

PERSONAL AND CONFIDENTIAL

Ch/ You will want to see advice. CST will look at it 1st thing tomorrow

/draft letter cd be much stronger—how wd we justify not compensating losers from wider

FROM: R FELLGETT

DATE: 2 March 1988

- 1. MR HAWTIN application of Addis principle cc Chief Secretary
- 2. CHANCELLOR (who might legitimately have an excuse for lack of contingency planning) if we then compensate those who could have predicted problem. cc Sir P Middleton, Mr Anson, Mr Monck, Mr D J L Moore, Mr Prior (VO)

application of Addis principle cc Chief Secretary Sir P Middleton Mr Anson Mr Monck Mr D J L Moore Mr Prior (VO)

mpw 213

*Notes - I wd cut down the absurd para 7 of Mr*

VALUATION FOR RATING: THE "ADDIS" AND "CAKEBREAD" CASES

Mr Ridley's letter of 1 March was foreshadowed in my submission of 26 February.

Addis

*I am making 6 copies, as per amended draft, but pss hold up until CST's views*

*draft letter: this Law Lords are now responsible for making the law - the*

2. You have already commented that you would be content for Mr Ridley to legislate to reverse the Law Lords ruling on the Addis case.

3. Mr Ridley proposes legislation retrospective to the date of his announcement (which he envisages would be 8 March). In theory, it would be preferable for retrospection to invalidate any proposals for reduced rateable values that had not been put forward by the date of the Law Lords judgement (11 February); a significant number of proposals (with unquantified consequences) are being put down as the Law Lords decision and its implications become known in the valuation profession. It might be argued that retrospection to the date of judgement would simply put the legislation back into the form that the Government always thought it had. But this would be highly provocative to Parliament, the House of Lords in particular, and increase the difficulties of getting the necessary clauses through both Houses. On balance, I recommend that you agree with Mr Ridley to limit retrospection to the date of his announcement.

4. The draft letter attached also touches on the point at the end of the third page of Mr Ridley's letter about the VO serving

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counter-proposals to reverse, with effect from the announcement date, the changes won by Addis etc. He suggests that the VO might refrain from doing so. I understand that this might be correct in practice in most cases. But the VO would not wish Mr Ridley to offer a guarantee that they would not apply the law as it stands after the announcement; and to recoup lost revenue we might wish to take steps to limit the financial benefits to firms who have climbed on the Addis bandwagon after the Law Lords decision.

Cakebread

5. This is an entirely separate case, affecting the rateable value only of water authorities, without the wider implications of "Addis" described in my earlier submission. There is therefore even less argument for retrospection, and I suggest that you agree with Mr Ridley's proposal to legislate with effect from 1 April 1988. You will have noted that the loss of revenue is estimated at around £100 million, falling on districts with substantial sewage works: at this stage, I cannot rule out the possibility that some authority will have lost over 2½% of its rateable value in a financial year, which would call the guarantee of extra Exchequer support mentioned in my earlier submission. However, the windfall benefit to water authorities can be taken into account in their EFLs.

Losses for Past Years

6. Mr Howard has persuaded Mr Ridley to bid for Exchequer finance to cover the losses to local authorities from the direct effect of the Addis decision on the rateable value of properties close to Enterprise Zones. This would not extend to the wider effects. The cost would be around £35 million (rather less than I earlier reported to you, because only a small number of appeals go back as far as 1980). There is some force in Mr Ridley's argument that the "blight" in areas around Enterprise Zones is a consequence of Government policy, and the loss of rate income should be made good in the same way that the Government recompenses authorities for rates holidays in Enterprise Zones. If there had been an

Is there?

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earlier general revaluation Addis would have benefited from lower rateable values; Exchequer finance might be seen as the cost of delaying the revaluation.

7. On the other hand, the Government is certainly not responsible for the Law Lords and their decisions, which are the immediate cause of any loss of income to rating authorities. Also, the appeals have been outstanding for many years and any prudent local authority would know that they might result in loss of income, and should have made contingency provision for this. The extent of the Exchequer guarantee should be well known to authorities. I therefore judge that the pressure for additional Exchequer finance can be resisted, although there will undoubtedly be some complaints (West Glamorgan and Swansea are already running a campaign).

Conclusion

8. I recommend that you agree to Mr Ridley's proposals for legislation, and the earliest possible announcement of his intentions; but do not agree to Exchequer compensation for losses arising from the Addis decision, even applied narrowly to property in the neighbourhood of Enterprise Zones. A draft letter is attached.

9. This advice has been agreed in general terms with the Valuation Office, and (as regards water authorities) with PE.

Robin Fellgett

R FELLGETT

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DRAFT LETTER FOR THE CHANCELLOR'S SIGNATURE TO THE SECRETARY OF STATE FOR THE ENVIRONMENT

VALUATION FOR RATING: THE "ADDIS" AND "CAKEBREAD" CASES

Thank you for your letter of 1 March.

2. I agree with your view that we should legislate to reverse the decisions of the Law Lords in the "Addis" case, and the Court of Appeal in "Cakebread". *I also agree that ~~there should~~*

3. On Addis, I have considered whether retrospection to the date of your announcement would be enough or whether we should make new legislation retrospective to the date of the Law Lords decision. However that degree of retrospection seems likely to create difficulties in Parliament, particularly in the Lords; on balance retrospection to the date of announcement *is probably* the best *which* that we can achieve, *the failure possible* although this reinforces the need for an urgent statement of our intentions.

4. You envisage (the end of the third page of your letter) that the Valuation Office might refrain from serving counter-proposals to reverse the effects of the Addis decision with effect from the date of your announcement. I should be grateful if you could avoid any assurances of this nature. The *Valuation Office* ~~VO~~ could not ignore the law as it will be after amendment if, for example, a further valuation proposal *is* put forward in the future covering a property to which the Addis decision applied.

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5. I also agree with your proposal for legislation covering "Cakebread", where our officials will need to be in touch to consider the implications for water authority EFLs.

*The one proposal with which I do not agree, however, is your suggestion that the*  
6. ~~I do not, however, agree with your proposal that the~~ Exchequer should make good losses for past years to authorities in the neighbourhood of Enterprise Zones. As you yourself mention, existing statutory provision provides for compensation where there is a significant annual loss, currently set in regulations at 2½% of rateable value. Local authorities were well aware of the appeals in hand, and of the circumstances in which they would have to cover the loss themselves if the appeal was successful. Any prudent authority should have made contingency provision, whatever campaign authorities like West Glamorgan and Swansea are trying to mount now.

*Moreover, I am very concerned at the practical and such complications would set.*

7. In any case, while the Government is responsible for Enterprise Zone policy, it is certainly not responsible for the Law Lords, whose decision is the immediate cause of loss of revenue to some authorities.

8. I am copying this letter to the Prime Minister, other members of E(LF), the Lord Chancellor, the Attorney General, First Parliamentary Counsel and Sir Robin Butler.