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22nd January 1987

cc RC
Questions

M E Addison Esq
Private Secretary to the Prime Minister
10 Downing Street
London SW1

Dear Mark,

TV LICENCES

I am writing to confirm the advice that I have given you on the telephone over the last few days in connection with Parliamentary Questions about television sets in Downing Street and in the Houses of Parliament.

I explained that the provisions of the Wireless Telegraphy Act 1949 which enable licence fees to be levied do not bind the Crown expressly or by implication. Accordingly, it was appropriate to include in the reply to Mr Kaufman's Question a statement to the effect that no licence fees are payable for television sets on Crown property used for Government purposes. This is totally defensible and the reference to" Government purposes" will allow a more restricted view to be taken where that may be appropriate. Hampton Court Palace is a good example: the premises constitute Crown property but private individuals occupy grace and favour apartments there and it been desirable to support the proposition that they do not have to have a television licence for any set which they use in the accommodation allocated to them.

I understand that enquiries have been made in relation to Chequers and Chevening and it has been established that television sets there require a licence and that these have been obtained as a matter of routine.

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We subsequently spoke about a Question by Mr Winnick, for written answer, in so far as it concerned television sets in Minister's rooms in the House of Commons. I mentioned to you that, with the recent activities in connection with the Duncan Campbell film in mind, it would be better to avoid the subject of Parliamentary privileges and immunities at this time. I therefore suggested that the reply should include a statement that the use of television sets in the Palace of Westminster is a matter for the House authorities. This response is consistent with the case of R v R F Graham-Campbell ex parte A P Herbert in 1934. You may have read about the proceedings initiated by the writer A P Herbert when he applied for a summons against the members of the Kitchen Committee of the House of Commons for selling intoxicating liquor in a refreshment room of the House without holding a justices licence to do so. The judgments which were subsequently delivered in the King's Bench Division are helpful insofar as they confirm that the courts "have an invincible reluctance to interfere" where the" House of Commons was acting collectively in a matter falling within the area of the internal affairs of the House". In other words, as the Court accepted that the House had validly decided that the licensing laws were not to apply, it is reasonable to assume that they are free to take a similar decision in relation to television licences. Nevertheless, it is a question for the House authorities, not Ministers.

I should perhaps also record that, I have consulted Speaker's Counsel who said that there may be some substance in the proposition that the Palace of Westminster is a Royal Palace and as Crown property, would not be subject to the relevant provisions of the Wireless Telegraphy Act 1949. However, Erskine May on Parliamentary Practice (at page 218) states that each House, while in occupation of the part assigned to it, has the custody and service of that part, control being exercised in the Lords through the Gentleman Usher of the Black Rod and, in the Commons, by the Serjeant at Arms. Thus it is questionable whether an argument that Crown exemption from the statute could be claimed by each House, but whatever the position may be on that issue, the draft Answer to Mr Winnick's Question in not referring to the status of the Palace of Westminster as such, has the advantage that it cannot prejudice any assertion that the Government may want to make on the point in the future.

Yours ever

Graeme Hosker.

G A Hosker