



PRIME MINISTER

EDUCATION REFORM BILL; CONSIDERATION OF LORDS AMENDMENTS

We take the Lords' amendments in the Commons on Monday and Tuesday of next week. The Government suffered seven defeats during the Bill's passage through the Lords. We intend to accept four of these without amendment: I attach details.

One of the remaining items is an amendment from Janet Young designed to require the Government to support independent British Schools in the European Community. I am speaking to her about that today. We cannot accept the thrust of the amendment but we can probably retain some elements of it. I will try and say some comforting words to her about our attitude to those schools. *I have now done this and I have agreed a suitable compromise.*

This leaves two substantial matters. The first is the ballot procedures for Grant Maintained Schools. The Lords have imposed an obligation that at least 50% of the parents should vote yes. This is an absurdly high hurdle and is unacceptable. I would much prefer simply to reject it and send it back to the Lords. However, John Belstead and Bertie Denham have made absolutely clear to me, at a very long meeting this week, that they do not believe they could command a majority for absolute rejection. I have also spoken about this with David Waddington and John Wakeham.

I have looked at possible changes. I reject completely the concept that a certain, arbitrarily decided majority of those eligible to vote should be required to be in favour for the ballot to succeed. I also reject the idea of a threshold - a requirement for a minimum turnout to validate the ballot. I

think the way through is to propose an amendment to the Lords' amendment which sets up a system of dual ballots. This would mean a ballot is taken and if 50% or more of the registered parents do not vote then another ballot is then taken within 14 days. The decision of the second ballot is final irrespective of the numbers who vote or irrespective of the size of the majority.

The advantage of this proposal is that it meets the argument that was put forward, particularly by the Churches, that a small group of dedicated parents could hijack the school. What this dual ballot means is that if there is a low turn out on the first ballot then everybody has a chance to vote again. But the second time around the majority will decide irrespective of the turnout. The ballot is of course merely a trigger: it does no more than require the governors to make an application. The subsequent decision on whether the school should become grant maintained is for me to take. We will obviously emphasise this.

There are disadvantages. The cost of the ballots - which is to be met by my Department - will be higher. And some delay will probably be inevitable. But I think the benefits outweigh these.

John Belstead, Bertie Denham and Gloria Hooper are convinced that they can sell this amendment to the House of Lords. It has the advantage that a Crossbench Peer, Lord Halsbury, put it forward originally; so we should get some support from that sector. I will be speaking in confidence to the Bishop of London, who initiated the Lords' amendment in order and to secure his acquiescence to this change.

The second issue concerns the Universities. This is the Swann/Adrian amendment which replaces the provision that the UFC may "make payments, subject to such terms and conditions as they

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think fit", to the universities, with a power for the Council "to make grants, specifying such particular obligations, and subject to such general guidance as they think fit".

The clear legal advice I have is that, as Lord Swann intended, this amendment would considerably reduce the ability of the UFC to hold the universities to account for funds they receive from the Council - to well below the threshold that could be accepted for general public accounting purposes. In particular, it would not permit the intended move to contract-based funding arrangements.

I am sure therefore that we must go back to the phrase "terms and conditions". However, we could substitute the word "grants" for "payments". These terms are legally synonymous, as the Lord Chancellor has confirmed, though we have known some policy distinction between them. This change would therefore be something of a sop to the University lobby, which is led by Max Beloff, as far as our supporters in the Lords are concerned; though it would not materially weaken our objective.

I hope that you will agree that the tactics I am proposing are the right ones if we are to achieve our overriding objective of placing the Bill on the Statute Book, with our policies intact, before the summer recess.

K.S...

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DEPARTMENT OF EDUCATION AND SCIENCE

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ANNEX

LORDS AMENDMENTS CARRIED AGAINST THE GOVERNMENT BUT WHICH CAN BE RETAINED

- (i) Lord Jenkins' amendment writing into the Bill the principle of academic freedom will not in practice undermine the effectiveness of the provisions for the removal of academic tenure;
- (ii) Lord Grimond's amendment requiring the Universities Funding Council to appoint a sub-committee to advise in relation to universities in Scotland will enshrine in statute what the UFC was bound to do in any case;
- (iii) Lady Darcy de Knayth's amendment empowering - but not requiring - LEAs to arrange non-educational provision (mainly, in practice, speech therapy) will merely return the law to what it was universally believed to have been until a fairly recent Court case. The fact that the provision is permissive rather than mandatory will mean that there are no necessary expenditure implications for LEAs; relatively few authorities are expected to wish to take advantage of it;
- (iv) the Bishop of London's amendment about the role of Diocesan Education Boards in the winding up of a grant-maintained school which was formally voluntary aided could, in principle, be troublesome in that it gives these Boards a statutory role for the first time. There will no doubt be pressure in due course for the extension of this role into other fields. However, the contingency in which the provision concerned would come into operation is so remote that there is no point in arousing unnecessary antagonism on this comparatively minor issue.