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CONFIDENTIAL

Prime Minister

I think the theme of "getting back"
to where we thought we were" bears repetition -
hence my suggested roadwork addition.

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

AT
28/1

01-212 3434

Drafting changes also passed to

D/Top - AT 28/1.

28 January 1985

Dear Charles

I think para 5 of
the statement would be
better if it were less
emphatically drafted, just

LRT: SECTION 49 CHALLENGE

Today's E(A) considered my Secretary of State's paper E(A)(85)4 (London Regional Transport: Options Following High Court Judgment on Section 49 Challenge). This paper was circulated not only to E(A) members, but, under cover of a letter of 24 January, to the Lord Privy Seal and members of L.

I understand E(A) agreed that, as my Secretary of State recommended, an urgent short Bill be introduced to recover a sum from the GLC in respect of LRT's needs for 1984/85; and that the decision to legislate should be announced immediately - in fact, tomorrow (Tuesday 29 January)-by means of an Oral Statement.

I attach a copy of a draft Statement. I would be grateful for confirmation that the Lord Privy Seal, in his capacity as Chairman of L, is content for Parliamentary Counsel to begin drafting; and I would be grateful for comments from yourself, Murdo MacLean in the Whips Office and Tim Flesher at No.10 (to whom this letter is copied) on the text of the Statement. I am also sending a copy to Richard Broadbent in the Chief Secretary's Office and to Alan Davis in the Secretary of State for the Environment's office; naturally their comments will be welcome too.

yours ever

Henry Derwent

H C S DERWENT
Private Secretary

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LONDON REGIONAL TRANSPORT: LEGISLATION ON s49

DRAFT STATEMENT BY THE SECRETARY OF STATE

1. With permission, Mr Speaker, I shall make a statement about the recent Court judgement concerning the payment of grants to London Regional Transport by the Greater London Council.
2. The Government took over responsibility for London Regional Transport on 29 June 1984, part way through the present financial year. Before we took over, the GLC had budgeted and precepted to pay grants to London Transport for the whole of 1984-85. Parliament therefore granted powers in section 49 of the London Regional Transport Act for the GLC to be directed to continue paying grants to LRT until the end of March 1985.
3. Accordingly I made a direction on 29 June 1984, on the facts known to me at that time, requiring the GLC to pay a total of £281.3 million in grants to LRT in installments up to the end of this financial year. The main factors which I had in mind in determining this figure included the GLC's decisions about revenue and capital grants to London Transport for 1984-85; LRT's financial needs for the remainder of the year, as assessed at that time; the GLC's decision that LT should lease £27 million of assets, which imposed future liabilities on LRT. This was in accordance with the Government's intentions, as I made clear during the passage of the legislation.
4. The House will be aware that my direction was subsequently challenged by the GLC, and has recently been quashed by the High Court. It is clear from the judgement that the Court took a different view of the way in which the powers under section 49 of the London Regional Transport Act should be exercised from that which I told Parliament that the

Government intended in taking the powers in the first place.

5. The effect of the judgement would be to reduce the money available to LRT by over £50m at a very late stage in the financial year. ~~Additionally,~~ ^a corresponding ^{amount} cash windfall would accrue to the GLC. The Government regards this as ^{unacceptable and} contrary to the interests of ratepayers and LRT's passengers. ~~and~~

6. After studying the terms of the judgement, I have concluded that any new direction which could be made under the existing legislation either would not accomplish what was originally intended or would be vulnerable to further legal challenge, thus failing to resolve the damaging uncertainty which now exists over LRT's financial position for 1984-85 and beyond. Nor am I confident that an Appeal would satisfactorily resolve the problems over the interpretation of section 49 which the judgement has brought to light.

7. In the circumstances the Government considers that the matter can only be settled by the authority of Parliament. I shall shortly introduce new legislation to enable Parliament to determine once and for all the amount of grant to be paid to LRT by the GLC. ^{and thereby ensure that the original purpose of}
 s 49 of the London Regional ^{Transport} Act is carried out.

LONDON REGIONAL TRANSPORT: HIGH COURT JUDGEMENT

STATEMENT BY THE SECRETARY OF STATE FOR TRANSPORT

alc
press
Policy Unit
29.1.85

1. WITH PERMISSION, MR SPEAKER, I SHALL MAKE A STATEMENT ABOUT THE RECENT COURT JUDGEMENT CONCERNING THE PAYMENT OF GRANTS TO LONDON REGIONAL TRANSPORT BY THE GREATER LONDON COUNCIL.
2. THE GOVERNMENT TOOK OVER RESPONSIBILITY FOR LONDON REGIONAL TRANSPORT ON 29 JUNE 1984, PART WAY THROUGH THE PRESENT FINANCIAL YEAR. BEFORE WE TOOK OVER, THE GLC HAD BUDGETED AND PRECEPTED TO PAY GRANTS TO LONDON TRANSPORT FOR THE WHOLE OF 1984-85. PARLIAMENT THEREFORE GRANTED POWERS IN SECTION 49 OF THE LONDON REGIONAL TRANSPORT ACT FOR THE GLC TO BE DIRECTED TO CONTINUE PAYING GRANTS TO LRT UNTIL THE END OF MARCH 1985.
3. ACCORDINGLY I MADE A DIRECTION ON 29 JUNE 1984, ON THE FACTS KNOWN TO ME AT THAT TIME, REQUIRING THE GLC TO PAY A TOTAL OF £281.3 MILLION IN GRANTS TO LRT IN INSTALLMENTS UP TO THE END OF THIS FINANCIAL YEAR. THE MAIN FACTORS WHICH I HAD IN MIND IN DETERMINING THIS FIGURE INCLUDED THE GLC'S DECISIONS ABOUT REVENUE AND CAPITAL GRANTS TO LONDON TRANSPORT FOR 1984-85; LRT'S FINANCIAL NEEDS FOR THE REMAINDER OF THE YEAR, AS ASSESSED AT THAT TIME; AND THE GLC'S DECISION THAT LT SHOULD LEASE £27 MILLION OF ASSETS, WHICH IMPOSED FUTURE LIABILITIES ON LRT. THIS WAS IN ACCORDANCE WITH THE GOVERNMENT'S INTENTIONS, AS I MADE CLEAR DURING THE PASSAGE OF THE LEGISLATION.
4. THE HOUSE WILL BE AWARE THAT THE DIRECTION WAS SUBSEQUENTLY CHALLENGED BY THE GLC, AND HAS RECENTLY BEEN QUASHED BY THE HIGH COURT. IT IS CLEAR FROM THE JUDGEMENT THAT THE COURT TOOK A DIFFERENT VIEW OF THE WAY IN WHICH THE POWERS UNDER SECTION 49 OF THE LONDON REGIONAL TRANSPORT ACT SHOULD BE EXERCISED FROM THAT WHICH I TOLD PARLIAMENT THAT THE GOVERNMENT INTENDED IN TAKING THE POWERS IN THE FIRST PLACE.

5. THE EFFECT OF THE JUDGEMENT WOULD BE TO REDUCE THE MONEY AVAILABLE TO LRT BY OVER £50M AT A VERY LATE STAGE IN THE FINANCIAL YEAR. A CORRESPONDING AMOUNT WOULD ACCRUE TO THE GLC. THE GOVERNMENT REGARDS THIS AS CONTRARY TO THE INTERESTS OF RATEPAYERS AND LRT'S PASSENGERS.

6. AFTER STUDYING THE TERMS OF THE JUDGEMENT, I HAVE CONCLUDED THAT ANY NEW DIRECTION WHICH COULD BE MADE UNDER THE EXISTING LEGISLATION EITHER WOULD NOT ACCOMPLISH WHAT WAS ORIGINALLY INTENDED OR WOULD BE VULNERABLE TO FURTHER LEGAL CHALLENGE, THUS FAILING TO RESOLVE THE DAMAGING UNCERTAINTY WHICH NOW EXISTS OVER LRT'S FINANCIAL POSITION FOR 1984-85 AND BEYOND. NOR AM I CONFIDENT THAT AN APPEAL WOULD SATISFACTORILY RESOLVE THE PROBLEMS OVER THE INTERPRETATION OF SECTION 49 WHICH THE JUDGEMENT HAS BROUGHT TO LIGHT.

7. IN THE CIRCUMSTANCES THE GOVERNMENT CONSIDERS THAT THE MATTER CAN ONLY BE SETTLED BY THE AUTHORITY OF PARLIAMENT. I SHALL SHORTLY INTRODUCE NEW LEGISLATION TO ENABLE PARLIAMENT TO DETERMINE ONCE AND FOR ALL THE AMOUNT OF GRANT TO BE PAID TO LRT BY THE GLC IN 1984-85, AND THEREBY ENSURE THAT THE ORIGINAL PURPOSE OF SECTION 49 OF THE LONDON REGIONAL TRANSPORT ACT IS CARRIED OUT.