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CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

CABINET

INTERIM MEASURES: REFERENDUM BEFORE SUPPLEMENTARY RATE

Memorandum by the Secretary of State for the Environment

1. At E Committee on 16 September (E(81) 27th Minutes) we decided that where a local authority planned a level of expenditure which required them to levy a second supplementary rate or precept, the authority should be required to obtain the approval of its electorate by means of a referendum, the result of which would be binding on the authority. I was asked to consider the implications of this. We can make a scheme work, but with considerable problems. It would be as set out below.
2. An authority would not be able to make a second supplementary rate or precept without first obtaining approval through a referendum. The referendum would be held on the normal local government electoral roll and three weeks would be required to organise it from the time the Council took the resolution to proceed. I think we must specify either in the Bill or subordinate legislation the question to be asked - eg in the form "Do you agree that a supplementary rate of - p should be levied?". Otherwise we shall have misleading questions asked. The authority will be able to issue separately, if they wish, a leaflet explaining why they need money and we should make provision for the largest opposition party to be able to print and post a leaflet opposing the proposal.
3. If the referendum were favourable, the Council could levy a rate or precept no higher than that specified in the referendum.
4. If the referendum were not approved the Council might be able to trim its expenditure to meet its revenue. But more likely it could not. What to do next is the crucial problem. Briefly, there are three options. First, I could take control of the authority; second, I could approve a level of supplementary rate sufficient only to enable the authority to meet its committed expenditure; third, I could grant temporary borrowing approval sufficient only to meet its committed expenditure. Of these options I have concluded that the first is unworkable. The second could be made to work but we would find ourselves in the unacceptable position of inevitably approving rates which authorities say they must raise and getting the blame for it from the electors who have voted against a supplementary rate. I therefore prefer the third, namely, a controlled and conditional use of temporary borrowing approval for the remainder of the financial year.

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5. There will remain, nevertheless, the problem of what to do about an authority which, having survived to the end of the financial year on the basis of temporary borrowing, plans a budget for the following year which pays no regard to our policies and which might lead to a referendum seeking approval for a second supplementary rate. At the best we would be seen to be having no effect on expenditure, at the worst we would be seen to find ourselves in the same position the following year of having to bail the authority out through borrowing approval because they had failed to do so in a referendum. This could go on indefinitely. I have therefore reluctantly concluded that I shall have to take a power to prevent the authority from making a rate for the following year before I have approved its budget.

6. I need hardly remind colleagues that, unlike Scotland, we have no expertise in these matters. I would find myself engaged in arguments about standards and costs of services and comparisons with authorities not subject to my intervention. Further, although I shall make it clear that our proposals are directed only at the higher spending authorities, it will be perceived by many, including our own supporters, as the gravest intrusion yet into the hitherto unfettered right of authorities to decide the level of their own rates. I fear we would have major confrontations with authorities who would seek to make martyrs of themselves.

7. In order to make this system work I may have to take powers to vary the limits on the first supplementary rate in order to prevent authorities who cannot possibly get down to the national level from being caught. Unless I do this there will be no incentive for these authorities to even try to meet the limits. I may be able to do this by devising a formula which could apply to a whole class of authorities as was done in the 1980 Act.

8. E Committee also proposed that I should examine the possibility of providing that councillors responsible for planning a level of expenditure for which they could not reasonably expect to receive approval through a referendum, should be liable to surcharge through the District Auditor. This view may have been taken because of reports that Lothian councillors were influenced by fear of surcharge. I understand that they were advised by their own officers that there might be a risk but the Scottish Office were not consulted and have not considered surcharge as a weapon against excess expenditure.

9. I have looked at the possibility of devising a scheme for surcharging councillors who planned expenditure which could not be financed from rates made within the limits in England. But I do not think it practicable:-

- (a) because we could never be sure that the rate would not be approved by a referendum;
- (b) even if it were not, the councillor could argue that a reasonable Secretary of State would allow a rate or borrowing to cover it;
- (c) there would be no way of fixing a reasonable surcharge (the excess expenditure could be millions);

- (d) it would be extremely difficult to justify financial penalties and loss of office on a councillor who had merely been pursuing policies on which he believed himself to be elected.

10. However, I do not think this important. What matters under the scheme I suggest is that the Council stay within the budget I have approved, which will, of course, contain a limit on rates. If individual councillors seek to maintain a level of expenditure higher than that approved in the budget they will be incurring unlawful expenditure because they will not have the resources to finance it. Hence they will be liable to surcharge.

11. It will be evident from what I have said above that the problems in operating a referendum scheme are very considerable. I fear I remain of the view that elections would be a better proposition, bring greater pressure on councillors to act responsibly and not involve us in the very difficult problems of control of budgets.

12. I therefore invite my colleagues to reconsider their earlier decision to go for referendum; but if they remain of the view that referendums are better than elections to approve a scheme as outlined above.

13. In the time available, I have not been able to discuss this paper with the Home Secretary personally, though, of course, it has been discussed by my officials with Home Office officials.

M H

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