

SUBJECT

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NOTE OF A MEETING HELD AT 10 DOWNING STREET ON WEDNESDAY 3 FEBRUARY 1982
 AT 4.45 PM TO DISCUSS THE GREATER LONDON COUNCIL (GLC) AND LONDON TRANSPORT (LT)

Present

The Prime Minister

Home Secretary

Secretary of State for
the Environment

Chief Secretary,
Treasury

Lord President

Secretary of State for
Transport

Attorney General

Mr J R Ibbs (Central
Policy Review Staff)

Sir Robert Armstrong

Mr D J Bostock

The meeting discussed a minute of 29 January from the Secretary of State for Transport, a letter of 2 February from the Secretary of State for the Environment and a letter of 3 February from the Attorney General about the GLC's policy towards London Transport fares in the light of the House of Lords' judgement on its cheapofares policy.

The Secretary of State for Transport said that when the Ministerial Committee on Economic Strategy had last discussed the implications of the House of Lords' judgement (E(82)1st Meeting) it had appeared that the GLC had approved LT's proposals that its fares should be doubled from 21 March. Following the Committee's discussion and in the light of the Attorney General's advice he had written on 14 January to Mr Livingstone, the leader of the GLC, to say that in the Government's view there was no legal requirement for further fare increases during the year. It was now unclear whether the GLC had fully approved LT's budget; and they appeared now to take the view that the increased fares and reduced services planned for 21 March would not be enough to comply with the Law Lords' interpretation of the Transport (London) Act 1969. Under the block grant system London, as a local authority with high rateable resources, lost grant as its expenditure increased



even at reasonable levels of expenditure at or below its grant related expenditure assessment. Any subsidy payment at all from the GLC to LT would thus reduce London's Rate Support Grant (RSG). Drawing on advice from Leading Counsel, the GCL argued that their fiduciary duty to the ratepayers, on which the House of Lords' decision had partly turned, required them to maximise RSG and minimise rate precepts, irrespective of whether loss of grant occurred through penalties or through the negative marginal rates of grant which were a basic feature of block grant so far as London was concerned. They seemed to take the view that they would need therefore to require LT soon to increase its fares by a further 50 per cent above the level planned for 21 March (ie 3 times the present level), further to reduce services and cut back concessionary fare schemes. Further fare increases and service reductions of this order would be damaging to London's economy, would have undesirable social consequences and would make industrial action by unions representing London Transport staff more likely. It would be difficult to ensure that the blame continued to fall on the GLC rather than the Government. It was far from clear what would happen next. The GLC needed to decide their own budget on 16 February in order to fix a rate precept for 1982-83; it was possible that they would reach a final decision on LT's budget on 12 February. They might however fail to reach responsible decisions in time. The Government might therefore be forced as an interim measure to step in and take effective control of LT from the GLC.

The Attorney General said that he had read the Opinion of Counsel for the GLC and the joint Opinion of Counsel for the GLC and the London Transport Executive enclosed with the Secretary of State for the Environment's letter of 2 February. In his opinion Counsel for the GLC placed an unduly restrictive interpretation on the House of Lords' judgement. He did not consider that any court would upset the LT 1982 Revised Budget on either of the grounds which had led the House of Lords to rule that the GLC's cheap fares policy was unlawful: that the GLC power to pay grant for any purpose to LT enabled them to give revenue support only to the extent that it was not practicable for LT to avoid a deficit; and that in considering the use of their grant-making power the GLC must have regard to their fiduciary duty to hold a fair balance between ratepayers and users of LT. This was on the assumption that the Government would legislate, as the Ministerial Committee on Economic Strategy had decided, to enable the GLC to subsidise



concessionary fares and to permit LT to borrow for up to five years to finance the deficit it had accumulated from the cheap fares policy. The GLC's approval of the Revised Budget need not be conditional upon any further increase of fares during the current year. He could not accept the argument that the GLC would be in breach of their fiduciary duty to their ratepayers if they allowed expenditure on revenue support to LT to lead to a loss of block grant and did not increase fares beyond the 100 per cent increase proposed to a level which maximised revenue. The fiduciary duty required that the authority must do its best to reduce the burden falling upon the ratepayers. It did not require the authority to relieve the ratepayer from all of the burden. A fair balance must be struck.

The following were the main points made in discussion:-

- a. There could be no question of changing the block grant arrangements so that subsidy payments to LT would not reduce GLC's entitlement to RSG. Negative marginal rates of grant were an integral part of the block grant system and affected a good many authorities besides the GLC.
- b. The Opinion attached to the Attorney General's letter of 3 February, which was generally in line with the advice of Counsel to the London Transport Executive, should be made available to all members of the GLC: there were precedents for disclosing Law Officers' Opinions outside Government. The Opinion would effectively remove the danger that members of the GLC would risk being surcharged unless they required LT to introduce higher fare increases and greater cuts in services than those already planned for 21 March. The District Auditor would not recommend a surcharge against the advice of the Attorney General; not was it likely in the circumstances that anyone else would seek to argue in the courts that the GLC were breaking the law. The Government could not force the GLC to follow the Attorney General's advice; but if the Council disregarded it, and sought further fare increases and service reductions, it would be clear that they were acting from political spite and not from a cautious respect for the law.



- c. Without a change in the law the GLC could not be forced to approve LT's budget. LT could seek a declaration from the courts on whether their proposals for fares and services would comply with the law as interpreted by the House of Lords; and they were already considering trying to obtain a writ of mandamus to require the GLC to carry out its statutory obligation to approve LT's budget; but it was unlikely that the courts would wish to issue an order against the GLC which could not be enforced. On the other hand it was on balance unlikely that the GLC would not approve LT's proposals for fare increases and service reductions to take effect on 21 March; or that they would delay setting their own budget and thus be unable to fix a precept in the usual way. Members of the Council would risk being surcharged if they did not approve LT's proposals, while it was unlikely that the GLC would be so irresponsible as to put in doubt their ability to raise a precept and thus continue in normal operation in 1982-83. There would probably however be complicated political manoeuvring within the GLC. The Conservative members of the Council and the more moderate Labour members would probably wish to approve LT's budget. Neither group would however wish to be seen to put down an appropriate motion; and the Council's Conservative members would want to avoid being forced into a position where they could be blamed for doubling LT's fares.
- d. If control over LT were removed from the GLC there would be little point in keeping the Council in existence at all. Its other functions could be absorbed by the London boroughs. Legislation to abolish the GLC or drastically to reduce its role so soon after the election of a Council which was hostile to the Government would however look like an act of vindictiveness on the Government's part. Any legislation should therefore be more limited in scope, probably requiring the GLC to approve LT's budget and pay subsidy. Such legislation would be contentious and difficult to get through Parliament by the beginning of the 1982-83 financial year.



The Prime Minister, summing up the discussion, said that the meeting agreed that the Attorney General's Opinion should be made available to all members of the Greater London Council. On balance it was likely that the Council would approve LT's budget; and that they would settle their own budget by 16 February and fix a precept in the usual way. LT's budget was unlikely to be approved without support from Conservative members of the GLC: they should be reminded that they too might face the risk of surcharge if the budget were not approved. If, notwithstanding the Attorney General's Opinion, the GLC insisted on fares increases and service reductions more severe than those already proposed by LT, the Government could argue with conviction that the Council were not interpreting the House of Lords' decision in a reasonable way and were acting from political motives. Against the possibility that the GLC might not approve LT's budget or otherwise failed to act in a reasonable manner the Secretary of State for Transport should work up urgently proposals for legislation which would require the GLC to approve LT's budget and to pay subsidy to LT: he would need to ensure that there was no chance that the legislation would be hybrid. Ministers might need collectively to consider their policy towards the GLC and LT again, depending on what decisions the Council took over the next fortnight.

The Meeting -

1. Invited the Secretary of State for Transport:
 - i. to arrange for the Opinion attached to the Attorney General's letter of 3 February to be sent to all members of the Greater London Council.
 - ii. To arrange for his officials, in consultation as necessary with those of other Departments, to develop proposals for legislation on the lines indicated in the Prime Minister's summing up.
2. Invited the Secretary of State for Transport, in consultation with the Secretary of State for the Environment, to discuss the problem of LT fares with Conservative members of the GLC on the lines indicated in the Prime Minister's summing up.



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10 DOWNING STREET

From the Private Secretary

5 February, 1982.

Greater London Council and London Transport

The Prime Minister held a meeting on Wednesday afternoon to discuss recent developments in relation to the GLC and London Transport.

I attach a record of the meeting.

I am sending copies of this letter and its enclosure to John Halliday (Home Office), David Edmonds (Department of the Environment), Terry Mathews (Office of the Chief Secretary), David Heyhoe (Lord President's Office), Jim Nursaw (Law Officers' Department), Gerry Spence (CPRS) and David Wright (Cabinet Office).

M. C. SCHOLAR

Anthony Mayer, Esq.,
Department of Transport.

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