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E(81)86

11 September 1981

COPY NO

22

CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

CONTROLLING PUBLIC TRANSPORT SUBSIDIES

Memorandum by the Secretary of State for Transport

1. In E(81)82 I put forward a proposal for legislation to control the subsidies paid by the Greater London Council (GLC) and the metropolitan counties to the London Transport Executive (LTE) and the passenger transport executives (PTEs) to be included in my already approved transport legislation for introduction at the beginning of next session. The Committee invited me to work up the proposal on a contingency basis. An outline of the provisions I envisage is at Annex A.

HOW WILL IT WORK?

2. The main features of the scheme are that I would fix for each undertaking an external finance limit (EFL) covering all income other than fares paid by passengers and other commercial receipts. I shall present the scheme as broadly the same financial control as central government applies to the nationalised industries. Proposed EFLs would be published in a very short White Paper accompanying the Bill. Local authorities would be invited to discuss these. The EFLs would be fixed by order immediately after Royal Assent.

3. My Department would monitor the situation through the year. So long as the authorities were prepared to co-operate in trying to keep their support within the limits I would not need to intervene further. But if an authority used its powers of direction and of appointment and dismissal of Board members in order to flout the Government, I would in the last resort need to be able to suspend those powers and exercise them myself.

4. The present boards are mainly professional transport people who would comply with the law. There is a risk that some councils would appoint new members to challenge our control. The Bill will therefore contain a reserve power for me to dismiss board members, determine compensation (which might be withheld in extreme cases) and appoint new members.

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5. The Bill would also need to contain anti-avoidance provisions including powers for me to issue directions and to override decisions made by the councils. Details are in Annex A. If possible I would avoid using these powers, but they would give me the flexibility to proceed step by step.

6. It will be important to make the legislation effective as quickly as possible. I would aim to introduce the Bill at the beginning of the session and achieve Royal Assent by the end of March. However, Executives would not be bound by the end of then and authorities might well try to take action to make the proposed EFLs unattainable. The scope is limited since authorities would not be able to finance any action which involved a major increase in expenditure in the second half of this financial year. They could commit themselves to expensive wage settlements with effect from next April, but I think that is a risk we face in any event. My proposals would enable us to make it clear that there would be no more money and the position would have to be recovered. To protect the position of cooperative board members during this period I would make clear my intention to reappoint any dismissed for political reasons and to dismiss successors appointed purely to oppose these measures.

HOW MUCH COULD WE SAVE?

7. If nothing is done, revenue support by the GLC and metropolitan counties is likely to rise to about £600m next year, £400m above the provision implied by Cmnd 8175 (at 1982/83 prices). The political commitments of the new councils would cause this to rise steeply in succeeding years. It would be unrealistic to aim at getting back quickly to the Cmnd 8175 level. For instance, to do so would involve nearly doubling fares in London and some of the other conurbations. To stand any chance of success the limits set would need to be achievable, even if tough. I believe the best we could hope for would be to save something of the order of £250m to £300m. It would be for the authorities and the undertakings themselves to decide how to achieve this. But it is likely to involve fare increases substantially above the rate of inflation in all the conurbations.

8. I accept that this control might not prevent authorities from raising the extra revenue needed to implement their transport policies and then spending it on other services. But it is far from certain that they would increase their precept by the full amount. Given their limited range of functions, it would be difficult for them to divert so much expenditure at short notice to purposes for which they have no political mandate. They would be seen to be simply looking for ways to spend money. There could well be opposition from borough and district councils which face elections next May. Even those which support the GLC and County Council may try to persuade them to reduce their precepts if they could be used to hold down fares.

IS IT WORTH IT?

9. There would be objections to frustrating policies on which councils were specifically elected, and to controlling expenditure in this way. With sensitive handling some of the metropolitan counties should comply but there will probably be disputes with others, notably the GLC, leading to my having to exercise my back-up powers. We could well be drawn into locally contentious matters such as fares policy.

10. In spite of this, if the further restraints on local authority spending proposed by the Secretary of State for the Environment cannot be implemented until 1983/84, I think it imperative that we take action to curb the overspending on public transport next year. Otherwise it will be virtually impossible to restore the balance between subsidy and fares, because the size of the gap and public expectations will have gone too far for us to retrieve the situation at least for a number of years. Government will be saddled with a new heavy public expenditure commitment. Ratepayers will have to bear a heavy burden amounting to nearly 20p in London next year for this one service taking account of the grant penalties that would be involved. And the Government will appear to be powerless to stop hostile local authorities from flouting its policies and entrenching their own.

11. These proposals would not in any way prejudice future action on local government spending generally or any institutional changes we might want to make. They would be a useful improvement in the financial discipline over these large trading organisations.

CONCLUSION

12. I invite my colleagues to agree that:

- (i) provisions on the lines of Annex A should be included in already approved transport legislation for introduction at the beginning of next Session;
- (ii) that the legislation should be pushed through Parliament as quickly as possible;
- (iii) proposed EFLs for 1982/83 should be announced in a White Paper to be published at the same time.

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September 1981

CONFIDENTIALThe EFL Scheme

1. The basis of the scheme of external finance limits (EFLs) is the imposition of statutory limits on the extent to which the London Transport Executive (LTE) and the Passenger Transport Executives (PTEs) may finance their expenditure from sources other than fares and other trading income. It is not intended to apply the scheme in Scotland.

Powers to set EFLs

2. A Bill would require the Secretary of State to make orders, subject to negative resolution in the Commons, setting EFLs. To minimise the risk of challenge in the courts it is not intended to include any qualifications (such as consultation with the authorities, or criteria for setting the limits) on the Secretary of State's power to make orders setting EFLs. The power to make an order setting an EFL would include the power to make an order amending it. There would be no time limit on the duration of the order though in practice new orders would need to be made annually. It would be desirable for the LTE's limit to be based on the calendar year - which is LTE's accounting year. The first EFL for LTE would therefore have to be operative from January 1982. Those for the PTE's would be based on the financial year.

Powers to require Information

3. The Bill would also enable the Secretary of State to require the local authorities and Executives to provide such information as he considered desirable to set and monitor the EFLs. The Executives would be specifically required to notify the Secretary of State of any provision of goods or services by local authorities or others on other than a commercial value-for-money basis. This should show up attempts to circumvent the EFL by relieving the Executives of some of their costs. The Secretary of State would deal with any such cases by making an amending order reducing the EFL by an appropriate amount.

Coverage of EFLs

4. The EFL would cover revenue support, other grants and borrowing. The coverage would be slightly wider than that of the EFLs for nationalised industries since it would need to include payments for concessionary fare schemes. These could otherwise be used as a means of increasing subsidy to the PTEs and LTE, avoiding the EFL control.

Back-Up Powers

5. In order to enforce the EFLs and to close potential loopholes, the Bill will need to contain a number of powers for the Secretary of State to over-ride or negate local authorities' powers over LTE and the PTEs. Their powers include requirements for the local authority to approve the annual budget, borrowing, changes in fares, concessions, re-organisation of services, substantial capital expenditure, transfer of property etc. Their powers of direction cover organisation, information, audit and accounts, provision of services and other matters. They also have power to appoint the Boards of the Executives.

6. To prevent local authorities from obstructing the operation of the EFL, the local authorities' exercise of their powers will have to be made subject to the Secretary of State's consent. Such consent might be given either generally or specifically. An authority which co-operated in trying to keep its support within the limit would be given a general consent to continue to exercise its powers without further reference to the Secretary of State. But if an authority tried to use its powers to break or circumvent the limit, the exercise of its powers would be subject to consent in each case. In order to avoid deadlock the Secretary of State would need power to dismiss and appoint Boards of the Executives, to substitute his approval for the local authority's approval to the budget, borrowing, etc, and to issue directions to the Executives himself.

7. To cover the eventuality that a local authority might respond to this loss of powers by ceasing to pay support to the Executive, the Bill would enable the Secretary of State to make payments to the Executive, to British Rail or the operators. Such payments would be treated as a debt from the Council to the Secretary of State which could be recovered by appropriating payments of TSG and/or RSG due to it, or any other money payable by the Government. The Secretary of State would make clear that he would if necessary ensure that the Executives had the funds to continue operating.

Financial Control

8. The Executives' external finance would be monitored during the year against a profile of expenditure and income. The powers to require information and forecasts would be used if necessary. Signs that an undertaking was heading for an excess would trigger discussions with the Executive and the local authority. If they were unwilling to take adequate remedial action, the Secretary of State would be able to use his over-riding powers to direct suitable measures.

9. The auditors of the various undertakings (which in later years can be expected to be appointed by the new Audit Commission) would provide a basic check on the propriety of the authority and the Executive's financial dealings within the EFL.