File

TMP

BF 26/9/80

10 DOWNING STREET

From the Private Secretary

26 August 1980

TAX ALLOWANCES FOR MINISTERS AND MPs

The Prime Minister has seen your letter to me of 15 August and the attached legal opinions.

She has commented that she disagrees strongly with the points made by the Revenue Solicitor in the exchange with your Minister of State, Mr. Peter Rees, which were at Annex D to your letter. In her view, Ministers per se cannot vote at Westminster. Only Members can vote. A Minister cannot vote unless he is a Member, and then he votes because he is a Member. The Prime Minister thinks that the proposition that on appointment to a Ministerial post a Member's duties at Westminster become essentially Ministerial in character is nonsense.

The Prime Minister would therefore like this matter to be taken further. Unless you can suggest an alternative, I think that it will be necessary for the Treasury to seek the Law Officers' advice.

Perhaps you could let us know how you intend to proceed.

I am copying this letter for information to David Wright (Cabinet Office).

N. J. SANDERS

M.A. Hall, Esq., M.V.O.,
HM Treasury.

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10 DOWNING STREET

I discuss shortly with the Ministers & the Solicitor G. & the C.R.

PRIME MINISTER

You asked about tax relief. If what is here is the advice for Ministers. At my request we must take it the Treasury have supplied all their advice. I have flagged the most important passages, and draw your attention in particular to the section at flag X.

If you want to take it further, we could consult the Law Officers.

Do you want to do so?

MS 15/8

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

15 August 1980

N.J. Sanders, Esq.,
Private Secretary,
10, Downing Street

Dear Nick,

TAX ALLOWANCES FOR MINISTERS AND MPs

You wrote to me on 12 August about the Chancellor's minute of 11 August, saying that the Prime Minister was not clear why the consensus of legal opinion was that Ministers might not be allowed relief for that part of their Parliamentary life which required them to spend time in London as Members. You suggested that I should let you have the full text of the legal opinions on this question, drawing attention to those parts which cover the point raised by the Prime Minister.

.... I now enclose at Annexes A and B copies of Counsel's Opinion of 30 November 1979 and the Solicitor of Inland Revenue's Opinion dated 12 March 1980, to which the Chancellor referred in his minute. These do not however touch directly on the point raised by the Prime Minister, since Counsel concluded that it was not necessary to consider the position of Ministers as in their view Members were not entitled to relief either; and the Revenue Solicitor's Opinion is devoted to explaining why he disagrees with Counsel, concluding that Members are entitled to relief.

The best thing therefore is for me to send you in addition - at Annex C - copies of the Revenue Solicitor's instructions to Counsel, drawing particular attention to paragraphs 13 to 15, which set out the legal arguments for denying relief to Ministers, and - at Annex D - of the covering note to Counsel containing comments by the Minister of State (Commons) and by the Solicitor of Inland Revenue which are directly relevant to the point raised by the Prime Minister. I am not sending copies of all the mass of documents which accompanied the instructions, but I am enclosing - at Annex E - the Revenue Solicitor's Opinion of 8 March 1952 (Document 7(a)) and - at Annex F - extracts from the Lawrence Committee Report on the Remuneration of Ministers and MPs (Document 2), drawing particular attention to paragraphs 122 to 128, which contain comments on the incidence of taxation on ministerial salaries.

/I apologise

I apologise for the voluminous supporting material; but it is necessary for a thorough examination of the case.

M.A. HALL