



Chancellor of the Duchy of Lancaster

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2ATPRIME MINISTER

COMPANIES BILL

PRIME MINISTER

See also the minutes from
Secretary of State for Trade
~~the Lord Chancellor~~ and the Dept
of Industry (below) MJS28/1

I chaired a meeting of Legislation Committee this morning which considered a memorandum by the Secretary of State for Trade (L(81)20) in which he sought approval for the early introduction of the Companies Bill. Some serious doubts were expressed about whether it would be wise to proceed with the Bill in its present state of preparation, and the Committee agreed that the matter should be referred to Cabinet for a final decision.

The draft Companies Bill circulated to the Committee has three main sections. It implements the EC Fourth Directive on Company Accounts, makes changes in the provisions for company and business names; including the abolition of the Register of Business Names, and makes a number of miscellaneous changes to company law designed, in particular, to deter fraud and to improve the efficiency of the companies registration office. The Secretary of State for Trade, however, told the Committee that he intended to add two sets of further provisions, first on the disclosure of interest in shares, and second, on the purchase by companies of their own shares, by way of Government amendments during the passage of the Bill through the House of Lords. It emerged from our discussion that policy agreement has not yet been obtained for the disclosure proposals, and that in neither case had instructions yet been given to Parliamentary Counsel. It is unlikely that the drafting of the new clauses can be completed before the end of February.

It was pointed out in discussion that the disclosure proposals would be highly controversial, that the sanctions suggested to enforce them might well be held to contravene the European Convention on Human Rights, and that the judiciary had not

yet been consulted on their practicability. The provisions on purchase of own shares should not be controversial, and will indeed be widely welcomed as helpful to small businesses, but they are nevertheless of major importance and will lead to considerable discussion, particularly in the Lords. Most members of the Committee felt that it would be wrong to contemplate introducing matters of such fundamental importance by way of amendments at Committee Stage in the House of Lords, and that although it had not proved possible to shorten the Bill as suggested by QL Committee, we should at least refrain from lengthening it.

The Secretary of State for Trade would be willing not to proceed with his proposals on disclosure in the present Bill, though he warned that it would be almost certain that the matter would be raised, and amendments on the subject would be put down at Committee Stage in the Lords. Both he and the Financial Secretary to the Treasury remained convinced that it was essential to include provisions on the purchase of own shares, a development which is fully in line with our policy on small businesses.

The business managers have always been worried about the implications for the legislative programme as a whole of trying to pass this long and complex Bill this Session. There have already been considerable delays in bringing the Bill forward, and their fears have been compounded by the discovery that the Bill is still incomplete, and is likely to be much more controversial, though not necessarily on party lines, than we were originally led to believe. Deleting particular provisions would shorten the Bill, but, because of the likelihood of non-Government amendments, would not necessarily reduce the amount of time needed for its consideration in both Houses.

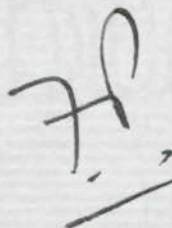
My personal view is that the delays in drafting the Bill, the continuing uncertainty about the new matters which the Secretary of State wishes to add at a later stage, the unexpectedly

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controversial nature of important parts of the Bill, combined with the other pressures on our legislative programme mean that it would now be unwise for us to risk going ahead with the Bill in the present Session. The immediate effect of postponing the Bill to the 1981/1982 Session would be to defer the savings of 90 staff by April 1982 expected from the abolition of the Register of Business Names; but the Lord President is inclined to feel that this would be preferable to adding to the already serious overloading of the legislative timetable.

If the Bill is to be introduced this Session, as the Secretary of State for Trade proposes, we shall need to move very quickly, and, with your agreement, I intend to raise the matter with colleagues under Parliamentary Affairs at tomorrow's Cabinet.

I am copying this minute to other members of the Cabinet, to the Attorney General, the Chief Whips of both Houses, to Sir Henry Rowe, and to Sir Robert Armstrong.



F.P.

28th January 1981

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Secretary of State for Industry

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28 January 1981

Clive Whitmore Esq
Private Secretary to the
Prime Minister
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Dear Clive

COMPANIES BILL

My Secretary of State is unable to attend Cabinet tomorrow but he understands that there will be discussion of the Chancellor of the Duchy of Lancaster's minute of today about the Companies Bill and in particular the inclusion of provisions on the purchase by companies of their own shares.

2 My Secretary of State has asked me to say that, had he been present, he would have argued strongly in support of the Trade Secretary's proposal that the Companies Bill should be introduced this session and that it should include provisions on the purchase by companies of their own shares. He well understands the difficulties being experienced by the business managers but he thinks the question important. The purchase by companies of their own shares would particularly benefit investment in small firms by helping outside investors to take short term holdings. The proposal has been endorsed by the Ministerial Committee on Government Strategy (MISC 14), it has been welcomed by many commentators, Ministers are publicly committed to the idea and the proposed provision is short. Omission of the provision from the Companies Bill would be resented by the small firms lobby and would expose the Government to avoidable criticism.

3 I am copying this letter to the Private Secretaries to all members of the Cabinet, to Murdo Maclean (Chief Whip) and David Wright.

Yours sincerely

Ian Ellison

I K C ELLISON
Private Secretary

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PRIME MINISTER

PARLIAMENTARY AFFAIRS, 29 JANUARY: THE COMPANIES BILL

We are to discuss the Companies Bill again at Cabinet tomorrow. It is ready for introduction and Cabinet accepted last week that it should remain in the programme. Nevertheless at Legislation Committee this morning concern was expressed by the business managers in the House of Lords that the Bill would occupy too much time during the Session. (It is common ground that it would be for introduction in the Lords.)

The Bill is necessary to achieve my staff savings target for 1 April 1982; implements an EC Directive on company accounts; and includes other useful company law provisions. My intention was to table at Committee Stage in the first House further clauses enabling companies to purchase their own shares, and tightening up the law on the disclosure of interests in shares. The Lords business managers are particularly concerned about these additions.

The Chancellor of the Duchy of Lancaster has accepted that no significant reductions can sensibly be made in the scope of the Bill - the scope of debate and of amendments on Companies Bills is not confined to what the Government itself tables. The choice is therefore between a full Bill this session or deferment, for introduction at the beginning of next Session.

In my view, deferment would not merely put back the particular staff-savings covered by the present Bill. It could also jeopardise the much larger savings (570) in my Department for

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which I shall need an Insolvency Bill in the next Session. Both these measures will be unpopular. I am reasonably confident of carrying through the companies registration savings as part of a balanced Bill this Session. I have considerable doubts whether we could get both through next Session; to attempt to do so would cause immense problems of Parliamentary and political handling. It would also mean that I should need cover to defer some of my staff savings beyond 1 April 1982.

← Of the provisions to come, purchase of own shares fulfils an important small firms policy objective and will be widely welcomed by industry and commerce. It is uncontroversial. Policy approval was given before Christmas and we have announced the intention to legislate. Dropping these provisions would be damaging politically.

| Disclosure of interests in shares falls in a different category. Action is expected in the light of episodes such as the surreptitious acquisition by de Beers of a large holding in Consolidated Gold Fields. If we do not table our own proposals the Opposition (and probably our own backbenchers) can be expected to do so. I was about to seek policy approval for what I proposed. I would however be willing to drop the idea of volunteering Government clauses if it is thought that this would contribute to the smooth passage of the Bill.

I can understand the concern of the business managers at the prospect of a long Companies Bill. But I do not think the parliamentary management problem it will pose will reflect its

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length - much of it is technical. In the long run, deferment or truncation could be counter productive.

I am copying this letter to other members of the Cabinet, the Chief Whip and Sir Robert Armstrong.

WJB

J. B.

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28. January 1981

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