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Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Malcolm Rifkind QC MP
Secretary of State for Scotland
Scottish Office
Dover House
Whitehall
London
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31 May 1989

Dear Secretary of State,

Community Charge Capping in Scotland *not*

I am grateful for your letter of 18 May and Nick Ridley's letters of 16 and 23 May.

Although I well understand your preference for avoiding charge-capping, I see this as a key strategic issue in relation to the Community Charge policy as a whole.

The fact is that three Scottish local authorities have budgeted to spend between 35 percent and 45 percent above assessed needs and three more at between 27 percent and 30 percent above assessed needs. As you yourself imply, some Scottish authorities have clearly seen introduction of the new system of local government finance as providing an opportunity to step up their spending while blaming the Government.

From a legal point of view, you have confirmed that inaction this year could prejudice action in future years. I see this as a major concern. With respect, I do not think that an announcement that inaction should not be taken as a precedent would solve the problem; and Nicholas Ridley has pointed out the particular disadvantage in making any announcement which could be taken to imply that capping would be inappropriate in the first year of the new system.

I agree of course that we must be alive to the risks of judicial review. We should not, however, in my view, allow that to deter us from acting as the situation demands. Our aim this year (as in previous years) should rather be to minimise the risks by consistency of action, both as between one year and another and as

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between individual authorities, and by punctilious observance of procedures. I note what you say about interpretation of the "excessive and unreasonable" levels of planned expenditure mentioned in the legislation. However, we have successfully rate-capped Scottish authorities in times past or brought them to the negotiating table. I believe we ought also to consider further whether the test of what is an "unreasonable" level of expenditure would have to be as exacting as that mentioned on page 2 of your letter, bearing in mind the criteria which you are required to take into account in reaching your capping decision.

At a political level, we should not in my view allow our bluff to be called by authorities who decide to spend up and blame the resulting burdens on introduction of the Community Charge. As implied in Nick Ridley's earlier letter, that would transmit a most unfortunate signal to local authorities throughout Britain.

As noted in my earlier letter, you are better placed than I to identify the options. Apart from your preferred option of no capping, however, I suspect that the main options may be to cap authorities exceeding their assessed need to spend by (a) 35% or more, (b) 30% or more, or (c) 25% or more. Also for consideration is whether you would really be justified in discounting Glasgow's European "City of Culture" expenditure and whether such treatment would make it difficult, from a political and legal point of view, to defend charge-capping other authorities. Depending on how that issue is resolved, options (a), (b) and (c) would I believe imply capping 2 or 3, 4 or 6 authorities, respectively.

I understand the sensitivity of this for you. But the reality is clear. If we do not cap severe overspenders we will send an appalling signal about our firmness of purpose on local authority spending. Whether we like it or not, we will set a precedent if we overlook this over expenditure. It will be a legal precedent in Scotland and a political precedent throughout the country. We cannot undo the precedent by saying it is not a precedent.

I continue to believe we should cap the worst overspenders and would be grateful for your further consideration. We must clearly resolve the matter urgently as time is running out.

I am copying this letter to the Prime Minister, Nicholas Ridley, Cecil Parkinson, Peter Walker, and Sir Robin Butler.

*Yours sincerely,
P. Walker*

PP JOHN MAJOR

(Approved by the Chief Secretary
and signed in his absence)

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