

FROM:

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



HOUSE OF LORDS.

LONDON SW1A 0PW

1 July 1986

CONFIDENTIAL

The Right Honourable
The Secretary of State
for Scotland
Dover House
Whitehall
LONDON
SW1A 2AU

W. H. M.

Dear Malcolm:

Paying for Local Government

I have seen your paper E(LF)(86)4. My departmental concern on this subject lies in the arrangements for definition of liability and subsequent enforcement. I raise the matter now, in advance of the meeting of E(LF) on 3 July, because eventual decisions about England and Wales will inevitably be influenced by those taken in relation to Scotland.

In my view it is important to limit as far as possible the impact on the courts of the sanctions supporting the obligations proposed. The potential volume of infringements is very great. A duty on individuals to register themselves or to ensure their own registration would cover the whole adult population. Alternatively, the number of "responsible persons" who might be obliged to provide information would itself be a high proportion of the total adult population. I bear in mind too that much will depend on the enforcement policies of local authorities, which are beyond direct control.

I assume that any new criminal offences would be triable only summarily. But even so the implications for the Crown Court of any large volume of appeals from the Magistrates would be serious even given the extra financial provision which I would undoubtedly require. In detail, much would turn on the precise nature of the offences and possible defences but I understand that Home Office and Department of the Environment officials are doubtful about the feasibility in England and Wales of the fixed criminal penalty system such as is proposed for Scotland and, I suggest a far greater degree of activity on enforcement must be expected than, for instance, with offences relating to electoral registration. My officials have not yet been supplied with any realistic assessment of the potential volume of appeals but such is the potential scale that I must for the moment draw to notice the implications for the Crown Court if we were pressed to adopt a similar approach to that proposed for Scotland.

/On the alternative

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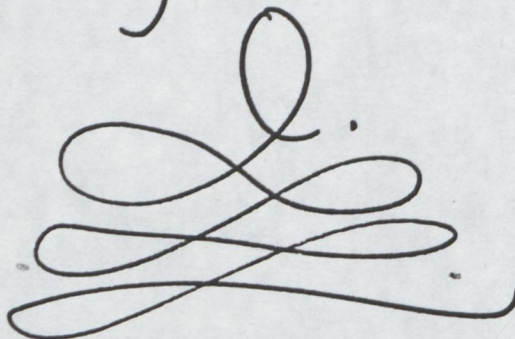
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On the alternative of civil sanctions, it would be similarly important to limit the impact of any appeals to the Lands Tribunal, if that were to be involved.

Whether sanctions were criminal or civil, there would also clearly be potential implications for legal aid as well as court service expenditure, for both of which I would need substantial additional provision when we came to pursue these matters in England and Wales.

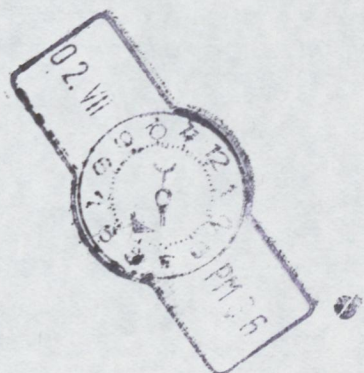
I copy to other Members of E(LF) and to Sir Robert Armstrong.

yrs:

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

From: THE RT. HON. LORD HAILSHAM
OF ST. MARYLEBONE CH. FRS. DCL

CONFIDENTIAL



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

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HOUSE OF LORDS,
LONDON SW1A 0PW

3 July 1986

The Right Honourable
The Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1

N BOM

My dear Willie:

Paying for Local Government

Since my letter of 1 July, to Malcolm Rifkind, I have seen Douglas Hurd's letter of 30 June to you.

As you know, my letter of 1 July was primarily concerned with potential pressures on and resource implications for the court service in England and Wales. Nevertheless, I very much agree with the points of principle Douglas makes. In particular, we would be open to severe criticism for allowing forgetfulness or incompetence to result in criminal records for large numbers of people who would not generally be thought to be morally culpable.

In my view the income tax and VAT model should therefore be carefully examined.

I copy to members of E(LF), the Attorney General and Sir Robert Armstrong.

yrs:

LORD HAILSHAM OF ST. MARYLEBONE CH, F.R.S, D.C.L.

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RASBES

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