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Prime Minister.



Chancellor of the Duchy of Lancaster

Would you like me to send the views
of the Chancellor and the Foreign Secretary on
this?

A.J.C. $\frac{11}{1}$

PRIME MINISTER

EEC - "WITHHOLDING"

I do not know whether this subject will come up at Cabinet tomorrow. But I feel strongly - as I said at Cabinet before Christmas - that in relation to the balance of the 1982 refund (about £42 m) the correct procedure is set off, not withholding.

We say that we have a legal right to the £42 m. If we do we are entitled to set this off against our contributions in the same way as any private creditor would: it is quite unnecessary to resort to withholding.

Presentationally our position would be much better. Set off is a claim of legal right: withholding is an admission of illegality. Why should we present ourselves as acting illegally when we can present ourselves as acting legally?

Tactically we would also be in a better position. The Commission have suggested that if we think we have a legal case we should go to Court. If we proceed by set off it would be the Commission who would have to go to Court. It is always better tactics to force your opponent to have to make the next move.

Finally withholding is our ultimate weapon. One ought never to use one's ultimate weapon until one has to. Here we can achieve our objective by the use of a lesser weapon. We ought to do so and keep the greater weapon in reserve.

I believe that the 1983 refund (about £450 m) should be dealt with in the same way. There is a crucial difference between the 1982 and 1983 refunds on the one hand and the long term

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settlement on the other. The 1982 and 1983 refunds are a matter of legal or quasi legal right. The long term settlement is a matter of political negotiation. "Set off" is a legal act: "withholding" is a political act. The right course surely must be to tailor the response to the situation: to use set off in the legal dispute and withholding in the political dispute.

A.C.

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11 January 1984

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12 January 1984

EEC - "WITHHOLDING"

The Prime Minister has seen
Lord Cockfield's minute of 11 January and
has noted its contents.

A. GALLOWAY

Alex Galloway, Esq.,
Chancellor of the Duchy of Lancaster's
Office.

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