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Option - do absolutely nothing

PRIME MINISTER

Prime Minister

David's note below aptly summarizes a complicated point regarding your pension (and the Speaker's and Lord Chancellor's). David recommends that these pensions should not be brought within the terms of the new legislation. The Treasury agree (Flag B). Do you?

N.L.W.
14.1

Yes

10 January 1986

SOCIAL SECURITY BILL: SPECIAL STATUTORY PENSIONS

A

John Biffen has uncovered a constitutional curiosity and written you an incomprehensible note about it.

The Issue

Norman Fowler's Social Security Bill will give everyone with a contract of employment a right to a personal pension. Legislation is planned for the 1986-87 Session to amend the Parliamentary Pensions Act 1972 so as to provide such a right for MPs and Ministers. Arrangements for Ministers to pay Additional Voluntary Contribution (AVCs) also need to be introduced. John Biffen is asking whether the special pensions paid to former Prime Ministers, Lord Chancellors, and Speakers of the House of Commons, should be covered by this amending legislation.

Two options

Option 1. Do absolutely nothing. Despite John Biffen's suggestion to the contrary, Norman Fowler's Bill doesn't cover these three posts, as there is no contract of employment. At the most, the regulation listing exclusions from the AVC rules might need to refer to the special statutory pensions. The amendments to the Parliamentary scheme need not cover them.

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Option 2. Ensure that the amendments to the Parliamentary pension scheme also cover Prime Ministers, Lord Chancellors and the Speaker, so they have a right to a personal pension instead of the special statutory one. This would require considerable changes to the present arrangements, as they are not like conventional pensions (full entitlement, for example, accrues on the first day of service). It would be very difficult to build in AVCs.

Conclusion

I recommend Option 1 - doing nothing. People may comment on the fact that the right to opt for a personal pension doesn't apply to these three posts. But the reply is that these are not conventional pensions in anything other than name. Legislation trying to treat them like normal pensions would be unnecessarily complicated and artificial.

There are obvious problems of propriety in policy decisions affecting your own pension. A further argument in favour of Option 1 is that it leaves your personal position completely unaffected.

David Willetts

DAVID WILLETTS

CC B/G

LORD PRIVY SEAL

PRIME MINISTER

SOCIAL SECURITY BILL

We have agreed that the new regime for occupational pensions to be introduced in Norman Fowler's Bill should apply to public service schemes, including the Parliamentary scheme, for which I am responsible.

In addition, we need to consider how this should affect the special statutory pensions for former holders of the offices of Prime Minister, Speaker of the House of Commons and Lord Chancellor. These are different in several important respects from the pension schemes to which Norman's Bill is directed.

The special statutory pensions are paid regardless of length of service, immediately on leaving office, as a fixed proportion of salary. They originated long before the parliamentary scheme itself, and are intended primarily to preserve the dignity of the offices by ensuring that office-holders are not seen to suffer hardship in retirement. This intention is incompatible with the nature of personal pensions, in which benefits accrue with length of service, and which must necessarily involve some risk that the performance of investments will result in poor provision. Furthermore, the form of the special statutory pensions makes it difficult to provide for additional voluntary contributions, since the limits on such contributions are derived from Inland Revenue rules which are based on normal pensions schemes.

Whatever we do involves special provison for these pensions under the regime we will introducing, and it seems to me that the new requirements are less appropriate to them.

If you are content, therefore, I propose to ask Norman to exclude these special Parliamentary pensions from the scope of his Bill. I hope it will not be necessary to make this explicit in the Bill itself although I envisage we shall have to make our intention clear during the passage of the Bill. This is much the simplest course, and my view is that it can be amply justified by reference to the unique nature of these payments.

I am sending copies of this minute to Quintin Hailsham and Bernard Weatherill.

WJB

WJB

9 January 1986

PERSONAL AND CONFIDENTIAL

file

BM2ABJ

10 DOWNING STREET

From the Principal Private Secretary

10 January 1986

SOCIAL SECURITY BILL

I attach a minute which the Lord Privy Seal has sent to the Prime Minister about the effect on the pensions of the Prime Minister, Speaker and Lord Chancellor of the new regime for occupational pensions which will be brought about by your Secretary of State's Bill. I should be grateful if your Department could let me have, in consultation with the Treasury, a short note which explains (in as simple language as possible!) the precise effect of your Secretary of State's Bill on these pensions, why this causes difficulty and what needs to be done to meet that difficulty.

I am sending a copy of this letter to Mike Norgrove in the office of the Minister of State, Treasury (whom I understand has been consulted by the Lord Privy Seal on this matter) and to David Morris (Lord Privy Seal's office), but not, at this stage, to the offices of the Lord Chancellor or the Speaker. I should be grateful if recipients could arrange for it to be handled with due security in view of the rather private nature of the matter concerned.

Please could I have advice quickly.

(N.L. WICKS)

Tony Laurance, Esq.,
Department of Health and Social Security

PERSONAL AND CONFIDENTIAL

Spps

Treasury Chambers, Parliament Street, SW1P 3AG

N L Wicks Esq
Principal Private Secretary
10 Downing Street
LONDON SW1.

14 January 1986

Dear Nigel,

SOCIAL SECURITY BILL

You wrote to Tony Laurance on 10 January about the minute from the Lord Privy Seal to the Prime Minister dated 9 January. It has now been agreed that the Treasury should provide the advice you requested.

In order to bring it into line with the new requirements set out in the Social Security White Paper, the parliamentary pensions legislation is to be amended by legislation in the 1986-87 session to allow MPs and Ministers to opt for personal pensions instead of the parliamentary scheme. However, because the pensions for the Prime Minister, Speaker and Lord Chancellor are very different from normal pension schemes, principally in that they provide for a fixed level of pension regardless of service, it would be inappropriate to allow them the same facility. For example, since the full statutory pension becomes payable after as little as one day's service, it would be necessary for any option in favour of a personal pension to be exercised once only, on the first day of holding office. A further reason for considering the option inappropriate is mentioned in the Lord Privy Seal's letter: that these pensions were instituted to prevent former office-holders from suffering poverty in old age, and this intention is not fully compatible with pension benefits geared to length of service, and with the risks involved in personal pension provision.

Similar considerations apply in the case of additional voluntary contributions (AVCs). The requirement which will apply to other schemes is to allow AVCs up to the maximum allowed within Inland Revenue limits. The nature of the special parliamentary pensions means that they do not conform to the pattern of schemes approved by the Inland Revenue, and cannot therefore be treated in the same way.

Tam

I am advised that because of the way in which the Social Security legislation is being drafted, a decision not to allow these office-holders the opportunity to choose a personal pension, or to make AVCs, would not require explicit provision either in the Bill or in the regulations made under it. On pensions, the Social Security Bill will provide that, subject to exceptions in regulations, no contract of service can require the employee to belong to a particular pension scheme. This will not affect the special parliamentary pensions, because the office-holders concerned are not employed under a contract of service. On AVCs, regulations will exempt all public service schemes because they do not have to obtain tax approval. Other public service schemes will be amended where necessary to allow AVCs.

The Minister of State's advice, therefore, is that special provision should not be made to allow these office-holders to choose personal pensions or make AVCs. If criticism were to arise that the Prime Minister was not applying her own principles on pensions to herself, he agrees with the Lord Privy Seal that it could be sufficiently answered by reference to the unique purpose and nature of the special parliamentary pension. Indeed, it is doubtful whether the provision for the Prime Minister, Speaker and Lord Chancellor is strictly a pension at all, in relation to the common basis on which pensions are calculated.

Copies go to Tony Laurance and David Morris.

Yours ever,

Mike Norgrove

M W NORGROVE
Private Secretary

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10 DOWNING STREET

From the Principal Private Secretary 15 January 1986

Social Security Bill

The Prime Minister has seen the Lord Privy Seal's minute of 9 January and the letter of 14 January from the Private Secretary to the Minister of State, Treasury, about the conclusions for the special statutory pensions for the holders of the offices of Prime Minister, Speaker of the House of Commons and Lord Chancellor.

The Prime Minister agrees with the advice of the Minister of State, Treasury, that special provision should not be made in the forthcoming social security legislation to allow these office holders to choose personal pensions or make Additional Voluntary Contributions (AVCs) for the reasons described in Mike Norgrove's letter of 14 January. The Prime Minister's firm view is that nothing should therefore be done.

I am sending a copy of this letter to the Private Secretary to the Lord Chancellor, but not to the Speaker's Private Secretary. Could I leave it to you to tell the Speaker of the Prime Minister's views?

A copy of this letter also goes to the Private Secretary of the Minister of State, Treasury, and the Secretary of State for Social Services.

N.L. WICKS

David Morris, Esq.,
Lord Privy Seal's Office.

CONFIDENTIAL

FROM:

THE RT. HON. LORD HAILSHAM OF ST. MARYLEBONE, C.H., F.R.S., D.C.L.

cc DG

HOUSE OF LORDS,
LONDON SW1A 0PW

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NW

Lord Privy Seal

Social Security Bill

I have seen a copy of your minute of 9th January and of those of 14th January from the Private Secretary to the Minister of State, Treasury and of 15th January from the Principal Private Secretary to the Prime Minister. I agree that there is no point in granting the Prime Minister, the Lord Chancellor or the Speaker an option for a personal pension, since their occupational pensions do not depend on length of service. I am therefore content for my office to be exempted from the provisions of Norman Fowler's forthcoming Bill.

at Flap.

Copies of this minute go to the Prime Minister, the Speaker, the Secretary of State for the Social Services and the Minister of State, Treasury.

H: of St M.

20th January, 1986

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