

### **Opening the doors of libraries**

The House of Commons briefly debated public libraries on February 26. The Secretary of State for Culture, Media and Sport (Mr Chris Smith) reminded the House that their provision is a statutory service under the Public Libraries and Museums Act 1964, of which as it happens I was the draftsman. As always, Mr Smith appeared very pleased with himself. Smug might be the word.

My own experience of Mr Smith in this connection suggests he should not be so smug. Perhaps it was pride of authorship that led me to make a formal complaint to him under the 1964 Act concerning the poor library service in my then county of residence, Oxfordshire.

Mr Smith said on February 26 that he was prepared to intervene under the Act where unwarranted cuts are threatened in library services, and had done so on several occasions. Yet in the Oxfordshire case he declined to use his statutory powers. I will briefly describe these.

Section 7(1) of the Act states that it is the duty of the library authority to provide a comprehensive and efficient library service, but that this does not extend to persons other than those whose residence or place of work is in its area or who are undergoing full-time education within the area. So this Conservative Act altered the previous law under which provision of a library service by local authorities was a mere power, not a duty.

Section 1(1) states that it is the duty of the Secretary of State to superintend, and promote the improvement of, the public library service and secure the proper discharge by local authorities of their functions under the Act.

Section 10(1) states that if a complaint is made to the Secretary of State that any library authority has failed to carry out its duties under the Act he may, after holding a local inquiry, make an order declaring it to be in default. This may direct the authority to carry out such of its duties, in such manner and within such time, as may be specified in the order.

My complaint to Mr Smith relied mainly on a consultation document issued by the Oxfordshire County Council. This stated that to meet government spending targets the council intended further to reduce its spending. Figures given showed that at £9.90 per head of population its average expenditure was already considerably below the national average of £12.20. The document then said that in the previous seven years the authority had cut its library budget by a quarter. It went on-

"Opening hours have been reduced, mobile library services have been cut and many staff posts have been made redundant. Most newspapers and magazines have been cut in all libraries. We have not bought over 100,000 books which we would have done this year had the budget not been cut. This year we have to make [further] cuts of £620,000 in the library budget. Next year the library budget could be cut by another £280,000 . . ."

The document continued by detailing how the cuts would be effected. One of the proposed economy measures was the closing of up to 30 libraries in Oxfordshire, including the one in the village where I lived.

The reason given by the council for failing in its statutory duty was lack of funds. I pointed out to Mr Smith that this is not in law a sufficient excuse. As Lord Browne-Wilkinson said in *R v East Sussex County Council, ex p Tandy* [1998] 2 All ER 769 at 777, the local authority “can, if it wishes, divert money from other educational, or other, applications which are merely discretionary so as to apply such diverted moneys to discharge the statutory duty”. He added that to permit a local authority to avoid performing a statutory duty on the ground that it preferred to spend its money in other ways would be to downgrade a duty to a mere power. That, contrary to Parliament’s intention, would return the public library service to the pre-1964 Act position.

Mr Smith remained unmoved, so I cited the Hansard report of the second reading debate on the Bill for the 1964 Act (Commons, February 5 1964). The Labour spokesman quoted the definition by André Maurois of education as but a key to open the doors of libraries. The Conservative Minister of Education stressed that one of the most valuable functions a library can perform is to cater for a large number of minority tastes. “One must recognise that it is the books and other materials required by minority tastes which are often the most expensive”.

Mr Smith still remained unmoved, though my formal complaint under the Act, backed by a general outcry from Oxfordshire library users, did have some effect. The council condescended to reduce the proposed number of library closures.

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