

PRIME MINISTER

## THE COMMUNITY CHARGE

Sir Nicholas Lyell telephoned me again today and I had a further long conversation with him.

Sir Nicholas was extremely pleased at the outcome of the court case on community charge capping this morning. He believes it further reinforces his view that the Government can use the existing powers much more strongly next year.

We first discussed the practicalities of his giving further advice to you and colleagues. I explained that a further Ministerial meeting had been arranged for next Thursday; and that, subject to your views, he would be invited.

I also said that the existing plan was for papers on the Community Charge to go into your box on Tuesday evening. He confirmed that this would give him enough time to make a considered judgement and prepare a paper.

He sought a steer on what would be your particular concerns about using the existing capping legislation in order to set a surrogate cash limit for local authorities next year. I indicated that your advisers would have at least four concerns.

- (i) First, the present legislation had been tested in court only so far as the criterion of excessive absolute spending was concerned. Any use of the excessive increase year on year provision was as yet untested. How certain could the Solicitor-General be that the vigorous interpretation he was now proposing would be successful when (inevitably) challenged in the courts?
- (ii) Second, I said that the deterrent effect on LA spending was vital. It was important that the Government could declare, in advance of local authorities drawing up their budgets, what sort of cash increase was



acceptable. He recognised the importance of that deterrent effect on budgeting; and he believed that a suitable approach of this nature could be devised.

- (iii) Thirdly, I pointed out that this proposal would involve more extensive capping without the referendum provision. Accordingly, if the measure had to be used vigorously, the Government would arguably be denying the local accountability that lay at the heart of the community charge. He understood the point and will cover this in his minute.
- (iv) Finally, I expressed concern about the numbers. The example he gave me on Wednesday evening assumed a 10 per cent increase in TSS. But for reasons which you are already aware of, the Chancellor, DOE and Cabinet Office all believe that an increase of about 15 per cent in TSS is necessary this year on grounds of realism. Could the Government both increase SSAs by 15 per cent on average, and say an increase on budgets of 8 per cent was the maximum acceptable? Again he very much took the point and will consider it further.

#### Conclusion

The Solicitor-General believes that today's court case strengthens the case for not taking new legislation next year. Mr. Patten is bound to seize on this as sustaining the case for avoiding further legislation. Although the judgement will need to be looked at very carefully, I do understand it indicates that the use of SSAs is justified and is a policy decision for the Secretary of State.

This bodes well for strengthened use of the existing procedures. But at a meeting of officials yesterday, I know Mr. Wilson got very confused advice from the Solicitor-General's officials. Sir Nicholas admitted he was still "coming up to speed" on the issue.

Moreover on an entirely common sense basis, one distrusts advice



which suggests that the Government could cap all increases at 8 per cent, even if the average increase was say 10 or 11 per cent.

The Solicitor-General and Mr. Portillo have spent a long time discussing the position. DoE are putting considerable resources into persuading Sir Nicholas to give advice that there is no need for legislation. If there were any thought of going down this route, Sir Nicholas should be required to commit himself now on the extent of capping possible; and DoE should have to agree to cap on that rigorous basis. Will they be prepared to give such commitments?

Two practical points.

Are you content for Sir Nicholas Lyell to attend next Thursday's meeting?

Are you content for Richard Wilson to discuss with a Home Office Deputy Secretary the practicalities of referendums?

BPP

BARRY POTTER  
15 June 1990

Yes - but I think he

needs to consult with

Richard Wilson to see whether

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he (the S-G) has got his facts & understanding right. I've reminded him, - he refused to cap

SSA + 11%  
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