 July about the court cases brought by Greenwich and Bromley.

My Secretary of State has recently reconsidered his strategy for dealing with this problem and concluded that, as the chances of a successful appeal in the Greenwich case are slight, and because even a successful appeal would not enable all the consequences of the original judgement to be reversed, the appeal should be abandoned and legislation empowering him to correct the errors in the RSG Settlement should be introduced.

Following clearance of this course with E(LA), Mr Howard announced the withdrawal of the appeal and the intention to take new legislative powers yesterday evening during the debate on the Second Supplementary Rate Support Grant Report for 1986/87. He has written to those MPs whose Boroughs (including Barnet)* suffered a loss in RSG because of the "Bromley error" and who therefore stand to gain from its correction. The Prime Minister may be interested to see the enclosed copy of Mr Howard's letter to John Gorst MP. Mr Howard had spoken to the MPs for Bromley and Kingston before the debate, to explain our position, and they spoke supportively in the debate.

The legislative provisions we require are not within the scope of the current Local Government Bill but they should be suitable for inclusion in the Community Charge Bill. It is unlikely that we will have the power to make the correction until the autumn of 1988, but the local authorities concerned will be assured that it will be made in due course.

Bromley and Kingston upon Thames have started separate litigation against us for failing to correct the original error. Counsel have advised us that they have no case, but it remains to be seen whether they will go ahead now we have announced legislation.

I hope this explains satisfactorily where things stand. Please let me know if not.

Yours,
Robin

* He did not write separately to the Prime Minister today, in view of this correspondence between us.

R U YOUNG
Private Secretary



RECYCLED PAPER



From the Minister of State
for Local Government

Department of the Environment
2 Marsham Street
London SW1P 3EB

Telephone 01-212 3434

16th July 1987

John Gorst

RATE SUPPORT GRANT

I thought I should write to draw your attention to my announcement yesterday, in the debate on the Second Supplementary Rate Support Grant Report for 1986/87, of our intention to withdraw our appeal against the judgement given in the case brought by the London Borough of Greenwich, and then to take legislative powers to ensure that we can correct what has become known as the "Bromley error".

You will recall that when the error in the 1986/87 RSG settlement relating to expenditure by the London Boroughs on highway maintenance was spotted, we undertook to correct it at the first available opportunity. The London Borough of Greenwich then obtained a declaration in the High Court that the Secretary of State did not have the power to make the correction as we intended. We decided to appeal against that decision.

We have however been assessing the position again. We have reached the view that even if our appeal is successful, allowing us to correct the error for 1986/87, it is doubtful whether, as the law now stands, we have the powers to effect a correction for 1987/88 - this is needed because the error fed through to the settlement for that year also. A similar situation will arise in due course for 1988/89. In addition as you may know the London Boroughs of Bromley and Kingston-upon-Thames have started legal actions challenging the Secretary of State's decision not to make the Bromley correction.

We have made it clear from the beginning that we regard the present situation as inequitable and we are determined that the error should be corrected as soon as possible, so that the authorities concerned can receive their fair grant entitlements. But if we proceed with the appeal it may be some time before all this is resolved and there is no certainty that even then all the consequences of the original error could be corrected.

We have therefore concluded that we should withdraw our appeal and instead take legislative power, when a suitable opportunity arises in the current session, to ensure that we can correct the error not only for 1986/87 but also for 1987/88. It does not seem likely that we will have these powers before the 1988/89 Settlement is made, so that will have to go ahead on the uncorrected basis; we will then make the necessary correction in a Supplementary Report as soon as we can.

I believe that this course will provide the quickest and surest way finally to resolve these problems and to ensure that the amounts of grant received by the London Boroughs correctly reflect their responsibilities for highways maintenance.

Michael Howard

MICHAEL HOWARD



John Gorst MP

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LOCAL GOVT Relations

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10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

20 July 1987

RATE SUPPORT GRANT

The Prime Minister was grateful for your letter of 16 July setting out the position on the court cases brought by Greenwich and Bromley.

DAVID NORGROVE

Robin Young, Esq.,
Department of the Environment.

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File SLH
CCB

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

13 July 1987

RSG

The Prime Minister is aware that court cases brought over Greenwich and Bromley resulted in changes in the distribution of RSG. She has asked where these cases *have* now reached.

I am copying this letter to Trevor Woolley (Cabinet Office).

D R Norgrove

Robin Young, Esq.,
Department of the Environment.

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Mr. Biffen]

great national significance, there is not the prospect of that amount of Government time to make such a debate an early prospect.

Mr. Ray Powell (Ogmore): Will the Leader of the House consider his motion on short speeches and bring it to the notice of the House so that we can have a debate? My hon. Friend the Member for Neath (Mr. Coleman) raised this matter some weeks ago. We have waited patiently for the motion and the amendments on it, to be debated. Most hon. Members feel that when we put our names down to speak if we are not called, it is because many Members take such a long time to speak. Is it not time that we had a debate on this issue? Perhaps the right hon. Gentleman should pay attention to the fact that, when the Prime Minister is answering supplementary questions at Prime Minister's Question Time, rules on short speeches should be applied to her as well.

Mr. Biffen: I hope that this topic can return to the Floor of the House soon. It has been no wish of mine that it should not be considered. There has been much discussion to see whether there could be a more broad and common front about its implementation. Nevertheless, it will come back to the House for consideration.

Sir Kenneth Lewis (Stamford and Spalding): Has my right hon. Friend noticed that the Governor of the Bank of England is doing his best to bring interest rates down? Therefore, will my right hon. Friend encourage my right hon. Friend the Chancellor of the Exchequer to follow that example and bring interest rates down now rather than waiting for the Budget, as that will please every person who pays a mortgage, industry and the farmers?

Mr. Biffen: I thank my hon. Friend for what I am certain is well-intentioned advice, which I believe is also sound advice.

Rate Support Grant

4.11 pm

The Secretary of State for the Environment (Mr. Nicholas Ridley): With permission, Mr. Speaker, I should like to make a statement about rate support grant.

I have today appealed against the court judgment in a case brought by Greenwich borough council. That judgment would mean that I could not correct an acknowledged error in the 1986-87 settlement, which deprived some London authorities of their full grant entitlements. As a result of that judgment, it is necessary now to amend the rate support grant figures I announced in January for 1986-87 and 1987-88 so that grant can be paid from the beginning of April. I have sent the revised figures to local authorities today. They are available in the Vote Office and the Library.

Dr. John Cunningham (Copeland): Is the Secretary of State aware that his statement is completely inadequate in that it seeks to disguise the serious nature of the situation resulting from the incompetence of this Government in their handling of local government finances? This is truly unprecedented. The Secretary of State has now announced to the House that all the figures for the current financial year and the coming financial year are again to be affected by changes as a result of Government and ministerial ineptitude. Is he not trying to disguise, by his lack of candour and of detail in the statement, the reality of the wide-ranging implications of what he has had to say?

When, if ever, will there be an end to the legal defeats for this Government in the courts, resulting from their continuing incompetence in this crucial sector of local government finance? If the Secretary of State intends to carry through his appeal against the Greenwich decision, why is he already announcing his decision to amend the rate support grant figures? How many changes result from his decision today? How many local authorities will be affected?

Do the Government intend to make more grant available in total, and how many authorities are likely to lose grant as a result of what he has announced today? Does he recall that in July last year the Minister for Environment, Countryside and Planning, the hon. Member for Bristol, West (Mr. Waldegrave) said that the legislation introduced then was necessary to provide local authorities with certainty about present and past entitlements? Since then there have been three more local government finance Bills, and countless statements by the Secretary of State on the same subject.

Is it true that the Conservative borough of Bromley, having made its rate and announced its budget, will be in an unlawful position if the changes that the Secretary of State has announced today are carried through? Are not many other local authorities likely to be in the same difficulty, because of the necessity to fix precepts by 10 March, which is next week, and to fix their rates by 1 April?

Is the Secretary of State aware that the changes that were sneaked out in a letter last week resulted in major confusion? For example, the city of Newcastle upon Tyne had to make no fewer than 160 changes in its budget. The Tyne and Wear fire authority had to call an extraordinary meeting last week, costing hundreds of pounds, because of

charges are the subject of an instrument that may be prayed against and will almost certainly come before the House.

Mr. Derek Conway (Shrewsbury and Atcham): The reason for the motion on defence policy tabled by the SDP for Monday to adjourn the House is that it cannot agree with its Liberal friends on that subject. Therefore, will my right hon. Friend undertake to ensure that the excellent service of video recordings available to hon. Members is restored so that, before the debate, we may watch a video of the Liberal conference that went unilateral and a video of the interview with the leader of the SDP on "This Week Next Week" when he thought that perhaps three rather than four submarines for Trident may be an alternative policy? As the SDP and the Liberals are in total disarray about this matter, the House should see the recordings before Monday's debate.

Mr. Biffen: After my hon. Friend's powerful advocacy, I believe that no organisation on my part is needed.

Mr. Tam Dalyell (Linlithgow): May I return to the answers given to the Leader of the Opposition and the important question asked by my hon. Friend the Member for Motherwell, North (Mr. Hamilton) regarding Caterpillar? What has been said? Will the Treasury make a statement?—That is the impression that the Leader of the House gave. If the Chancellor of the Exchequer is involved, so much the better because, frankly, he is involved with Caterpillar and the issue of Golden Wonder in the constituency of my hon. Friend the Member for Livingston (Mr. Cook) and exactly how the City is operating regarding profitable firms in Scotland. Will the Treasury take charge of this policy, because that is what the Leader of the House suggested.

Mr. Biffen: I am grateful to the hon. Gentleman for raising this matter as it will enable me to clear up an unintended misconception. It is my judgement that the topic can be debated, subject to the Chair, during the Budget debate. It was certainly not my intention to give the impression that a statement would be made by any Minister during such a debate. I was particularly anxious to point out the virtues of the Budget debate, rather than a debate on the motor industry, as being the debate during which to refer to the matter.

Mr. John Mark Taylor (Solihull): Can my right hon. Friend explain why the SDP and the Liberals have chosen for next week's debate the title: "The disparity of opportunities within the United Kingdom"? Has that something to do with the fact that Bill Rodgers, Shirley Williams and Mike Thomas have deserted the northern seats for southern ones? Can it be that they do not fancy their chances in the north of England?

Mr. Biffen: My hon. Friend has poined to yet another fascinating dimension to the north-south problem.

In truth, I cannot make any satisfactory comment upon why the topic chosen has been drafted in such terms. I am sure that we will have an enjoyable debate.

Mr. Gerald Bermingham (St. Helens, South): Does the Leader of the House agree that as, yet again, the draftmanship of legislation has been called into question by the courts because its meaning is not clear and the Government keep losing court cases, now would be an opportunity to find time for a debate on the whole

question of parliamentary draftmanship. In that way, even if Ministers cannot understand legislation, we, ordinary Members, may do so in due course.

Mr. Biffen: I shall say that the hon. Gentleman is optimistic rather than arrogant. It is a most extraordinary assumption that any of us, in any corner of the House, can understand so much of that which is now produced as legislation. I shall certainly consider what the hon. Gentleman has said, but I am sure that he will appreciate that there is little time available for general debate within the Government's keep.

Mr. David Crouch (Canterbury): In view of the difficulties that have recently arisen about showing video films in the precincts of the House, may I draw my right hon. Friend's attention to the fact that I am proposing to show next week a revealing film produced by the Soviet authorities of the recent visit paid to the Soviet Union by the Inter-Parliamentary Union? That group was led by my noble Friend Lord Whitelaw and the deputy leader was the right hon. Member for Leeds, East (Mr. Healey). I know that it will be revealing, but I hope that my right hon. Friend will take note of the fact that it will also be interesting.

Mr. Biffen: And free. My hon. Friend is too modest to remind the House that he was also a member of that delegation. Doubtless the House will have noted what he has said.

Mr. D. N. Campbell-Savours (Workington): Is the reason why the Government have refused to take legal action against Mr. Wallace and Captain Holyroyd that they are concerned that if the case were brought to court matters might be raised in the witness box which would be embarrassing to the Government in relation to the activities of the security services.

In the light of Captain Holyroyd's statement made at midday on Ulster radio and his further allegations, we do not know whether they are to be believed. However, in so far as they are embarrassing to the Government and talk of attempts to destabilise the Government of the Irish Republic during the 1970s, the parliamentary answer given the other day is insufficient. Surely we should have a full statement from the Dispatch Box so that every Member of the House can question Ministers. We need to know the truth. Are the allegations true or false?

Mr. Biffen: I believe that the written answer to my hon. Friend the Member for Southend, East (Mr. Taylor) was perfectly adequate to answer the questions raised by the hon. Gentleman.

Mr. Reg Freeson (Brent, East): Taking another aspect of the north-south issue to which the Leader of the House referred a moment ago, despite the much vaunted prosperity of the south-east is the right hon. Gentleman aware that there are nearly 400,000 people out of work in London? That is the second highest regional figure in the country. There are many other problems associated with that by way of social and economic decline. Will the Leader of the House arrange, exceptionally, for a debate on the situation in London, which would provide a rare opportunity for the House?

Mr. Biffen: I shall bear in mind the hon. Gentleman's request, but I cannot be optimistic in my response, because, although the capital and the south-east are of

his incompetence. The London borough of Hounslow incurred almost £1,000 in administrative costs because of those changes.

Today, further massive changes and their costs will fall on local authorities in England and Wales. Even as we speak, the Greater Manchester fire authority, having met today to fix its precept, cannot take any decisions because of the confusion caused.

Does the Secretary of State stand by today's announcement by the Tory Reform Group, in a press notice, which is endorsed by the right hon. Members for Mole Valley (Mr. Baker), for Henley (Mr. Heseltine) and for Witney (Mr. Hurd), by the right hon. and learned Member for Rushcliffe (Mr. Clarke) and by Viscount Whitelaw:

"Government was acting in a haphazard way, making up these decisions as it went along. It had no clear idea as to why it had to intervene so constantly, what was so fundamentally wrong in local government and how to put it right."

Does the right hon. Gentleman think that he retains the confidence of his colleagues who put their names to that statement?

Is the Secretary of State aware that any other Minister with such an abysmal record of unlawful action, defeats in the courts, administrative incompetence and lack of frankness with the House would be considering his position?

Mr. Ridley: I thought you were tolerant of the hon. Gentleman, Mr. Speaker. Not only did he range over matters irrelevant to the statement, but he described it as a legal defeat. I make it clear that I have appealed—the appeal papers were lodged. The hon. Gentleman is wrong, and he is prejudicing the appeal by saying such things. Until the appeal is determined, the law is as it is left by the High Court judgment. It is for that reason, and that reason alone, that it is necessary to amend the rate support grant figures in accordance with the judgment. I have to tell him, because he got it wrong again—he gets so many things wrong that I do not know where to start—that this is the result not of what he called Government ineptitude, but of a court judgment. If he cannot make the distinction between those two things, I suggest that he has much to learn.

No more grant will be available as a result of this judgment. The hon. Gentleman knows that the system is close-ended. Certain boroughs will lose as a result of this judgment. Grants that will properly be paid to certain London boroughs for maintaining their roads will be switched to other boroughs which do not have responsibility for maintaining those roads. That is a quite inequitable situation, and I regret that the judgment means that I have to enshrine it in the new rate support grant figures. I am not clear how many of the authorities have actually made their rates, although I do not think that many have done so yet. If any have made their rates, they can apply to the court to quash a rate if they find that it is insufficient, in the light of the revised information deriving from this judgment.

Mr. Colin Moynihan (Lewisham, East): Does my right hon. Friend agree that it is disgraceful that Greenwich has sought to find a loophole in the law to hold on to money which does not belong to it, to the detriment of other authorities?

Mr. Ridley: I agree with my hon. Friend that it is inequitable that grants which this House has determined

should go to authorities for specific purposes should have been changed to go to authorities which do not have to discharge those responsibilities.

Mr. Sydney Bidwell (Ealing, Southall): Does this Greenwich victory mean that the hard-pressed Labour-controlled borough of Ealing, where people are facing a steep rates rise as a consequence of the local authority's battle to meet the needs of the hard-pressed people of the borough, especially in Southall, can expect better behaviour by the Government and a higher rate support grant?

Mr. Ridley: I do not believe that the borough of Ealing is affected by what I have just announced. However, I believe that it has set an enormously high rate increase, which has nothing to do with my announcement.

Mr. John Hunt (Ravensbourne): Is my right hon. Friend aware that Bromley's rate calculations for last year and this year have been made on the basis of the clearest commitments given to me and to the council by Ministers and the Secretary of State's officials? Will he confirm that if the amendment to the rate support grant to which he has referred this afternoon means that Bromley is now to be deprived of the money that it expected—which would have a catastrophic effect on the ratepayers—he will endeavour to compensate ratepayers in some other way for the loss that will be incurred?

Mr. Ridley: I confirm what my hon. Friend has said. Bromley has lost about £3 million as a result of the interpretation of the law in the judgment. I have appealed against that judgment. We must wait and see the result of the appeal. However, I share his view that it is completely inequitable for grants determined for one purpose for one authority to be switched to another authority that does not have the same responsibility. I have always said that that is wrong with regard to Bromley. We will have to wait for the result of the appeal.

Mr. Michael Meadowcroft (Leeds, West): Is not the Secretary of State showing a rather desperate ingenuousness in trying to hang an appeal on a reported need to clarify the whole process of reallocating grants? Would it not be better for him to accept the court's judgment and receive the support of hon. Members on this side of the House to enable the matter to be clarified rather than go through the extended process? Is it not bizarre that he should accuse local authorities of inefficiency, yet write to them on 3 March presenting the relevant expenditure limits and telling them that he may be writing to them again in the near future with different relevant expenditure limits? Now apparently he will have to go through the whole process of appeal and the delay that that involves, and presumably there will be a third change of relevant expenditure. Surely local government is showing more efficiency than central Government.

Mr. Ridley: The Greenwich case was not about the specific allocation of grants; it was about a narrow interpretation of a point of law in the Rate Support Grants Act 1986. It is against that interpretation that I have appealed, and I suggest that we should not discuss the merits of that appeal until it has been heard. The inter-reaction of this constant litigation about points of law with the delicate timetable of the rate support grant mechanism causes a great deal of trouble. That is one of the reasons why we intend to abolish the rate support grant

[Mr. Ridley]

mechanism and the rates, and we hope that we have the hon. Gentleman's support in that. Depending on the result of the appeal, it may be necessary to go back on the rate support grant, but that is an inevitable consequence of litigation that takes place that can have such an effect, affecting the whole totals.

Mr. Peter Lilley (St. Albans): Does my right hon. Friend agree that this problem arises from inaccurate legal advice, creative interpretation of the law by the courts, and excessively complex legislation? Would he consider following the advice of Shakespeare:

"The first thing we do, let's kill all the lawyers"—exempting, of course, my right hon. and hon. and learned Friends? If he is not prepared to be Shakespearean about this matter, will he at least privatise the provision of legislative advice? Secondly, would he submit draft legislation to the simple English campaign? Finally, will he rapidly introduce a measure to restore the situation to the status quo ante?

Mr. Ridley: We have to go through the legal processes to determine the precise meaning of the Rate Support Grants Act 1986, which was checked by outside counsel and was the result of a privatised lawyers' agreement. I do not think that that point would hold up. It is right to proceed to the appeal and learn the detailed result before making any comment on further action.

Mr. Nigel Spearing (Newham, South): Is not the real reason for the Government's continuous embarrassment by litigation their basic policy? Is it not clear that mechanisms such as clawback, which replaced the historic system of local government support grant, show that the Government, instead of meeting the real needs of communities—especially those that are hard-pressed—are in principle against any local government expenditure? Will the Minister admit that that is the real reason behind his continuous series of inefficient legislation?

Mr. Ridley: No, the hon. Gentleman is quite wrong. This matter is about the allocation of the total of rate support grant through the GREA system; it is not about clawback. An error was made two years ago in the allocation of the grants for road maintenance between certain London boroughs and others. The attempt to correct that error has been upset by the judgment. It will not rest there. We have appealed, and it is highly questionable whether we might not prove to be right in our interpretation.

Mr. Roger Sims (Chislehurst): Further to my right hon. Friend's reply to my hon. Friend the Member for Ravensbourne (Mr. Hunt), does he accept that he gave a firm unequivocal undertaking to the London borough of Bromley that it would receive grant to offset the costs of looking after GLC roads? From what my right hon. Friend has said this afternoon, he has reneged on that undertaking. He has left Bromley in the position where, after making a rate, it is now likely that it will have to find a further £3 million, and the whole issue will turn on the whim of the appeal court. Surely my right hon. Friend can take steps to ensure that his undertaking that Bromley will receive the money will be kept.

Mr. Ridley: No. Whatever undertaking my predecessor gave, I must say that I have not gone back on that. The judgment of the court has meant that I am unable to do

that. I have gone to the length of appealing against the judgment in an endeavour to fulfil the undertaking given by my predecessor. It was never an undertaking that extra Government cash would be provided for Bromley. That would be quite wrong, because the rate support grant is close-ended. The activities of one borough have resulted in it and others receiving a share of the grant which was destined to go to Bromley and other boroughs. We are not talking about new cash; this is a redistribution of existing cash. I repeat that I remain concerned that the result of the judgment provides an inequitable situation for Bromley and other boroughs. I am seeking to put that right, but first I must have the Court of Appeal decide, otherwise the position will not be clear.

Mr. Peter Pike (Burnley): Does the Secretary of State agree that, apart from the political implications of what the Government have done about rates recently, they have caused utter chaos to officers and treasurers of local authorities who are trying to fix a rate? Does he believe that, in a democracy, locally elected representatives and local government officers have a duty, if they think that there is something in the law which enables them to provide a better service for their community, to challenge the Government's interpretation through the legal system?

Mr. Ridley: Yes. Large numbers of authorities are taking cases to the courts for the reasons that the hon. Gentleman has given. They are perfectly free to do that, and I do not complain about it. It is odd how the Opposition are gleeful every time authorities succeed. The result of that process, however, is delay, uncertainty and confusion. That is not the Government's fault. It is the fault of those who insist on litigation on every possible occasion.

Mr. Michael Latham (Rutland and Melton): Is my right hon. Friend aware that in one month's time the new financial year will begin and rate demands will be sent out? When will local authorities know their entitlement to grant? Is this not a Kafkaesque situation? For how much longer will litigation go fiddling on?

Mr. Ridley: Because, as my hon. Friend rightly says, rates and precepts have to be set, I have today published a new settlement and sent it to local authorities. Because of the court judgment—it is not my choice, but I naturally comply with court judgments—I have to allow a short period for local authorities to comment on the changes. We are still in time to make the settlement by the end of the financial year and for precepting authorities to set their precepts. I must draw attention to the difficulty of sticking to the timetable and giving local authorities the time that they need to take their decisions against a background of constant litigation, some of which successfully upsets the orderly organisation of the rate support grant.

Mr. John Cartwright (Woolwich): What impact will the Secretary of State's statement have on the hard-pressed ratepayers of Greenwich, which is planning to jack up its spending by about 25 per cent. this year? Can the right hon. Gentleman confirm that the borrowing, the creative accounting and the financial juggling that is going on in Woolwich town hall, will eventually have to be paid for by my constituents and those of my hon. Friend the Member for Greenwich (Mrs. Barnes)?

Mr. Ridley: I agree that the ratepayers of Greenwich are extremely hard pressed. The new rate support grant that I have announced today will give them increased grant as a main settlement and in the first supplementary report for 1986-87. If the appeal goes another way, it will be necessary to revise the figures once again. That is what is unsatisfactory about litigation which affects rate support grant figures for several years and means changing them during the rate support grant cycle.

Sir Anthony Grant (Cambridgeshire, South-West): Is it not clear that the fault lies not with my right hon. Friend but with the ridiculous rating system with which we have been burdened for far too long, which nobody understands—least of all the Opposition—and which is grossly unfair to ratepayers? When the Abolition of Domestic Rates Etc. (Scotland) Bill is passed, everybody will be eternally grateful for the early introduction of a similar Bill for England and Wales.

Mr. Ridley: My hon. Friend is quite right. *[Interruption.]*

Mr. Speaker: Order. The hon. Member for Glasgow, Cathcart (Mr. Maxton) must not draw attention to people who are not in the Chamber.

Mr. Ridley: The hon. Member for Copeland (Dr. Cunningham) understands very little indeed. He even gave a press conference yesterday announcing his decision that the Government would not appeal against the Greenwich judgment. I have not heard one word of abject apology, which is what is needed, from the hon. Gentleman. I should be grateful if in future he would leave statements on behalf of my Department to me. It will be many years before he has an opportunity to have anything to say on behalf of any Government Department.

Mr. David Winnick (Walsall, North): How many court cases has the Secretary of State now lost while he has held various ministerial positions? Was it because of his incompetence that he was sacked by the previous Conservative party leader in the early 1970s, or were there other reasons of which we are not aware?

Mr. Ridley: On the latter point, the hon. Gentleman is wrong. I resigned. On his first point, I do not keep the statistics for which he asks, but I believe that a question about that subject was answered quite recently.

Mr. John Heddle (Mid-Staffordshire): I accept that my right hon. Friend's statement relates to London, but does he agree that there is something rotten in the state of local government when the Leader of the Opposition's local authority—Ealing—meets tonight to set a rate which is about 80 per cent. higher than last year's and when the chairman of the independent Audit Commission identifies eight Labour-controlled inner-London boroughs which are inefficient and profligate? Does my right hon. Friend agree that now is the time for a root and branch reform of the local government finance system?

Mr. Ridley: My hon. Friend is right. This rate support grant system has got to be replaced. The Leader of the Opposition will be one of our most enthusiastic supporters when we introduce a new system, because it will save him an absolute packet of his good money which the borough in which he lives wastes in the profligate manner that my hon. Friend described. I understand that Ealing is to increase its rates by about 80 per cent. That, not the system, is the real disgrace.

Several Hon. Members rose—

Mr. Speaker: Order. I remind the House that we are operating under a timetable today. I shall allow questions to run for a further four minutes and then I call the Front Benches.

Mr. Eric Deakins (Walthamstow): What will be the impact on the rate-making process in London boroughs which are affected adversely or advantageously by the court judgment if the Secretary of State wins his appeal after rate notices have gone out to ratepayers?

Mr. Ridley: The rates will have to be set long before it is likely that any judgment will come from the Court of Appeal. The rates will therefore have to be set on the basis of the new figures that I am publishing and sending to local authorities today. If there is a change in those figures, due to the result of the appeal court's judgment, adjustments will have to be made in the first supplementary report, or, possibly, the second supplementary report. The hon. Gentleman knows full well that grant figures are adjusted in supplementary reports year after year. We are still dealing with supplementary reports for several years ago.

Mr. Harry Cohen (Leyton): Does the Secretary of State agree that the Government have denied millions of pounds to ratepayers in Waltham Forest and elsewhere? Does he further agree that the Government have penalised especially heavily Labour-controlled councils which are trying to make good the problems that they inherited from their Tory predecessors who left the financial cupboard bare? How much will Waltham Forest get back because of the court action taken by a Labour-controlled council?

Mr. Ridley: I do not think that has anything to do with the statement. The borough of Waltham Forest is barely affected and the hon. Gentleman's question was not about that. I can confirm, however, that he is living in an extremely inefficient and extravagant borough which is increasing its rates by, I think, 68 per cent. for no good reason whatever.

Mr. Allen McKay (Barnsley, West and Penistone): Does the Secretary of State agree that, following this week's statement on local government and local government finance, he should take this opportunity to consider resigning? Should the Secretary of State not step back, without falling over, and seriously consider stopping this vendetta against local government? The only thing wrong with local government is central Government. We should return to the sensible financial arrangements that we had prior to 1979.

Mr. Ridley: On this occasion the London borough of Greenwich is conducting a vendetta against other boroughs. It is trying to extract money for grant from boroughs that do not need to spend it. That has nothing to do with me and I am not responsible for the actions that have been taken. The result of the judgment leaves an inequitable situation.

Mr. Nick Raynsford (Fulham): Instead of giving waffling and evasive answers, interspersed with political propaganda, will the Secretary of State tell the House precisely what the financial impact of the statement that he has made today will be on the London borough of Hammersmith and Fulham? If he is not in a position to give that statement clearly and unequivocally, will he admit that that is the product of his own and his

[Mr. Nick Raynsford]

predecessor's absurdly complex system of local government finance which would make Byzantium look simplicity itself by comparison?

Mr. Ridley: The London borough of Hammersmith and Fulham is not affected in any way by the statement that I have made. The hon. Gentleman can quickly check that when he considers the papers that are in the Vote Office. There may be a small effect on the borough, but it will certainly not be a major one.

Mr. Jack Straw (Blackburn): Is the Secretary of State serious in describing proceedings before courts of law in this country as vendettas? Does he not understand that vendettas are carried out by the Mafia in Italy as an alternative to court proceedings? Is he trying to suggest that the learned judge in the court, Mr. Justice Taylor, is to be likened to a Mafia boss? Is that his view and his contempt for the judicial processes of this land? Will he confirm that Greenwich and every other borough has a right to take the Secretary of State to court for his failure to observe the law? Does he agree that another reason why he has been so rattled today is that he had to explain to the Prime Minister this morning that Barnet was to lose more than £1 million as a result of his failure, Bexley £500,000, Bromley more than £3 million, Kingston £1.5 million, Merton £600,000, Harrow £1 million and Redbridge £1 million? Finally, will the Secretary of State stop squealing, because once again he has been found out by the court, and accept the word of the judge in that court that he had been "hoist with his own petard."

Mr. Ridley: The hon. Gentleman's comments go very close to prejudicing the appeal. He is quite wrong to come to conclusions about the eventual decision in this matter, which is now before the appeal court. I was accused of pursuing a vendetta against local government. If that colourful language is not thought to be offensive when it is used against me, I can hardly believe that the London borough of Greenwich would feel it offensive if I described it in that way. The borough has every right to go to court, as I said earlier, but it is going to court not to my disadvantage or loss, but to the disadvantage and loss of other boroughs in London. As I have said, it has created an inequitable situation in those boroughs.

4.43 pm

Mr. Barry Jones (Alyn and Deeside): On a point of order, Mr. Speaker. As we share the same legislative root, may I ask what doubts this raises about the legal basis of the Welsh rate support grant? Have not the Welsh local authorities reached the most sensitive time for their rate-setting duties?

Mr. Speaker: Order. If the hon. Gentleman has a long list of questions, he must take them up with the Department concerned. It really is not a matter for me. On a point of order, he should ask me whether there will be a statement, or something like that.

Mr. Jones: I was about to make my point of order, Mr. Speaker. In the absence of the Secretary of State for Wales, who should have been here showing courtesy to the House and who should have made a statement about the consequences of this serious statement, is it possible for the Secretary of State to come to the House and make a

statement, tell us where we stand in respect of the rate support grant in Wales and say whether any changes are to be made? The Secretary of State for Wales is a Cabinet side-kick to the Secretary of State for the Environment, and we have lost confidence in him.

Mr. Speaker: That comment will have been heard by the Front Bench. Patently, these are not matters for me. I cannot answer whether Wales will be affected. That is not a matter of order.

Mr. Harry Greenway (Ealing, North): Further to that point of order, Mr. Speaker. I apologise for being late for the statement that was important for my constituents. I should like to explain to you, Mr. Speaker, and to the House—

Mr. Speaker: Order. The hon. Gentleman must not do that. I should have called him if he had been here.

Mr. Donald Coleman (Neath): Further to that point of order, Mr. Speaker. The Secretary of State for Wales left the Chamber without staying to hear what the implications would be for Wales, and that is a discourtesy to the Chamber.

Mr. Speaker: That is not a matter of order, and it is not a matter for me.

BILLS PRESENTED

LANDLORD AND TENANT (NO. 2)

Mr. Secretary Ridley, supported by Mr. Secretary Hurd, Mr. Secretary Edwards, Mr. John MacGregor, Mr. John Patten and Mr. Richard Tracey, presented a Bill to confer on tenants of flats rights with respect to the acquisition by them of their landlord's reversion; to make provision for the appointment of a manager at the instance of such tenants and for the variation of long leases held by such tenants; to make further provision with respect to service charges payable by tenants of flats and other dwellings; to make other provisions with respect to such tenants; to make further provision with respect to the permissible purposes and objects of registered housing associations as regards the management of leasehold property; and for connected purposes. And the same was read the First time; and ordered to be read a Second time tomorrow and to be printed. [Bill 98.]

CONTROL OF MERGERS (WALES)

Mr. Dafydd Wigley, supported by Mr. D. E. Thomas, presented a Bill to rename the Welsh Industrial Development Advisory Board; and to make provision as to its functions in relation to the monitoring of mergers in Wales, industrial policy, and other matters. And the same was read the First time; and ordered to be read a Second time on Friday 3 April and to be printed. [Bill 101.]

CONTROL OF MERGERS (SCOTLAND)

Mr. Gordon Wilson, supported by Mr. Donald Stewart, presented a Bill to provide control of merger situations affecting Scotland; to rename the Scottish Industrial Development Advisory Board; to make provision as to the functions of a Scottish Mergers Board and the monitoring of industrial policy and other matters. And the same was read the First time; and ordered to be read a Second time on Friday 24 April and to be printed. [Bill 102.]

CCBG

CONFIDENTIAL



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434
My ref:

Your ref:

Miss Joan MacNaughton
Private Secretary to
The Rt Hon The Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1

4 March 1987

Dear Joan,

RATE SUPPORT GRANT: IMPLICATIONS OF THE HIGH
COURT RULING ON THE LEGAL CHALLENGE BY GREENWICH
BOROUGH COUNCIL

File with DPN

Thank you for your letter of 3 March.

I attach a note which has been approved by my
Secretary of State, for discussion tomorrow.

I am copying this letter to David Norgrove at
No 10, the Private Secretaries to members of
E(LA), the Solicitor General, the Chief Whip
(Commons) and to Trevor Woolley in Sir Robert
Armstrong's Office.

Yours,

Robin

R U YOUNG
Private Secretary

Pemie Minister

This will have been
discussed at E(LA)
before Cabinet. The
Lord President or Mr Ridley
may mention it.

DPN
4/3

OPTIONS OF THE HIGH COURT RULING ON THE LEGAL CHALLENGE BY
GREENWICH BOROUGH COUNCIL

OPTIONS FOR HANDLING: NOTE BY THE DEPARTMENT OF THE ENVIRONMENT

1. The High Court judgement on the Greenwich challenge means that the 1st Supplementary Report 1986/87 and the main Rate Support Grant Report for 1987/88 cannot be made as proposed in the Secretary of State's statement of firm intentions on 13 January. Whichever option below is chosen these Reports will have to be made later this month so that grant can be paid from the beginning of the financial year. The only way in which this can be done now is on a basis incorporating the so-called "Bromley error".

2. It would be possible to accept the Court ruling, never seek to correct the "Bromley error" and live with the consequences for all time. This would not be acceptable on grounds of equity. In respect of 1986/87 Greenwich would have an unwarranted grant benefit of some £3.8 million. A number of other inner London authorities would also benefit, for example Islington gain about £1 million, Lewisham and Tower Hamlets about £2 million. Many outer London boroughs would not receive grant to which they have a rightful claim. These include Bromley who would lose over £3 million and Barnet who would lose over £2 million. This pattern of gains and losses would be repeated in 1987/88 and future years.

3. The realistic options for dealing with the problem are:

Option 1

Appeal against the judgement (to the House of Lords if necessary) and deal with the results of the appeal when these are known. If no expedition is sought on the appeal then it could well be towards the end of the year before a final

outcome is known. This would have the advantage that the action required to deal with the outcome of the appeal can be taken when the current legislative difficulties on the rate support grant have been resolved. If the appeal was successful then matters could be put right in subsequent Supplementary Reports. Legislation would be needed even in this event to enable multipliers to be redetermined but the powers could be taken in a suitable Bill at that time. If the appeal was not successful we would equally need to legislate to put matters right. So either way legislation is necessary. Our chances of success in the appeal are put, typically, at 50-50.

Option 2

To recognise that the appeal route is, to a degree, nugatory as we are not going to live with an adverse judgement at the end of the day. We would therefore not appeal but take the necessary powers in the Local Government Bill to put matters right in subsequent Supplementary Reports for both years. This could be done by an amendment at Committee stage. The advantage of this course is that it would make it clear at once that we intend to put right the situation for Bromley et al. This would save the inevitable need for legislation later on. A disadvantage is that if an announcement is made now that matters will be put right in the Local Government Bill, it could provoke more criticism during the final stages of the Local Government Finance Bill in the Lords where the validation of past decisions has been a major issue. On the other hand we can make the necessary legislative changes in a Bill currently before the House.

Timing

4. It is essential to inform local authorities of the Government's intentions in relation to the Supplementary Report and Rate Support Grant Report as soon as possible. All authorities

are currently considering, or have already set, their precepts and rates for next year; next Tuesday, 10 March, is the date by which precepting authorities must have set their precepts. They will need to take into account their revised grant entitlements straightaway. The effects outside London are not large but there may be implications for some rate and precept limited authorities (see attached). The largest effects occur in London.

5. Because time is so short it would be preferable to make an announcement on Thursday if E(LA) reaches agreement that morning. Monday is the latest day any announcement could be made if the Reports are to be approved by the end of March and is hard up against the precepting date. It would seem appropriate to make the announcement by means of an oral Parliamentary statement. It would be sensible, but not essential, to announce our decision as to whether we will follow Option 1 or Option 2 at the same time, but I should of course be pressed immediately on what course we were going to pursue.

Department of the Environment
3 March 1987

Rate-limited Authorities

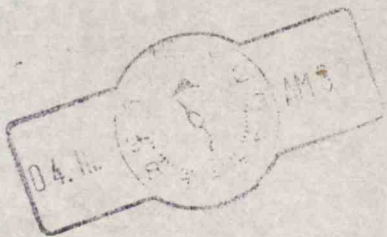
Effect of losing Greenwich case on Intended Rate Limits 1987/88 announced 23 F

	Col 1	Col 2	Col 3
	Limit announced 23 February	Intended limit	Change in limit
	(p)	(p)	(p)
Gateshead	228.09	228.03	(.06)
Newcastle upon Tyne	290.88	290.83	(.05)
North Tyneside	265.83	265.78	(.05)
Sheffield	259.13	259.08	(.05)
Camden	120.07	119.71	(.36)
Greenwich	129.21	120.89	(8.32)
Hackney	125.16	123.30	(1.86)
Islington	80.65	78.90	(1.75)
Lambeth	113.05	112.42	(.63)
Lewisham	131.49	127.13	(4.36)
Southwark	111.43	111.31	(.12)
Tower Hamlets	115.91	110.39	(5.52)
Brent	224.82	224.84	.02
Haringey	239.26	238.37	(.89)
Hounslow	206.81	206.82	.01
Newham	192.50	188.58	(3.92)
Basildon	52.84	52.84	-
Brighton	22.51	22.50	(.01)
Middlesbrough	44.58	44.57	(.01)
Thamesdown	55.16	55.16	-

Joint Authorities

Effect of losing Greenwich case on Intended Precept Limits 1987/88 announced 23 February

	Col 1	Col 2	Col 3
	Limit announced 23 February	Intended limit	Change in limit
	(p)	(p)	(p)
Greater Manchester Police Authority	17.88	17.87	(.01)
Merseyside Police Authority	23.29	23.29	-
South Yorkshire Police Authority	16.80	16.79	(.01)
Northumbria Police Authority	14.21	14.20	(.01)
West Midlands Police Authority	12.33	12.33	-
West Yorkshire Police Authority	19.47	19.47	-
Greater Manchester Fire & CD Authority	9.75	9.75	-
Merseyside Fire & CD Authority	6.80	6.80	-
South Yorkshire Fire & CD Authority	10.26	10.27	.01
Tyne and Wear Fire & CD Authority	10.54	10.54	-
West Midlands Fire & CD Authority	6.73	6.73	-
West Yorkshire Fire & CD Authority	11.59	11.59	-
London Fire & CD Authority	8.07	8.07	-
Greater Manchester Transport Authority	12.96	12.96	-
Merseyside Transport Authority	28.48	28.49	.01
South Yorkshire Transport Authority	34.28	34.28	-
Tyne and Wear Transport Authority	14.51	14.51	-
West Midlands Transport Authority	7.81	7.81	-
West Yorkshire Transport Authority	23.79	23.78	(.01)
ILEA	79.73	79.73	-



LOCAL GOVT: Relations: Pt 31



CCB 9



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1A 2AT

My ref:

Your ref:

NBfn.

3 March 1987

Dear Lord President,

RATE SUPPORT GRANT: IMPLICATIONS OF THE HIGH COURT RULING ON THE LEGAL CHALLENGE BY GREENWICH BOROUGH COUNCIL

Colleagues may have seen that Mr Justice Taylor found against the Department last week on a legal challenge by Greenwich Borough Council. The effect of the ruling is that I cannot proceed with the First Supplementary Report for 1986/87, nor the main Rate Support Grant Report for 1987/88 as announced in my statement of 13 January as long as the ruling stands.

The challenge related to the way in which I propose to change grant entitlements for 1986/87 to correct an error in the main Rate Support Grant Report in the way in which expenditure on road maintenance was split between the London boroughs after the abolition of the GLC. A fuller explanation is provided in the attached background note. The effect of the error was to disbenefit a number of boroughs including Bromley and Barnet, and to give an unwarranted benefit to others including Greenwich. The effect of the judgement is to prevent me from correcting the error, as I wanted.

I have considered urgently what to do. In other circumstances I would appeal immediately and make no further Reports until the outcome of the appeal was known. However, in the present case, and even if the hearing is expedited, it is almost certain that I would not be able to lay the Rate Support Grant Reports in time to pay authorities grant from 1 April. Furthermore if we lost the appeal (and I am advised there is a significant risk of this) we should have lost valuable time, and be presented at a late stage with consequences with which we could not live. It would be intolerable to deny Bromley and the other authorities for all future years grant to which, on grounds of equity, they are entitled.

I have concluded therefore that the better course will be to make Reports in line with the Court judgement for implementation from 1 April, while also announcing that I propose to take powers to enable me to put matters right as soon as possible in subsequent Supplementary Reports.

There is neither time, nor do I think it would be appropriate, to take these powers in the Local Government Finance Bill, or the Rate Support Grant Bill. The Local Government Bill, however, appears to be a suitable vehicle. We could add the necessary provision at a suitable stage when it is ready.

Because the matter is urgent, and because the Second Reading of the Local Government Bill is this afternoon, I believe we are obliged to announce our intentions today. I should be grateful therefore for your immediate approval to include the necessary provisions in the Local Government Bill and to inform the House during the debate.

I am copying this letter to the Prime Minister, members of E(LA), the Solicitor General, the Chief Whip, and Sir Robert Armstrong.

Yours sincerely,

Ridley

PP NICHOLAS RIDLEY

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

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CCBG



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

3 March 1987

NBM

Dear Robin,

RATE SUPPORT GRANT: IMPLICATIONS OF THE HIGH COURT RULING
ON THE LEGAL CHALLENGE BY GREENWICH BOROUGH COUNCIL

with DRN?

The Lord President has seen your Secretary of State's letter of today's date about the aftermath of the Greenwich case. He quite understands the problems facing your Secretary of State but, as I mentioned when we spoke, thinks these problems would really benefit from early collective discussion. We have therefore asked the Secretariat to set up a meeting of E(LA) for this purpose (before Cabinet on Thursday if that is possible) and you agreed to commission a paper from DOE officials for circulation before then.

I am sending a copy of this letter to David Norgrove at No 10, the Private Secretaries to the members of E(LA), the Solicitor General, the Chief Whip, Commons, and to Trevor Woolley in Sir Robert Armstrong's office.

Yours sincerely

Joan

JOAN MACNAUGHTON
Private Secretary

Robin Young Esq.
Private Secretary to the Secretary of State
Department of the Environment

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