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QUEEN ANNE'S GATE LONDON SW1H 9AT

13 January 1984

D. Patrick,

(Handwritten initials and '16/1')

ABOLITION PAVING BILL

Thank you for your letter of 9 January.

Handling the Bill is primarily a matter for you, and I am content, therefore, to leave you to decide how to deploy the affirmative resolution device and provide for the reinstatement of elections.

On recallability, I do not feel there is any real gap between us at present, or on other features of our approach to joint boards. For example, I do not think that I would wish to object to requiring joint boards to consult boroughs and districts before fixing precepts. My point on recallability was simply that it seems sensible to ensure that our enthusiasm for some of its advantages do not lead us to lose sight of its disadvantages: making joint boards dependent on boroughs and districts could undermine their efficiency. As you say we should look at all this again in the light of responses to the White Paper.

I am circulating copies of this letter as before.

(Handwritten initials)

The Rt Hon Patrick Jenkin, MP

Local Govt: Relations Pt 18

CONFIDENTIAL



NBPM AT 9/1

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

9 January 1984

Dear Leon,

ABOLITION PAVING BILL

Thank you for your letter of 22 December.

I am attracted to your suggestion that we should make the Paving Bill commencement Order subject to affirmative resolution. We shall no doubt need to make some concessions as the Bill goes through Parliament, and I suggest that we keep this proposition for that purpose.

Your agreement that we should make provision for the reinstatement of the elections by order is welcome. However, it seems to me that the machinery you propose here could carry the unfortunate implication that the elections could be required but are being stood down as a temporary expedient. My preferred approach, therefore, would be to cancel the 1985 and subsequent elections, but provide for their reinstatement by order in the unlikely event of that being necessary. This seems to me to underline our commitment to abolition whilst enabling us to give the necessary assurance to Parliament that the passing of the Paving Bill will not involve any irreversible decisions.

I have noted your concern about members of transitional councils and joint boards being recallable at will. You are, of course, right in saying that it is a basic principle that the joint boards will have separate corporate status and therefore be responsible for their own decisions. On the other hand, the power to make the appointments and recall the appointees is undoubtedly going to be a powerful weapon in the hands of the boroughs and districts. Irwin Bellwin spelt out the position recently in response to questions on the point from Ted Graham (copy attached).

As you are no doubt aware, much of the criticism of our proposals has been directed at the joint boards, in particular, at their alleged remoteness and lack of accountability. We have yet to receive the bulk of the responses to the White Paper, but my guess is that we shall be pressed hard to strengthen the links between the joint boards and the authorities. In this situation we shall have to stress the importance of recallability, and I would not rule out the need for other measures. I am thinking, for example, of a requirement to consult the boroughs and districts before fixing a precept, as Keith Joseph has proposed in his consultation paper on ILEA.

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I shall be in touch with you again on this and other issues when we have received and collated the responses to the White Paper. Meanwhile, any suggestions you and other colleagues may have on strengthening accountability would be welcomed.

/ I am copying this letter to the recipients of yours.

Yours ever
Patric

PATRICK JENKIN

CONFIDENTIAL

NBPN AT 22/12



QUEEN ANNE'S GATE LONDON SW1H 9AT

22 December 1983

R Patrick

CONTENT OF ABOLITION PAVING BILL

I write to offer some comments on Irwin Bellwin's letter to you of 12 December.

I agree that the Paving Bill should include a provision bringing it into force by Order made by Statutory Instrument, and that you should give an undertaking, perhaps on Second Reading, that the Order would not be made until the main Abolition Bill had been given its Second Reading. To draw attention to the significance of the undertaking you may like to consider that the Order should, exceptionally, be subject to affirmative resolution procedure, and that the resolution should be taken immediately after the Commons vote on the Second Reading of the main Bill.

On the second electoral point, I agree that power should be provided to reinstate the elections by Order in case the abolition proposal fails after Second Reading of the main Bill. One way of covering all possible time-scales would be a power for the Secretary of State to make provision for a whole council election before or after the appointed authorities have taken over on a date to be fixed by him. The term of office of the councillors elected at such an election would then presumably come to an end in 1989 when ordinary County Council elections would fall to take place under existing provisions.

On the Local Government Boundary Commission's review of county electoral arrangements, I agree that the Paving Bill should include a provision specifically discharging the Commission from its statutory obligation to continue with the outstanding Metropolitan County reviews until 1 April 1986. Incidentally, the references in Irwin Bellwin's letter to the reviews of "electoral boundaries" should, of course, be to "electoral arrangements", of which the boundaries of electoral areas are merely a part.

I notice that Irwin Bellwin proposed that the members of transitional councils should be recallable at will, suggesting that this would emphasise their accountability to District Councils. Similar advantages were claimed in the briefing document enclosed with your letter of 8 December for the decision we took in September that joint board members should be recallable in the same way. Whilst I would not wish to argue that the facility should not be extended to the transitional councils, I hope we will be careful about what we say on accountability. The joint boards will not be accountable in any legal sense to the District Councils: they will have a separate corporate status and their members will not be merely district delegates. I appreciate why you and Irwin wish to make the joint boards attractive to districts, but it would seem wrong to exaggerate the position now lest the districts feel let down in the event. It would not be right for a decision we took in September with the primary object of facilitating the maintenance of political balance on boards to be converted into a mechanism for subverting

The Rt Hon Patrick Jenkin, M.P.

CONFIDENTIAL

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- 2 -

their efficiency. This suggests particular care will be necessary at the drafting stage to ensure that we can maintain all our objectives, and I am sure you will understand why I feel I should reserve the right to comment further in this area if developments suggest it is necessary.

I am copying this letter to colleagues in MISC 95, to the Prime Minister, to the Chief Whip and to Sir Robert Armstrong.

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Local Govt
Relations
pt 18

22 DEC 1985

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NBPM
AT 13/12 AT to write

Minister of State
for Local Government

Department of the Environment
2 Marsham Street London SW1

Telephone 01-212 3434

12 DEC 83

Sean Patrick,

CONTENT OF ABOLITION PAVING BILL

A number of points have arisen on the Paving Bill on which I should welcome the views of colleagues.

It is important that the Paving Bill should not anticipate the main Abolition Bill. I propose that we should meet this point by making implementation of the election provision subject to a commencement order and that we should give an assurance that the commencement order will not be made until after second reading of the main Bill. An alternative would be to specify that the commencement order shall not be made until after, say, 1st January 1985. But any date of this kind could be attacked by the Opposition (on the basis that there is no certainty that second reading of the main Bill would have taken place by that date). It would be preferable, therefore, to give an assurance to the House, that we will not make the order until after second reading. To meet the possibility that the abolition proposal might fail after second reading (and either before or after the transitional councils have come into being), I propose to provide that the elections can be reinstated by order. Such an order would need to be subject to affirmative resolution, as amendment of primary legislation would be involved.

Two issues arise on the appointment of members of the transitional councils. Some Labour authorities are threatening not to appoint members. To meet this point, I think we must place a duty on the authorities to make the appointments and if they refuse to do so, they would then be liable to legal challenge. If Labour members were unwilling to serve, the courts would be unable to compel them to do so but, except in Tyne and Wear and South Yorkshire, there should be enough appointees from other parties to fulfil the one quarter quorum requirement. We could also have the option of legislating in the main Abolition Bill, to provide for the Secretary of State to make the appointments. Such a reactive approach would be in line with the general policy we are adopting on obstruction to both abolition and rate limitation.

A further problem is that some authorities may appoint members who deliberately fail to attend meetings, on such a scale that it proves impossible to achieve the one-quarter quorum. In time this would lead to a breakdown in the council's services. We could then have no choice but to intervene and to appoint Commissioners.

We have already agreed that appointments to the transitional councils must reflect party balance on the appointing authority. I think this means that appointees must be recallable at will. This has the added advantage of emphasising accountability to the lower tier.

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Three issues, unconnected with the elections and information provisions have arisen on which it would be highly desirable to legislate in the Paving Bill. The attached note sets out the details. The proposed legislation on the Greater London Development Plan and on the Local Government Boundary Commission review of county electoral boundaries, would prevent abortive work. None of the provisions proposed would pre-empt the decisions on abolition, since we could easily revert to the original position if abolition failed. I should like colleagues agreement to the inclusion of these measures in the Paving Bill.

I am copying this to colleagues in MISC 95, to the Prime Minister, the Chief Whip and Sir Robert Armstrong.

Jw

LORD BELLWIN

MISCELLANEOUS PROVISIONS FOR INCLUSION IN PAVING BILL

Reservoirs Act 1975

1. The Reservoirs Act 1975, which is intended to improve the safety of reservoirs, has yet to come into operation. Earlier this year, the Government gave an undertaking in the House of Lords that the Act would be implemented as soon as possible. However, the effect would be to transfer to the upper tier responsibilities at present undertaken by the boroughs/districts. In the metropolitan areas, these responsibilities would have to be transferred back to the lower tier at abolition. The 1975 Act cannot be brought into force in the shire counties only.

2. It is desirable to honour the earlier undertaking, without temporarily adding to the abolition authorities' responsibilities. The Paving Bill should therefore make provision to enable the 1975 Act to be brought into force throughout England and Wales, except in the abolition authorities' areas. The main abolition Bill would then apply the Act in these areas placing the responsibilities on the boroughs and districts. The Paving Bill provision would not, therefore, be prejudging abolition.

Greater London Development Plan

3. The GLC has made it clear that it intends to submit formal amendments to the GLDP, probably by Summer 1984. DOE lawyers advise that the Secretary of State would have to consider the amendments in a proper manner or run the risk of a successful challenge. To do so would involve considerable abortive work for DOE staff in processing the amendments. It is, therefore, desirable to make provision in the Paving Bill to enable the Secretary of State to postpone consideration of the amendments until after 1st April 1986. The provision would not pre-empt the abolition decision and, if the abolition Bill failed, the Secretary of State could consider the proposals at any time but must do so after 1st April 1986.

Review of Metropolitan County electoral boundaries

4. The Local Government Boundary Commission are under a statutory duty to review the electoral boundaries in all counties. In the metropolitan counties only one review has been completed (West Midlands)

and in one (West Yorkshire) draft proposals have been published. In accordance with the statutory duty imposed on them, the LGBC are about to review the remaining metropolitan counties. Ministers have no statutory powers to halt or defer the reviews, nor have the LGBC any powers to defer them of their own accord.

5. There is a substantial risk that legal proceedings could be successfully instituted by an abolition authority, seeking to embarrass the Government, to ensure that the statute was obeyed. But proceeding with the reviews would be a waste of resources. It is therefore desirable to make provision in the Paving Bill suspending the requirement on the LGBC to conduct the reviews in these areas, until after 1st April 1986. If the main Bill failed the reviews could then recommence after that date.

14 DEC 1983

