

CONFIDENTIAL



Prime Minister ①

Agree to these discussions with

Treasury Chambers, Parliament Street, SW1P 3AG *backbenchers*
01-233 3000

going ahead?

PRIME MINISTER

Yes

MCS 24/3

ROLE OF THE COMPTROLLER AND AUDITOR GENERAL

On 9 February E Committee invited me, in consultation with the Lord President of the Council and the Chief Whip, to discuss with Mr. du Cann the Government's position on the role of the C&AG; and to report the outcome to the Committee.

2. The Lord President and I, with the Financial Secretary, met Mr. du Cann on 5 March. On the "status" issues his position is broadly similar to ours - that the present arrangements for appointing the C&AG work well and do not need to be changed; nor do the staffing arrangements for the Exchequer and Audit Department. But Mr. du Cann made clear his continued support for the PAC's view that the C&AG should be able to follow public money wherever it goes. He sees this as a necessary part of the apparatus for controlling public expenditure, a substantial part of which is not now subject to scrutiny by the C&AG. There should be accountability to Parliament for all voted funds, irrespective of the extent of Ministerial responsibility.

3. In the course of the meeting we were not able to change Mr. du Cann's views on this main issue. But we felt that he had not fully understood the extent of the C&AG's present oversight, nor appreciated all the implications of the PAC's proposals. This is likely to be true also of many others in the House who at present oppose the Government's position. The Lord President and I therefore concluded that the best way forward would be to arrange further discussions, first with a small group of senior Conservative back-benchers, and then with

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a slightly wider group representing both sides of the House. These discussions would give us an opportunity to explain the Government's views in some depth, and thus, we hope, to widen the support for them; and the involvement of the senior back-benchers most concerned with the subject would reduce the immediate pressure in the House for the Government to make a statement.

4. We mentioned to Mr. du Cann the possibility of a meeting with representatives of both sides of the House, making clear that it was subject to the approval of colleagues. He said that he would support it, and would be willing to join in. The Lord President has also since raised the matter informally with Mr. Silkin who thought that it was the right way to proceed and would co-operate.

5. I should be grateful therefore for your agreement to these further discussions. We would set out the Government's position on the basis agreed by E Committee on 9 February. I attach a revised version of Annex A to E(82)8, which reflects the views of the Committee. Also, if the memoranda by the Secretary of State for Industry and Sir Robert Armstrong which were requested by the Committee are now circulated and agreed they could be incorporated in the exposition of the Government's approach.

6. The Lord President and I would, of course, report back to E Committee the outcome of these discussions. If we considered that any change in the Government's position was advisable, we would seek the approval of the Committee.

7. For the first meeting we have in mind to invite Mr. Peter Hordern and Sir Donald Kaberry to join Mr. du Cann. Presumably Mr. Barnett would be one of the Opposition representatives at the second, wider, meeting.

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8. The Lord President and I do not consider that there should be a formal announcement of the discussions as this would give them the wrong status. But we would be willing to acknowledge that they were in progress.

9. I am copying this minute to the other members of E Committee, the Lord President, the Chief Whip, and Sir Robert Armstrong.

G.H.

24 March 1982

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PROPOSALS CONCERNING THE COMPTROLLER AND AUDITOR GENERAL AND PAC

The Government have carefully considered the views expressed during the Debate in the House of Commons on 30 November 1981, on the Role of the Comptroller and Auditor General (C&AG).

The Government accept the principle that the C&AG should be able to follow public money wherever it goes subject only to the limits set by the extent to which Ministerial responsibility to Parliament is limited.

Under such a principle, the scope for investigation by the C&AG covers the whole of the Civil Service, and a large number of public bodies, ^{including} the National Health Service. If there are any doubts that his scope is as wide as this, the Government wish to take this opportunity to make the position abundantly clear.

The C&AG does not have access to the books of the nationalised industries, local authorities and private sector companies and individuals in receipt of Government grants or loans. The Government wish the C&AG to use his full scope to report on, and the PAC their full scope to investigate, the terms and conditions under which departments have made funds available to such bodies, whether they meet statutory requirements, and whether the terms have been complied with, and the adequacy of monitoring control arrangements and of the information available to the department.

In this important sense public money can and should be followed wherever Ministers may be held responsible for correcting any faults or weaknesses that may be discovered in the administration of the funds involved. The boundaries of the C&AG and the PAC should essentially be the same as those which limit Ministers in their relations with local authorities, nationalised industries and private companies. It is Parliament which has limited Ministers' powers in respect of such bodies, and it has effectively limited its own powers thereby. Nonetheless, in the light of the views expressed in the Debate on 30 November, the Government have re-examined the issues relating to the status of

the C&AG and the extension of his role, and they make the following proposals which can be implemented immediately under existing legislation.

Status of the C&AG and his staff

(a) Appointment of the C&AG

The Government believe that the independence of the C&AG is best preserved if he remains an office-holder under the Crown, and that as for other such appointments responsibility for advice to the Crown about the appointment of a new C&AG should remain with the Prime Minister. The Government have stated the intention, and implemented it, of consulting the Chairman of the PAC about this appointment. The Government reaffirm this intention and hope that it will become a standing convention.

(b) Staffing of the Exchequer and Audit Department

The Government share the concern of the PAC that the C&AG should have available adequate resources to carry out his responsibilities. The E&AD has been exempted from the current Civil Service manpower cuts, and is part way through a substantial five-year expansion programme, which reflects the C&AG's assessment of his requirements. The Government will continue to make the necessary provision for all reasonable plans put forward by the C&AG for staff numbers, and will take full account of any views which the PAC may wish to express about the complementing of the Department.

(c) Section 3 of the Exchequer and Audit Act 1921

The PAC accept that discretionary powers, as in Section 3(1) of the 1921 Act, to extend the range of C&AG's audit to new accounts need to be preserved in some form. The Treasury will use its powers under this sub-section only after the PAC agree that the direction should be given. The Treasury's power under Section 3(3) of the Act to arbitrate between the C&AG and departments is obsolete, and has not been used in recent times. The Treasury will not use it in future.

Audit of the E&AD

The Government accept the PAC's proposal that the Treasury should appoint auditors for the E&AD, and that their reports be laid before Parliament.

Range of C&AG and of PAC activity(a) Nationalised Industries(i) Scrutiny of Nationalised Industries' Annual Accounts

The former Select Committee on Nationalised Industries regularly held discussions with each industry. This lapsed when the Select Committee was abolished. The Government would welcome systematic Select Committee hearings on the nationalised industries. However, it would be wrong to subject the industries and their chairmen to a multiplicity of enquiries by different Select Committees. This would lead to diversion of effort and additional costs in the nationalised industries, and would be inconsistent with the commercial approach which the Government seeks to encourage. It is for Parliament to decide how in these circumstances the scrutiny of nationalised industries should be carried out. It may wish to have the advice of the Liaison Committee of Select Committee Chairmen.

The PAC proposed that they should scrutinise the nationalised industries on the basis of reports by the C&AG. The Government remain opposed to the C&AG having access to the books of the nationalised industries. This would extend his responsibilities beyond the range of Ministerial responsibility; and if Ministers were not to be put in the position of being less informed than Parliament they would need a significant increase in their staff. But if Parliament so wish, the Government see no objection to PAC hearings relating to the published annual report and accounts of the industries. The industries' sponsoring departments and their chairmen could be examined. Such hearings might be linked with any enquiries the C&AG chose to make into the monitoring and control arrangements which sponsor departments exercise over their industries. For this purpose he would have full access to information and papers available to the sponsor department concerning each industry including papers relating to the appointment of auditors to the nationalised industries, and to the form of accounts direction given by the Secretary of State. Both of these topics would be available to the PAC to investigate.

(ii) Efficiency and audits: Monopolies and Merger Commission Enquiries,

The Government consider that the arrangements for the MMC to carry out enquiries in the nationalised industries, as announced by the Financial Secretary on 30 November 1981, represent the most effective way of examining efficiency in the nationalised industries. The MMC already have the necessary skilled personnel and the experience. The Government do not, however, want these arrangements to exclude the PAC from examining the discharge of Ministerial responsibilities in respect of this work.

The Government intends that each nationalised industry will have at least one major reference every four years. The Government are willing to consult the PAC about the programme of references to the MMC. This would ensure that the PAC could play a part in deciding what efficiency audits were undertaken.7

When reports are to hand, the Government would welcome action by the PAC to assist in the follow-up to MMC reports. The Secretary of State for Trade will send a copy of each Report to the PAC Chairman. Once the industry's response to the MMC's recommendations and the Government's views thereon have been put before Parliament, the Committee will be invited to question the sponsor department, and industry Chairman, about the Report and the industry's proposals to remedy defects. (The Government do not think that it will be appropriate for the Committee to question the MMC directly on the report, since this would be incompatible with the MMC's quasijudicial role.) The PAC may also wish later to monitor the progress that has been made in implementing the industry's response to the Report. The PAC may wish to make a report, to which the Treasury and departments would respond in the normal way.

(b) National Enterprise Board (NEB)

The PAC recommended that the C&AG should have access to the books of the NEB. In preparing the legislation bringing together the NEB and the NRDC the Government will be considering the audit arrangements for the combined body. These should take account

To be offered only if necessary to achieve acceptance of the proposals as a whole.

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of the principle stated above that the field of responsibility of the C&AG and of the PAC should match that of Ministers, and of the intended nature of the work of the new body, including its involvement with private sector companies.

(c) Local Authorities

The Government disagree with the PAC substantially on this one issue. They do not consider that the PAC's proposals adequately recognise the responsibility that local authorities have to their ratepayers and electors. The Government's proposals for an Audit Commission for local authorities in England and Wales are already before the House of Commons. The reports of that Commission will be laid before the House, and the Government hope that the C&AG will participate fully in the work of the Commission.

H M TREASURY

11 March 1982

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10 DOWNING STREET

bcc John Vereker

E		
(HMT)	DTde	CDL
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DES	MOD	
DEmp	DEnv	
MAFF	NIO	

From the Private Secretary

25 March 1982

Role of the Comptroller and Auditor General

The Prime Minister was grateful for the Chancellor's minute of 24 March which recorded the latest moves in the discussions on the role of the Comptroller and Auditor General.

The Prime Minister agrees with the approach set out in the Chancellor's minute. She, in particular, agrees to the future discussions with representatives of both sides of the House, and hopes that the Lord President together with Treasury Ministers will press ahead with these so as to keep the initiative with the Government on this issue.

I am sending copies of this letter to the Private Secretaries to the other members of E Committee, David Heyhoe (Lord President's Office), Murdo Maclean (Chief Whip's Office) and David Wright (Cabinet Office).

M.C. SCHOLAR

John Kerr, Esq.,
H.M. Treasury.

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Secretary of State for Industry

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6 April 1982

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3AG

Dear Geoffrey,

ROLE OF THE COMPTROLLER AND AUDITOR GENERAL

Thank you for sending me a copy of your minute of 24 March to the Prime Minister. I agree that it would be useful for you and the Lord President to have the discussions you propose with our own back-benchers and, eventually, representatives of both sides of the House. I think it would be perfectly proper for you to draw upon the material in the two E Committee papers already circulated, but I do not think they should be shown to back-benchers in any form before the Committee itself has had an opportunity to consider them. The same reservation does not extend to Annex A to your minute which does, as you say, reflect the views of the Committee.

I am copying this as before.

Your
Pat

I would have no objection to your showing the back-benchers §§ 4, 5 and 6 of my paper E(82)27: they contain the essence of our case!

Prime Minister

(2)

Ms 2/4

From the Secretary of State

Peter Jenkins Esq
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Treasury Chambers
Parliament Street
London, SW1P 3AG

ms

1st April 1982

Dear Peter,

ROLE OF THE COMPTROLLER AND AUDITOR GENERAL

The Secretary of State has seen a copy of the Chancellor's minute of 24 March to the Prime Minister, and agrees that it would be useful for the Chancellor and the Lord President to have the discussions he proposes. My Secretary of State also thinks it would be perfectly proper for the Chancellor to draw upon the material in the two E Committee papers already circulated, but does not think these should be shown to Back Benchers before E itself has had an opportunity to consider them. The same reservation does not extend to Annex A of the Chancellor's minute. However my Secretary of State does think it most important that the square bracketed paragraph on the penultimate page, which offers Government consultation with the PAC about the programme of references to the MMC, should be excluded together with the corresponding footnote. To leave it in would, of course, betray our negotiating position.

Yours Sincerely,

J N REES
Private Secretary

2 APR 1982



Handwritten red mark, possibly initials or a signature.