

8th February, 1961.

NI/61/1  
ADDENDUM

NATIONAL INSTITUTE FOR RESEARCH IN NUCLEAR SCIENCE

GOVERNING BOARD

Further Details and Proposals Concerning  
an ATLAS COMPUTER

Note by the Secretary

I enclose a copy of the legal opinion which was given shortly before the Board meeting on January 29th and was mentioned at that meeting.

I also take the opportunity of enclosing a copy of my letter to the Office of the Minister of Science, conveying a Board's decision.

Extract from a letter dated 25th January 1961 from Mr. R. A. Thompson, Office of the Minister for Science, to Mr. C. W. Fogarty, Treasury.

" At the meeting at the Treasury on 13th January I undertook to seek further legal opinion on the bearing of the N.I.R.N.S. charter on the 'ATLAS' proposal. I have done this and I now attach a copy of a letter from Highton recording this opinion. As you see Woodhouse, Treasury Solicitor was invited to comment and he has since written to say: "on the facts stated in Highton's letter I entirely agree with the opinion he has expressed and do not think I can usefully add anything to it."

I will write separately later on the question of charges. "

Copy of a letter dated 19th January 1961 from Mr. C. J. Highton, A.E.A., to Mr. R. A. Thompson

" Dear Thompson,

You asked me this afternoon to advise on the position of the National Institute for Research in Nuclear Science in relation to the proposal to install their Atlas computer. The computer will be used, at first, only for a limited part of the available time on "nuclear research and related matters". The intention is that other users, particularly universities, shall be allocated time on the machine and you are anxious first of all to determine whether it is within the Institute's competence to allow use of the computer in this way. Secondly, you would like to know whether the matter is at all affected by whether a charge is made for these non-nuclear uses or not.

I pointed out that paragraph (d) of the Institute's Charter is the only paragraph in Article 4 in which no express reference is made to nuclear science. It seems to me that if the National Institute has decided under paragraph (b) to provide a computer, it would be open to the Institute to permit the computer facilities to be used by scientists for scientific purposes falling outside the field of nuclear science. As an example, I think that if the Weapons Group of the Authority wished to use the computer for some research programme into ballistics and the Institute

..... / decided



decided that such use of their facilities was "appropriate", no question could be raised as to the vires of such use of the facilities. I do not think the word "appropriate" is to be construed in the narrow sense of meaning appropriate only in connection with research into nuclear science, but is to be read rather as meaning appropriate in all the circumstances of the case within the Institute's general discretion. Obviously one of the points which might move the Institute to consider some use to be appropriate would be the fact that it would be better for the computer and its operating staff to be fully employed rather than to be idle; they might also consider it to be appropriate that scientists generally should be permitted and encouraged to acquaint themselves with the use of computers in the scientific world. This would presumably ultimately lead to an improvement in the range and capability of computers, which in itself would be of advantage to nuclear science..

It does not seem to me material whether or not the Institute decides in any particular case of a scientific use to make a charge for the facilities they are providing. It might be argued, however, that Article 5 of the Charter (which provides that all moneys and property received by the Institute shall be applied solely towards the promotion of the objects of the Institute) indicates that any non-nuclear scientific user ought not to be subsidised by the Institute and that therefore some charge for the facilities provided to non-nuclear scientific users ought to be made.

I notice in Turnbull's paper there is a proposal to let the machine out on hire to industrial firms for non-scientific purposes at commercial prices. A user of this kind would not, of course, be covered by the express provisions of the Charter; but I think that the Institute would not in practice be challenged if it decided in its discretion to permit such user, without prejudice to scientific interests. The Treasury would not be at all likely to object, as their grant to the Institute would be abated by the commercial receipts and I do not foresee any possibility whatsoever of a private individual such as a disgruntled computer manufacturer complaining to the Courts about this user and being granted an injunction to restrain the Institute from continuing to let out the spare time capacity.

As I explained, it is not my job to advise the Office and in particular I am not (anyhow officially) the legal adviser to the National Institute. It was therefore agreed that I should send a copy of this letter to Woodhouse at the Treasury Solicitor's Office and ask him to get in touch with you if he disagrees with anything that I have said

Yours sincerely,

(Sgd) C. J. Highton

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