PREM 19/1337

Part 12.

MT.

CONFIDENTIAL FILING.

Legislative Programme.

PARLIAMENT

Part 1: May 1979
Part 12: March 1984

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~7.3.84~~		~~27.4.84~~		~~15.8.84~~			
~~8.3.84~~		~~2.5.84.~~		~~20.8.84~~			
~~13.3.84~~		~~8.5.84~~		~~7/9/84~~			
~~14.3.84~~		~~4.5.84~~		10.9.84			
~~14.3.84~~		~~12.6.84~~		~~13.9.84~~			
				~~19.9.84~~			
~~20.3.84~~		~~15.6.84~~		~~24.9.84~~			
~~21/3/84.~~		~~18.6.84~~		~~26.9.84~~			
~~21.3.84~~		~~21.6.84~~		~~1.10.84~~			
~~26/3/84.~~		~~22.6.84~~		26.9.84			
~~29.3.84~~		~~25.6.84~~					
~~4.4.84.~~		~~29/6/84.~~					
~~5.4.84~~		~~4.7.84~~					
		~~5.7.84.~~					
~~6.4.84~~		~~11/7/84~~					
~~9.4.84~~		~~16/7/84~~					
~~12.4.84~~		~~20.7.84~~					
~~16.4.84~~		~~25.7.84~~					
~~17.4.84~~		~~30.7.84~~					
~~24.4.84~~		~~2.8.84.~~					
		~~3.8.84~~					
		~~14.8.84~~					

PART ENDS

PREM 19/1337

PART 12 ends:-

PM to Lord Renton 26.9.84

PART 13 begins:-

S/S DTI to Lord Chancellor
1.10.84

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
QL(84) 6	02/05/1984
E(DL)(84) 1st Meeting	10/04/1984
H(84) 9th Meeting	04/04/1984
E(84) 23	04/03/1984
OD(84) 12	03/04/1984
H(84) 16	29/03/1984
CC(84) 8th Meeting, item 5	01/03/1984

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed J. Gray Date 9/7/2013

PREM Records Team

10 DOWNING STREET

THE PRIME MINISTER

26 September 1984

Dear David.

Thank you for your letter of 31 August.

So far as I am aware, the phrase "the Law Ministers" used by my predecessor in his letter of 11 September 1975 to you, and by the then Solicitor General in the House on 3 November 1975, had no precedent and has not come into general use. It is not a term I use myself.

I think the reality is that the Government is collectively responsible for the structure and language, as well as for the content, of the legislation which it presents to Parliament. The content is primarily a matter for the departmental Minister or Ministers concerned. It is often difficult to separate structure and language from subject and content, and I certainly do not think you could say that the Lord Chancellor or the Law Officers could be held solely or even mainly to blame if the content of a Bill was good but the structure or language in some way defective. The Lord Chancellor and the Law Officers are after all not necessarily the only members of the Government who are qualified lawyers. But they are the people who are members of the Government by virtue of their legal qualifications, and that is why I think we tend to look to

them as the special guardians of the Government's collective responsibility for the quality of legisation.

That being said, it remains my view that it would not improve matters to put the Parliamentary Counsel under the direct control of the Lord Chancellor, or to give the Lord Chancellor some special and unique responsibility for the quality of legislation; and that is also the Lord Chancellor's view.

I think that Parliamentary Counsel are well aware of the need not to go for unnecesary detail or purely administrative matters in legislation; but I will make sure that they are made aware of your views.

Please feel free to discuss this correspondence with the Lord Chancellor and with Jack Simon as you suggest.

Yours ever

Margaret

The Right Honourable Lord Renton, KBE, TD, QC.

JCRAGC

GR

Poe type for PM.

24/9

Ref. A084/2366

MR FLESHER

In your letter of 3 September to Richard Hatfield you asked for a draft reply to Lord Renton's letter of 31 August to the Prime Minister about responsibility for and quality of drafting of legislation.

2. I now attach a draft reply, which has been agreed with the Lord Chancellor.

3. I thought it right at this stage to show the correspondence to First Parliamentary Counsel: he welcomed the Prime Minister's first reply and is entirely content with the attached draft.

RTA

ROBERT ARMSTRONG

24 September 1984

DRAFT LETTER FROM THE PRIME MINISTER TO THE RT HON THE LORD RENTON KBE TD QC, HOUSE OF LORDS

Thank you for your letter of 31 August.

So far as I am aware, the phrase "the Law Ministers" used by my predecessor in his letter of 11 September 1975 to you, and by the then Solicitor General in the House on 3 November 1975, had no precedent and has not come into general use. It is certainly not a term I use myself.

I think the reality is that the Government is collectively responsible for the structure and language, as well as for the content, of the legislation which it presents to Parliament. The content is primarily a matter for the departmental Minister or Ministers concerned. It is often difficult to separate structure and language from subject and content, and I certainly do not think you could say that the Lord Chancellor or the Law Officers could be held solely or even mainly to blame if the content of a Bill was good but the

structure or language in some way defective. The Lord Chancellor and the Law Officers are after all not necessarily the only members of the Government who are qualified lawyers. But they are the people who are members of the Government by virtue of their legal qualifications, and ~~it is because of that that~~ that is why I think we tend to look to them as the special guardians of the Government's collective responsibility for the quality of legislation.

That being said, it remains my view that it would not improve matters to put the Parliamentary Counsel under the direct control of the Lord Chancellor, or to give the Lord Chancellor some special and unique responsibility for the quality of legislation; and that is also the Lord Chancellor's view.

I think that Parliamentary Counsel are well aware of the need not to go for unnecessary detail or purely administrative matters in legislation; but I will make sure that they are made aware of your views.

Please feel free to discuss

~~I would have no objection to your discussing~~ this correspondence with the Lord Chancellor and with Jack Simon, as you suggest.

PARLIAMENT: Leg Pt 12

HOUSE OF LORDS,
SW1A 0PW

19 September 1984

Dear Willie:

LEGISLATIVE PROGRAMME

Thank you for your letter of 10th September 1984.

I strongly support your initiative in writing to colleagues personally at this stage to remind them about the Legislative Programme and the need to maintain it; in making your positive suggestions concerning early submission of developed proposals for outline policy approval before the bidding season starts; and in mentioning that there will be advance bids for some places in 1986/87.

All my experience has convinced me that time spent in thorough planning and careful drafting of legislation is time well spent. I have seen many worthwhile proposals spoilt by speedy, late decisions and drafting for which the supposed constraints of the Parliamentary timetable have been blamed.

I am sending copies of this letter to the Prime Minister, members of QL, all Ministers in charge of Departments, and to First Parliamentary Counsel and Sir Robert Armstrong.

Yrs.

The Right Honourable
The Viscount Whitelaw, CH., MC.,

HOUSE OF LORDS,
SW1A 0PW

13 September 1984

My dear Nigel:

Co-operative Development Agency and Industrial Development Bill

I have seen Norman Tebbit's letter of 6 August on my return from holiday. He asks that the usual two month period between Royal Assent and the Bill's coming into effect should be dispensed with.

Though I do believe that in the normal course this custom should be adhered to, I can see that in the present circumstances there are pressing reasons for doing otherwise. I have one small worry however, and that is that the repeal of s.3(2) and of s.3(3)(b), Co-operative Development Agency Act 1978, which prohibit the Agency's carrying out commercial activities or forming partnerships, may possibly have an adverse effect on any commercial undertaking already providing services to co-operatives. Subject to that however, the proposal has my consent.

Copies of this letter go to other members of E(A), the Lord Privy Seal, members of L Committee, Sir Robert Armstrong and the First Parliamentary Counsel.

Yrs:

The Right Honourable
Nigel Lawson MP,
Chancellor of the Exchequer,
HM Treasury,
Parliament Street,
S.W.1.

Ref. A084/2465

MR FLESHER

Draft 13/9

In your letter of 3 September to Richard Hatfield you asked for a draft reply by 13 September to Lord Renton's letter of 31 August to the Prime Minister.

2. I have a draft reply before me, but I should like to consult the Lord Chancellor's Department (as we did with the earlier draft) before submitting anything. If I may, therefore, I will hold back a submission until early next week. Lord Renton should not know the difference: he is on holiday until 19 September.

RWA

ROBERT ARMSTRONG

13 September 1984

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

10 September 1984

Dear Quintin

LEGISLATIVE PROGRAMME

You will recall that after Cabinet had approved the legislation programme for 1984/85, I wrote to you and colleagues on 6 March emphasising the need to prepare Bills in good time for the start of the Session, and in particular to address policy issues at a sufficiently early stage to allow time to iron out unexpected problems. Despite colleagues' efforts some Bills will nevertheless be introduced late; and I am anxious that we should improve our performance next time. Can I therefore give colleagues advance notice that in early November the Cabinet Office will be seeking bids for places in the 1985/86 legislative programme, and indeed for some advance places in 1986/87. It is important that colleagues should start thinking now what Bills they want to bid for, so that the bids themselves reflect so far as possible developed rather than purely broad - brush ideas. Colleagues whose work is well advanced may indeed find it helpful to seek outline policy approval from the relevant Cabinet Committee in advance of submitting bids. Securing this is no guarantee that a bid will be accepted, but colleagues will recall from the last exercise that QL is more likely to look favourably on Bills for which there has been some solid preparation and which have already secured outline approval from colleagues.

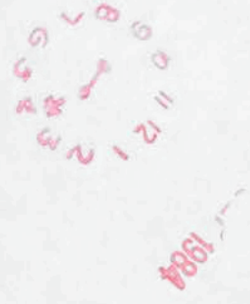
I am sending copies of this letter to the Prime Minister, members of QL, all Ministers in charge of Departments, and to First Parliamentary Counsel and Sir Robert Armstrong.

Yours ever,
Willie

The Rt Hon Lord Hailsham of St Marylebone CH

Parliament PT 12

Legislative Programme



Lord RENTON file 13/9 ECL

GR. PL att. PM's letter of 8/8. Ack 3/9

cf. pps^.

3 September 1984

I attach a copy of a letter the Prime Minister has received from Lord Renton.

I should be grateful if you could provide a draft reply for the Prime Minister's signature, to reach me by 13 September.

BF

Tim Flesher

Richard Hatfield Esq
Cabinet Office

From: The Rt. Hon. Lord Renton, Q.C.

Moat House
Abbots Ripton
Huntingdon
Cambs. PE17 2PE

31st August 1984

PERSONAL AND CONFIDENTIAL

The Rt. Hon. Mrs. Margaret Thatcher, M.P.
10, Downing Street,
Whitehall.

Dear Prime Minister,

Thank you for your letter of 8th August and for commenting on my suggestions for improving parliamentary drafting when you have even more pressing matters on hand. It is good to know that you will be considering what can be done to improve matters.

I am interested in your reference to Harold Wilson's letter to me of 11th September 1975, for in his 2nd paragraph he said that "the Law Ministers" had responsibility for the general structure and language of legislation, as distinct from the content of particular bills, and he acknowledged "the overall responsibility of Law Ministers for the quality of legislation."

When our Report was debated in the Commons on 3rd November 1975, the then Solicitor-General at columns 186-7 made it clear that "Law Ministers" included the Lord Chancellor as well as the Law Officers.

Is that still the position? If so, an early opportunity should be taken to make it known to all concerned and to

continued/....

HOUSE OF LORDS

continued/

remind Parliamentary Counsel for England and Wales of their duty to observe any general instructions given to them by the Law Ministers including the Lord Chancellor (who, however, cannot exercise overall responsibility for the quality of legislation without being Chairman of the Legislation Committee!)

It would mean of course that there is confused responsibility in this vitally important matter: the Minister for the Civil Service is responsible for the appointment and dismissal of Parliamentary Counsel while Law Ministers would be answerable to Parliament for the way they do their work. In other words there is an anomaly within the wider anomaly which I mentioned in my previous letter.

Quite apart from those considerations, Government Departments could help by making it clear to the draftsmen that, although they are quite rightly given full and detailed instructions so as to explain the background, there is no need for them to translate all that detail into draft legislation. Also, there is a tendency to include in legislation purely administrative matters, for which there is no method of enforcement.

Although our correspondence is confidential, would you allow me to discuss it in confidence in October with Quintin and with Jack Simon?

I shall be on holiday in Scotland from 1st - 19th September.

With very best wishes for all your great work and leadership,

Yours ever, David.

D10

CC NO

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 5186
GTN 215) .....
(Switchboard) 215 7877

From the Minister of State for Industry

Norman Lamont MP

nbpn Dawk 20/8

The Rt Hon Viscount Whitelaw CH MC
Leader of the House of Commons
House of Commons
LONDON
SW1A 0AA

17 August 1984

Dear Willie

The members of EA Committee and other interested ministerial colleagues have now confirmed that they are content with the legislative proposals I wish to introduce with respect to the English Industrial Estates Corporation. A copy of my letter of 19 June to the Chief Secretary is enclosed.

I should be grateful for your agreement to my instructing Parliamentary Counsel for the proposed Bill, which is non-contentious and suitable for Second Reading Committee Procedure.

Yours ever

NORMAN LAMONT

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 5186
GTN 215)
(Switchboard) 215 7877

From the Minister of State for Industry

NORMAN LAMONT MP

The Chief Secretary
H M Treasury
Parliament Street
LONDON SW1

19 June 1984

Dear Peter

I am writing to seek policy approval for legislation affecting the English Industrial Estates Corporation, before asking the Leader of the House for formal permission to instruct Parliamentary Counsel.

The proposed Bill is non-contentious and suitable for Second Reading Committee Procedure. The proposals have been discussed with officials in the Treasury, National Audit Office and the Inland Revenue, who can see no objection to what we propose.

The specific proposals are as follows:

(a) To abolish the requirement under Section 16 of the Industrial Development Act 1982 that the Secretary of State should, upon receipt of the Corporation's accounts, prepare fresh accounts to be laid before Parliament and to provide that the Corporation's own audited accounts should be laid instead. At present, the accounts prepared by the Secretary of State and audited by the National Audit Office, simply repeat the published accounts of the Corporation. We believe this to be an unnecessary duplication of effort. The National Audit Office agree with us and are content with this proposal, so long as they have access to EIEC's books and papers for the purpose of carrying out efficiency audits under the National Audit Act 1983.

(b) To modify the requirement that the Corporation pay over to the Secretary of State all receipts other than

(i) those needed to meet expenses properly payable out of income and

(ii) money borrowed,

so as to enable the Corporation to retain all such receipts as are needed to meet all its expenditure. This will

allow the Corporation to fund its development programme directly from the sale of existing properties and rents. At present, all such receipts are paid into the Consolidated Fund and all capital expenditure is met from Grant in Aid.

(c) To exempt the Corporation from Development Land tax. Both the Scottish and Welsh Development Agencies are exempt from this tax. Before the 1980 Industry Act the Corporation was also exempt by reason of being a Crown body; but the 1980 Act removed this privilege and in theory the Corporation became liable for the tax. However, the nature of the Corporation's activities are such that it has no prospect of becoming liable to pay DLT; but we are advised by them that they have to spend up to £40,000 per annum just proving this fact to the Inland Revenue. The Inland Revenue are content that the Corporation should be made exempt by adding them to the list of exempt bodies in the Development Land Tax Act of 1976.

(d) To enable the Corporation to borrow from persons other than the Commission of theEuropean Communities or the European Investment Bank. We seek to bring EIEC into line with the Welsh and Scottish Development Agencies. Some joint venture schemes with the private sector could involve borrowing, this would be strictly controlled and the Corporation would not be able to borrow without the specific consent of the Secretary of State and the approval of the Treasury. All such borrowing would, of course, be subject to specific financial limits.

(e) To extend the range of services which the Corporation can provide to tenants and prospective tenants of the Corporation's sites and premises. We wish the Corporation to be able to provide ancillary services to occupants or prospective occupants. At present the Act appears to limit them to providing mains type services such as water, drainage, electricity and sewerage etc. We envisage the Corporation providing clerical, administration and managerial, secretarial, computing and general professional advisory services. These will enable the Corporation to improve the attractions of its developments of smaller units and allow higher rents to be charged. It will also improve the success rate of their small business tenants and help to reduce turnover of such tenants. The Corporation will be able to claim grants from the European Regional Development Fund in respect of these services. The benefits to the Corporation together with the grants are expected to more than offset any public sector costs.

None of these changes should involve any additional public expenditure, and some will reduce it. Any increase in manpower for the provision of services to tenants under item (c) above should be more than fully paid for by the improved revenues generated from these proposals.

In the circumstances, I would be grateful if you and colleagues in EA Committee, to whom I am copying this letter, could give policy approval to the introduction of legislation to bring these proposals into effect.

Yours ever

Norman

NORMAN LAMONT

NEW ST. ANDREWS HOUSE
ST. JAMES CENTRE
EDINBURGH EH1 3SX

The Rt Hon The Lord Gowrie
Minister of State
Office of Arts and Libraries
Great George Street
Whitehall
LONDON SW1

15 August 1984

Dear Grey,

HOUSE OF COMMONS DISQUALIFICATION ACT 1975

Thank you for sending me a copy of your letter of 12 June to John Biffen enclosing a factual analysis of the 1975 Act which was placed in the House of Commons library on 29 June. Because your letter went astray, I could not comment at the time but I am, of course, content with the analysis.

I agree that, in the course of the next updating, a closer look might be taken at Schedule 1 with a view to reducing the number of entries, particularly in the two areas you mention.

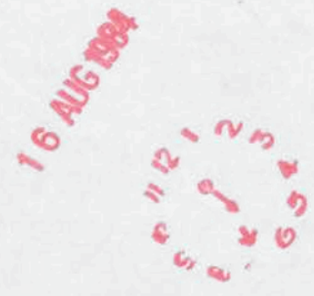
I am copying this letter to the recipients of yours (list attached).

Yours ever,

George

Prime Minister ✓
The Home Secretary
The Lord Chancellor
The Secretary of State for Foreign Affairs
The Chancellor of the Exchequer
The Secretary of State for Education and Science
The Lord President of the Council
The Secretary of State for Northern Ireland
The Secretary of State for Defence
The Ministry of Agriculture, Fisheries and Food
The Secretary of State for the Environment
The Secretary of State for Wales
The Secretary of State for Trade and Industry
The Secretary of State for Transport
The Secretary of State for Social Services
The Secretary of State for Energy
The Secretary of State for Employment
The Attorney General
The Chancellor of the Duchy of Lancaster
The Lord Advocate
Minister for Overseas Development
Sir Robert Armstrong

Party hegn 2,



112/45

CC NO
BI

n.b pm Dub 16/8

Treasury Chambers, Parliament Street, SW1P 3AG

Private Secretary to
the Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

15 August 1984

Dear Private Secretary,

Your Secretary of State's letter of 3 August to Lord Whitelaw, covering the draft consultation document on the proposed future dog licensing arrangements asked for comments by 8 August. As I indicated to you on the telephone we are not yet in a position to let you have substantive Treasury comments.

The suggestion that the proposed fee by local authorities would be a charge and not a tax would appear to be a departure from established practice. We are looking into this, and will let you have our considered views as soon as possible. Until the point has been resolved, the consultation document cannot issue.

On the question of the present fee, both Mr Jenkin and Mr Jopling favour rounding to 37p. The Chief Secretary suggested in his letter of 18 July that colleagues might wish to consider other options. However, if Ministers generally are content with 37p the Chief Secretary would not wish to object, and this could be dealt with in the consultation document as Mr Jopling suggests.

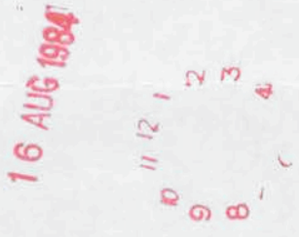
I am copying this letter to the Private Secretaries to the Prime Minister, members of H Committee, the Secretary of State for Trade and Industry, the Minister of Agriculture, Fisheries and Food, the Chief Whip and Sir Robert Armstrong.

Yours sincerely

Paul Lester

pp JOHN GIEVE
Private Secretary

Parliament: Legislation: H12.



PRIVY COUNCIL OFFICE
WHITEHALL LONDON SW1A 2AT

14 August 1984

JN 14/8

Lord Gowrie

ACCESS TO PERSONAL FILES (NO 2) BILL

Will request if required.

Thank you for your letter of 31 July about this further Bill which has been introduced by Chris Smith. I note that it goes slightly further than the previous one, and agree with you that our attitude should be the same as on his original Bill. Since no days remain this session on which Private Members' Bills could be taken, we will not be called upon to express our views in debate on this Bill; but it is one which would need to be blocked if it came to Second Reading.

I am copying this reply to the Prime Minister, the Home Secretary, other members of Legislation Committee, Sir Robert Armstrong and First Parliamentary Counsel.

JOHN BIFFEN

Rt Hon the Earl of Gowrie
Minister of State
Management and Personnel Office

13 AUG 1984

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

From the Minister
CONFIDENTIAL

Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London SW1P 3EB

8 August 1984

Dear Patrick

DOG LICENSING

Thank you for sending me a copy of your letter of 3 August to Willie Whitelaw, seeking comments on the final draft of your consultation paper.

I note that you share my view that the present licence fee should as far as possible remain unchanged pending final decisions and that this would mean rounding down to 37p. Since we are both agreed on this issue, I can see no reason why matters should not now be brought to an end by the inclusion of a positive statement to that effect in your consultation document. The interim reference in paragraph 32 of the draft is in my view unsatisfactory since it commits the Government to a further statement on the issue. For the reasons set out in my letter of 31 July, I do not consider that such a trivial matter warrants such separate treatment. I am sure you would agree that the only sensible course would be to bring the matter to a close in the consultation document.

I am copying this letter to the Prime Minister, members of H Committee, the Secretary of State for Trade and Industry, the Chief Secretary, the Chief Whip and Sir Robert Armstrong.

Yours ever

Michael

MICHAEL JOPLING

Assessment
Legislation Pt 12

CONFIDENTIAL

FLE

RH

10 DOWNING STREET

From the Private Secretary

MR. HATFIELD
CABINET OFFICE

The Prime Minister has now seen Sir Robert Armstrong's minute of 3 August with which was enclosed a draft reply to Lord Renton about the quality of legislative drafting. Mrs. Thatcher signed the proposed draft reply to Lord Renton, a copy of which is attached. She did not, however, consider that there was sufficient justification for the proposals for further action set out in paragraph 10 of Sir Robert's minute. She does not, therefore, consider that the draft minutes proposed need to be prepared.

(Timothy Flesher)
8 August, 1984

CONFIDENTIAL

CONFIDENTIAL

10 DOWNING STREET

THE PRIME MINISTER

8 August 1984

Dear David,

Thank you for your letter of 9 July.

I am grateful to you for letting me know of your concern, and for setting out your thoughts with such care. I know that the quality of legislative drafting is something to which you have given much attention, and indeed made a significant contribution to improving in your 1975 report.

I have to say that, for the sort of reasons given in my predecessor's letter to you of 11 September 1975, I doubt whether the right answer is to put the Parliamentary Counsel under the direct control of the Lord Chancellor. Nor am I clear that we can remove all the things which contribute to distancing legal drafting from the simple direct language of ordinary correspondence. The need for precision, the language and structure of existing law, the often unreasonable timetable we impose on draftsmen, all make for difficulties here.

Something can certainly be done, and is being done, to give the user more help in cases where drafting is necessarily complex. You may perhaps have noticed that the Lord Chancellor's Department have made a considerable effort to provide more explanatory material on the detail of the bills for which they have been responsible this session - particularly the Matrimonial and Family Proceedings legislation.

CONFIDENTIAL

But I entirely agree with you that we should do all we can to avoid adding new legislation to the Statute Book which is unnecessarily complex and obscure. I have taken careful note of your suggestions here, and I shall be considering what can be done to improve matters.

Yours ever

Margaret

The Rt. Hon. Lord Renton, QC.

Prime Minister: 1

This minute proposes
i) a reply to Lord Renton, a draft of which is attached
ii) two personal minutes on the quality of legislation, as set out in para 10. You would need to consider this suggestion with the business managers.

Ref. A084/2238

PRIME MINISTER

No need to draft minutes.

Lord Renton wrote to you on 9 July suggesting that the quality of legislative drafting would be improved if you were to give the Lord Chancellor responsibility for the Office of Parliamentary Counsel and turn Legislation Committee into a scrutiny, rather than business, Committee under his chairmanship.

7/8

2. This is a battle in an old war. Lord Renton's present proposal is a variation of one his Committee (the Renton Committee on the preparation of legislation) made to the then Prime Minister in 1975. Copies of the correspondence, which was made public, are attached. Lord Renton suggested that the Lord Chancellor be given specific responsibility for the general structure and language of legislation, and that the Statute Law Committee (which is chaired by the Lord Chancellor and whose members include a number of Law Lords and legal members of both Houses as well as First Parliamentary Counsel) should help him in this task by reviewing legislation as it came along and providing periodic reports on trends and tendencies in drafting. Both suggestions were rejected on the grounds that the Lord Chancellor and other Law Ministers already had a general responsibility for the quality of legislation, that changes might weaken the responsibility of Parliamentary Counsel to departmental Ministers and their own responsibility to Parliament for the legislation they introduced, and that the Statute Law Committee's mixed membership made it an unsuitable body for reviewing current Government legislation. These arguments have lost ~~more~~ none of their force since 1975.

3. There are two basic questions. One is whether it is possible for legislative drafting entirely to avoid the 'verbose, complex and obscure'. The second is whether arrangements can be devised, as Lord Renton believes, which would produce simpler drafting.

4. Much legal drafting is inevitably a long way from the simple language of ordinary communication. This is partly because legal drafting must be unambiguous, precise and comprehensive, partly because new legislation has to fit in with the language of existing statute, partly because drafting is usually done at impossible speed, and partly because bills are constantly amended and the present system does not allow bills to be rewritten and restructured at the end of the Parliamentary process. None of this should prevent Governments setting simplicity and clarity of draftings as an objective, but all of it materially affects the end result. The present First Parliamentary Counsel, Sir George Engle, believes that, to the extent that legislation which emerges is complex, the right approach is to help the user by providing more explanatory material. The Lord Chancellor's own Department for example have this year made a conscious effort to make available more detailed explanation of their bills. A considerable amount of material has been circulated on the Matrimonial and Family Proceedings legislation.

5. Lord Renton and other critics might accept some of these arguments. But they also clearly feel that Parliamentary Counsel will not even try to move towards a plainer style as long as he is free from direct challenge from a Minister or Ministers who argue with him on the basis of legal knowledge and if necessary overrule him. Transfer of responsibility to the Lord Chancellor and a scrutiny role for Legislation Committee would technically achieve both these things.

6. The machinery of Government arguments are fairly well balanced. Parliamentary Counsel provides a common service to all Ministers. The Office of Parliamentary Counsel has always been attached to a central Department (until 1968, the Treasury; from 1968 to 1981 the Civil Service Department; since 1983 the Cabinet Office). It is helpful to have its manpower and staffing control settled centrally and close to those who manage the Government's legislative programme. It would look

odd to give these responsibilities to a Minister who was simply one of Parliamentary Counsel's customers. One the other hand such an arrangement is not unknown (for example the Secretary of State for the Environment's responsibility for the Property Services Agency) and the Lord Chancellor's general responsibilities for the law, and his involvement with the Statute Law Committee and Law Commission, would give an identity of interest. There is certainly something in the argument that a departmental Minister who is dissatisfied with the drafting of one of his bills has, as matters now stand, little option but to accept Counsel's judgment.

7. The key arguments seem to me however to be practical. The quality of Government legislation depends primarily on the ability and commitment of its draftsmen. They have to work under considerable pressures to deliver the Government's legislative programme. Arrangements for quality controls would inevitably involve some form of second-guessing, whether by a single Minister or by a group of them on a revamped Legislation Committee. That would certainly antagonise Counsel, and I believe it would be counter-productive in the end, perhaps putting at risk our ability to attract Parliamentary Counsel of high calibre. In practical terms too it would often be difficult to send many of the major and controversial bills to Legislation Committee in time for their comments to be properly reflected in a redrafting.

8. For these reasons neither the Lord Chancellor's Permanent Secretary nor I believe that responsibility for Parliamentary Counsel (and therefore for the drafting of legislation) should be transferred to the Lord Chancellor.

9. As part of the Cabinet Office family, the Office of the Parliamentary Counsel are in the end answerable to you as Prime Minister and Minister for the Civil Service. This is as it should be for an important central source. If a transfer of

responsibility is excluded, you may like to consider, subject to further discussion with the Lord Chancellor and others, two pieces of action.

10. One would be a minute to colleagues when business resumes in September, reminding them of the importance of allowing adequate time for the drafting and redrafting of bills, and also reminding them of the Lord Chancellor's and other Law Officers' general responsibilities for the quality of the legislation. Something on these lines might subsequently be incorporated into Questions of Procedures. The other might be a personal instruction to Parliamentary Counsel reminding him of the Government's general objective of producing clarity and simplicity in new legislation - subject to the inevitable ~~complaints~~ constraints - and asking him to draw to your attention and that of the Law Ministers any case in which lack of time or other factors had, in his judgement, led to the appearance on the Statute Book of legislation which could, had those factors not operated, have been drafted in simpler and clearer form.

11. Such a course would give departmental Ministers and Law Ministers a little more leverage than they have now, and at the same time leave the basic judgment to those whose responsibility it is to draft the legislation.

12. If you agree, I will prepare draft minutes accordingly.
--- In the meantime, I attach a draft reply to Lord Renton.

I see no need for the minister to issue

RA

ROBERT ARMSTRONG

3 August 1984

TEXT OF EXCHANGE OF CORRESPONDENCE BETWEEN THE PRIME MINISTER AND SIR DAVID RENTON MP FOLLOWING THE REPORT OF THE COMMITTEE ON THE PREPARATION OF LEGISLATION

COMMITTEE ON THE PREPARATION OF LEGISLATION

26 March 1975

Dear Prime Minister,

1. I have today submitted to the Lord President of the Council the Report of the Committee on the Preparation of Legislation of which I have had the honour to be Chairman. I enclose a copy of our Report for your information. In September 1973 your predecessor and I discussed the terms of reference of our Committee following my request that they should be extended to allow us to consider the organisation, training and answerability to Ministers of the Parliamentary draftsmen. He asked that our Report should not deal with matters which, though they might come to our notice in the course of our work, were not clearly within our terms of reference. He agreed, however, that I, as Chairman, could write to him privately about such matters. My agreement with Mr. Heath was confirmed by the present Government in April 1974.

Ministerial responsibility

2. The present allocation of Ministerial responsibilities in this field, as we understand the matter, is that you as Prime Minister and Minister for the Civil Service are responsible for the administration of the Office of the Parliamentary Counsel. The Lord Advocate is similarly responsible for the Scottish Parliamentary Draftsmen. The Leader of the House of Commons is responsible for the legislative programme. The departmental Minister concerned with each Bill is responsible for the drafting of that Bill in relation to all parts of the United Kingdom to which it applies. In discharging their responsibilities for particular Bills, departmental Ministers can call upon the advice of the Law Officers for England and Wales and for Scotland as they may require. The Law Officers are also consulted by the Parliamentary draftsmen when necessary.

3. Most members of our Committee feel strongly that there should also b a Cabinet Minister responsible for the general structure and language of legislation, as distinct from the drafting of particular Bills. We emphasise that this responsibility must not diminish the responsibility of other Ministers for the drafting of particular Bills of which they may be in charge.

4. We have recommended in paragraph 18:40 of our Report that the Statut Law Committee should have certain new duties placed upon them. We consid that they should be required to keep the structure and language of the statutes under continuous review and that they should publish reports fro time to time (at least triennially), dealing with trends and tendencies in drafting and reporting on progress made in implementing our recommendations, to the extent to which these are accepted.

5. The question arises which Minister should be responsible for the structure and language of legislation in general. We do not feel that the Prime Minister should be required to answer Questions and debates about the sometimes technical matters involved, whatever his responsibilities be for the administration of the Office of the Parliamentary Counsel as Minister for the Civil Service.

6. The Lord Chancellor is the senior legal member of the Government and is Chairman of the Statute Law Committee. So far as England and Wales are concerned, we think he should be the Minister responsible. The Lord Chancellor is however an English lawyer and cannot be expected to be familiar either with Scottish law or with the difficulties that arise in relation to combined Anglo-Scottish legislation. We therefore think he should act jointly with the Lord Advocate, for whom the Scottis legal Minister whose appointment we recommend in paragraph 18.7 of our Report would answer on Scottish points in the Lords. A precedent for th joint exercise of functions by the Lord Chancellor and the Lord Advocate can be found in the powers now available to them under the provisions of the Tribunals and Inquiries Act 1971. The question as to which Minister should be answerable to the House of Commons on behalf of the Lord Chancellor in this important matter we must leave to you as Prime Minister.

Recruitment and training of Parliamentary draftsmen

7. As you know, the present shortage of Parliamentary draftsmen, which has existed for many years, has serious implications. It causes difficulties for the Government in carrying through their legislative program It imposes a tremendous burden on the relatively small band of skilled and dedicated draftsmen available to do the work. It limits progress wi consolidation, which in our Report we emphasise should be expedited. In short, this is a crucial and overriding problem, and we have reached the conclusion in paragraph 7.21 of our Report that an important defect of t legislative process is the shortage of draftsmen which aggravates the pressures upon the Parliamentary Counsel. We would ask you to give all possible encouragement to the efforts which are being made to recruit mo draftsmen.

8. There is no school of legislative drafting in this country of the kind which is to be found in Ottawa where in 1970 Professor Elmer Driedg (who gave evidence to us) started a new school of legislative drafting a which a twelve-month course is provided for a carefully selected band of qualified lawyers. Here I should disclose that I myself happen to be a former Vice-Chairman of the Council of Legal Education, and that with the consent of my colleagues on our Committee I have explored the possibility that such a course might be provided here by the CLE, the present Chairman of which is Lord Justice Scarman who welcomes the suggestion. We do not feel that it is for us to pursue the matter in depth, but we hope that full consideration will be given by the Government to this possibility.

Part leg Pt 12

The "Grey Area": Scrutiny of Bills before Presentation

9. It was inevitable that several of our witnesses, some of whom had held Ministerial office, would make various suggestions for improving the scrutiny of Bills before they are presented. Also, some members of our Committee have of course had experience of preparing Bills either as members of the Government, as draftsmen or as officials, and are familiar with the work done in the Departments and by the Legislation Committee of the Cabinet. However, we do not feel that any of the particular suggestions made to us for improving the scrutiny which takes place before presentation need to be specifically drawn to your attentio I therefore refrain from further comment on this topic.

The Parliamentary Draftsmen for Scotland

10. On behalf of the Committee Lord Stewart is sending to the Lord Advocate a suggestion for the separation from the Parliamentary Draftsme for Scotland of certain non-drafting functions for which they are at present responsible. This matter is touched on in paragraph 8.20 of the Report, but as it concerns organisation I thought it right to keep our suggestion for communication to the Lord Advocate by letter. I do not trouble you with the details of the suggested alteration (which, though important, would be internal to the Lord Advocate's Department) except to say that the suggestion is made in the interests of clarity and simplicity in the statute law of Scotland, and to emphasise that the alteration would obviously need to be achieved without depriving the Lord Advocate's Department of a Legal Secretary and other legal staff o the right calibre for the performance of the separated non-drafting wor which is as important for the care of the law of Scotland as is the wor of the Lord Chancellor's Office for the care of English law. We hope that you will feel able in due course to give this suggestion your supp both as Minister for the Civil Service and as Prime Minister.

11. I conclude by expressing the real and deep gratitude of the member of our Committee for the splendid work so ably done for us by our Secre Mr. Angus Macpherson, and our Assistant Secretary, Mr. Robert Cumming, of the Cabinet Office. Also I would like to pay tribute to the forth- coming and generous way in which First Parliamentary Counsel, Sir Antho Stainton, has placed himself at our disposal and has without reservatio given us the benefit of his valuable help and advice.

12. Sir Samuel Cooke and Sir Noel Hutton have asked me to add this:

> "We associate ourselves most warmly with the well deserved tribute which is paid in this letter to our Secretary, Mr. Angus Macpherson, to our Assistant Secretary, Mr. Robert Cumming, and to Sir Anthony Stainton, First Parliamentary Counsel.
>
> "For the rest, the letter deals with matters which in our vie are sufficiently dealt with in the Report itself or have not

adequately explored in our discussions. In particular, we are reluctant to make recommendations touching on Ministerial responsibility without fuller study. We recognise the public spirited notives which have led our colleagues to a contrary conclusion and we are delighted that this is one of the few matters on which it has been necessary to record a difference of opinion."

Yours sincerely,

(Sgd) David Renton

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10 DOWNING STREET

11 September 1975

Dear Sir David,

REPORT OF THE COMMITTEE ON THE PREPARATION OF LEGISLATION

When I wrote to you on 7 April in reply to your letter of 26 March, I said that I would consider carefully the points falling outside the terms of reference of your Committee which you raised with me.

Your main suggestion relates to the question of Ministerial responsibility for legislation. The current Ministerial arrangements are as you describe them in your letter, the essential points being that the Lord President, as leader of the House, has general oversight of the Government's legislative programme and thus of the flow of work to the Parliamentary Counsel's Office, while the departmental Ministers concerned are responsible with the support of Parliamentary Counsel and the advice of the Law Ministers for the drafting of particular bills. The Government shares your concern that the general structure and language of legislation, as distinct from the content of particular bills, should be properly supervised by Ministers and I have considered your suggestion that a Cabinet Minister should be specifically charged with this. My conclusion is that no change in the existing Ministerial arrangements is called for: this general responsibility is already clearly placed on the Law Ministers, subject of course to the collective responsibility of Ministers generally, with the Lord Chancellor a member of the Cabinet. Moreover, while acknowledging the overall responsibility of Law Ministers for the quality of legislation, I would not wish in any way to weaken, or appear to weaken, the responsibility of Parliamentary Counsel to the departmental Ministers for the drafting of a public bill and the

Ministers' own responsibility to Parliament for the legislation which he introduces. As to your Committee's further recommendations on the role which the Statute Law Committee might play in relation to this question of structure and language of legislation, we are examining these proposals as part of our study of the Report as a whole.

On the recruitment and training of Parliamentary Counsel, the Government fully recognises the difficulties of recruitment in this highly specialised field and shares the Committee's concern. We are taking all possible steps to augment and strengthen the resources of the Parliamentary Counsel's Office and we shall continue to look for the first-class ability which is needed through the traditional methods of recruitment by the Civil Service Commission, by contacts in the universi and by all other means.

As you know, whenever the work is deemed appropriate we have been making use of Parliamentary agents. On training, there are, as you say, at present no formal courses of instruction in this field but First Parliamentary Counsel has been considering for some time a number of possibilities for improving the situation and, as I think you know, he i considering specifically your own idea.

You also refer to the suggestion sent to the Lord Advocate by Lord Stewart on behalf of the Committee, recommending the separation fro the Parliamentary draftsmen for Scotland of certain non-drafting functions for which they are at present responsible. I have consulted t Lord Advocate and we are interested in your suggestions but we feel that these will have to be considered in the context of the Government's proposals for devolution.

Finally, I should like to acknowledge the generous tribute on behal of yourself and your Committee to the assistance which you received from your Secretariat and for the help which you received from the First Parliamentary Counsel, Sir Anthony Stainton.

With your agreement I should like to publish at an appropriate time our exchange of correspondence which I think could usefully be placed on record.

Yours sincerely,

(Sgd) Harold Wilson

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10 Downing Street,
Whitehall, S.W.1.

29 October 1975

Pam leg Pt 12.

DRAFT LETTER FROM THE PRIME MINISTER TO THE RT HON LORD RENTON QC

Thank you for your letter of 9 July.

I am grateful to you for letting me know of your concern, and for setting out your thoughts with such care. I know that the quality of legislative drafting is something to which you have given much attention, and indeed made a significant contribution to improving in your 1975 report.

I have to say that, for the sort of reasons given in my predecessor's letter to you of 11 September 1975, I doubt whether the right answer is to put the Parliamentary Counsel under the direct control of the Lord Chancellor. Nor am I clear that we can remove all the things which contribute to distancing legal drafting from the simple direct language of ordinary correspondence. The need for precision, the language and structure of existing law, the often unreasonable timetable we impose on draftsmen, all make for difficulties here.

Something can certainly be done, and is being done, to give the user more help

in cases where drafting is necessarily complex. You may perhaps have noticed that the Lord Chancellor's Department have made a considerable effort to provide more explanatory material on the detail of the bills for which they have been responsible this session - particularly the Matrimonial and Family Proceedings legislation.

But I entirely agree with you that we should do all we can to avoid adding new legislation to the Statute book which is unnecessarily complex and obscure. I have taken careful note of your suggestions here, and I shall be considering what can be done to improve matters.

CONFIDENTIAL

CC NO
81

2 MARSHAM STREET
LONDON SW1P 3EB

01-212 3434

My ref:

Your ref:

3 August 1984

Dear Lord President

DOG LICENSING

I am grateful to you and to our colleagues for the response to my letter of 2 July.

I now attach a final draft of the consultation paper, which I hope meets the points which colleagues have made. I note the Lord Chancellor's doubts about these proposals, but they embody the solution preferred by the Home Affairs Committee, and they are advanced here in the context of a genuine exercise in consultation. If consultation reveals substantial dissent, then I shall of course have to invite colleagues to reconsider our position.

I should draw attention in particular to paragraph 26 of the revised draft, which makes an interim reference to the implications for the present licence fee (37½p) of the decision to demonetise the halfpenny. I hope that you and the other recipients of this letter can agree to publication of the paper on this basis. I appreciate the need for a timely decision on the halfpenny, but I do not think that we should let it delay publication of the paper. I must, however, add that, since we are contemplating a future arrangement which would allow local authorities to dispense with a licensing arrangement altogether, I do not believe that we can do other than leave the present fee as nearly as possible where it is until we reach final decisions on the new arrangements. That means rounding to 37p.

Unless I hear to the contrary by close of business on ~~Tuesday~~ Wednesday 8 August, I will proceed with publication.

I am sending copies of this letter to the Prime Minister, members of H, Norman Tebbit, Michael Jopling, and John Wakeham; and to Sir Robert Armstrong.

Yours sincerely

for PATRICK JENKIN (signed by the Secretary of State and signed in his absence)

The Rt Hon Lord Whitelaw CH MC

FINAL DRAFT

CONFIDENTIAL

DOG LICENSING: FUTURE ARRANGEMENTS IN GREAT BRITAIN

CONSULTATION PAPER

INTRODUCTION

1. The dog licensing regime in Great Britain is now absurd. The licence fee of 37½p has remained unchanged since 1878. In England and Wales the fee provides revenue for local authorities of about £900,000; the Department of the Environment pays the Post Office about £3,800,000 for the costs of issuing licences. (There is a comparable deficit in Scotland, but the detailed arrangements differ). Local authorities can make by-laws about dogs and employ dog wardens; the police have the duty of dealing with strays; probably less than half of all dogs are licensed.

2. The Public Accounts Committee in 1982 rightly criticised Governments for continuing with such a regime; the Select Committee on the Environment in 1984 accussed the Government of lacking sufficient urgency in dealing with the question.

3. The facts, and the criticisms, are discussed at greater length below. Taken together, they do not allow any Government which values good administration to continue to do nothing. The reason for the decades of avoidance of the problem by all Governments is not far to seek. Any solution is bound to be controversial; everyone has an opinion, many strongly held. The two broad options - total abolition of the licensing system, or its reorganisation with an increased fee - both have passionate adherents.

4. This consultation paper sets out the Government's reasons for suggeting that the right course is to maintain a licensing system with local options about its implementation and (within limits) about the fee.

5. Comments are welcomed and should be sent to either of the addresses in paragraph 32 to arrive by 30 November 1984.

6. Only one option is excluded altogether: that of doing nothing.

THE BACKGROUND

7. Any policy should start from the fact that dogs are a major source of comfort and companionship to millions of families, adding significantly to human happiness. Ownership of a dog can teach children how to be kind to animals and so enhance their understanding of the animal world as a whole. The companionship of a dog does much to relieve loneliness, not only, but perhaps especially, among the elderly and housebound. It is not surprising that any proposals that touch on the subject of dogs or dog ownership are likely to arouse strong feelings.

8. However, dog ownership also creates problems in society. The great majority of dog owners are responsible, exercising proper care for, and control of, their pets. But there are some who treat dog ownership too casually and who do not exercise the care and control that are needed. There is growing concern about problems caused by dogs, for example because of strays or the fouling of footpaths, children's playgrounds and other public spaces. These problems appear to be increasing, and there are many people who believe that stronger control measures are needed. Any such controls should be seen not only as a means of reducing problems affecting the public but as a means of reducing suffering by dogs. Dogs that are neglected and ill-treated are likely to be those that cause the greatest difficulties: stray dogs, for example, may sometimes cause danger to the public, but are themselves often hungry and miserable animals. Firmer controls could in time do much to reduce avoidable suffering.

9. Recognition of the need to consider these issues goes back some years. In 1974 the then Government appointed the Working Party on Dogs with the following terms of reference:

> To examine the law, custom and practice relating to the control of dogs, including licensing arrangements and the problem of strays; and to make recommendations.

The Working Party reported* in 1976. Its main recommendations were that the annual licence fee of 37½p, unchanged since 1878, should be increased to £5, and that, in Great Britain, responsibility for strays should be transferred from the police to local authorities, who should consider setting up discretionary dog warden services.

10. None of the Working Party's recommendations have been implemented. Successive Governments have felt unable to grasp the nettle of dealing with the complex and contentious issues involved. The need to do so has become more urgent because, in recent years, and as a consequence of inflation, the costs of dog licensing have far exceeded the revenue raised. The Committee of Public Accounts reported+ critically on this in 1982.

COMMITTEE OF PUBLIC ACCOUNTS REPORT ON DOG LICENSING

11. The Committee noted that payments to the Post Office for fee collection in England and Wales, borne on a Department of the Environment Vote, amounted to some £10m in the financial years 1977/78 to 1981/82, compared with revenue of under £5m, which accrued directly to local authorities. More recent figures are now available; in 1982/83 payments were £3.7m and revenue £0.9m and in 1983/84 payments were £3.8m and revenue again £0.9m. There are additional costs (eg in maintaining registers) which fall on local authorities.

12. The Committee also noted that broadly similar arrangements obtained in Scotland. The main difference is that the income from the fees is set against the payments to the Post Office, with the result that no payments are now made to the local authorities. The difference between income from fees and the cost of collection led to a deficit of £177,500 in 1982/83 and £186,350 in 1983/84.

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* Department of the Environment: Report of the Working Party on Dogs (HMSO, 1976)

+ First Report from the Committee of Public Accounts, Session 1982/83 (HC99)

13. The Committee recognised that difficult and controversial issues of policy were involved: their concern was purely with the unacceptable position on the costs of dog licensing. They concluded that the present licensing arrangements served no useful national purpose and recommended that they be suspended temporarily until a policy decision became possible.

14. The Select Committee on the Environment also drew attention to the unsatisfactory situation identified by the Committee of Public Accounts in the course of their scrutiny of the Department of the Environment's Main Estimates 1984-85. They expressed concern in their report* that the Government was not pursuing with sufficient urgency the question how to meet the Committee of Public Accounts' recommendations. The Estimates were debated in the House of Commons on 4 July 1984, and particular attention was drawn to the provision for meeting the Post Office's costs for issuing licences in England and Wales. In responding to the debate, the Parliamentary Under Secretary at the Department of the Environment (Mr William Waldegrave) announced that the Government intended to issue a consultation paper proposing changes to the present system.

15. As the Government pointed out in their response+ to the Public Accounts Committee, however, the present arrangements could be suspended only by abolishing them, which would require primary legislation. And since the financial question cannot sensibly be separated from the policy issues, abolition would itself amount to a major decision of policy. The Government have therefore re-examined the existing arrangements as a whole, taking account of the recommendations of the 1976 Working Party's report. This consultation paper sets out the Government's proposals for future

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* 2nd Report from the Select Committee on the Environment, Session 1983-84 (HC414).

+ Treasury Minute on the First to Eight and Tenth to Eleventh Report from the Committee of Public Accounts Session 1982/83 (Cmnd 8995).

arrangements in Great Britain[+] for dog licensing and control.

THE PRESENT POSITION

Licensing

16. Under the Dog Licences Act 1959 all dogs must be licensed, except for puppies under 6 months, hounds under 12 months never entered in a pack, working sheepdogs, and dogs for the blind. There is no minimum age for a licence holder, and no requirement to hold a licence before owning a dog. Ministers* may vary by order the amount of the fee, the time for payment, the age at which the fee is chargeable and the period for which the licence is to be in force, and may prescribe the form of the licence. Local authorities have a statutory duty to issue dog licences (this is in practice generally done through the Post Office), and to keep a register of licence holders.

17. The Working Party estimated in 1976 that there were over 6 million dogs in Great Britain. The number has almost certainly increased since then, though no more recent estimate is available. There is extensive evasion of the requirement for a licence: taking the Working Party's dog population estimates, less than half of the total number of dogs are licensed. The maximum fine for failure to obtain a licence is £50 and there are about 3,000 prosecutions a year.

[+] The problems of dog control in Northern Ireland were recognised by the Working Party as being much more serious than in Great Britain and following wide-ranging consultations new legislation (the Dogs (Northern Ireland) Order 1983 - SI 1983 No. 764 (N18)) was made on 18 May 1983. This provides for a dog control scheme operated by district councils, financed partly by an increased licence fee of £5 and partly by a contribution from the district rates. The main provisions of the new Order became operative on 19 December 1983.

* The Minister of Agriculture, Fisheries and Food and the Secretaries of State for Scotland and for Wales.

Dog Nuisance

18. The problems associated with dogs include the following:

- large numbers of strays (the Working Party suggested up to one million)
- fouling of public places
- traffic accidents
- worrying of livestock
- attacks on people
- transmission of disease
- noise from barking dogs.

A number of powers are available to deal with these problems. Under the Dogs Act 1906 the power to seize, impound and dispose of strays rests with the police. Local authorities have a range of measures available to them. For example, they may make bylaws prohibiting the fouling by dogs of footways and certain types of grass verges, or banning them from certain enclosed parks and other places of recreation. More than 100 local authorities in England and Wales have set up dog warden schemes under general powers (eg Section 137 of the Local Government Act 1972) to assist in dealing with dog problems and, generally, to promote responsible dog ownership and dog welfare. Some have also acquired, in private legislation, the same powers as the police in respect of strays. Under Road Traffic legislation local authorities may make orders requiring owners to keep their dogs on leads on certain designated roads in the interests of road safety. Separate legislation provides for the control and welfare of dogs in various situations, for example guard dogs, dangerous dogs, dogs in pet shops and in breeding establishments. The worrying of livestock by dogs on agricultural land is prohibited under the Dogs (Protection of Livestock) Act 1953; subsequent amendments give farmers a defence against civil action for causing death or injury to a dog if they acted for the protection of livestock, provide for the payment of compensation, and make it an offence to allow a dog to be at large in a field or enclosure in which there are sheep unless on a lead or otherwise under close control. The Control of Dogs Order 1930 requires all dogs to have a collar and address tag. The penalty for failure to comply is imprisonment or a fine of up to £2,000, but there are very few prosecutions.

19. In Scotland, the Civic Government (Scotland) Act 1982 provides specific measures to deal with the problem of dog fouling and to allow the appointment of dog wardens by local authorities. It also extends the powers of both the police and dog wardens in Scotland in respect of stray dogs, and provides a defence in civil proceedings on death or injury to dogs which may have been worrying livestock, similar to the protection given to farmers in England and Wales.

20. A list of relevant statutory provisions is at Annex A.

PROPOSALS FOR THE FUTURE

21. Dog licensing is a highly contentious and emotive issue. The Government realise that no proposals are likely to command universal support; there are sharp divisions of opinion. The most fundamental of these is between those in favour of a substantially increased licence fee and those in favour of abolishing the licence. The latter argue that, since the problems created by dogs are largely attributable to irresponsible behaviour by a small proportion of owners, it would be unjust to penalise the great majority of owners who exercise proper care for, and control of, their dogs. They point out that there is no licensing requirement for other domestic animals, which can also cause nuisance. They also argue that the already high level of evasion of licensing will rise still further if the fee is increased, and that the only effective way to tackle the problems associated with dogs is through the education of dog owners.

22. There are, however, strong counter arguments. Many responsible bodies that are closely involved with dogs support the continuance of a licensing requirement. These include the main local authority associations, the Institution of Environmental Health Officers, the Farming Unions, the British Veterinary Association, the Joint Advisory Committee on Pets in Society, the League for the Introduction of Canine Control, the National Canine Defence League, the Royal Society for the Prevention of Cruelty to Animals, and the Royal Veterinary College. They see the licensing system as an aid to responsible dog ownership and to dog control, and argue that even a substantially increased fee would not be significant in relation to the costs of feeding and caring for a dog. Local authorities in

particular have to deal with the many of the problems caused by dogs; about one quarter already choose to operate dog warden services. These local authorities would view the total abolition of any form of licensing as a significant weakening of their ability to carry out their functions at a time when the problems are increasing. More importantly, such abolition would clearly signal a lessening of public concern about dog nuisance and of public commitment to the welfare of dogs. As to evasion, it is argued that more effective control would increase the risk that it would be detected.

23. The Government have weighed these arguments carefully and have concluded that total abolition of dog licensing would be wrong; the principal aim of policy should be to promote responsible dog ownership, and they do not believe that abolition would best serve that end. In the words of the National Farmers Union: "Choosing abolition would be to throw away the means of financing proper dog control, throw away the obvious way of tracing the owner of a stray, throw away the potential deterrent to casual purchases, throw away, indeed, all hope of improvement in dog control in the future."

24. Given the financial absurdity criticised by the Committee of Public Accounts, the simplest course would be to increase the licence fee to remove the deficit, otherwise maintaining the existing arrangements: this could be done by Ministerial Order. The question of revenue is, however, only one factor and needs to be considered with others such as improving dog control and welfare. Needs vary widely from one area to another. The Government are therefore unwilling to impose what would amount to a national tax on all dog owners, whether or not there are significant needs in their particular areas.

25. The Government propose that the present national licensing arrangements should be abolished and that new, discretionary powers should be given to district and London borough councils (district and island councils in Scotland) to make schemes for the registration of dogs kept in their areas, for which they would be required to levy a fee. Authorities establishing registration schemes would have discretion to prescribe the fee for registration, subject to limits which the Government would prescribe from time to

time. The aim would be to assist authorities in exercising a degree of control appropriate to the circumstances in their areas, by enabling them to set fees at levels adequate to finance registration and some part at least of control measures. These new arrangements would require primary legislation. This 'local option' scheme is not unlike that in existence in a number of other countries (such as the Federal Republic of Germany and New Zealand). As in any other area of policy where local discretion is involved, there are obvious potential problems derived from lack of national uniformity; but in the sense that local requirements can be fitted to local needs, this lack of uniformity is itself a source of strength.

26. The legislation envisaged by the Government would provide for registration schemes to include mandatory fee exemptions for guide dogs for the blind, and discretionary exemptions and part exemptions for other categories, such as dogs owned by the elderly: local authorities would be free to decide on the nature and scope of the discretionary exemptions to be adopted. It is for consideration to what extent authorities establishing schemes should have discretion to decide other basic features of the arrangements or whether these should be prescribed nationally. Examples are: the dog age at which a licence should be required; whether an age limit should be set below which licences should not be issued to persons; and whether an identification system should be used to facilitate checking that a dog has been licensed, and thus aiding enforcement. The Government would, in any case, issue guidance on these and other aspects with the aim of encouraging general conformity of practice.

27. The legislation would define offences under registration schemes. It would be an offence to keep an unregistered dog in an area where a local authority operated a registration scheme; the place of keeping a dog would thus need to be defined. The legislation would also define the extent of the powers available to local authorities in exercising controls over dog nuisance. The Government propose to adopt as a basis for consultation the recommendation of the Working Party on Dogs on the powers of dog wardens. Where there is a registration scheme, a dog warden would be empowered:

(i) to obtain information from any person whom he has reasonable cause to believe to be the keeper, of a dog which is of legitimate concern to him (for example, a dog which is causing a disturbance in his area);

(ii) to ask for the name and address of any person in charge of a dog which is causing or has caused an offence to be committed; and

(iii) to require a dog keeper to produce a valid licence on demand.

The Government also propose that authorities should continue to be empowered to make bylaws or adopt regulations to help with dog control.

Stray Dogs

28. Stray dogs constitute a particularly severe problem in some areas. The Working Party recommended that responsibility for dealing with strays should be transferred from the police to local authorities. The Government agree and propose to transfer to district councils and London boroughs the present responsibility of the police under the Dogs Act 1906 for the seizure, custody and disposal of stray dogs. This would apply to all these councils whether or not they chose to establish a registration scheme. Many district councils in practice already discharge these responsibilities, in cooperation with the police, and some, as already mentioned, have taken powers in private legislation. District councils in Scotland have discretionary powers under the Civic Government (Scotland) Act 1982. (See para 13).

Financial and Manpower Implications

29. As indicated in paragraph 19 the Government propose that when registration schemes are introduced, the authority should set the fee subject to a prescribed maximum. Under any such scheme, each authority would have formal responsibility for issuing licences and collecting the fees; the authority would have power to employ agents (including the Post Office) for this purpose - bearing in mind the

current statutory requirment* that people should be able to obtain licences near their homes - and would be responsible for meeting the cost of any such agency service. It should be a requirement of principle that any scheme should cover its own costs, but beyond that it would be open to authorities to set the fee at such a level that remaining revenue would be wholly used for dog welfare and control measures. Subject to ensuring that the registration costs are covered by fee income, and to the prescribed maximum fee, it would be for the discretion of local authorities how far dog control measures should be financed from the general rate fund or from licence revenue. Under the Government's proposals local authorities that did not establish registration schemes would still be responsible for dealing with strays and in those cases the associated costs would need to be borne on the rates. The Government accept that some marginal increase in manpower may be involved in these proposals, but given the extent to which local authorities are already active in this area, they do not believe that any overall increase will be significant.

30. Appropriate fee levels would need to be settled in the light of consultation. The minimum necessary would depend on various factors, but on the basis of the costs of the present system it seems unlikely that a fee of less than about £3 would cover the costs of issuing licences and of registration. A preliminary view is that a maximum in the region of £10 might be appropriate; the Government envisage a statutory power to vary the maximum from time to time as circumstances required.

31. Some technical changes would be needed. Under the present arrangements the income which local authorities receive from dog licences counts as tax income, which is deemed not to be part of the the General Rate Fund. Authorities cannot therefore net off such income from their rate fund expenditure, and the full cost of their expenditure on dog control measures counts as total expenditure as defined for rate support grant purposes. Under the proposed arrangements, income from any registration scheme would be treated like any other local authority fee or charge, and would therefore be deductable from their rate fund expenditure. As any income from the

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* Dog Licences Act 1959, S.7(2)

fee, after deducting the costs of registration, would be used for control and welfare measures for dogs, the proposals need not lead to any net increase in local authority expenditure.

INTERIM ARRANGEMENTS

32. Pending a final decision, and, if appropriate, legislation, on the issues raised in this paper, the Government are considering what action is necessary to deal with the consequences for the present system of the demonetisation of the halfpenny. An announcement will be made in due course.

COMMENTS

33. The Government would welcome written comments from organisations and individuals on these proposals. In the light of comments received the Department of the Environment, the Welsh Office and the Scottish Development Department will undertake more detailed discussions with the local authority associations and other bodies. Comments should be sent by 30 November 1984, to:

AN Division
Department of the Environment
Room B357, Romney House
43 Marsham Street
London SW1P 3PY

or, in Scotland, to:

Scottish Development Department
Room 4/95
New St Andrew's House
Edinburgh EH1 3SZ

LEGISLATION RELATING TO DOGS

Dog Licences Act 1959 - as amended, required licences for the keeping of dogs.

Local Government Act 1966 - powers to alter licence fee.

Control of Dogs Order 1930 (made under powers consolidated in the Animal Health Act 1981) - requires dogs to wear identity discs in public places and enables local authorities to make curfew regulations to control dogs.

Dogs (Protection of Livestock) Act 1953 - makes it an offence to allow a dog to worry livestock.

Animals Act 1971 (not applicable to Scotland) - provides the defence in civil proceedings for injuring or killing a dog, of showing that the action was taken for the protection of livestock.

Rabies (Control) Order 1974 - provides for special controls or destruction of animals in infected areas.

Local Government (Scotland) Act 1966 - powers to alter licence fee.

Local Government Act 1972, Public Health Act 1875, Open Spaces Act 1906 - provide powers to make and confirm byelaws.

Dogs Act 1906 - empowers police to seize stray dogs and places duties on police to deal with stray dogs brought in by members of the public.

Dogs Act 1871 - empowers magistrates to order the destruction or control of dogs which have attacked people.

Guard Dogs Act 1975 - lays down requirements for the supervision of guard dogs.

Breeding of Dogs Act 1973 - provides for the inspection and licensing by local authorities of dog-breeding establishments.

Pet Animals Act 1951 - provides for the inspection and licensing by local authorities of pet shops.

Food Hygiene (General) Regulations 1970.

Road Traffic Act 1972.

Animal Health Act 1981.

Wild Life and Countryside Act 1981.

Civic Government (Scotland) Act 1982.

3 AUG 1984

CONFIDENTIAL

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

2 August 1984

Dear Patrick

HAMPTON COURT PALACE

Thank you for your letter of 26 July. You will also have seen the Chancellor of the Duchy of Lancaster's letter of 30 July and that from the Prime Minister's Private Secretary of 1 August.

In the circumstances I think that we should now have a discussion in H Committee and I should be grateful if, in due course, you would circulate a memorandum (this will be easier for the Committee than having to refer to the several items of correspondence).

I am sending copies of this letter to the Prime Minister, members of H Committee, the Attorney General and Sir Robert Armstrong.

Yours ever

Willie

The Rt Hon Patrick Jenkin MP

CONFIDENTIAL

10 DOWNING STREET

From the Private Secretary

1 August 1984

cc: LCD. DSE
HO LPSO
DES DHSS
NIO CDCO
SO DFenD
WO HMT
D/Trup.
CNO
Lord Dekham
HMT
LOD
CO

HAMPTON COURT PALACE

The Prime Minister has seen copies of the correspondence circulated to members of H Committee about the possibility of leasing parts of Hampton Court Palace to private companies.

The Prime Minister shares the Lord President's concern about the possible public and Parliamentary reaction to these proposals. She wonders whether the granting of leases might not more appropriately be dealt with by some agency which has extensive experience of dealing with crown property, and is also perceived to be independent of the Government. The Crown Estates Commissioners, the Duchy of Lancaster, and the Duchy of Cornwall are examples of such bodies.

In view of the potential controversy which these proposals could generate, the Prime Minister takes the view that they should be discussed by colleagues collectively before any announcement is made.

I am sending copies of this letter to the Private Secretaries to the members of H Committee, David Peretz (H.M. Treasury), Henry Steel (Attorney General's Office) and Richard Hatfield (Cabinet Office).

DAVID BARCLAY

Miss Janet Lewis-Jones,
Lord President's Office

PRIME MINISTER

HAMPTON COURT PALACE

Lord Whitelaw feels you should be aware of proposals which have been circulated to H Committee about the future of Hampton Court Palace.

The Environment Secretary is proposing a feasibility study of the possibility of leasing parts of the Palace to private companies.

CLOSED UNDER THE FREEDOM OF INFORMATION ACT 2000

If the full study now proposed goes ahead, and confirms the feasibility of the project, legislation would be required to allow the Secretary of State to grant leases.

The Lord President is worried about how proposals along these lines might be received by Parliament and the public: there could be accusations that the Government was selling the national heritage for gain, as well as worries about continued public access to the Palace. Lord Whitelaw therefore believes that the proposals should be considered collectively

But he would not wish to go against the majority of H Committee (who would be prepared to let the proposal go through), unless you felt that his worries had substance.

Agree with Lord Whitelaw that the proposals for Hampton Court should be considered collectively before any announcement is made?

DMS

31 July 1984

Yes — I share his concern. It all sounds & feels wrong. Can we think about more exclusive property expenses ?

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

From the Minister

CONFIDENTIAL

Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London SW1P 3EB

31 July 1984

DOG LICENSING

My officials have drawn my attention to a letter to you from Peter Rees dated 18 July, commenting on your draft consultation paper, which was not copied to me.

Peter suggests, among other things, that it is for you, me and George Younger to make proposals to colleagues, covering all the options, for dealing with the consequences of demonetisation of the ½p on the dog licence.

Quite frankly, this seems a very elaborate exercise for a very small issue. I see no alternative, in the interim before your legislation is presented, to preserving the status quo on the level of the licence. If that policy is accepted (and it is open to Treasury to propose another) I am advised that there are no consequences of demonetisation save that the fee becomes 37p automatically on the day the ½p disappears. The administrators of the licence have no authority for charging more than that figure, and therefore cannot refuse to deliver licences if the sum is tendered. They should be told clearly that that is the position and the issue will then be settled. I have no desire to introduce legislation simply to end uncertainty where a clear statement from Government would have the same effect.

An early opportunity to make this statement presents itself in the publication of your consultation document on licensing: I hope that you will take it and end this strange affair.

I am copying this letter to the Prime Minister, Members of H Committee, the Secretary of State for Trade and Industry, the Chief Secretary, the Chief Whip and Sir Robert Armstrong.

MICHAEL JOPLING

Parliament: Legislation

CONFIDENTIAL

Chancellor of the Duchy of Lancaster

CABINET OFFICE,
WHITEHALL, LONDON SW1A 2AS

30 July 1984

DwB 31/7 - with DB

Dear Willie,

HAMPTON COURT PALACE

Patrick Jenkin copied to me his letter of 26 July.

As there is a reference to the fact that "no member of H Committee had commented" may I say that I refrained from commenting because you had proposed that the matter should be brought to the Committee.

But if it is not brought to the Committee may I say that experience in the kind of neighbourhood in which I live indicates the very serious problems to which a proposal of this kind could give rise.

I am sending a copy of this letter to the Prime Minister, members of H Committee, the Attorney General, and to Sir Robert Armstrong.

Yours,
Arthur

COCKFIELD

The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
London SW1

CONFIDENTIAL

Parliament Pt 12

legislation

CLOSED UNDER THE FREEDOM OF INFORMATION ACT 2000

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

26 July 1984

Dear Willie,

HAMPTON COURT PALACE

Thank you for your letter of 1 May, in which you expressed reservations on the proposals in mine of 6 April.

You said it would be helpful to have the Attorney General's views. My officials have been in touch with his and he has seen Counsel's opinion. He agrees that "it follows from Mr Mummery's opinion that unless there is some way other than Section 13(1)(b) of the Crown Lands Act 1927 in which the apartments can be transferred to the Crown Estates Commissioners ... no lease on 'commercial terms' can be granted under the existing law. For a lease on commercial terms to be granted, therefore, legislation will be required. The Attorney General has assumed for this purpose that a lease subject to the limitations of the Crown Lands Act 1702 would not be a lease on 'commercial terms'".

The Attorney General also considers that whether such legislation should empower me or the Crown Estates Commissioners to grant such leases is essentially a matter of policy; "although it does seem to the Attorney General that a division between the functions of granting leases and of managing the property could give rise to the type of legal difficulties" which I mentioned in my letter of 6 April.

You expressed surprise that no Member of H Committee had commented on my proposals. You will since have seen Peter Rees' letter of 12 April, agreeing with them. I understand that James Prior was also content. In the circumstances, I am not sure there is much to be gained by an H discussion. Of course I recognise your concern about the risk of political controversy - which was recognised in my own letter. Given the firm agreement of Peter Rees (to whom, of course, the Crown Estates Commissioners report) and the Attorney General's general concurrence with my arguments, I wonder if you are now content that I proceed as I suggested in my letter of 6 April, ie to seek a place in the legislative programme, and arrange for a joint announcement? Alternatively, if you still have doubts, I would be prepared to bring this to H on the basis of our exchange of correspondence. But that will mean further delays.

CONFIDENTIAL

I am copying this letter to the Prime Minister, Members of H COmmittee, the Attorney General and Sir Robert Armstrong.

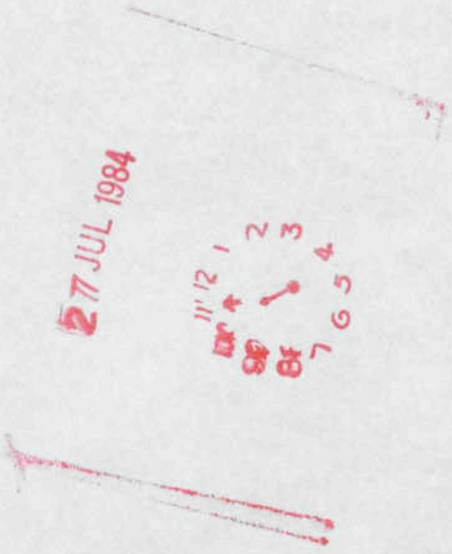
Yours ever

Pat

PATRICK JENKIN

The Rt the Viscount Whitelaw CH MC

Parliament Part 12
Legislation



CCND
BK

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

CONFIDENTIAL

The Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

25 July 1984

Dear Patrick,

DOG LICENSING

You sent me a copy of your letter of 2 July to Willie Whitelaw about the proposed consultation paper on dogs.

Because of the different statutory provisions applying in Scotland, my officials have already had an opportunity to comment on, and contribute to earlier drafts of the paper. I am satisfied that the document which has emerged from those contacts forms a basis for consultation on how dog licensing and related matters are to be managed in the future.

I am copying this letter to the Prime Minister, other members of H Committee, the Secretary of State for Trade and Industry, the Chief Whip, and Sir Robert Armstrong.

Yours ever,

George.

Belmont ft 12

bg 18 story

SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-233 3000 (Switsfwrdd)
01-233 6106 (Llinell Union)
Oddi wrth Ysgrifennydd Gwladol Cymru

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-233 3000 (Switchboard)
01-233 6106 (Direct Line)
From The Secretary of State for Wales

The Rt Hon Nicholas Edwards MP

24 July 1984

Dear Gray

HOUSE OF COMMONS DISQUALIFICATION ACT 1975

Your letter of 12 June to John Biffen was copied to me and I can confirm that I am content with the factual analysis you attached to it.

I am also sympathetic to the objective of reducing the number of individuals affected by the Act and this is something that we can look closely at during the next review. Your second objective of achieving greater consistency of treatment towards Boards and Members of Non Departmental Public Bodies is also worth pursuing, but I imagine that this is best tackled centrally, ie by your own officials, where inconsistencies can most easily be identified and challenged.

I am copying this letter to the recipients of yours (list attached).

Yours ever

Nick

The Rt Hon the Earl of Gowrie
Management and Personnel Office
Great George Street
LONDON
SW1P 3AL

PARLIAMENT: Leg. Prog.
A 12

Prime Minister
The Home Secretary
The Lord Chancellor
The Secretary of State for Foreign Affairs
The Chancellor of the Exchequer
The Secretary of State for Education and Science
The Lord President of the Council
The Secretary of State for Northern Ireland
The Secretary of State for Defence
The Ministry of Agriculture, Fisheries and Food
The Secretary of State for the Environment
The Secretary of State for Scotland
The Secretary of State for Trade and Industry
The Secretary of State for Transport
The Secretary of State for Social Services
The Secretary of State for Energy
The Secretary of State for Employment
The Attorney General
The Chancellor of the Duchy of Lancaster
The Lord Advocate
Minister for Overseas Development
Sir Robert Armstrong

27 JUL 1984

PRIME MINISTER (2)

MB

ROYAL ORDNANCE FACTORIES

In case the Lord President raises the two defeats in the Lords on the Royal Ordnance Factories Bill, you might like a note on the background.

The Government lost narrowly on two votes. The first was an Opposition Amendment to require the Government to seek affirmative resolutions of both Houses before the new company could be incorporated. It is strange that, at the same time, the Lords' agreed a Government Amendment waiving the usual two months' waiting time after Royal Assent. Thus on the same day the Lords passed one provision to speed up the process by two months and another to slow it down by one month.

The second defeat was on an Opposition Amendment that all the assets in the current trading fund must be transferred to one company rather than being split up. This was in response to union pressure.

MOD believe that neither of these two Amendments are more than minor irritants imposing some delays. It seems the cause was largely poor whipping in the Lords and it is likely that MOD will seek to reverse these provisions on report in the Lords. Royal Assent will not be secured before the Recess but that was likely to be the case anyway.

HT

20 July 1984

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

I enclose a letter to the Prime Minister from Lord Renton about reorganisation of responsibility for the Parliamentary Counsel's office. This came through the Prime Minister's Parliamentary Private Secretary, who has acknowledged it. Since this is a machinery of Government matter, I should be grateful if you could advise the Prime Minister on a draft reply.

19 July 1984

Michael Alison

Many thanks. I think we should get advice from Sir Robert Armstrong's machinery of government people. Lord Renton's suggestion is not a new one and we shall no doubt get the 'book' answer, but it would be something for the PM to consider. Shall I get that advice?

Robin Butler

Lord Renton handed the attached letter to me last week. I have shown it to the Prime Minister, and I have acknowledged it in writing.

However, I would be very grateful for your views on how we should reply to him.

MA

FEB

17.7.

MICHAEL ALISON
16.7.84

Yes, pl

MA 18/7

CONFIDENTIAL

CC(84)6

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SWIH 9AT

16 July 1984

16pm DmB 17/7

DOG LICENSING

Thank you for copying to me your letter of 2 July to Willie Whitelaw concerning the draft consultation paper. In general, I welcome a proposal which will put an end to the present plethora of separate Departmental responsibilities and continuing criticism over licences.

I have only three points of substance on the consultation paper, two of which have been raised by officials in comments on the previous draft. First, I do not think it is convincing to argue, as you suggest in paragraph 15, that people who ignore a fee because its level is derisory will pay a high one. Secondly, and more importantly, paragraph 19 refers to the extent of powers available to local authorities. As the purpose of the Bill is to provide comprehensive legislation for the control of dogs, there might be an advantage in including specific provisions to make by byelaws, or, alternatively, providing for adoptive regulations (although these are only really suitable for the less contentious byelaws). Thirdly, you suggest in paragraph 21 that surplus revenue might be devoted to the prevention of cruelty to dogs. This may be taken to suggest that present legislation, which is essentially the same for dogs as for other animals, is inadequate. I should prefer a reference, as in paragraph 23, to welfare measures, although I am not entirely sure what you have in mind.

Other, practical points - such as how to identify dogs and the places at which they are kept - can be considered in more depth when responses to the consultation document have been recieved.

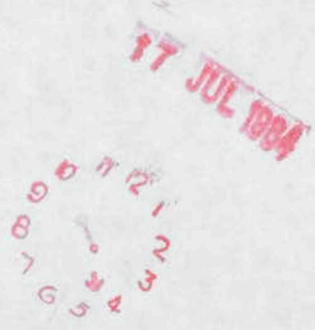
I have sent copies of this letter to the Prime Minister, Members of H Committee, Norman Tebbit, John Wakeham and to Sir Robert Armstrong.

Leon Brittan

The Rt Hon Patrick Jenkin, MP

CONFIDENTIAL

legislation : PARLIAMENT Pt 12.



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CC/00

Await DoE

HOUSE OF LORDS,
SW1A 0PW

11 July 1984

Dear Patrick:

Dog Licensing

As you know I have always favoured the abolition of the licensing system with the retention of the requirement for collars and of the control of strays.

Your proposals seem to me unduly complicated and as was pointed out in the H-Committee discussion last year only indirectly related to the care and control of dogs, the principal issue. It does not follow that an owner who has a licensed animal will treat it correctly. And if it did, why is the power to be discretionary?

In so far as a public authority can influence the management of dogs, this would seem to be achieved in a simple manner by the requirements of The Control of Dogs Order (1930 No. 399) obliging the wearing of a collar bearing the name and address of the owner by all dogs in a public place. And a quarter of all authorities, it seems, already maintain dog warden services without the benefit of a high licence fee.

I am copying this letter to the Prime Minister, Members of H-Committee, the Secretary of State for Trade and Industry, the Chief Whip and Sir Robert Armstrong.

yrs:

The Right Honourable
Patrick Jenkin MP,
Secretary of State for the Environment,
Department of the Environment,
2 Marsham Street,
London,
SW1P 3EB

11 JUL 2000

From: The Rt. Hon. Lord Renton, Q.C.

House of Lords · Westminster

PERSONAL AND CONFIDENTIAL 9th July 1984

The Rt. Hon. Mrs. Margaret Thatcher, M.P.
10 Downing Street,
Whitehall.

Dear Prime Minister,

The Need to Improve legislative Drafting

I am, as you know, an enthusiastic supporter of your main policies and greatly admire your style of government. There is, however, one respect in which matters have worsened in recent years, and that is in the quality of legislative drafting.

There are various causes of this. One is the vast amount of legislation, which undoubtedly places heavy burdens on Parliamentary Counsel, but this is not in itself an explanation or excuse for the verbose, complex and obscure phraseology which appears too often.

Other and more direct causes are

1. continued refusal of Parliamentary Counsel to pay regard to the needs of the users of statutes, to draft in more general terms and to use more simple language; and
2. the fact that the Legislation Committee of the Cabinet is no longer presided over by the Lord Chancellor and has become mainly a business committee, rather than the scrutiny committee which it was and should be.

continued/...

cont'd/.....

Among those peers who are worried about the drafting is Jack Simon of Glaisdale, who has tabled a motion, "To call attention to the advantages of incorporating the Office of the Parliamentary Counsel into the Lord Chancellor's Department; and to move for papers." This can only be debated if he is successful in a ballot.

I agree with him and so do others. It is anomalous that the Lord Chancellor is responsible for the Law Commission (which, among other things, promotes the consolidation of statutes with the assistance of Parliamentary Counsel,) but has no responsibility for the work of the Parliamentary Counsel Office.

By contrast, the Lord Advocate is responsible for the Scottish Parliamentary Draftsmen, with the result that Scottish legislation is better drafted.

Parliamentary Counsel have always enjoyed being independent of ministerial influence. It seems that no Minister for the Civil Service, who is the one nominally responsible for them, has ever sought to question their methods. Although ministers are each responsible for the contents of their own bills, it is invariably their practice to accept both the draftsman's advice and his often tortuous explanations of his drafts. I am marking this letter "Personal and Confidential" because First Parliamentary Counsel (now our fellow bencher, Sir George Engel) will no doubt try to mobilise opposition to the suggestion that the

continued/.....

House of Lords · Westminster

Lord Chancellor should be made responsible for that office.

Of Course, if the Lord Chancellor were to become responsible for it and to preside over the Legislation Committee as a scrutiny committee, it would be essential to have a Lord Chancellor who was determined and competent to concern himself with the quality of drafting. Although we would be sorry to lose Quintin, he cannot go on for ever, and some of those elegible to succeed him would in that respect be more suitable than others! He is a good ally in this matter and still alert mentally, but I am sure that he feels frustrated and powerless to deal with it. His intellect still shines and you may care to discuss it with him.

Yours ever,

David.

PRIVY COUNCIL OFFICE
WHITEHALL LONDON SW1A 2AT

5 July 1984

Dear Grey,

DAVID STEEL'S FREEDOM OF INFORMATION (NO 2) BILL

Thank you for your letter of 2 July about the Freedom of Information (No 2) Bill introduced by David Steel on Monday.

As you say, the differences between this Bill and David's previous one seem minor, and there is no doubt that it runs contrary to Government policy and must be blocked.

I am copying this letter to the Prime Minister, the Home Secretary, other members of Legislation Committee, Sir Robert Armstrong and First Parliamentary Counsel.

John Biffen

JOHN BIFFEN

Rt Hon the Earl of Gowrie
Minister of State
Cabinet Office

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET

Telephone (Direct dialling) 01-215) 5422
GTN 215)
(Switchboard) 215 7877

Secretary of State for Trade and Industry

IE68829

5 July 1984

The Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

Dear Patrick,

DOG LICENSING

Thank you for sending me a copy of your letter of 2 July to Willie Whitelaw and the draft consultation paper. I must say that I find it most unsatisfactory that comments have been requested at such short notice on a matter which has been under consideration for so long. In the circumstances, and without reference to any views the Post Office may have, I can confirm that I am content for the broad shape of the proposals to be announced in the debate on the DOE Estimates as well as the intention to publish a consultative document.

2 I am concerned, however, to ensure that it is made clear that the impact of the proposed changes on the Post Office will need to be considered in the consultation process. As it stands the draft paper does not discuss whether under the new arrangements local authorities would continue to use the Post Office Counters network.

3 Dog licensing work is a relatively minor element of the business conducted over Post office counters. But as you will be aware, any proposals which may lead to business being lost, especially at sub-Post Offices, have a special significance both to the counters business itself and to the sub-Postmasters' lobby. When, as Secretary of State for Social Services, you announced the changes in DHSS payment methods in May 1981 you repeated the Government's commitment to maintaining an adequate sub-post office network. You also expressed the Government's confidence that business lost as a result of the changes would be more than compensated for by growth in new and existing business at counters. It will be sub-offices that will stand to lose most

if the new licensing arrangements take business away from the Post Office and we will be pressed hard to explain how this fits in with the statement which you made in May 1981.

4 While I would not suggest that any requirement be imposed on local authorities to continue to use the counters network irrespective of the costs involved, I do think that it is important that we ensure that the counters business is given a fair chance to negotiate commercial terms with local authorities to continue to undertake dog licensing at counters.

5 I am copying this letter to the recipients of yours.

Yours Norman

NORMAN TEBBIT

4 JUL 1984

CONFIDENTIAL

CHIEF SECRETARY TO THE TREASURY

Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
LONDON
SW1P 3EB

4 July 1984

Dear Patrick

DOG LICENSING

Thank you for copying to me your letter of 2 July to Willie Whitelaw about the line you propose to take on dog licensing if the subject is raised in tomorrow's debate on the Environment Select Committee's report on DOE main estimates.

I see no objection to your indicating in the debate the general shape of your proposals, and announcing the intention to publish a consultation paper. As you say, the proposals are basically in line with those considered by H Committee last year. I will let you have comments on the draft consultation paper as soon as possible.

The draft paper states, in paragraph 16, that dog licensing is not now appropriate to its original purpose of raising revenue. I very much hope, however, that you will not say anything in tomorrow's debate which will rule out the option of using dog licensing as a means of raising general revenue.

Your letter did not refer to the consequences for the licence fee of the demonetisation of the halfpenny. If questioned on that during the debate, I understand that you have it in mind to say that the decision on what should be done must, in part, rest on conclusions on the wider problem of what to do about dog licensing arrangements. I have no objection to that, provided it leaves the way open to move to full recovery of costs when the halfpenny demonetisation proposal

CONFIDENTIAL

comes into effect in the autumn, if Ministers decide that that is the preferred course.

I am copying this to the Prime Minister, the members of H Committee, the Secretary of State for Trade and Industry, the Chief Whip, and Sir Robert Armstrong.

Yours ever Peter

PETER REES

CONFIDENTIAL

PRIVY COUNCIL OFFICE
WHITEHALL LONDON SW1A 2AT

3 July 1984

Dear Patrick

DOG LICENSING

Thank you for your letter of 2 July proposing an announcement tomorrow about our new approach to dog licensing and control, followed by a consultation paper.

Given the circumstances I agree with you that an announcement would be sensible, and unless there is any significant dissent from colleagues by close of play today you may take it that you have H Committee's agreement. You will of course appreciate that it is not possible to give any commitments at this stage about the timing of legislation. As regards the consultation document, colleagues will need a little time to look at the detail and I suggest that any comments they have should reach you by 13 July.

I am sending copies of this reply to the Prime Minister, the members of H Committee, the Secretary of State for Trade and Industry, and to Sir Robert Armstrong.

Yours

The Rt Hon Patrick Jenkin MP

CONFIDENTIAL

CABINET OFFICE

From the Minister of State

Lord Gowrie

MANAGEMENT AND PERSONNEL OFFICE
Great George Street
London SW1P 3AL
Telephone 01-233 8610

The Rt Hon John Biffen MP
Lord Privy Seal
68 Whitehall
London SW1

2 July 1984

Dear John,

DAVID STEEL'S FREEDOM OF INFORMATION (No 2) BILL (S.O.39)

David Steel is to introduce a Freedom of Information (No 2) Bill under Standing Order 39. The Notice of Presentation reads:

> "Freedom of information (No 2): Bill to establish a general right of access to official information for members of the public subject to certain exemptions; to establish the machinery for enabling the right of access to be exercised by members of the public; to make new provision for the protection of official information and articles; and for connected purposes".

David Steel's first Freedom of Information Bill is down for Second Reading on 6 July, when we have agreed it should be blocked (your letter to me of 5 March). It has still not been published.

The Long Titles of the two Bills are identical except for the addition here of "to make new provision for the protection of officials information and articles". My guess is that the Bills are virtually the same, but that the No 2 Bill will contain provisions intended to replace (rather than repeal outright) Section 2 of the Official Secrets Act 1911. But there may of course be other significant differences.

Clearly, however, this is a Bill to establish a statutory right to official information in general, as distinct from the two other Bills promoted by the Freedom of Information Campaign: Simon Hughes' Local Government (Access to Information) and

Chris Smith's (Access to Personal Files Bill) - on the second of which I have just written to you. As such it is objectionable in principle, for the reasons set out in my letter to you of 24 February.

I am sure we should not allow it to receive a Second Reading. We have agreed to block the first David Steel Bill, and Patrick Jenkin and I have, as you know, recommended that the other two Bills should (though for practical reasons rather than those of principle) be treated similarly.

I am sending copies of this letter to the Prime Minister, the Home Secretary, other members of Legislation Committee, Sir Robert Armstrong, and First Parliamentary Counsel.

Yours,

Tony

LORD GOWRIE

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JUL 1959

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oprestaten CC NO.

Prime Minister (2)

To note that Mr Jenkin proposes to make an outline statement on dogs on Wednesday. I will put the draft consultation paper in your weekend box, with advice.

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB CC BT

01-212 3434

My ref:

Your ref:

2 July 1984

Dear Lord President

DOG LICENSING

DMB 2/7

H Committee decided last year (H(83)16th Meeting) that the present arrangements for dog licensing should be abolished and that local authorities should be given discretionary powers to set up dog registration schemes and to set a licence fee (subject to a prescribed maximum) adequate to cover the costs of registration and dog control measures. I was invited to work out details and prepare a consultation paper.

We are now faced with a debate on DOE's Estimates on 4 July, arising from a report of the Environment Select Committee, which is likely to focus on the provision for meeting the Post Office's costs of collecting dog and game licences. As you will recall, these costs far outstrip the revenue (which in any case accrues to local authorities). The deficit was the subject of a PAC report in late 1982, and there will undoubtedly be criticism of our failure to remedy this situation.

In the circumstances I think that we should indicate in the debate the general shape of our proposals and announce the intention to publish a consultation paper. Unless I hear to the contrary from you or other colleagues by close tomorrow (Tuesday) I will assume that you are content. I am sorry to give so little notice.

I attach a draft of a consultation paper and would be grateful for comments as soon as possible.

The Prime Minister has asked to see the consultation paper before it is issued. I am therefore copying this letter to the Prime Minister as well as to the members of H Committee, the Secretary of State for Trade and Industry (in view of his responsibility for the Post Office), the Chief Whip and Sir Robert Armstrong.

Yours sincerely

for PATRICK JENKIN

The Rt Hon the Viscount Whitelaw CH MC

DOGS: DRAFT CONSULTATION PAPER

INTRODUCTION

1. Dogs are a major source of comfort and companionship to millions of families, adding significantly to human happiness. Ownership of a dog can often teach children how to be kind to animals and so enhance their understanding of the animal world as a whole. The companionship of a dog does much to relieve loneliness among the elderly and housebound. It is not surprising that any proposals that touch on the subject of dogs or dog ownership are likely to arouse strong feelings.

2. However, dog ownership also creates problems in society. The great majority of dog owners are responsible, exercising proper care for, and control of, their pets. But there are some who treat dog ownership too casually and who do not exercise the care and control that are needed. There is growing concern about problems caused by dogs, for example because of strays or the fouling of footpaths or public spaces. These problems appear to be increasing and there are many people who believe that stronger control measures are needed. Any such controls should be seen not only as a means of reducing problems affecting the public but as a means of reducing cruelty to dogs. Dogs that are neglected and ill-treated are likely to be those that cause the greatest difficulties; stray dogs, for example, are often neglected, hungry and miserable animals. Firmer controls could in time do much to reduce avoidable cruelty to dogs.

3. Recognition of the need to consider these issues goes back some years. In 1974 the then Government appointed the Working Party on Dogs with the following terms of reference:

> To examine the law, custom and practice relating to the control of dogs, including licensing arrangements and the problem of strays; and to make recommendations.

The Working Party reported* in 1976. Its main recommendations were that the annual licence fee of 37½p, unchanged since 1878, should be increased to £5, and that, in Great Britain, responsibility for strays should be transferred from the police to local authorities, who should consider setting up discretionary dog warden services.

4. None of the Working Party's recommendations have been implemented. Successive Governments have felt unable to accord the time needed to deal with the complex and contentious issues involved. The need to tackle the problem has become more urgent because, in recent years, and as a consequence of inflation, the costs of dog licensing have exceeded the revenue. The Committee of Public Accounts reported# critically on this in 1982.

* Department of the Environment: Report of the Working Party on Dogs (HMSO, 1076).

\# First Report from the Committee of Public Accounts Session 1982/83 (HC99).

COMMITTEE OF PUBLIC ACCOUNTS REPORT ON DOGS LICENSING

5. The Committee noted that payments to the Post Office for fee collection in England and Wales, borne on a Department of the Environment Vote, amounted to some £10m in the financial years 1977/78 to 1981/82, compared with revenue of under £5M, which accrued directly to local authorities. More recent figures are now available; in 1982/83 payments were £3.7m and revenue £0.9m and in 1983/84 payments were £3.8m and estimated revenue £0.9m. There are additional costs (eg in maintaining registers) which fall on local authorities.

6. The Committee also noted that broadly similar arrangements obtained in Scotland. The main difference is that the income from the fees is set against the payments to the Post Office, with the result that no payments are now made to the local authorities. The difference between income from fees and the cost of collection led to a deficit of £177,500 in 1982/83 and £186,350 in 1983/84.

7. The Committee recognised that difficult and controversial issues of policy were involved: their concern was purely with the unacceptable position on the costs of dog licensing. They concluded that the present licensing arrangements served no useful national purpose and recommended that they be suspended temporarily until a policy decision became possible.

8. As the Government pointed out in its response* to the Committee, however, the present arrangements could be suspended

* Treasury Minute on the First to Eighth and Tenth to Eleventh Reports from the Committee of Public accounts Session 1982/83 (Cmnd 8995).

only by abolishing them, which would require primary legislation. And since the financial question cannot sensibly be separated from the policy issues, abolition would itself amount to a major decision of policy. In considering the Committee's report therefore, the Government have re-examined the existing arrangements as a whole, taking account of the recommendations of the 1976 Working Party's report. This consultation paper sets out the Government's proposals for future arrangements in Great Britain* for dog licensing and control.

THE PRESENT POSITION

Licensing

9. Under the Dog Licences Act 1959 all dogs must be licensed, except for puppies under 6 months, hounds under 12 months never entered in a pack, working sheepdogs, and dogs for the blind. There is no minimum age for a licence holder, and no requirement to hold a licence before owning a dog. Ministers# may vary by order the amount of the fee, the time for payment, the age at which the fee is chargeable and the period for which the licence is to be in force, and may prescribe the form of the licence. Local authorities have a statutory duty to issue dog licences (this is in practice generally done through the Post Office), and to keep a register of licence holders.

* The problems of dog control in Northern Ireland were recognised by the Working Party as being much more serious than in Great Britain and following wide-ranging consultations new legislation (the Dogs (Northern Ireland) Order 1983 - SI 1983 No.764 (N18)) was made on 18 May 1983. This provides for a dog control scheme operated by district councils, financed partly by an increased licence fee of £5 and partly by a contribution from the district rates. The main provisions of the new Order became operative on 19 December 1983.

The Minister of Agriculture, Fisheries and Food and the Secretaries of State for Scotland and for Wales.

10. The Working Party estimated in 1976 that there were over 6 million dogs in Great Britain. The number has almost certainly increased since then, though no more recent estimate is available. There is extensive evasion of the requirement for a licence: taking the Working Party's dog population estimate, less than half of the total number of dogs are licensed.

Dog Nuisance

11. The problems associated with dogs include the following:

large numbers of strays (the Working Party suggested up to one million)

fouling of public places

traffic accidents

worrying of livestock

attacks on people

transmission of disease

noise from barking dogs.

A number of powers are available to deal with these problems. Under the Dogs Act 1906 the power to seize, impound and dispose of strays rests with the police. Local authorities have a range of measures available to them. For example, they may make byelaws prohibiting the fouling by dogs of footways and certain types of grass verges, or banning them from certain enclosed parks and other places of recreation. More than 100 local authorities in England and Wales have set up dog warden schemes under general powers (eg Section 137 of the Local Government Act 1972) to assist in dealing with dog problems and, generally, to promote responsible dog ownership and dog welfare. Some have also acquired, in private legislation, the same powers as the police in respect of strays. Under Road Traffic legislation local authorities may make

orders requiring owners to keep their dogs on leads on certain designated roads in the interests of road safety. Separate legislation provides for the control and welfare of dogs in various situations, for example guard dogs, dangerous dogs, dogs in pet shops and in breeding establishments. The worrying of livestock by dogs on agricultural land is prohibited under the Dogs (Protection of Livestock) Act 1953; subsequent amendments give farmers a defence against civil action for causing death or injury to a dog if they acted for the protection of livestock, provide for the payment of compensation, and make it an offence to allow a dog to be at large in a field or enclosure in which there are sheep unless on a lead or otherwise under close control.

12. In Scotland, the Civic Government (Scotland) Act 1982 provides specific measures to deal with the problem of dog fouling and to allow the appointment of dog wardens by local authorities. It also extends the powers of both the police and dog wardens in Scotland in respect of stray dogs, and provides a defence in civil proceedings on death or injury to dogs which may have been worrying livestock, similar to the protection given to farmers in England and Wales.

13. A list of relevant statutory provisions is at Annex A.

PROPOSALS FOR THE FUTURE

14. Dog licensing is a highly contentious and emotive issue. There are sharp divisions of opinion between those in favour of a substantially increased licence fee and those in favour of abolishing the licence. The latter argue that since the problems created by dogs are largely attributable to irresponsible behaviour by a small proportion of owners, it would be unjust to penalise the great majority of owners who

exercise proper care for, and control of, their dogs. They also argue that the already high level of evasion of licensing will rise still further if the fee is raised; that evasion is likely to be greatest among those less responsible owners whose dogs cause the main problem; and that the education of dog owners is the only effective way to tackle these problems.

15. There are, however, strong counter arguments. Many responsible bodies that are closely involved with dogs, including local authorities, animal welfare organisations, the Farming Unions and the British Veterinary Association, believe that stronger measures are now needed for dog control. Local authorities in particular have to deal with many of the problems caused by dogs; about one quarter of these authorities already operate dog warden services. These local authorities would view the total abolition of any form of licensing as a significant weakening of their ability to carry out these functions at a time when the problems are increasing. More importantly, abolition would clearly signal a lessening of public concern about dog nuisances and of public commitment to the welfare of dogs. It can be argued that the present high level of evasion reflects indifference to a derisory fee, and that if the fee were to be set at a level sufficient to support sensible control measures the licensing system would command respect and observance. Moreover, more effective control would increase the risk that licence evasion would be detected.

16. The Government have weighed these arguments carefully and have concluded that total abolition of dog licensing would be wrong; the principal aim of policy should be to promote responsible dog ownership and abolition would not serve that end. Given the

financial absurdity criticised by the Committee of Public Accounts, the simplest course would be to increase the licence fee to remove the deficit, otherwise maintaining the existing arrangements; this could be done by Ministerial Order. But dog licensing is not now appropriate to its original purpose of raising general revenue; it can be justified only in the context of improving dog control and welfare. Needs vary widely from one area to another. The Government are therefore unwilling to impose what would amount to a national tax on all dog owners, whether or not there are significant needs in their particular areas.

17. The Government propose that the present national licensing arrangements should be abolished and that new, discretionary powers should be given to district and London borough councils (district and islands councils in Scotland) to make schemes for the registration of dogs in their areas, for which they would be required to levy a fee. Authorities establishing registration schemes would have discretion to prescribe the fee for registration, subject to limits which the Government would prescribe from time to time. The aim would be to assist authorities in exercising a degree of control appropriate to the circumstances in their areas, by enabling them to set fees at levels adequate to finance registration and some part at least of control measures. These new arrangements will require primary legislation.

18. The legislation would provide for registration schemes to include mandatory fee exemptions for guide dogs for the blind, and discretionary exemptions and part exemptions for other categories, such as dogs owned by the elderly: local authorities

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would be free to decide on the nature and scope of the discretionary exemptions to be adopted. It is for consideration to what extent authorities establishing schemes should have discretion to decide other basic features of the arrangements or whether these should be prescribed nationally. Examples are: the dog age at which a licence should be required; whether an age limit should be set below which licences should not be issued to persons; and whether an identification system should be used to facilitate checking that a dog has been licensed, and thus aiding enforcement. The Government would, in any case, issue guidance on these and other aspects with the aim of encouraging general conformity of practice.

19. The legislation would define offences under registration schemes. It would be an offence to keep an unregistered dog in an area where a local authority operates a registration scheme; the place of keeping a dog would thus need to be defined. The legislation would also define the extent of the powers available to local authorities in exercising controls over dog nuisances. The Government propose to adopt as a basis for consultation the recommendation of the Working Party on Dogs on the powers of dog wardens. Where there is a registration scheme, a dog warden would be empowered:

(i) to obtain information from any person whom he has reasonable cause to believe to be the owner of a dog which is of legitimate concern to him (for example, a dog which is causing a disturbance in his area);

(ii) to ask for the name and address of any person in charge of a dog which is causing or has caused an offence to be committed; and

(iii) to require a dog owner to produce a valid licence on demand.

Stray Dogs

20. Stray dogs constitute a particularly severe problem in some areas. The Working Party recommended that responsibility for dealing with strays should be transferred from the police to local authorities. The Government agree and propose to transfer to district councils and London boroughs the present responsibility of the police under the Dogs Act 1906 for the seizure, custody and disposal of stray dogs. This would apply to all these councils whether or not they chose to establish a registration scheme. Many district councils in practice already discharge these responsibilities, in cooperation with the police, and some, as already mentioned, have taken powers in private legislation. District councils in Scotland have discretionary powers under the Civic Government (Scotland) Act 1982. (See para 12).

Financial and Manpower Implications

21. As indicated in paragraph 17 the Government propose that when registration schemes are introduced, the authority should set the fee subject to a prescribed maximum. It should be a requiremeht of principle that any scheme should cover its own costs, but beyond that it would be open to authorities to set the fee at such a level that remaining revenue would be wholly used for control and for the prevention of cruelty to dogs. Subject to ensuring that the registration costs are covered by fee income, and to the prescribed maximum fee, it would be for the discretion of local authorities how far dog control measures should be financed from the general rate fund or

from licence revenue. Under the Government's proposals, local authorities that did not establish registration schemes would still be responsible for dealing with strays and in those cases the associated costs would need to be borne on the rates. The Government accept that some marginal increase in manpower may be involved in these proposals, but given the extent to which local authorities are already active in this area, they do not believe that any overall increase will be significant.

22. Likely fee levels will be for detailed discussion. The minimum necessary will depend on various factors but on the basis of the costs of the present system it seems unlikely that a fee of less than about £3 would cover the costs of issuing licences and of registration. A preliminary view is that a maximum in the region of £12 might be appropriate.

23. Some technical changes will be needed. Under the present arrangements the income which local authorities receive from dog licences counts as tax income, which is deemed not to be part of the General Rate Fund. Authorities cannot therefore net off such income from their rate fund expenditure, and the full cost of their expenditure on dog control measures counts as total expenditure as defined for rate support grant puposes. Under the proposed arrangements, income from any registration scheme will be treated like any other local authority fee or charge, and will therefore be deductable from their rate fund expenditure. As any income from the fee, after deducting the costs of registration, is to be used for control and welfare measures for dogs, the proposals need not

lead to any net increase in local authority expenditure.

COMMENTS

24. The Government would welcome written comments from organisations and individuals on these proposals. [In the light of comments received the Department of the Environment, the Welsh Office and the Scottish Development Department will undertake more detailed discussions with the local authority associations and other bodies]. Comments should be sent to [ ] and should arrive not later than [ ].

LEGISLATION RELATING TO DOGS

Dog Licences Act 1959 - as amended, requires licences for the keeping of dogs.

Local Government Act 1966 - powers to alter licence fee.

Control of Dogs Order 1930 (made under powers consolidated in the Animal Health Act 1981) - requires dogs to wear identity discs in public places and enables local authorities to make curfew regulations to control dogs.

Dogs (Protection of Livestock) Act 1953 - makes it an offence to allow a dog to worry livestock.

Animals Act 1971 (not applicable to Scotland) - provides the defence in civil proceedings for injuring or killing a dog, of showing that the action was taken for the protection of livestock.

Rabies (Control) Order 1974 - provides for special controls or destruction of animals in infected areas.

Local Government (Scotland) Act 1966 - powers to alter licence fee.

Local Government Act 1972, Public Health Act 1875, Open Spaces Act 1906 - provide powers to make and confirm byelaws.

Dogs Act 1906 - empowers police to seize stray dogs and places duties on police to deal with stray dogs brought in by members of the public.

Dogs Act 1871 - empowers magistrates to order the destruction or control of dogs which have attacked people.

Guard Dogs Act 1975 - lays down requirements for the supervision of guard dogs.

Breeding of Dogs Act 1973 - provides for the inspection and licensing by local authorities of dog-breeding establishments.

Pet Animals Act 1951 - provides for the inspection and licensing by local authorities of pet shops.

Food Hygiene (General) Regulations 1970.

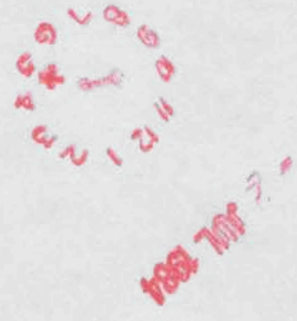
Road Traffic Act 1972.

Animal Health Act 1981.

Wild Life and Countryside Act 1981.

Civic Government (Scotland) Act 1982.

PARLIAMENT : Legislature Prog. Pt II.



HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

19 June 1984

JR 21/6

You asked for comments on your letter of 12 June to John Biffen, enclosing a factual analysis of the House of Commons Disqualification Act 1975.

I agree that in the course of the next review of Schedule 1 it would be sensible to look more critically at some of the entries to see whether the number of people caught by the Act could be cut and any inconsistencies between and within Departments eliminated. However, the need for some posts to be filled by politically impartial people may make it difficult to reduce significantly the number of entries in the Schedule.

I have no comments on the factual analysis.

I am copying this letter to the recipients of yours.

Leon Brittan

Lord Gowrie

29 JUN 1984

JJ

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB

My ref: J/PSO/14705/84

Your ref:

25 June 1984

26/6.

Dear Grey,

HOUSE OF COMMONS DISQUALIFICATION ACT 1975

Thank you for copying your letter to John Biffen of 12 June to me. - with TF

I am content that the factual analysis of the House of Commons Disqualification Act 1975 should be published.

As to the intent to reduce the number of individuals affected by the Act I agree, in principle, to your suggestions. There may be difficulties in specific cases, but no doubt your officials and mine will iron out any that may emerge.

I am copying as before.

Yours

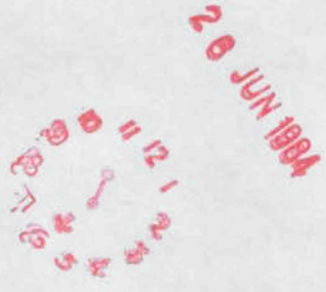
Patrick

PATRICK JENKIN

The Lord Gowrie

Parliament

Legislation Pt 12



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PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

25 June 1984

Dear Michael

JR 26/6

ORDNANCE FACTORIES AND MILITARY SERVICES BILL

Thank you for your letter of 18 June underlining David Trefgarne's arguments for securing Royal Assent to this Bill by the summer adjournment and preferably by 31 July. I have also seen Nigel Lawson's letter of 22 June.

I have discussed the problems you face with the other Business Managers, but I am afraid that we do not see how your objective can be achieved, given the progress we must also make before the summer recess on other important Bills. Completion by the summer would in any case require fairly rapid progress through the Lords, and we do not share your confidence that the Bill will prove largely uncontroversial. I must add that we do not think that it was prudent to commit the Government to commencement by 1 October in the absence of any undertaking from L Committee or the Business Managers that Royal Assent could be secured by the summer adjournment. Your memorandum to L Committee said simply that Royal Assent was desirable by this summer, and that statement was not strengthened or indeed mentioned at the subsequent L Committee meeting. I do not suggest that any of this is of any relevance now, but the fact is as I have said that the pressure of other important legislative business in the Lords makes Royal Assent before the summer virtually impossible.

Looking to the future, we are still considering the timing of the spillover but you cannot assume that you will have Royal Assent before the end of October. Thereafter, provided that those with an interest have been made well aware of the provisions I think it would be possible to reduce the normal two months interval between Royal Assent and commencement. I realise that will not avoid deferment of the 1 October starting date; but I am afraid we see no alternative to that.

I am sending copies of this letter to the Prime Minister, the Chancellor of the Exchequer, the Lord Privy Seal, the two Chief Whips, and to Sir Robert Armstrong.

Yours

The Rt Hon Michael Heseltine MP

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PARLIAMENT: Legislative Programme

Pt 12

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PRIVY COUNCIL OFFICE
WHITEHALL LONDON SW1A 2AT

22 June 1984

ANIMALS LEGISLATION

Thank you for your letter of 12 June on this difficult subject. You will have seen the replies from Quintin Hailsham and John Biffen. No other members of the Committee have commented. I must say that I myself see the force of their arguments, whilst sympathising very much with your problems. I am afraid, therefore, that we cannot give you the firm place for which you ask. Perhaps you can do your best with the formula which John has suggested.

As far as a mention in this year's Queen's Speech is concerned, I think that there are precedents for mentioning legislation to be taken in a subsequent Session, although I do recognize the force of Quintin's argument in this respect. Like John, I would be prepared to look at this in the context of the draft Queen's Speech, if you think it will really help, although I have my doubts that it will.

I am sending copies of this letter to the Prime Minister, the other members of QL, to First Parliamentary Counsel and to Sir Robert Armstrong.

The Rt Hon Leon Brittan QC MP

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

22 June 1984

The Rt. Hon. Viscount Whitelaw CH MC
Lord President of the Council

N 25/6

ORDNANCE FACTORIES AND MILITARY SERVICES BILL

I have seen a copy of Michael Heseltine's minute dated 18 June.

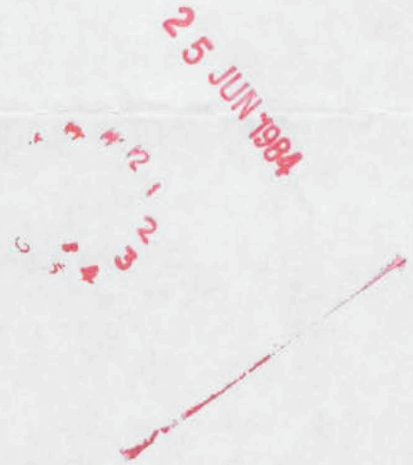
I fully recognise all the competing pressures which you face. But the ROFs are an important element in our privatisation programme and, as Michael points out, the timetable is very tight. I very much hope, therefore, that it will be possible to secure Royal Assent to the Bill by the end of July.

I am copying this letter to the Prime Minister, the Secretary of State for Defence, the Lord Privy Seal and the Chief Whips in the Lords and Commons and to Sir Robert Armstrong.

NIGEL LAWSON

Parliament pt 12

legislation



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Mr. Fletcher

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

21/6.

21 June 1984

Dear Willie,

ANIMALS LEGISLATION

File with DB

I have seen Leon Brittan's letter to you of 12 June in which he in effect asks for a commitment to the inclusion of his Living Animals (Scientific Procedures) Bill in the 1985-86 Session. I sympathise very much with the reasons why he wishes to achieve this objective, but I also think that what he is asking puts the Committee in a very difficult position.

As you know, Cabinet agreed that five Bills could be given a place now in the 1985-86 programme. This is something of an experiment, but I hope that it will prove to be a valuable one which we shall want to repeat in future years. However, if it is to be successful, we must ensure that the limit which has been set is maintained. Otherwise, it seems to me, we shall find ourselves in the position where, throughout the year, we are approached by colleagues with requests to add Bills to the 1985-86 programme. This cannot be satisfactory when we have not seen the full range of Bills to be put forward. I am afraid, therefore, that for this reason I must argue against what Leon is proposing. However, I do not think that that means that he cannot say anything about legislative prospects. There is a well established form of words to the effect that legislation will be brought forward as soon as Parliamentary time allows and I see no reason why he should not use that when questioned.

What I am suggesting would not necessarily rule out a reference in the 1984-85 Queen's Speech. This is a matter to which we could revert when we meet to discuss the Queen's Speech and when we have a suggested text before us. We can then see how such a promise would appear in the light of the other commitments made in the Queen's Speech.

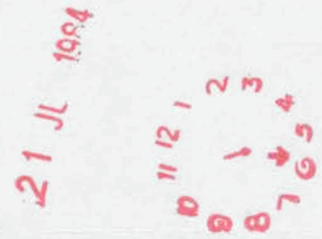
I am copying this letter to the Prime Minister, other Members of QL, to Sir Robert Armstrong and to First Parliamentary Counsel.

Yours ever,
John Biffen

JOHN BIFFEN

The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council

Home Affairs: Animal Welfare Survey.



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

21 June 1984

Dear Nigel.

Thank you for your letter of 18 June about the possibility of a parliamentary debate on the "Review of the Financial Services Sector". As you say, Norman Tebbit proposed this in his letter of 11 June.

The parliamentary programme for July is already congested but I think that it would be helpful to have a debate on this matter and I am in fact looking for a suitable date in July.

I am copying this letter to the Prime Minister, the Secretary of State for Trade and Industry and to the Chief Whip.

Yours

John Biffen

JOHN BIFFEN

Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury

21 JUN 1984

CONFIDENTIAL

HOUSE OF LORDS,
SW1A 0PW

21 June 1984

My dear Willie. Animals Legislation

I have read with interest and, I must say, with some concern Leon Brittan's letter to you of 12th June in which he suggests that, mainly because of our manifesto commitment and because of public and political concern, agreement should now be given by QL Committee to a place for legislation on animals in the session 1985/86.

As you know, and indeed as Leon concedes in the first paragraph of his letter, the reasons why agreement has already been given to the inclusion in the 1985/86 programme of a number of Bills are in every case that the relevant Bill is of such length and complexity that if agreement and drafting permission had not now been given, the Bill might well not be ready for introduction in time for it to be passed during the session 1985/86.

Leon has not suggested that these reasons apply to the animals legislation which he proposes, and indeed I do not see that they could. What he is in effect suggesting is that decisions should be taken on the content of the Government's legislative programme eighteen months ahead, and made public a year in advance, solely to relieve the pressure on his Department.

/I must

The Right Honourable
The Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
Whitehall
London S.W.1

I must say at once that I would be entirely opposed to such a development. I am not for a moment saying that this is a Bill which should not be included in the programme for 1985/86; what I am saying is that the appropriate time for Leon to put forward the very cogent reasons expressed in his letter is when QL Committee meets next year to discuss the programme for that session. If agreement is now reached on his proposal, it will inevitably be followed by a spate of suggestions from other Ministers who also have favoured legislative proposals for which they would like to secure a place in the 1985/86 programme, and their Departments may well be coming under just as much pressure from backbenchers and the public in relation to those topics as the Home Office apparently is in relation to animals legislation. The result would be that, very soon, the programme for 1985/86 would be almost wholly decided. Room would of course be left for urgent emergency legislation, but there would be little chance for legislative proposals which, though possibly just as important in their own way, did not happen to arouse such a degree of public interest.

There is another point. I think it would be highly presumptuous for the Government to suggest that The Queen should include in her speech on the opening of parliament any reference to legislation which is not to be introduced in that session of Parliament. When She makes Her speech it is certain that Parliament will sit for that session with the present Government in office. The session may be prematurely brought to a close for reasons which we cannot yet guess at, but at least it will take place. However, while I have no reason to suppose that the present Government will not be in office for the session 1985/86, nothing in life is certain, and I am sure it would be regarded as much by our supporters as by the Opposition as highly presumptuous for the Government to put into The Queen's mouth words which suggest that the present

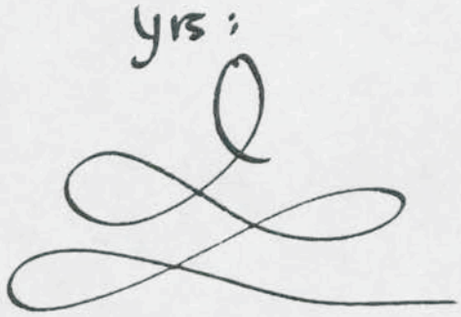
/Government

Government will be in office, not only for the session of Parliament which She is opening, but also for the following session.

I must make it clear that I am not for a moment disputing the merits of the proposed legislation. All I am saying is that the proper time to decide whether or not such legislation should be included in the programme for 1985/86 is next year, when all competing bids for the legislative programme are known. The only exception to this rule should be the one we have already agreed, where a Bill is of such length and complexity that agreement has to be given in advance.

I am sending a copy of this letter to Leon Brittan and the other recipients of his letter.

yrs;



LORD HAILSHAM OF ST. MARYLEBONE CH, F.R.S, D.

Pam leg pt 12

22 JUN 1984

CCNO.

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

18 June 1984

The Rt Hon John Biffen MP
Lord Privy Seal and Leader of the House
Privy Council Office
Whitehall
LONDON SW1A 2AT

NN
25/6.

REVIEW OF THE FINANCIAL SERVICES SECTOR

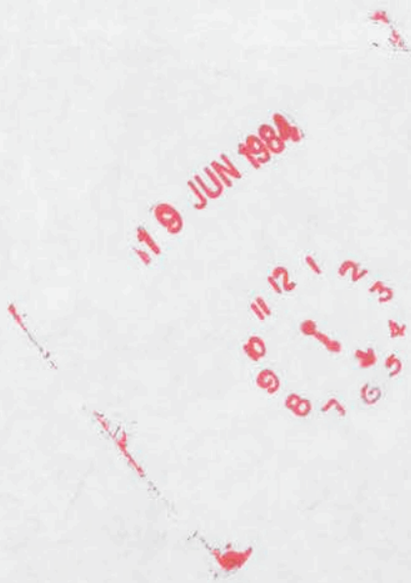
Will Request if Required.

Norman Tebbit wrote you on 11 June, tentatively suggesting a debate on financial services during Government time in July.

My own view at this stage is that it would be most useful to initiate a debate in July, for the reasons Norman gives in his letter. We have very little time in which to reach far-ranging decisions in a very difficult area. A thorough airing of the subject in the House would enable us to gauge opinion, and help greatly in crystallising our own views. We should, incidentally, have the benefit by then of the preliminary findings of the group of advisers from the City appointed by the Governor of the Bank of England.

I am copying this letter to the Prime Minister and to the Secretary of State for Trade and Industry.

NIGEL LAWSON


19 JUN 1984

MO 10/4

LORD PRESIDENT OF THE COUNCIL

ORDNANCE FACTORIES AND MILITARY SERVICES BILL

David Trefgarne has told me of your discussion with him last Thursday evening.

2. I can well understand your and Bertie Denham's present problems in managing business in the Lords, but I must underline the importance from my point of view of adhering to the objective originally endorsed by L Committee, that we should, if at all possible, seek to secure Royal Assent to the Bill by the Summer Recess (preferably, indeed, by 31st July). The crucial aspect of this objective is that Nigel Lawson is anxious, in the context of the Government's privatisation programme as a whole, to secure the privatisation of the ROFs at the earliest practicable opportunity, and there can be no prospect that we can meet the desired date for this, the autumn of 1985, unless by then the ROFs have been trading as a Companies Act Company for at least a year, having been incorporated, therefore, by the October of this year. All action has been directed at meeting this objective and it is one, as you know, which we have made very clear to Parliament, most recently in the Statement on Defence Estimates 1984 which the Lords discussed on 14th June. If we cannot get the Bill through by the summer there will, therefore, be the risk of some public embarrassment, of which the Opposition will no doubt seek to make capital, in addition to the major prejudice to Government policy.

3. I very much hope, therefore, that you and Bertie, and John Biffen, and John Wakeham in the Commons, will do everything you can to secure the passage of the Bill before the Recess. I do not think that the Bill, which is, of course, a very short one, should cause real controversy in the Lords so that Committee stage should not be protracted and Report and Third Reading could follow pretty promptly without taking up too much time. I appreciate that you will not be able, at this point, to give me any firm commitment, but I should be most grateful for your assurance that efforts will be bent to getting the Bill back into the Commons before the end of July.

4. I am sending copies of this minute to the Prime Minister, the Chancellor of the Exchequer, the Lord Privy Seal and the Chief Whips in the Lords and Commons; and to Sir Robert Armstrong.

MJ

Ministry of Defence
18th June 1984

Position at Friday 15th June 1984

GOVERNMENT LEGISLATION

COMMONS PRIMARY

i. Second Reading Committee

ii. Awaiting Second Reading on the Floor

iii. Standing Committee	Start Date
Animal Health and Welfare (Lords)	12 June
Finance (No.2) (part)	8 May
Cable and Broadcasting (Lords)	22 May

iv. Awaiting Committee on the Floor

Roads (Scotland) (Lords)	20 June (Money plus remaining stages)

v. Awaiting Report and/or Third Reading

Housing Defects	21 June
Repatriation of Prisoners	

vi. Consideration of Lords Amendments

Rating and Valuation (Amendment) (Scotland)	20 June
Rates	25 June
London Regional Transport	25 June

vii. Consideration of Lords Messages

COMMONS SECONDARY LEGISLATION

i) Affirmative Orders

TITLE	DATE REQUIRED BY	FLOOR/COMMITTEE DATE OF DEBATE
Draft Job Release Act 1977 (Continuation) Order 1984		Committee* Wed 13 June
Draft Misuse of Drugs Act 1971 (Modification) Order 1984		Committee * Wed 13 June
Draft Pool Competitions Act (Continuance) Order 1984		Committee Wed 20 June
Draft Industrial Training (Northern Ireland) Order 1984		Floor
Value Added Tax (Special Provisions)(Amendment)(No.2) Order 1984		Committee Wed 20 June
Draft University of Ulster (Northern Ireland) Order 1984		Floor
Draft Education (Northern Ireland) Order 1984		Floor
Draft British Shipbuilders Borrowing Powers (Increase of Limit) Order 1984		Floor
Draft Northern Ireland Act 1974 (Interim Period Extension) Order 1984		Floor
Draft Northern Ireland (Emergency Provisions) Act 1978 (Continuance) Order 1984		Floor

*Awaiting referral to the floor

COMMONS SECONDARY LEGISLATION

ii. Negative

EDM	TITLE	PARTY PRAYING	EXPIRY OF PRAYING TIME	COMMITTEE/FLOOR DATE FOR DEBATE
813	Control of Harbour Development (Revocation) Order 1984	Lab	/ revoke /	Floor 19 June
749	Landlord and Tenant (S.I. 1984, No 501)	Lab	8 June	Committee Wed 20 June

iii. Not subject to Parliamentary scrutiny

Export of Goods (Control) (Amendment No.6) Order 1984	Libs	-	Committee

COMMONS(EC DOCUMENTS) - debate pending

TITLE	COMMITTEE/FLOOR DATE OF DEBATE
Nuclear energy issues in the European Community	Committee Wed 13 June*
Integrated Mediterranean Programmes	Committee Tues 19 June
Containers of liquids for human consumption	Committee (Wed 19 June?)
Fisheries: (any round up action consequent on the loss of the debate announced for 23 May 84)	
C.A.P. (representations likely to be made on the need for a debate)	
HCH and Lindane	Wanted 20/6/84

*awaiting referral to the floor

LORDS PRIMARY

Foster Children (Scotland)(L)

Rating and Valuation (Amendment) (Scotland)

Trade Union

Health and Social Security

Police and Criminal Evidence

Capital Transfer Tax (L) (Consolidation)

Local Government (Interim Provisions)

Ordnance Factories and Military Services

Co-operative Development Agency and Industrial Development

Parliamentary Pensions

Third Readings planned for week beginning Monday 18 June

London Regional Transport

Rates

Third Readings planned for week beginning Monday 25 June

Consideration of Commons Amendments

Consideration of Commons Messages

Housing and Building Control

GOVERNMENT PRIMARY LEGISLATION

i. Awaiting Royal Assent

Public Health (Control of Disease) Bill(Lords)
Registered Homes(Lords)
Dentists (Lords)
County Courts (Lords)
Agricultural Holdings(Lords)
Data Protection(Lords)
Inshore Fishing (Scotland)(Lords)
Matrimonial and Family Proceedings (Lords)
Road Traffic Regulation (Lords)
Mental Health (Scotland)(Lords)
Food (Lords)
Somerset House (Lords)

ii. Received Royal Assent

TITLE	DATE
Car Tax (Lords)	26/7/83
Companies (Beneficial Interests)	26/7/83
Consolidated Fund (Appropriation)	26/7/83
Finance	26/7/83
International Monetary Arrangements	26/7/83
Local Authorities (Expenditure Powers)	26/7/83
Medical	26/7/83
Value Added Tax	26/7/83
Oil Taxation	1/12/83
British Shipbuilders (Borrowing Powers)	21/12/83
Coal Industry	21/12/83
Consolidated Fund	21/12/83
Petroleum Royalties (Relief)	21/12/83
Consolidated Fund Act	13/3/84
Restrictive Trade practices (Stock Exchange)	13/3/84
Occupiers Liability	13/3/84
Tourism (Overseas Promotion)(Scotland)	13/3/84
Merchant Shipping	13/3/84
Education (Amendment)(Scotland)	13/3/84
Pensions Commutation	13/3/84
Prevention of Terrorism	22/3/84
Education (Grants and Awards)	12/4/84
Town and Country Planning	12/4/84
Telecommunications	12/4/84
Foreign Limitation Periods (Lords)	24/5/84
Fosdyke Bridge (Lords)	24/5/84

CABINET OFFICE

From the Minister of State

Lord Gowrie

MANAGEMENT AND PERSONNEL OFFICE
Great George Street
London SW1P 3AL
Telephone 01-233 8610

The Rt Hon John Biffen MP
Lord Privy Seal
Privy Council Office
Whitehall
LONDON SW1A 2AT

12 June 1984

Dear John,

HOUSE OF COMMONS DISQUALIFICATION ACT 1975

In your letter of 27 ~~February~~ APRIL you agreed to the publication of the factual analysis of the House of Commons Disqualification Act 1975, which we have abstracted from the longer review report prepared by officials in 1982/3. You may remember that Jim Prior asked us to hold up publication until after the report of the New Ireland Forum. This is now past, and I now propose, if you agree, to have the paper placed in the Library of the House of Commons in the week commencing 25 June. You might consider it appropriate to announce this by means of a PQ on ... the lines of the attached draft.

We agreed in our earlier discussion of officials' work that there was no case for any wider review of the present legislation. But I think there is a case for looking, in the course of the next updating of Schedule 1, at some of the inconsistencies of treatment which the review showed up. The number of individuals affected by the House of Commons Disqualification Act is quite astonishing - some 1.2 million overall. Most of these are covered by the body of the Act, but about 28,000 are covered by Schedule 1. More systematic treatment in some cases could produce some significant savings.

Two areas seem particularly promising:

(i) The first concerns the application of the 'de minimis rule', whereby offices attracting remuneration below a certain level need not be included in the Schedule, the object being to minimise trivial disqualifications. The level was set originally at £500 p.a., rising through £1000 p.a. to the current level of £4000 p.a. In the past when the level has been raised, we have not suggested that departments remove offices with remuneration below the new de minimis figure. The 1982/3

review showed that about 25% of the current entries in the Schedule fall below the £4000 p.a. level. In some of these offices other disqualifying factors may also apply but some entries, I suspect, could be removed and so reduce the size of the Schedule and the number of individuals affected by the Act.

(ii) The second concerns the Boards and Members of Non Departmental Public Bodies (NDPBs), where there seems to be some inconsistency of treatment both within departments and between departments. I recognise that these discrepancies will stem in part from the exercise of discretion in deciding whether or not to disqualify through the HCDA or administratively through the terms and conditions of service. There may also be other reasons. I would not therefore expect an exercise now to produce significant results immediately. But if it pointed the way to a more systematic treatment of NDPBs and a reduction in the size of the Schedule over a period of years it would be, in my view, worthwhile.

I would not expect this exercise to add significantly to the normal work departments do in updating the Schedule. The information already collected during the review on the various offices listed in Schedule 1 should enable us to keep extra work to a minimum.

I am copying this letter together with a preview copy of the factual analysis of the HCDA to colleagues in charge of departments, who will I hope also let me have their views on the follow up action I have proposed. The factual analysis was extensively circulated at the draft stage. But if there are any points of major significance which have arisen since the earlier consultations and could affect publication perhaps colleagues would let me know as soon as possible.

LORD GOWRIE

DRAFT QUESTION AND ANSWER

Question To ask the /Lord Privy Seal/ if he will publish the analysis of the House of Commons Disqualification Act 1975 recently carried out by his officials.

Draft Answer

I have today placed in the Library of the House copies of a paper "A factual analysis of the House of Commons Disqualification Act 1975".

HOUSE OF COMMONS DISQUALIFICATION ACT 1975

A FACTUAL ANALYSIS

CABINET OFFICE (MPO)

June 1984

FACTUAL ANALYSIS OF THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

Contents

Note: The figures in Tables 1 to 7 do not take into account changes to Schedule 1 made in the 1 May 1984 reprint or those in Statutory Instrument 1984 No. 705

FACTUAL ANALYSIS OF THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

1. This paper describes the purpose and working of the House of Commons Disqualification act 1975 (c24). It contains a detailed analysis of the offices disqualified under the Act and of the criteria used to decide disqualification. It draws on information provided by departments during 1982/3.

DISQUALIFICATION FOR PARLIAMENT

2. The House of Commons Disqualification Act 1975 (hereafter referred to as "the Act") is concerned mainly with offices which debar their holders from membership of the House of Commons because the duties and responsibilities of one post may conflict with or adversely affect performance in the other. There are in addition several statutory or common law provisions, some affecting membership of both Houses of Parliament, which disqualify particular classes of person. Generally these relate to the fitness of an individual properly to discharge the function of a Member of the United Kingdom Parliament, or the propriety of his doing so.

3. The categories of people who are disqualified for membership of the House of Commons are:

1. those under 21;
2. aliens (those who are neither Commonwealth citizens nor British Protected Persons nor Republic of Ireland citizens);
3. "lunatics and idiots";
4. those legally detained on grounds of mental illness;
5. those convicted of treason;
6. criminals serving sentences of 1 year or more;
7. those convicted of certain corrupt or illegal practices at elections;
8. bankrupts;
9. clergy of the Church of England and other Anglican churches and ministers of the church of Scotland;
10. clergy of the Roman Catholic Church;
11. peers of England, Scotland, Great Britain and the United Kingdom; and
12. various office holders.

Details are given in Annex A.

4. There are also legislative provisions covering disqualification for other elected bodies within or directly affecting the United Kingdom. These are summarised at Annex B. Annex C summarises provisions relating to Parliaments in three Commonwealth countries.

PURPOSE OF DISQUALIFICATION

5. The main purpose of disqualification is to ensure that Members are fit and proper people to sit in the House, able to carry out their duties and responsibilities free from undue pressures from other sources. These considerations may be called "House-based" and are the basis not only of disqualifications under the Act but of the whole range of earlier disqualifications. But there is also another consideration which may be called "office-based". This is the wish to ensure that an office held by an individual is not adversely affected by his membership of Parliament. This is of more recent origin.

6. There are two main "House-based" objectives. The first is that a Member should be free from possible conflicts of interest which might distort his behaviour as an independent Member of the Legislature and his freedom to represent the best interests of his constituents. These include financial or other dependence on Ministerial, Prime Ministerial, or Crown Patronage; and also membership of a foreign (though not Commonwealth)Legislature: a person who was a member of two Legislatures, responsible for such matters as defence and foreign policy and other vital national interests might obviously in some cases face conflicts of loyalty. Historically this has been the basis for the great majority of disqualifications. The second is perhaps more concerned with the personal qualities and cirucmstances of a potential Member than with outside influences upon him. The concepts of 'fitness' and 'propriety' lie behind the restrictions on minors, the mentally ill, the dishonest, criminals, and bankrupts. But there has also been concern that, even though a Member may have other commitments, he must still be able to attend the House and have sufficient time to devote proper attention to his duties. Disqualification of judges and ambassadors first arose for example in times when the duties of such posts would have precluded normal attendance at Westminster.

7. The way the Act has been applied for "office-based" reasons reflects a third, substantially different, objective. That is that, where a Member holds some other publicly funded position, his performance in that position should not be jeopardised by his role as a Member, either on conflict of interest grounds or because the position might require demonstrable political neutrality.

8. The disqualification provisions normally apply in practice at the time of nomination for election when candidates are required by the Representation of the People Acts to declare that they are not disqualified under the 1975 Act, although disqualification does not take effect until after election. The intention would appear to be to prevent "unfit" or "dependent" persons from seeking election at all. A sitting Member may also however become disqualified. In these circumstances he is required to vacate his seat or to relinquish the office and seek relief under Section 6(2) of the Act.

BACKGROUND TO THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

9. Disqualifications of certain office-holders for membership of the House of Commons have existed since the early seventeenth century and were previously scattered through public and private Acts and the Journals of the House. By the 1940s confusion about the actual and intended scope and effect of existing disqualifying provisions, together with fears about the effects on parliamentary democracy of special wartime appointments of Members, led to the

appointment of a Select Committee (the Herbert Committee). The Committee looked particularly at the law and practice governing the disqualification of those holding "offices or places of profit under the Crown" and their report (HC 120, 14 October 1941) contained recommendations for legislation to replace various earlier statutes. After the war and the reconstruction period, work began (1949) on drafting a Bill to put the Herbert Committee recommendations into effect. But there were serious difficulties in arriving at a satisfactory legal expression of some of the concepts recommended by the Herbert Committee and it was not until 1955 that a Bill finally went to the House. Progress was difficult and a further Select Committee (the Spens Committee) was set up in 1956 to reconsider the Bill. Legislation was finally enacted as the House of commons Disqualificatio: Act 1957. This was re-enacted, unchanged in substance and as a consolidating measure, in 1975 when offices disqualifying for the Northern Ireland Assembly were separated out and covered by the Northern Ireland Assembly Disqualification act 1975.

10. The Herbert Committee had recommended a blanket approach to disqualification, under which all 'offices of profit under the Crown' (which were to be defined according to general criteria set out in the Act) would merit automatic disqualification of the holders, with certain exceptions e.g. Ministerial offices, which would be set out in a Schedule. The Spens Committee, took the opposite approach. They proposed that individual disqualifying offices rather than criteria for disqualification should be listed in the Act. This approach was considered to provide a more certain legal basis for disqualification, to reduce the need for any future Select Committee arbitration on which offices were disqualifiable and to enable candidates to determine more easily whether they were eligible for election.

11. The present Act follows the Spens Committee's approach. Broadly speaking, members of the civil service, police and armed forces (with specified exceptions), and members of foreign Legislatures are disqualified in those provisions of the Act which cannot be amended by subordinate legislation. All other disqualifying offices (judicial offices, bodies all of whose members are disqualified, individual offices, and others disqualifying for particular constituencies) are specified in a Schedule which may be amended by Order in Council following a Resolution of the House of Commons. Amendments to the Schedule may also be made by primary legislation, e.g. that establishing or winding up a statutory body.

DESCRIPTION OF THE MAIN PROVISIONS OF THE ACT

12. The Act is made up of 11 Sections and 2 Schedules which together cover disqualifying offices, the procedures for effecting disqualification of a sitting Member, limits on the number of Members who may hold Ministerial office and the procedures for amending the Act.

a. Disqualification

Section 1 and Schedule 1 of the Act cover the majority of disqualifications. Altogether some 1.2 million individuals

are affected by these disqualification provisions; Table 1 gives a detailed breakdown of this total. Section 1 disqualifies certain categories of person for membership of the House of Commons. These include judicial office holders, those in the civil service of the Crown, regular armed forces or police forces, members of the Legislatures of non-Commonwealth countries and holders of specific offices designated in Schedule 1. It also covers office holders who are disqualified for membership of particular constituencies. The section also provides that no-one else shall be disqualified by reason of holding any other office not covered by the Act and that membership of the House should not prevent anyone holding any other such office. Schedule 1 lists individual offices within the categories covered by Section 1(1)(a) and 1(2).

Section 3 makes some exceptions from the disqualification of members of the 'regular armed forces'.

Section 4 disqualifies offices such as the Steward of the Chiltern Hundreds. Holders of these offices are disqualified for sitting as Members. The purpose of the provision is to provide a way in which Members can vacate their seats, since it is a principle of Parliamentary law that a Member, after being duly chosen, cannot relinquish his seat. In order to qualify for re-election holders of these offices must secure a release from the appointment.

Section 8 removes any obligation on Members and candidates for election to accept a disqualifying office, apart from a requirement to serve in the Armed Forces.

b. Ministerial Offices

Section 2 and Schedule 2 aim to preserve the balance between the Executive and the Legislature. Section 2 specifies the total number of Members who may hold Ministerial office whilst sitting and voting in the House of Commons. Section 9 defines two of the Ministerial titles used in Schedule 2 which lists the offices which qualify as Ministerial under Section 2.

c. Amendment Procedures

Section 5 provides for the amendment (by Order in Council following a Resolution of the House of Commons) of the list of disqualifying offices in Schedule 1 and for the regular reprinting of the Act to incorporate such amendments in addition to those made in other legislation.

d. Making disqualification effective

Section 6 makes void the election of anyone who is elected while holding a disqualifying office and declares vacant the seat of any sitting Member who accepts a disqualifying office. The House may make an Order overriding these provisions if it thinks that the reason for disqualification no longer applies. They may not however set aside the finding of an election court that an election was invalid.

e. Contested disqualification

Section 7 provides for individuals to appeal to the Privy Council alleging that a person who has been elected is disqualified. The Privy Council may refer the matter to a Judicial Committee, which may direct trial of any issue of fact by an appropriate Court, whose decision is final.

ANALYSIS OF SCHEDULE 1 ENTRIES

Format and content

13. Schedule 1 to the Act is a comprehensive list of those offices within Section 1(1) and (2) of the Act which disqualify the holder for membership of the House of Commons and which are not covered by the group disqualifications e.g. the civil and armed services, set out in section 1(1)b to (e) of the Act. A detailed analysis of the entries in this Schedule has been carried out to provide evidence of the factors applied in the identification of a disqualifying office, the numbers affected by such disqualification and the range of offices disqualified.

14. The number of entries listed, and thus the coverage of the schedule, has increased from 212 in1957 to the current 330. (Table 2 shows the number of entries in various reprints of the Act and the number of amendments made by Order in Council from 1957 to 1983). The Scheulde, which covers approximately 28,500 individuals, is divided into four parts:

Part I (judicial offices). There are 14 entries covering 684 individual disqualifying offices. Most of these are senior judicial appointments renumerated at over £25,000 per annum.

Part II (bodies of which all members are disqualified). There are 137 entries covering just over 4,000 people. About 100 entries, covering over 1,500 people are for public boards of a commercial character and executive and advisory non-departmental public bodies (NDPBs). Most of these appointments are made by Ministers and are paid. Tribunal systems account for most of the remainder (nearly 2,400 persons); such office holders are usually fee paid according to the number of occasions they sit, and are principally disqualified because of their quasi-judicial functions.

Part III (certain specific office holders). There are 169 entries covering approximately 23,700 persons in individual disqualifying offices. This total includes two large entries covering the Metropolitan Police civil staff (16,000), and the Northern Ireland Prison Service (2,700). The remainder of this part of the Schedule (167 entries, covering almost 5,000 people) is made up of certain offices (eg chairmen and deputy chairmen, or paid board members only) of NDPBs, other public boards and tribunal systems; individual senior post holders; and certain historic and ceremonial offices.

Part IV (offices disqualifying for particular constituencies). In this part of the Schedule, 10 entries describe a group of some 160 office holders essentially of an historic and ceremonial nature - Lords Lieutenant, High Sheriffs and the Governor of the Isle of Wight - who are disqualified only for specified constituencies which overlap the area in which they hold their office.

Parts II and III of the Schedule are mutually exclusive, Part II dealing with blanket disqualification, part III with selected offices only.

15. The division of Schedule 1 into four parts is a useful guide to the probable location of any particular entry but it is still not possible easily to consult the Schedule and to discover rapidly whether or not a particular body or office is included. The difficulties which are especially marked in PartIII of the Schedule arise because:

a. the primary arrangement is alphabetical by title or name of the office (e.g.Chairman, Member) rather than by name of the body or company in which an office exists (e.g. Equal Opportunities Commission). Thus there are large sections dealing with Chairmen, Directors or Members in which entries are arranged alphabetically according to the name of each body (the latter two sections may also embrace Chairmen). Several sections of the list, if not every entry, must be scrutinised to be absolutely sure whether or not a given body is featured;

b. a few entries do not specify which organisations are covered; certainty depends on an acquaintance with other statutes, e.g. "A Development Council established under the Industrial Organisation and Development Act 1947" and "Any member, in receipt of remuneration, of an urban development corporation (within the meaning of Part XVI of the Local Government, Planning and Land Act 1980)". Each of these entries currently covers two separate bodies ;

c. a few entries bring several related bodies together (e.g. members of the British Tourist Authority and the English Scottish and Wales Tourist Boards all appear in one entry, the position of which is determined alphabetically by 'British' which could frustrate those searching for the other bodies by name) but more usually (and more clearly) each has an entry to itself (e.g. the various Health Service Commissioners);

16. There are unfortunately considerable practical difficulties in finding a better layout.

Analysis

17. The Analysis was carried out by considering each entry in Schedule 1 in detail, using information provided by the sponsoring departments (Table 3 shows the departmental sponsorhsip). Some individual entries can cover more than one office holder, and different conditions of appointment, levels of remuneration and reasons for disqualification may apply to each office holder within such an entry. To assist in the analysis these "multiple office" entries were sub-divided into "categories" of office holder, each category covering all those remunerated within a given salary

band (see paragraph 22 below), having the same conditions of appointment, and similar reason(s) for disqualification.

18. The two entries in Part III of Schedule 1 referring to the Northern Ireland Prison Service and the Metropolitan Police civil staff were omitted from the detailed analysis of the Schedule set out in paragraphs 18-24 below. These entries cover some 18,700 individuals, significantly more than any other single entry, and represent 65% of the total number of individuals covered by the Schedule; their inclusion would distort the results of any statistical analysis. The detailed analysis of Schedule 1 was therefore based on 328 entries, comprising 607 categories of office holder and covering some 9865 persons.

19. As discussed in paragraph 17 above entries in the Schedule can cover a single office holder or a number of office holders. Analysis of the entries showed that 45% apply to between 1 and 5 individuals, approximately 3% of the individuals covered by the Schedule, while 3% of entries each affect over 200 people, approximately 36% of the individuals affected by the Schedule. A detailed breakdown of this analysis is at Table 4. The majority of entries are selective and bring only a few individuals into the scope of the Act, but a small number apply to larger groups and significantly affect the coverage of the Act.

Factors Relevant to Disqualification

20. Various factors are applied when identifying a disqualifying office. The Schedule was analysed to determine the most commonly applied factors or combinations of factors. A detailed breakdown is shown at Table 5.

21. Of the 607 categories of office holder, 565 (93 per cent), covering 8,400 persons (86% of those covered), related to the holders of offices or positions in the gift of Ministers of the Crown. Of these 533 were paid offices the remainder unpaid. In a little under a quarter of cases Ministers have the power to remove from office as well as to appoint, in other cases dismissal is not solely within the Minister's power. Of those offices not in the gift of Ministers 410 Registration Officers and 479 Rent Officers are appointed by Local Authorities; 170 others are appointed by bodies who may themselves feature in the Schedule, e.g. the 39 Chairmen and Members of National Broadcasting Councils (appointed by the BBC); a further group, e.g. members of Medical Boards, Medical Appeal Tribunals or chairmen of Local Tribunals under the Social Security (N Ireland) Act 1975, are appointed by departments without Ministerial involvement.

22. Although the holding of a 'paid office of profit' was the prime reason for disqualification (94% of cases) several other factors were recorded which could be applied singly or in conjunction with each other. The table below shows a breakdown of the application of these factors to the entries in the Schedule.

Factor	% of Categories	% of individuals affected
Political impartiality essential*	54	64
Judicial or quasi-judicial function	17	57
Other 'Separation of Powers'	9	8
Practical constraints of 'time and place'	23	17
Controlling a company in receipt of Government funds	6	1

*NB It was not clear from the information available whether departments considered this to apply for 'House-based' or 'office-based' reasons.

Paid Offices

23. Of the 607 categories of office holder in the analysis 570 (94 per cent) covering almost 9,500 persons (96 per cent) related to paid appointments. 92% of the paid office-holders were remunerated from public revenue with the remainder paid through other sources, i.e. levies, company funds etc (Table 6 provides details).

24. A breakdown of paid office-holders by actual level of remuneration per annum (without any distinction between full-time and part-time appointments) gives the figures below. Further details appear in Table 7.

Salary Band:	% of categories	% of paid office holders
up to £999	2	1
£1000 to £2999	15	9
£3000 to £3999	8	2
£4000 to £4999	5	1
£5000 to £7999	11	4
£8000 to £24999	25	20
£25000 plus	16	10
Fee paid	14	49
Salary or fees not known	4	4

The fee paid group, 49 per cent of paid office holders, principally comprises members of tribunal systems and similar quasi-judicial bodies.

Combination of mode of appointment and remuneration level

25. As the information on Schedule 1 entries was recorded manually, it was not possible to study to any great extent the combinations of the various disqualification factors and remuneration levels which applied. Only one such exercise was conducted, to ascertain the breakdown of paid and honorary offices in the case of the Ministerial and non-Ministerial appointments. The 9865 office holders covered by the Schedule were assigned to one of 4 possible groups with the following results (in order of size) -

a. Paid appointments made by Ministers (or the Crown): 8146 persons (83 per cent). These divided fairly equally into 4 groups: those paid up to £4000; those between £4000 and £25000; those paid over £25000; and fee paid appointments.

b. Paid appointments not made by Ministers: 1338 persons (14 per cent). Two-thirds of this group were local authority appointees: 410 Registration Officers and 479 Rent Officers. Others are appointments made by Departments and specifically not vested in a Minister (Members of VAT Tribunals and of tribunals in Northern Ireland). A smaller group relate to appointments in the gift of a body or organisation, e.g. the Additional Commissioners appointed by the Equal Opportunities Commission and the Commission for Racial Equality.

c. Unpaid appointments made by a Minister (or the Crown): 324 persons (3 per cent). Almost half of these (158) were the Lord Lieutenants and High Sheriffs; most of the remainder were groups of unpaid office-holders disqualified in line with their paid colleagues on a given body - e.g. the (unpaid) members of the Development Commission, National Radiological Protection Board, and Red Deer Commission who are disqualified in company with their (paid) Chairmen. There were a few cases (Public Works Loan Commissioners and the Fair Employment Appeals Board, Northern Ireland) where all members were disqualified even though no appointments to the body are paid (other disqualification factors applying).

d. Unpaid appointments not made by Ministers. There was only one example, that of the 36 unpaid members of the National Broadcasting Councils, appointed by the BBC. They are disqualified along with their 3 paid Chairmen. Their political neutrality is deemed essential.

26. SUMMARY OF MAIN POINTS

(a) Broadly speaking disqualification is related to the 'House-based' objectives of 'independence' and 'fitness to serve' of Members of Parliament; however, the criteria relating to the need for political impartiality in an office holder reflect an office-based consideration.

(b) The House of Commons Disqualification Act affects almost 1.2 million individuals, approximately 3.9 per cent of an electorate of 30.7 million (para 12(a)).

(c) Of the 1.2 million affected about 1.0 million are represented by the civil and armed services of the Crown, and approximately 147,000 by the police forces of England, Wales, Scotland and Northern Ireland. The remainder are holders of individual disqualifying officers, e.g. judicial office or offices of profit under the Crown. (Table 1).

(d) The number of individual disqualifying offices listed in Schedule 1 to the Act has increased steadily since the Act was passed in 1957, from 212 to 330 (para 14).

(e) Individual disqualifying offices may affect one or more individuals, depending on the nature of the office. Of the offices listed in Schedule 1, 45% apply to between 1 and 5 individuals and 3% apply to 200 or more persons. (paras 17 and 19).

(f) Two entries in Schedule 1, the Northern Ireland Prison Service and the Metropolitan Police civil staff account for 18,700 individuals, 65% of those covered by the Schedule. (para 18).

(g) The most common reason for disqualification is the holding of "a paid office of profit" (94% of those covered by the analysis of Schedule 1). Other factors also apply, either singly or in combination e.g. political impartiality required (54%), practical constraints of time and place (23%), judicial or quasi-judicial (17%). (paras 21-23).

(h) 92% of the holders of paid appointments* were remunerated from public funds; the remainder were paid through other sources, e.g. levies, company funds.

(i) Of those individuals holding paid offices * 1% receive less than £1,000, 12% between £1,000 and £4,999, 24% between £5000 and £24,999 and 10% ~~over £25,000~~ £25,000 or over; 49%, primarily members of tribunal systems and similar quasi-judicial bodies, are fee paid. (para 24).

(j) Of the 9865 office holders covered in the analysis of Schedule 1*, 83% held paid appointments in the gift of Ministers (or the Crown); 14% held paid appointments made by other bodies; 3% held unpaid appointments made by Ministers (or the Crown); and 36 individuals held unpaid appointments made by another body. (para 25).

* Excludes those offices at (f) above.

TABLE 1

TOTAL OF THOSE DISQUALIFIED BY THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

		Numbers (rounded)	
(a) Section 1 of the Act			
(1)(b)	Employed in the civil service of the Crown:		
	Home Civil Service	636,300	(1.10.83)
	NI Civil Service	25,780	(30.9.83)
	NI Court Service	595	(1.4.83)
	Diplomatic Service	6,605	(1.10.83)
	Forestry Commission	7,120	(1.7.83)
	Royal Hospital Chelsea	200	(1.10.83)
	E&AD and PCA Staff	880	
		677,480	
(1)(c)	Armed Forces of the Crown, including the UDR:		
	Armed Forces	335,165	(30.9.83)
	UDR	6,390	(31.3.83)
		341,555	
(1)(d)	Police forces		
	All uniformed Police:		
	England and Wales	121,100	(1.9.83)
	N. Ireland	12,555	(31.10.83)
	Scotland	13,185	(30.9.83)
		146,820	
(1)(e)	Members of non-Commonwealth legislature	(not estimated)	
	SUB-TOTAL	1,165,855	
(b) Schedule I of the Act			
Part I	Holders of judicial office	685	
Part II	All members of certain bodies	4,030	
Part III	Other disqualifying offices	23,695	
Part IV	Those covered by limited disqualification	160	
	SUB-TOTAL	28,570	
	Overall total of those disqualified	1,194,425	

TABLE 2

A. CHANGES IN THE NUMBER OF ENTRIES IN SCHEDULE 1

VERSION OF ACT	PART I	PART II	PART III	PART IV	TOTAL
1957	28	76	100	8	212
1975	14	124	144	6	288
1978	14	144	149	9	316
1982	14	144	169	10	337
1983	14	137	169	10	330

B. VOLUME OF AMENDMENTS TO SCHEDULE I BY ORDERS IN COUNCIL

Amending Order (Statutory Instrument):	Insertions	Deletions	Amendments
SI 2468/1961	4	4	2
SI 1325/1963	6	4	-
SI 187/1968	22	13	15
SI 157/1975	27	17	12
SI 160/1982	51	32	17
SI 608/1983	22	8	26

NOTE

10 of the amendments made by the 1983 Order-in-Council relate to 5 entries which were deleted and then added back in a different form.

DEPARTMENTAL SPONSORSHIP OF ENTRIES IN SCHEDULE I

TABLE 3

NAME OF DEPARTMENT	PART I	PART II	PART III	PART IV	TOTAL
MAFF	-	9	6	-	15
MOD	-	-	7	-	7
DES	-	2	2	-	4
DEm	1	8	8	-	17
DEn	-	7	1	-	8
DOE	-	9	9	-	18
FCO	-	3	6	-	9
DHSS	1	8	8	-	17
HO	-	12	13	-	25
DTI	-	20	15	-	35
IR/C&E	-	1	2	-	3
LCD	5	5	4	-	14
NI COURT SERVICE	3	1	1	-	5
NIO /NI DEPARTMENTS	1	18	35	-	54
SCA	2	4	3	-	9
SO	1	13	23	-	37
HMT	-	2	8	-	10
DTp	-	5	1	-	6
WO	-	5	4	-	9
Others	-	-	5	10	15
Entries shared by depts*	-	5	8	-	13
TOTALS	14	137	169	10	330
ENTRIES ANALYSED	14	137	167	10	328

* These entries could not be allocated to one lead department

SCHEDULE ENTRIES ANALYSED BY NUMBER OF PERSONS COVERED

	Total Entries	Total Categories Identified	Total Persons Covered	ENTRIES COVERING:													
				1-5 Persons		6-10 Persons		11-20 Persons		21-50 Persons		51-100 Persons		101-200 Persons		Over 200	
				Entries	Persons	Entries	Persons	Entries	Persons	Entries	Persons	Entries	Persons	Entries	Persons	Entries	Persons
Part I	14	21	684	5	10	2	16	3	51	-	-	2	149	1	122	1	336
Part II	137	325	4030	27	102	36	292	57	774	8	241	4	409	4	1833	1	379
Part III*	167	251	4993	110	196	10	81	19	256	9	279	7	560	5	842	7	2779
Part IV	10	10	158	5	10	1	8	2	31	-	-	2	109	-	-	-	-
Totals	328	607	9865	147	318	49	397	81	1112	17	520	15	1227	10	2797	9	3494
				(45%)	(3%)	(15%)	(4%)	(24%)	(11%)	(5%)	(5%)	(5%)	(13%)	(3%)	(28%)	(3%)	(36%)

NOTES:

Figures are unrounded, apart from percentages

* Excludes Metropolitan Police Civil Staff (16,000) and NI Prison Service (2,700).

TABLE 4

REASONS FOR DISQUALIFICATION

FACTOR:	Office in gifts of Minister/Crown		Paid Office in gift of Minister/Crown		Minister involved in Appointment		Ministerial power to remove		Political Impartiality Essential		Judicial or quasijudicial functions		'Time & Place' Constraints		'Separation of Powers'		Post of control in Company	
	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons
Part I	20	681	20	681	5	44	3	28	19	679	13	553	19	679	11	543	-	-
Part II	313	3750	299	3623	288	2100	161	924	178	2867	56	2373	77	312	34	219	13	58
Part III	222	3879	214	3842	162	2966	97	1769	120	2563	35	2690	46	698	12	29	23	88
Part IV	10	158	-	-	-	-	-	-	10	158	-	-	-	-	-	-	-	-
Totals	565	8468	533	8146	455	5110	261	2721	327	6267	104	5616	142	1689	57	791	36	146
	(93%)	(86%)	(88%)	(83%)	(75%)	(52%)	(43%)	(28%)	(54%)	(64%)	(17%)	(57%)	(23%)	(17%)	(9%)	(8%)	(6%)	(1%)

NOTES

Figures unrounded apart from percentages

In the majority of cases, several factors are pertinent, ie percentages will not sum to 100%.

Excludes the Metroplitan Police Civil Staff (16,000) and the Prison Service (2,700)

TABLE 5

TABLE 6

SOURCE OF REMUNERATION

	PAID APPOINTMENTS				UNPAID APPOINTMENTS	
	Paid from 'Public Revenue'		Other Sources			
	Cat.	Persons	Cat.	Persons	Cat.	Persons
Part I	21	684	-	-	-	-
Part II	214	3394	95	458	18	195
Part III	189	4720	51	228	11	45
Part IV	-	-	-	-	10	158
TOTALS	424 (70%)	8798 (89%)	146 (24%)	686 (7%)	39 (6%)	398 (4%)

Total for all paid appointments:

570 categories (94%)

9484 persons (96%)

NOTES

Figures unrounded apart from percentages.

Figures exclude the Metropolitan Police Civil Staff (16,000) and the NI Prison Service (2,700).

PAID APPOINTMENTS ANALYSED BY LEVEL OF REMUNERATION

	SALARIED APPOINTMENTS (IN SEVEN BANDS):														FEE PAID OFFICES:				Paid, Amount not known		Totals	
	£1-999		£1000-2900		£3000-3999		£4000-4999		£5000-7999		£8000-24,999		Over £25,000		up to £89/day		Over £90/day					
	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons	Cat.	Persons
PART I	-	-	-	-	-	-	-	-	-	-	8	95	10	549	-	-	2	38	1	2	21	684
PART II	3	19	54	655	24	137	18	51	27	39	72	148	60	183	29	1849	10	675	12	96	309	3852
PART III	6	48	32	208	20	56	11	32	33	307	64	1613	23	245	27	850	13	1281	11	308	240	4948
Totals	9	67	86	863	44	193	29	83	60	346	144	1856	93	977	56	2699	25	1994	24	406	570	9484
	(2%)	(1%)	(15%)	(9%)	(8%)	(2%)	(5%)	(1%)	(11%)	(4%)	(25%)	(20%)	(16%)	(10%)	(10%)	(28%)	(4%)	(21%)	(4%)	(4%)		

NOTES

Figures unrounded, apart from percentages.

No Part IV entries are paid appointments.

Figures excluded the Metropolitan Police Civil Staff (16,000) and the NI Prison Service (2,700).

IN

PROVISIONS WHICH DISQUALIFY FOR PARLIAMENT

TYPE OR CLASS	STATUTORY BASIS	COMMENTS
1. Those under 21.	Parliamentary Elections Act 1695	Disqualification for election to and sitting in the Commons. Minors are disqualified from the Lords by a Standing Order.
2. Aliens (those who are neither Commonwealth nor Republic of Ireland citizens).	Act of Settlement 1700, as amended by later statutes, eg British Nationality Acts.	Disqualification for election to and sitting in either House of Parliament.
3. 'Lunatics and Idiots'	Covered by Common Law.	The Common Law covers the lower (elected) House.
4. Those legally detained on grounds of mental illness.	Mental Health Act 1983 C20	After a sitting MP has been so detained for 6 months and after professional examination, the seat may be vacated.
5. Those convicted of treason.	Forfeiture Act 1870.	Disqualification for election to and sitting in either House of Parliament, until expiry of the sentence or receipt of a pardon.
6. Criminals serving sentences of 1 year or more.	Representation of the People Act 1981.	Disqualification for nomination, or election to, or sitting in the Commons.
7. Those convicted of certain corrupt or illegal practices at elections.	Representation of the People Act 1983 C.2	Various penalties, for instance disqualification for election and for sitting as MP (in some or all constituencies) for a certain number of years.
8. Bankrupts.	Bankruptcy Act 1883 Bankruptcy (Scotland) Act 1913 Bankruptcy (Ireland) Amendment Act 1872	Slightly differing provisions as to disqualification for election and for sitting, and procedures for vacating a seat. Disqualification may last as long as 5 years after the discharge of bankruptcy. The Insolvency Law Reform Committee (reporting in June 1982), and the Scottish Law Commission (reporting in February 1982) have made some proposals for change.
*9. Clergy of the Church of England & of other Anglican churches (except the Welsh Church) ministers of the Church of Scotland.	House of Commons (Clergy Disqualification) Act 1801 as modified by the Welsh Church Act 1914; Clerical Disabilities Act 1870 subsequently amended by the Clerical Disabilities Act 1870 (Amendment) Measure 1984	Disqualification for election to and sitting in the Commons; 2 Archbishops and 24 Bishops of the Church of England sit ex officio in the Lords. The established Church of England, the Church of Ireland and certain other groups are covered, but not the Church in Wales. Under the 1870 Act, C of E clergy may relinquish Orders for civil law purposes and avoid disqualification. The 1801 Act provides 'common informer' penalties.
10. Clergy of Roman Catholic Church.	Roman Catholic Relief Act 1829.	No priest or other clerk in Orders of the Roman Catholic Church may be elected to the House of Commons. The Act invokes the 'common informer' penalties set out in the 1801 Act covering the Anglican clergy ((9) above).
11. Peers of England, Scotland, Great Britain and the UK.	Covered by Common Law.	These Peers are disqualified for election to and sitting in the Commons by their rights to sit in the Upper House. Under the Peerage Act 1963 hereditary Peers may, within a strict time limit from succession, renounce their peerage and avoid disqualification. (There is no such provision for Life Peers, once they have accepted the peerage). Holders of an Irish peerage alone may represent a UK constituency.
12. Various Office-Holders.	House of Commons Disqualification 1975.	(As studied in the MPO Review)

Annex D

DISQUALIFICATION FOR OTHER PARLIAMENTS, ASSEMBLIES AND LOCAL GOVERNMENT

1. The European Assembly Elections Act 1978 (c10) provides that a person disqualified for membership of the House of Commons (whether under the 1975 Act or otherwise) is likewise disqualified for the European Parliament (Schedule 1, paragraph 5 of the 1978 Act). There are certain exceptions: neither peers, apart from Lords of Appeal in Ordinary, nor clergy are disqualified per se; and holders of offices appearing in certain parts of the 1975 Act need not be disqualified if the Secretary of State has designated them as non-disqualifying offices in relation to the Assembly for the time being (this power has not been exercised).

2. Disqualification for the Northern Ireland Assembly is covered in an Act of 1975 which although similar in basic structure, differs in some respects from the Commons Act.

3. Disqualification for election to and membership of a Local Authority is covered by Sections 79–82 of the Local Government Act 1972 and sections 29–33 of the Local Government (Scotland) Act 1973. Candidates for election must be 21 or over; a British subject; or citizen of the Irish Replublic; and able to show electoral register, work, residence or property connections during the previous year with the Local Authority area concerned. They are disqualified for election or for membership of a Local Authority if they are its employees though not if they are employed by another authority; or if they have committed an unworthy act, are bankrupts, have been surcharged in the last 5 years (except in Scotland), sentenced to a 3-month prison sentence or convicted of corrupt practices at an election.

ANNEX C

DISQUALIFICATION PROVISIONS IN OTHER COUNTRIES

1. Australia (House of Representatives)

The Australian Constitution disqualifies (Section 44) any person who "holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or has any direct or indirect pecuniary interest in any agreement with the public service of the Commonwealth, otherwise than as a member and in common with the other members of an incorporated company consisting of more than 25 persons". (Ministers of State are exempted from the former provision, and there appears to be no need for more specific definition of what is to be called an office of profit). The Constitution also disqualifies bankrupts, insolvents, traitors, certain criminals, certain aliens; and members of the Upper House, the Senate.

The Commonwealth Electoral Act 1918 sets out conditions of age, nationality and residence for prospective Members, and disqualifies Members of State Parliaments.

Australian or State public servants are not eligible to be elected to Federal Parliament, but must resign before consenting to nomination as candidates. Leave of absence to campaign in election cannot be granted; but the Public Service Board may reappoint a person who has resigned and campaigned unsuccessfully, if the person re-applies within 2 months.

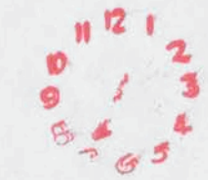
2. Canada (House of Commons)

The Canada Elections Act (Section 21) disqualifies the following for candidature: every person who holds (paid) office, commission or employment, permanent or temporary, in the service of the Government of Canada; persons holding the office of Sheriff, Clerk of the Peace, or County or Judicial District Crown Attorney; members of the legislatures of any Province; certain judges; and many of those with contracts (other than contracts of employment) with the Government on behalf of the Crown. There are various exceptions from these clauses, basically covering members of the Queen's Privy Council (ie Ministers); reserves of the armed forces; and those civil servants who have been granted leave of absence (under the Public Service Employment Act) for the purposes of an election campaign. The shareholders of companies in contract with the Crown are also exempt, apart from building contracts. The Canada Elections Act also effects the disqualification of various categories such as minors, aliens, criminals, and those guilty of corrupt election practices.

3. New Zealand (House of Representatives)

The New Zealand Electoral Act 1956 provides that those who qualify as electors in New Zealand may also offer themselves as candidates, with the exception of serving public servants (Sections 25, 30). Public servants may be placed on unpaid leave of absence (Section 30) for the purpose of seeking election, this to commence no later than nomination day. The term public servant equates closely to the UK definition of "central civil service". If a

Parliament : Legislative Programme A12



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HOME SECRETARY

QUEEN ANNE'S GATE LONDON SWIH 9AT

12 June 1984

Dear Willie,

Await response

13/6

ANIMALS LEGISLATION

We have already discussed in QL which Bills should be given priority booking for the 1985-86 Session. That discussion looked at potential legislation largely in terms of its length and complexity and the benefits that would be secured in terms of readiness, by taking an early decision, as to the composition of the programme. I of course accept that the right choices were made on those grounds. But I should like to return , for quite different reasons, to the question of the need for a decision, in time for The Queen's Speech at the opening of the 1984-85 Session, on the timing of the Living Animals (Scientific Procedures) Bill. Naturally I recognise that there are other candidates for the 1985-86 programme but I believe there are exceptional reasons why we ought to commit ourselves publicly, this year, to legislation on animals during 1985-86.

As you so well know, the background is, of course, that although the current legislation, the Cruelty to Animals Act 1876, still works surprisingly well, its survival has become indefensible. That is why, in two successive Manifestoes, we have committed ourselves to replacing it with modern legislation, described in some detail in the May 1983 White Paper (Cmnd 8883). Details of the Bill will be fairly controversial, but nobody disputes that new legislation is needed.

My proposal is that

(a) there should be an announcement at the time of The Queen's Speech for the 1984-85 Session that legislation on the lines of the White Paper will be introduced in the 1985-86 Session; and

(b) there might also be a reference in that Queen's Speech along the lines that the Government would be "taking further its legislative proposals" in this field.

CONFIDENTIAL

The Rt Hon The Viscount Whitelaw, CH., MC.

/cont ...

CONFIDENTIAL

I urge this for several reasons.

(1) We must defuse the high level of public and political concern. Home Office Ministers now receive over 150 letters every month from MPs about the animals legislation. In the last year we have received 4,000 letters from members of the public. The uncertainty is making backbenchers restive, in response to considerable constituency pressure. The Opposition Parties, too, may be compelled to drift to a more extreme position. Already Richard Ryder, the President of the British Union for the Abolition of Vivisection, is the Liberal Party spokesman on animals. If he gains strength, the anti-farming and anti-field sports lobby will have won useful points. This February there was a hysterical press campaign against the work of the Ministry of Defence's Chemical Defence Establishment at Porton Down, which shows the continuing high level of media interest.

(2) We must maintain the considerable consensus we have achieved with moderate animal welfare interests. The longer our decision is put off, the more the consensus will slip away. It is perhaps surprising that any sort of consensus was achieved in the first place.

(3) We badly need to concentrate the minds of many people in biomedical science and industry on the need to come up from behind the parapet and stand up and be counted in support of our proposals. They must stop lying low and start lobbying properly.

(4) We must live up to international expectations. The European Community and the Council of Europe look to us to be among the first to ratify the Convention which will be adopted by the Council of Europe this summer.

(5) We are second only to the United States in biomedical research. We must stay there.

(6) There is a big industry interest, particularly in pharmaceuticals, one of British industry's biggest success stories. Without modern legislation its survival is in peril, because of the threat of much more extreme restrictions the longer the legislation is delayed.

(7) The anti-vivisection movement is well-funded and increasingly violent. We must put paid to this.

The Bill is a Manifesto commitment and I have often repeated our commitment to enact it in the current Parliament. I would again repeat my guarantee that instructions to Parliamentary Counsel will be ready by January 1985.

I have copied this letter to the Prime Minister, to my QL colleagues, to Sir Robert Armstrong and to First Parliamentary Counsel.

R M

FILE

14 May, 1984

This is just to record that the Prime Minister has seen and noted the decisions taken by QL Committee about the Legislative Programme for 1985/86.

(Timothy Flesher)

Miss J. Lewis-Jones
Lord President's Office.

BM

Position at Friday 11th May 1984

GOVERNMENT LEGISLATION

COMMONS PRIMARY

i. Second Reading Committee

Repatriation of Prisoners (Lords)	16 May
Roads (Scotland) (Lords) (S.G.C)	

ii Awaiting Second Reading on the Floor

Education (Amendment)(Scotland)(Lords)	
Animal Health and Welfare (Lords)	
Cable and Broadcasting (Lords)	8 May
Mental Health (Scotland)(Lords)(Consolidation)	
Public Health (Control of Diseases)(Lords)	
County Courts (Lords)(Consolidation)	
Registered Homes Bill (Lords)(Consolidation)	
Dentists (Lords) (Consolidation)	

iii. Standing Committee

	Start Date
Matrimonial and Family Proceedings (Lords) (Special procedure completed)	5 April
Agricultural Holdings	
Inshore Fishing (Scotland)(Lords)	26 April
Finance (No.2) (part)	8 May
Housing Defects	10 may

iv. Awaiting Committee on the Floor

v. Awaiting Report and Third Reading

Somerset House (Lords)	
Foreign Limitation Periods (Lords)	
Fosdyke Bridge (Lords) (Hybridity procedure completed)	
Police and Criminal Evidence	14 May
Co-operation Development Agency and Industrial Development	
Agricultural Holdings (Lords)	
Data Protection (Lords)	
Ordnance Factories and Military Services	
Local Government (Interim Provisions)	

vi. Consideration of Lords Amendments

Tenants' Rights, etc (Scotland) Amendment)

vii. Consideration of Lords Messages

Housing and Building Control

COMMONS SECONDARY LEGISLATION

i) Affirmative Orders

TITLE	DATE REQUIRED BY	FLOOR/COMMITTEE DATE OF DEBATE
Fines and Penalties (Northern Ireland) Order 1984	Friday 18 May	Floor Thursday 15 May
Agricultural (Miscellaneous Provisions)(Northern Ireland) Order 1984*	Friday 18 May	Floor Thursday 15 May
Agricultural and Horticulture Grant (Variation)Scheme 1984		
Draft Stock Exchange (Listing) Regulations 1984	Early June	Committee Wednesday 16 May
Value Added Tax (Special Provisions) (Amendment) Order 1984	A.S.A.P.	Committee Tuesday 22 May
Draft Employment Subsidies Act 1978 (Renewal) (Great Britain) Order 1984		
Draft Appropriation (No.2) (Northern Ireland) Order 1984		
Draft Job Release Act 1977 (Continuation) Order 1984		

COMMONS SECONDARY LEGISLATION

ii. Negative

EDM	TITLE	PARTY PRAYING	EXPIRY OF PRAYING TIME	CTTE/FLOOR DATE FOR DEBATE
690	Social Security (Adjudication) Regulations 1984 (S.I. 1984, No. 451)	LAB	22 May	Floor Monday 14 May
717	Agriculture and Horticulture Development (Amendment)	Lab	"	Committee
718	Farm and Horticulture Development (Amendment) Regulations 1984	Lab	"	Committee
720	Control of Harbour Development (Revocation) Order 1984	Lab	"	Floor
721	Meat (Sterilisation and Staining) (Amendment Regulations 1984	Lab	"	Committee

LORDS PRIMARY

Foster Children (Scotland) (L)

Rates

Rating and Valuation (Amendment)(Scotland)

London Regional Transport

Trade Union

Health and Social Security

Third Readings planned for week beginning Monday 14 May

Third Readings planned for week beginning Monday 21 May

Consideration of Commons Messages

COMMONS (EC DOCUMENTS)

(Early debates on EC documents on the Floor or in Committee)

TITLE	DOCUMENT Nos.	Debate needed by	Committee/Floor Date of debate

GOVERNMENT PRIMARY LEGISLATION

1. Awaiting Royal Assent

	DATE Agreed to by Lords

ii. Received Royal Assent

TITLE	DATE
Car Tax (Lords)	26/7/83
Companies (Beneficial Interests)	26/7/83
Consolidated Fund (Appropriation)	26/7/83
Finance	26/7/83
International Monetary Arrangements	26/7/83
Local Authorities (Expenditure Powers)	26/7/83
Medical	26/7/83
Value Added Tax	26/7/83
Oil Taxation	1/12/83
British Shipbuilders (Borrowing Powers)	21/12/83
Coal Industry	21/12/83
Consolidated Fund	21/12/83
Petroleum Royalties (Relief)	21/12/83
Consolidated Fund Act	13/3/84
Restrictive Trade practices (Stock Exchange)	13/3/84
Occupiers Liability	13/3/84
Tourism (Overseas Promotion)(Scotland)	13/3/84
Merchant Shipping	13/3/84
Education (Amendment)(Scotland)	13/3/84
Pensions Commutation	13/3/84
Prevention of Terrorism	22/3/84
Education (Grants and Awards)	12/4/84
Town and Country Planning	12/4/84
Telecommunications	12/4/84

4

PRIME MINISTER

LEGISLATIVE PROGRAMME 1985/86

When Cabinet discussed the legislative programme for 1984/85 on 1 March, we agreed that four places should be given to Bills in the 1985/86 programme. Cabinet chose Trustee Savings Banks and Rents, but delegated to QL the task of choosing the other two. QL subsequently asked colleagues for further bids and has now discussed these and reached conclusions.

We considered seven candidates. They were:

Petroleum	Department of Energy
Living Animals (Scientific Procedures)	Home Office
Northern Ireland (Emergency Provisions)	Northern Ireland
Salmon Fisheries (Scotland)	Scottish Office
Financial Services	Department of Trade and Industry
Building Societies	Treasury
Crown Agents	Foreign and Commonwealth Office

We were looking for Bills which clearly merited inclusion in the main programme for 1985/86 and would benefit from being awarded a firm place now rather than next March. In the light of these criteria we concluded that Northern Ireland (Emergency Provisions), Living Animals (Scientific Procedures) and Crown Agents were not sufficiently large or complex to gain maximum advantage from being granted a place now. Petroleum and Salmon Fisheries (Scotland) certainly fell within the criteria, but on balance we judged that the benefits to be gained from awarding the places to Financial Services and Building Societies were greater. We accordingly chose these two to complete the quartet for 1985/86.

I must stress that the fact that we did not choose any of the others is no reflection on the attitude which will be taken to them when they come before the Committee in the normal way at the beginning of next year. We were looking exclusively for Bills which would benefit from a particularly long lead time. All I would say about the others at this stage, is that when the Committee does look at all the bids for the 1985/86 programme, we shall as usual be influenced to some extent by the degree of preparation which has already taken place. Those Bills which are well advanced in terms of policy formulation will obviously have a better chance, all other things being equal, than those which are not.

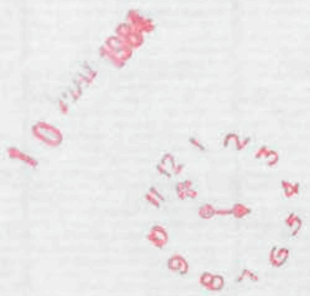
I should mention one other point which QL discussed. This was the request contained in Patrick Jenkin's letter to me of 19 April that his Rents Bill (already selected by Cabinet for the 1985/86 Session) should be extended to include a number of major initiatives in the Housing field. Although we were sympathetic to what Patrick was trying to achieve, we did not feel that this was the right time to make such a decision. Accordingly, we felt that this decision should be deferred until the full exercise takes place at the beginning of next year. In the meantime I am sure that Patrick will continue to pursue the policy aspects of what he has proposed, go as far as he can with the preparation of instructions and put in a bid in the main exercise so that we can consider his bid then in the context of all the bids for the 1985/86 programme.

I am sending copies of this minute to all members of Cabinet and to Sir Robert Armstrong.

10 May 1984

Cabinet : Législature Proj.

Pt 12



NEW ST. ANDREWS HOUSE
ST. JAMES CENTRE
EDINBURGH EH1 3SX

The Rt Hon Leon Brittan QC MP
Secretary of State for
the Home Department
Home Office
50 Queen Anne's Gate
LONDON

8 May 1984

will request if required

Dear Leon,

Thank you for copying to me your letter of 17 April to Willie Whitelaw outlining the proposed changes to the Gaming (Amendment) Bill to be introduced by Lord Harmar-Nicholls next session.

I have been kept in touch with these developments and am content with what is now proposed.

Copies of this letter go to the recipients of yours.

Yours ever,

George.

9 MAY 1984

NOTE FOR THE RECORD

N Steel. DMB 8/5

HAMPTON COURT PALACE

I spoke to Janet Lewis-Jones, Lord President's Office, about the attached papers. Lord Whitelaw is uneasy about the proposal to lease parts of Hampton Court Palace to companies and is arranging for a discussion in H Committee. He thinks that the Prime Minister ought to be aware of this proposal and with this in mind I agreed with Miss Lewis-Jones that the Prime Minister might be shown a copy of the H paper which eventually emerges.

I should be grateful if Confidential Filing could draw this to Mr. Barclay's attention.

BF

2 May 1984

CONFIDENTIAL

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

1 May 1984

Dear Patrick

HAMPTON COURT PALACE

Thank you for your letter of 6 April in which you propose that you should announce that there is to be a detailed study of the feasibility of leasing parts of Hampton Court Palace to companies.

I am surprised that no member of H Committee has commented on your proposals, because I must say that I personally have considerable reservations about them. I believe we ought to think most carefully before proceeding in this very difficult area, and that it would be wise to discuss the issues at a meeting of the Committee and to give the Prime Minister an opportunity to consider the matter herself.

My initial reaction is that the most desirable course would be to transfer the apartments to the Crown Estate Commissioners, but I note what you say about the legal difficulties involved, and think it would be helpful to have the Attorney General's views on them. I would be grateful if you could consult the Attorney General and bring this matter to a meeting of the Committee in due course.

I am sending copies of this letter to the Prime Minister, the Chancellor of the Exchequer, members of H Committee, the Attorney General and to Sir Robert Armstrong.

Yours ever
Willie

The Rt Hon Patrick Jenkin MP

CONFIDENTIAL

CONFIDENTIAL

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

6 April 1984

Dear Willie,

My Department is responsible for the management and maintenance of the Royal Palaces, including Hampton Court Palace. The State Apartments and some other parts of the Palace are, of course, open to the public. The Palace has also been extensively used for Grace and Favour residences, eg for retired senior service officers, diplomats and their widows and so on. However, in a historic Palace of this kind, it is increasingly difficult and expensive to provide suitable accommodation to modern standards. The Royal Household are therefore phasing out Grace and Favour tenancies as the present tenants die or leave, leaving substantial parts of the Palace unoccupied. Some parts have been empty for decades and have fallen increasingly into a state of disrepair which requires major expenditure both to restore and to bring up to modern standards.

The Royal Household and my officials have been giving considerable thought to the best ways of using this spare accommodation and ensuring that the Palace does not fall into an increasingly worse state of disrepair. It has been possible to allow parts of the Tudor Palace to be used for the purposes of various conservation bodies and there may be scope for limited extensions of this kind. However, such bodies are always short of resources and it has therefore been necessary to let them in, too, on a Grace and Favour basis, with restoration and maintenance to basic standards still being borne on my Department's Vote.

More recently, the Privy Purse has suggested that we might consider a different use for the empty apartments around Fountain Court, in the Wren part of the Palace, where most of the more orthodox Grace and Favour tenancies have previously been concentrated. They suggest that these might be leased to British companies of national stature, for use as "company flats". They thought that the location and kudos of Hampton Court Palace might well be sufficiently attractive to encourage such companies to take on apartments, essentially for residential use (though this need not rule out occasional small meetings, for which Hampton Court Palace is convenient to Heathrow) and to bear the cost of renovation (which could run well into 6 figures for each apartment) themselves.

Following the endorsement of this concept by Her Majesty The Queen and by Michael Heseltine, a confidential study was undertaken for us in 1982 by Chestertons, who concluded that "from a preliminary inspection, there is a good chance that the proposals are likely to be a viable proposition", though "undoubtedly there will be problems, particularly with vertical and horizontal access, car parking etc". They concluded, however, that it would not be possible to make

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further progress with a detailed study without that becoming publicly known. They have, however, recently told us that "the market conditions for the type of accommodation that would be produced by the conversion ..... has significantly improved" since 1982. They are therefore "even more confident ... that the exercise .... would be not only economically viable, but should yield significant financial benefits."

Before proceeding further, however, it was necessary to clarify the legal situation, which raises a number of difficulties. My statutory responsibilities relate solely to the management and maintenance of the Palace. I have no rights in the land and therefore no powers to enter into a lease. I could perhaps contemplate licensing companies to use the accommodation, but it is very doubtful whether this would provide adequate security to encourage them to commit the substantial investment involved. Her Majesty The Queen does have powers to enter into a lease but, under antiquated legislation, this would be limited to 31 years or to a term of years determinable upon one, two or three lives. Again, neither would provide adequate security.

We have also investigated the possibility of transferring individual apartments to the Crown Estate Commissioners, who could then lease them under their existing powers. The position is clouded in legal obscurity, but we now have Counsel's Opinion that the existing legislation would not enable such a transfer to be made.

If the project is to proceed, legislation would therefore be necessary. In my view, this is highly desirable. If the feasibility of the proposal is confirmed by further study, we should be able to ensure that this historic Palace is fully used in an appropriate way, without imposing a heavy burden on the taxpayer to restore and maintain the apartments. There is, of course, a risk - perhaps a high one - that the Opposition would represent this as a policy of "privatising the heritage", but I am sure we could reply that it is precisely the opposite - it would represent a major contribution by the private sector to restoring and preserving the heritage. I would, however, envisage that safeguards should be included in the legislation. In particular, I think it should ensure that the accommodation continues to be restricted to residential use (though I would not see this ruling out in practice the sort of small, high level meetings I have mentioned). Such a lease would not, of course, affect the Crown's ownership of Hampton Court Palace; nor my Department's responsibility for managing it.

If the desirability of legislation is agreed, a decision is also needed on whether it should empower the Secretary of State to lease directly, or whether it should seek to amend the law to enable individual apartments to be transferred to the Crown Estate Commissioners. While the latter would be the orthodox way of dealing with surplus Crown property, I do not think it is appropriate to the present case. First, there would be considerable legal and practical complications

CONFIDENTIAL

in empowering the Crown Estate Commissioners to lease individual apartments within a building which it was my Department's responsibility to maintain and where other apartments continued to be leased, perhaps to the end of the century or beyond, to remaining Grace and Favour residents. Secondly, Hampton Court Palace is a "working and living village", in which there are already complicated inter-relationships between various parts of the Royal Household and of my Department, as well as the important, though declining, numbers of Grace and Favour residents. It would add an unnecessary and undesirable complication to bring the Crown Estate Commissioners into that picture. I understand this is acceptable both to the Commissioners and to the Privy Purse.

I therefore see the agreement of colleagues that:

a. legislation to enable us to proceed with this proposition is desirable;

b. the legislation should empower the Secretary of State for the Environment to lease individual apartments at Hampton Court Palace, subject to their continuing to be used only for residential purposes and with other appropriate safeguards.

If colleagues agree, I will seek a place in the programme at an appropriate time. Meanwhile, I would envisage a joint announcement by the Royal Household and my Department, to enable a full feasibility study to be undertaken. At that stage, I do not think we need draw attention to the need for legislation.

I am copying this letter to the Chancellor and Members of H Committee.

Yours ever

Patrick

PATRICK JENKIN

CONFIDENTIAL

The Rt Hon Viscount Whitelaw CH MC

CONFIDENTIAL

CC/NO

NBPM

AT

3/5

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

2 May 1984

AT
To see

TRANSPORT LEGISLATION 1984/85

Thank you for your letter of 17 April about your legislative proposals on airports which were discussed by E(DL) on 10 April.

Your first proposal is that your short Civil Aviation Bill should not apply simply to air traffic movements (ATMs) at Heathrow but should give you general powers to control ATMs at British airports generally. The need for general powers was not made clear to QL in our earlier discussions on next Session's legislation, but if it is necessary to avoid hybridity and will avoid the need for further legislation if and when movements at Gatwick also need to be controlled then I and my colleagues are content to accept what you propose.

I am afraid, however, that we cannot agree to your second proposal - that provisions requiring local authorities to convert into company form those local authority airports with a turnover of more than £1 million should be included in your Public Transport Bill. It seems to us that at this stage we would be most unwise to add Bills to the 1984/85 programme, or additional subjects to Bills already allotted a place, without very good reason indeed. This would be true even if QL and Cabinet had not already considered and decided against the inclusion of major legislation on airports in next Session's programme. The only changed factors since our earlier consideration are that you now have policy approval and a possible small saving in clauses in the Abolition Bill. But I see from his letter of 27 April that Patrick Jenkin does not agree that there will be a saving in the Abolition Bill nor can my colleagues and I accept that the existence of policy approval changes the position; unfortunately, there

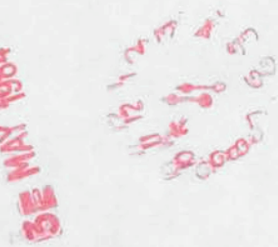
The Rt Hon Nicholas Ridley MP

CONFIDENTIAL

are always a number of matters which have policy approval but for which room cannot be found in the legislative programme. I am sorry to disappoint you on this. I have, however, just seen the E(A) paper with your proposals on buses for the Public Transport Bill; if approved these will be a very substantial legislative achievement and I have no doubt you will be bringing forward in due course your major proposals on airports for legislation in 1985/86.

I am sending copies of this letter to the Prime Minister, the members of QL and E(DL) and to Sir Robert Armstrong.

PARL: Leg. Prog: Pt 12



CONFIDENTIAL

CC/NO

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:

Your ref:

27 April 1984

PS 27/4

Dear Nick,

AIRPORTS

I have seen your letter to Willie Whitelaw of 17 April.

I am concerned about the proposed ATM measures and I would like to see them worked out more fully in consultation with colleagues before you make a statement to the House. When noise levels rather than traffic movements were suggested as criteria at an earlier stage, the proposal ran into a storm of criticism from environmental interests.

You suggest that the inclusion of the proposals requiring local authorities to convert their larger airports into company form will save some clauses in the abolition Bill. This is not so. The Bill will only include such provisions as are necessary to transfer the MCC interests in airports to the PTAs. The "company" proposal will, in any case, apply to all local authority airports with a turnover of more than £1m. Less than half of these are in the metropolitan counties. There can, therefore, be no question of including this provision in the abolition Bill - it would go well outside its scope.

I am copying this letter to the recipients of yours.

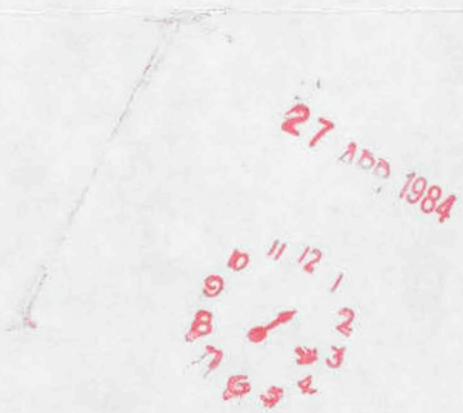
Yours ever,

Patrick

PATRICK JENKIN

The Rt Hon Nicholas Ridley MP

PaM Registration #12



PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

27 April 1984

AR 27/4

Dear Gray,

Thank you for your letter of 13 April about the updating of the Schedule 1 to the House of Commons Disqualification Act.

I am content that publication of the promised factual analysis should be deferred as you suggest. I say this, however, on the understanding that should the question of the 'review' be raised during the debate on the proposed Resolution it should be referred to as a "factual analysis of the existing provisions" and that we should be prepared if necessary to disclaim the intention of proposing any general review in this field.

As far as the timing of the debate is concerned, I think that we are slightly less constrained than you suggest. My understanding is that while it is true to say that the draft Order and any other papers must be with the Privy Council Office before 14 May, it is open to us (provided we are confident of the Resolution being passed and advise the Privy Council accordingly) to hold the debate any time up to the eve of the Privy Council meeting on 18 May. Given the present pressures on Parliamentary time I must say that to provide for a debate within even this timescale will be difficult: but in view of the desirability of bringing the schedule up to date before the European elections I am prepared to undertake to do so.

I am copying this letter to the recipients of yours.

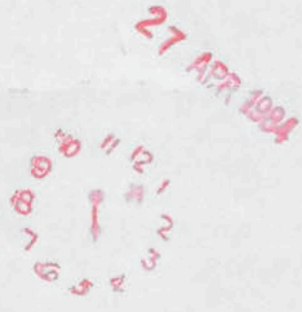
John Biffen

JOHN BIFFEN

Rt Hon the Earl of Gowrie

Parliament Pt 12

Legislation



ECDP

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

From the Minister

CONFIDENTIAL

The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
Whitehall
London SW1A 2AT

24 April 1984

LEGISLATIVE PROGRAMME 1984/85

Your letter of 6 March to the Lord Chancellor discussed the procedure for policy clearance and drafting authority for Bills approved by Cabinet and included in the 1984/85 Programme.

The purpose of this letter is to seek your agreement and that of the Leader of the Commons to drafting authority for an addition to the Pollution (Protection of Food and the Marine Environment) Bill, which would enable the Government to make regulations controlling the use of pesticides.

The background is that the present non-statutory arrangements for controlling pesticides are in imminent danger of breaking down following legal challenge by the European Commission. Lengthy discussion between my Department and the Commission has failed to produce a solution in Brussels, and on 12 April I proposed to OD(E) that the Government should now make regulations under the Health and Safety at Work Act 1974, perhaps supplemented by regulations under the Consumer Safety Act 1978. This proposal met with strong resistance. I need not repeat the arguments since they are fully set out in the OD(E) minutes. However, OD(E) concluded that both the Health and Safety at Work Act and the Consumer Safety Act were too narrow in scope for the purpose intended and that the best way forward would be to extend the scope of the proposed Pollution (Protection of Food and the Marine Environment) Bill to afford the powers necessary for comprehensive control of the marketing and use of pesticides and the introduction of appropriate regulations at an early date. This course had the strong endorsement of the sub-committee and I was therefore invited to seek your agreement to it.

/I should ...

CONFIDENTIAL

Parliament Pt 12
Legislative Programme

I should add that the conclusion was subject to an urgent re-examination by officials of the strength of the European Commission's legal position, and assumed that no early accommodation with the Commission was possible. I think it is fair to say however that OD(E) regarded this legal re-examination as a matter of making quite sure that the problem could not be dealt with except by legislative action at home, and not as something likely to reveal an alternative policy option. I therefore felt I should write to you without delay.

I have also asked my officials to consider urgently how much addition to the Pollution Bill would be needed. It is too soon to be sure about that but in essence what would be wanted would be a general power to make regulations requiring approval by Ministers of pesticides in the UK and enabling them to impose conditions on that approval. This does not seem likely to demand more than three additional clauses.

I have no doubt at all - and on this there was no disagreement at OD(E) - that action must be taken quickly to ensure that there is no loss of public confidence in the protection afforded to the public and the environment by the pesticide controls. I therefore hope that you and the Leader of the House will agree to the proposed widening of the scope of the Pollution Bill and I will of course then ensure that the necessary instructions to Parliamentary Counsel are drafted without delay.

I am copying this letter to members of OD(E), John Biffen, John Wakeham and Sir Robert Armstrong.

MICHAEL JOPLING

CONFIDENTIAL

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

24 April 1984

Dear Nick

24/4.

LEGISLATION 1984/85

Thank you for your letter of 17 April about your legislative proposals following the discussion at E(DL) on 10 April.

As my Private Secretary explained to yours on 19 April, QL will of course consider your proposals quickly but, given the intervention of the Easter weekend, this could not be done in time for you to make a statement of your intentions "as soon as the House resumes after Easter". I should be grateful therefore if you would postpone an announcement until QL has had an opportunity to reach a view on your proposals; I will let you know their conclusion as soon as possible.

I am sending copies of this letter to the Prime Minister, to members of QL and E(DL) and to Sir Robert Armstrong.

Yours

John

The Rt Hon Nicholas Ridley MP

CONFIDENTIAL

24 APR 1984

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000
DIRECT DIALLING 01-218 2111/3

MO 21/1

17th April 1984

24/4

Dear Willie

Thank you for your letter of 4th April about Bills for the 1985/86 legislative programme.

Apart from the quinquennial Armed Forces Bill, which will feature in the list of essential Bills for the 1985/86 session, the only MOD legislation which I foresee we might wish to introduce is a Bill which might be necessary to deal with certain aspects of the possible change in status of the Royal Dockyards which I am currently considering.

I will be writing to colleagues shortly about the policy issues involved but, should legislation prove to be necessary, the timescale for reaching final decisions may make it difficult to adhere to your request for Instructions to Counsel by January 1985. At this stage therefore I do not have a firm candidate for one of the two places approved by Cabinet, but I may bid for a place in the main exercise later in the year.

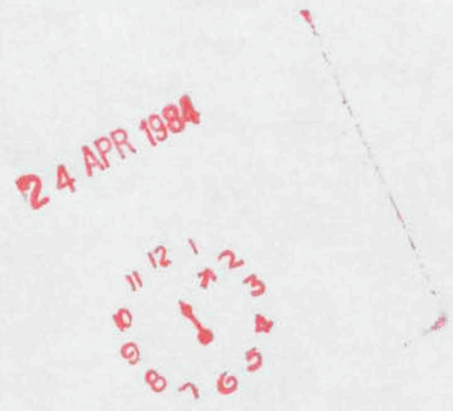
I am sending copies of this letter to Ministers in charge of Departments, other members of QL and to Sir Robert Armstrong.

Yours ever

Michael Heseltine

The Rt Hon Viscount Whitelaw CH MC

PARLIAMENT: Legislation
Pt 12



CONFIDENTIAL

DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

01-212 3434

PF with any reaction

AT 17/4

The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
68 Whitehall
LONDON SW1A 2AT

17 April 1984

Dear Willie

I am writing to you about my legislative proposals on airports which were discussed by E(DL) on 10 April. You wrote to the Chancellor about these on 6 April.

On the proposed Bill to implement the ATM limit at Heathrow I think there is some misunderstanding. The problem for which we need it is as you say limited to Heathrow, but the Bill needs to make the powers generally available if we are to avoid hybridity. They would then be brought into effect as necessary by an Order which specified the airport to which they would apply.

I do not think that this would make the Bill more controversial. This is exactly how we use the existing powers by which we prescribe measures to limit noise disturbance at airports: they are exercised only in relation to three airports "designated" by me for that purpose.

However when agreeing to the ATM measures, E(DL) asked me to emphasise in any public statement about the legislation that we envisage applying the powers only

CONFIDENTIAL

in respect of Heathrow and possibly, in a few years' time, Gatwick. I will of course do this.

In summing up the E(DL) discussion, the Chancellor asked me to seek QL's approval for the inclusion of a Bill on these lines in the 1984-85 legislative programme. It is my understanding that Cabinet has already approved a firm place for an essential Civil Aviation Bill (C(84)8th and CC(84)8th) but perhaps you would confirm that this is the case.

E(DL) also gave strong support to my proposals for requiring local authorities to convert into company form those local authority airports with a turnover of more than £1m. Although I did not mention including these provisions in my Public Transport Bill when the legislative programme was discussed at QL, you will recall that at that time I was pressing - unsuccessfully, as it turned out - for a separate airports privatisation Bill. The proposed provisions on local authority airports would amount to only about half a dozen clauses, and I hope that you could now accept this modest addition to my Public Transport Bill. As I argued in E(DL), this legislation would represent a useful step in getting better commercial disciplines into the management of local authority airports, and would be seen by our own supporters as a move towards our manifesto commitment. It will save some clauses in the Abolition Bill

If you are content, I would propose to make a statement of our intentions as soon as the House resumes after Easter, and then consult local authorities so that I could take account of their comments in preparing instructions for Counsel.

I am copying this to the Prime Minister, the members of QL and E(DL) and Sir Robert Armstrong.

NICHOLAS RIDLEY

3F

PARLIAMENT. Legislation
A12

CONFIDENTIAL

Attached. Draft Minute for MAFF to Lord President

MR FLESHER

16 April 1984

PESTICIDES LEGISLATION

OD(E) on Thursday agreed that statutory measures are needed for the control of pesticide safety in the United Kingdom. Both the Health and Safety at Work Act and the Consumer Safety Act are too narrow in scope to allow comprehensive controls. The sub-committee therefore agreed that the best solution would be to extend the scope of the Pollution (Protection of Food and Marine Environment) Bill proposed for the legislative programme in 1984/85. The Minister of Agriculture is proposing to seek the agreement of the Lord President on this proposal which has the strong endorsement of OD(E).

We support this proposal. There is an urgent need for a legislative framework for pesticide control and the two Acts which were considered are inadequate. Extending the scope of the proposed Pollution Bill for the 1984/85 session would have the additional advantage of producing a much better balanced Bill. The current Bill is largely an essentially administrative one which will however focus public attention upon our environmental policy. An introduction of a substantive policy content will therefore be helpful.

This proposal also fits in well with the Prime Minister's current concerns for restoring public confidence and improving the Government's policy and presentation on environmental issues.

DLP

DAVID PASCALL

CONFIDENTIAL

TF

CABINET OFFICE

From the Minister of State

Lord Gowrie

MANAGEMENT AND PERSONNEL OFFICE
Great George Street
London SW1P 3AL
Telephone 01-233 8610

The Rt Hon John Biffen MP
Lord Privy Seal and
Leader of the House of Commons
68 Whitehall
London SW1

13 April 1984

R
16/4.

Dear John,

UPDATING OF SCHEDULE 1 TO THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

Thank you for your letter of 7 March attached

We have now revised the Order and explanatory note to take account of comments from colleagues and are ready to table the necessary resolution. Copies are attached. We propose, if you agree, to do so immediately after the Easter recess. It would be helpful if a slot could then be found for debate, perhaps in the week beginning 4 May. The timing of the Privy Council meetings means that the latest possible date for debate is 10 May.

We are also proposing to follow last year's practice and have an arranged PQ to tell members where they can get copies of the Explanatory Note. This will be tabled on 25 April. We were criticised last year for placing copies of this in the Library rather than in the Vote Office. Several members with an interest had difficulties in finding it. This year therefore Barney Hayhoe and I suggest that it goes in the Vote Office.

I originally proposed, as you know, that we should publish the promised factual analysis of the House of Commons Disqualification Act 1975 at the same time as the updating. This would have meant that we would have attached the factual analysis to the Explanatory Note and made it available next week. Jim Prior has now told me that this could cause him dificulties because of the imminent publication of the report from the New Ireland Forum. Publication of the factual analysis at the same time would revive interest in the controversial issue of disqualification for the Northern Ireland Assembly. I now

propose therefore to defer publication of the factual analysis until May - the precise time to depend on the timing of the New Ireland Forum report. Publication would of course be low key as you suggest. I will circulate the final version of the paper together with a draft arranged PQ to you and other colleagues nearer the time.

Copies of this letter go to members of the Cabinet, the Lord Advocate and to John Wakeham.

LORD GOWRIE

MR DAWSONS
Disqualif
Box No: 4

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HOUSE OF COMMONS DISQUALIFICATION ACT 1975

Notes on the Resolution to amend Schedule 1

A Resolution made under section 5(1) of the House of Commons Disqualification Act 1975, to amend Schedule 1 to the Act, has been laid before Parliament. This note provides information on the origin and effect of each amendment proposed in the Resolution, together with a short introductory note on the Act.

Introduction to the Act

1. The House of Commons Disqualification Act 1975 (the Act) is concerned mainly with offices which debar their holders from membership of the House of Commons on the grounds that the duties and responsibilities of one post may conflict with or adversely affect performance in the other. The legislation was first enacted in 1957, and was re-enacted, unchanged in substance and as a consolidating measure, in 1975 when offices disqualifying for the Northern Ireland Assembly were separated out and covered by the Northern Ireland Assembly Disqualification Act 1975.

2. The main purpose of disqualification is to ensure that Members are fit and proper people to sit in the House, able to carry out their duties and responsibilities free from undue pressures from other sources.

3. Broadly speaking, members of the civil service, police and armed forces (with specified exceptions), and members of foreign Legislature are disqualified in the main provisions of the Act which cannot be amended by subordinate legislation. All other disqualifying offices (judicial offices, bodies all of whose members are disqualified, individual offices, and others disqualifying for particular constituencies) are specified in a Schedule which may be amended by Order in Council following a Resolution in the House of Commons. Amendments to the Schedule may also be made by primary legislation, eg that establishing or winding up a statutory body.

Schedule 1

4. Schedule 1 to the Act is a comprehensive list of those offices which disqualify the holder for membership of the House of Commons and which are not covered by the group disqualifications, eg the civil and armed services, set out in section 1 of the Act. The Schedule is divided into 4 parts:

Part I - Judicial offices disqualifying for membership.

Part II - Bodies of which all members are disqualified for membership.

Part III - Other disqualifying offices.

Part IV - Offices which disqualify for particular constituencies.

Criteria for Disqualification

5. The criteria were drawn up during the preparation of the 1957 Act. They were made known to Departments considering the position of individual offices for which they were responsible and have since been applied administratively. There are

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four basic criteria, three of which have been applied since 1957 and the fourth (b below) has been more recently adopted. Offices disqualify if they meet any one of these criteria, though many meet several. They are as follows:

a. Paid offices in the gift of the Crown or Ministers (to prevent 'trivial' disqualifications, a minimum salary level of £500 pa was adopted in 1957, rising to £4,000 in 1983, although offices with remuneration below this level may be disqualified at the Minister's discretion).

b. Certain positions of control in companies in receipt of Government grants and funds, to which Ministers usually, though not necessarily, make nominations.

(These two criteria are to ensure a sufficient degree of separation between the Legislature, Executive and Judiciary and to secure their independence of each other.)

c. Offices imposing duties which with regard to time or place would prevent their holders from fulfilling Parliamentary duties satisfactorily, ie they would take up too much time or otherwise prevent an MP from attending Parliament.

d. Offices whose holders are required to be, or to be seen to be, politically impartial.

(This criteria relates to the need to preserve the integrity of the office in question rather than to protect the House.)

The Resolution

6. The Resolution is tabled under **Section 5(1)** of the Act. Its purpose is to amend Schedule I by adding certain offices and amending or deleting existing entries where separate primary legislation has not been used.

7. The Resolution covers 20 amendments of Schedule I.

8. The proposed amendments will bring approximately 21 office holders into Schedule I while releasing 130 others.

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PART II - BODIES OF WHICH ALL MEMBERS ARE DISQUALIFIED

Entries to be deleted

1. Entry to be deleted: **A Value Added Tax Tribunal**

An entry referring only to the **President, Vice President and full-time Chairmen** of a VAT Tribunal, is proposed for addition to Part III (See No 6). It is suggested that part-time Chairmen and members could be released from disqualification as the time spent sitting on Tribunals is not such that it would prevent them from also serving as Members of Parliament. They are paid between ~~£63 - £109~~ £70 - £112 per day but do not in practice receive more than £500 pa.

7 part-time Chairmen and 118 part-time members will be released from disqualification.

Sponsored by HM Customs and Excise.

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PART III - OTHER DISQUALIFYING OFFICES

Additional entries

2. New entry: **Advocate Depute (not being the Solicitor General for Scotland) appointed by the Lord Advocate**

The office-holders are Senior or Junior Counsel appointed from the Scottish Bar by the Lord Advocate and are paid £18,100 pa. They hold a Commission from the Lord Advocate to prosecute on his behalf in criminal cases in the High Court of Justiciary and in important cases in the Sheriff Courts.

Over the years the work of Advocates Depute has considerably increased and office-holders would be unable to carry out the duties of a Member of Parliament.

There are currently 12 office-holders who will come into the Schedule. They are not appointed ad hoc in relation to any case, but remain Advocates Depute until such time as they resign or are removed from office, cases being assigned to them on an administrative basis.

Sponsored by the Lord Advocate's Department.

3. New entry: **Chairman or Chief Executive of the Simplification of International Trade Procedures Board**

The Chairman is appointed by a Minister and is paid expenses only. He heads SITPRO's budget steering committee and plays a key role in deciding how the body's £500,000 pa funds are spent.

The Chief Executive is appointed by the Chairman and is paid £26,000 pa.

The body was set up by administrative action in 1970 and is funded from the British Overseas Trade Board's grant-in-aid.

The proposed new entry will bring two office-holders into the Schedule.

Sponsored by the Department of Trade and Industry.

4. New entry: **Controller of Audit appointed under Section 97(4) of the Local Government (Scotland) Act 1973**

The **Commission for Local Authority Accounts in Scotland** appoints the office-holder after consultation with, and subject to the approval of, the Secretary of State. All members of the Commission are themselves disqualified under Part II of Schedule I.

The office-holder needs to be seen to be politically impartial. He is paid by the Commission which is itself supported by a levy on local authorities (93 per cent) and grant in aid from central government (7 per cent), principally the Scottish Office.

The office was established in 1973 but the need to disqualify has only recently been recognised.

Sponsored by the Scottish Office.

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5. New entry: Controller of Audit appointed under paragraph 7(1) of Schedule 3 to the Local Government Finance Act 1982

The Controller of the Audit Commission is appointed by the Secretary of State for the Environment and the Secretary of State for Wales. The Chairman and members of the Commission are themselves disqualified under Part III of Schedule 1.

The office holder needs to be seen to be politically impartial, and the duties of the office would prevent him from fulfilling Parliamentary duties satisfactorily. He is paid by The Commission, which is itself supported by fees charged to local authorities for audit of their accounts. The office was established in 1982.

The proposed new entry will bring one office holder into the Schedule. Sponsored jointly by the Departments of the Environment and the Welsh Office.

6. New entry: Director of Britoil plc nominated by a Minister of the Crown or Government Department

The Government Directors of Britoil plc are appointed by the Treasury under the company's Articles of Association. They are paid by Britoil (in the same way as the company's other non-executive directors). There is a need for them to be seen to be politically impartial.

The proposed new entry will bring two office-holders into the Schedule.

Sponsored by the Treasury.

7. New entry: President, Vice President and full-time Chairman of a Value Added Tax Tribunal

The existing entry referring to all members of the body is suggested for deletion form Part II of the Schedule. This proposed new entry does not include part-time Chairmen and members as it is thought that the time they spend sitting on Tribunals is not such that it would prevent them from also serving as Members of Parliament (see No 1).

The office-holders covered by the proposed new entry are appointed by the Lord Chancellor and are paid between ~~£24,000 - £30,000 pa.~~ £13,375 - £33,750 pa.

Sponsored by HM Customs and Excise.

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Entries to be deleted

8. Entry to be deleted: **Chairman of the Electricity Consumer Council**

This entry is now redundant since the Electricity Consumers' Council is now established under section 21 of the Energy Act 1983 (c.25), and paragraph 11 of Schedule 2 to that Act inserted (wef 1 September 1983) an entry into Part III of Schedule 1 relating to "Chairman in receipt of remuneration of the Electricity Consumers' Council".

9. Entry to be deleted: **Chairman of any of the National Boards constituted under the Nurses, Midwives and Health Visitors Act 1979, if appointed by the Secretary of State under Section 5(8)(a) of that Act.**

From September 1983 the office-holders are not appointed by a Minister. This follows the Nurses, Midwives and Health Visitors Act 1979 (Membership of National Boards) Order 1982 (SI 1982/962).

4 office-holders are removed from Schedule 1.

Sponsored by the Department of Health and Social Security, Welsh Office, Scottish Home and Health Department and Department of Health and Social Services for Northern Ireland.

10. Entry to be deleted: **Director of the Scottish Agricultural Securities Corporation plc nominated by a Minister of the Crown or government department**

The Government's right to nominate a Director of the Company lapsed in February 1983 upon the completion of debt repayment. The last Director nominated by the Government resigned his post during 1983.

Sponsored by the Department of Agriculture and Fisheries for Scotland.

11. Entry to be deleted: **Distributor of Stamps appointed by the Commissioners of Inland Revenue for the Stock Exchange at Glasgow**

The business conducted by the office-holder on behalf of the Inland Revenue is now minimal. Moreover, the business is delegated and he does not personally benefit from the very small commission paid by the department.

The proposed deletion will remove one office-holder from the Schedule.

Sponsored by the Inland Revenue.

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Amendments

12. Amend the entry: **Chairman of the Distinction and Meritorious Service Committee for Northern Ireland**

to read: **Chairman of the Distinction and Meritorious Service Awards Committee for Northern Ireland**

The body's title was incorrectly shown when the 1983 amending Order was made.

Ministers are involved in the appointment of the office-holder who is paid.

Sponsored by the Department of Health and Social Services for Northern Ireland.

13. Amend the entry: **Paid Chairman of a Health Board constituted under the National Health Service (Scotland) Act 1972**

to read: **Paid Chairman of a Health Board constituted under the National Health Service (Scotland) Act 1978**

The earlier legislation has been superseded by the 1978 Act.

There are 15 Chairmen who are appointed by the Secretary of State for Scotland and receive an honorarium of between £2530-£9628 pa.

Sponsored by the Scottish Home and Health Department.

14. Amend the entry: **Chairman of the Management Committee of the Common Services Agency for the Scottish Health Service**

to read: **Chairman of the Management Committee of the Common Services Agency for the Scottish Health Service constituted under the National Health Service (Scotland) Act 1978**

The Chairman is appointed by the Secretary of State and is paid £5225 pa. Reference to the legislation in the entry is proposed for additional clarity and to conform with other similar entries.

Sponsored by the Scottish Home and Health Department.

15. Amend the entry: **Chairman of the Post Office Users' National Council**

to read: **Chairman of any of the Post Office Users' Councils established under section 14 of the Post Office Act 1969.**

Sponsored by the Department of Trade and Industry

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Electoral registration officers are responsible for the registration of electors and the consideration of absent voting applications and in England and Wales may be designated as acting returning officers at Parliamentary and European Parliament elections. Returning officers in Scotland are appointed under section 25(1) of the Representation of the People Act 1983 and are already included in part III of the Schedule. Electoral Registration Officers should be seen to be politically impartial.

There are no additional office-holders brought into the Schedule.

Sponsored by the Home Office and Scottish Home and Health Department.

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PART IV - OFFICES DISQUALIFYING FOR PARTICULAR CONSTITUANCES

E 1

20. Amend the entry:

Her Majesty's Commissioner of Lieutenancy in the City of London	The Cities of London and Westminster

to read:

Her Majesty's Commissioner of Lieutenancy in the City of London	

The constituency comprising the whole of the City of London.

The boundaries of the constituency containing the whole of the City of London were redrawn and a new name given to it in 1983. Further changes could be made after future reviews by the Parliamentary Boundary Commission for England

Sponsored by the Home Office.

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DRAFT RESOLUTION

HOUSE OF COMMONS DISQUALIFICATION ACT 1975

That Schedule 1 to the House of Commons Disqualification Act 1975 be amended as follows:-

PART II OF SCHEDULE 1

1. The following entry shall be omitted:-

"A Value Added Tax Tribunal."

PART III OF SCHEDULE 1

Additional entries

2. There shall be inserted at the appropriate places:-

"Advocate Depute (not being the Solicitor General for Scotland) appointed by the Lord Advocate.

Chairman or Chief Executive of the Simplification of International Trade Procedures Board.

Controller of Audit appointed under section 97(4) of the Local Government (Scotland) Act 1973.

Controller of Audit appointed under paragraph 7(1)of Schedule 3 to the Local Government Finance Act 1982.

Director of Britoil p.l.c. nominated by a Minister of the Crown or government department.

President or Vice-President of Value Added Tax Tribunals or full-time chairman of value added tax tribunals."

Entries omitted

3. The following entries shall be omitted:-

"Chairman of the Electricity Consumer Council.

Chairman of any of the National Boards constituted under the Nurses, Midwives and Health Visitors Act 1979, if appointed by the Secretary of State under section 5(8)(a) of that Act.

Director of the Scottish Agricultural Securities Corporation p.l.c. nominated by a Minister of the Crown or government department.

Distributor of Stamps appointed by the Commissioners of Inland Revenue for the Stock Exchange at Glasgow.

Registration Officer appointed under section 6(3) of the Representation of the People Act 1949."

Other amendments

4.-(1) In the entry "Chairman of the Distinction and Meritorious Service Committee for Northern Ireland" after the word "Service" there shall be inserted the word "Awards".

(2) In the entry "Paid Chairman of a Health Board constituted under the National Health Service (Scotland) Act 1972" for "1972" there shall be substituted "1978".

(3) At the end of the entry "Chairman of the Management Committee of the Common Services Agency for the Scottish Health Service" there shall be added the words "constituted under the National Health Service (Scotland) Act 1978."

(4) For the entry "Chairman of the Post Office Users' National Council" there shall be substituted the following entry -

"Chairman of any of the Post Office Users' Councils established under section 14 of the Post Office Act 1969."

(5) In the entry "Director of ICL Public Limited Company nominated or appointed by a Minister of the Crown or government department" the words "or appointed" shall be omitted.

(6) At the end of the entry "Member of an Agricultural Marketing Board appointed under section 3 of the Agricultural Marketing Act (Northern Ireland) 1964" there shall be added the words "or Schedule 2 to the Agricultural Marketing (Northern Ireland) Order 1982."

(7) In the entry "Registration Officer appointed under section 8(2) of the Representation of the People Act 1983" after "8(2)" there shall be inserted "or (3)".

PART IV OF SCHEDULE 1

5. In the second column of the entry relating to Her Majesty's Commissioner of Lieutenancy in the City of London for the words "The Cities of London and Westminster" there shall be substituted the words "The constituency comprising the whole of the City of London".

RESTRICTED

STATUTORY INSTRUMENTS

1984 No.

PARLIAMENT

The House of Commons Disqualification Order 1984

Made - - - - 1984

Coming into Operation 1984

At the Court at Windsor Castle, the day of 1984

Present,

The Queen's Most Excellent Majesty in Council

Whereas section 5 of the House of Commons Disqualification Act 1975(a) enables Her Majesty by Order in Council to amend Schedule 1 to that Act in accordance with a resolution of the House of Commons:

And whereas on 1984 it was resolved by the House of Commons that Schedule 1 to the Act of 1975 be amended:

Now, therefore, Her Majesty, in pursuance of the said section 5 and in accordance with the said resolution, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the House of Commons Disqualification Order 1984.

2. Schedule 1 to the House of Commons Disqualification Act 1975 (which specifies offices the holders of which are disqualified for membership of the House of Commons) shall have effect subject to the amendments specified in the Schedule to this Order.

Clerk of the Privy Council.

(a) 1975 c. 24

SCHEDULE

AMENDMENTS OF SCHEDULE 1 TO THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

PART II OF SCHEDULE 1

1. The following entry shall be omitted:—
"A Value Added Tax Tribunal."

PART III OF SCHEDULE 1

Additional entries

2. There shall be inserted at the appropriate places:—

"Advocate Depute (not being the Solicitor General for Scotland) appointed by the Lord Advocate.

Chairman or Chief Executive of the Simplification of International Trade Procedures Board.

Controller of Audit appointed under section 97(4) of the Local Government (Scotland) Act 1973.

Controller of Audit appointed under paragraph 7(1) of Schedule 3 to the Local Government Finance Act 1982.

Director of Britoil p.l.c. nominated by a Minister of the Crown or government department.

President or Vice-President of Value Added Tax Tribunals or full-time chairman of value added tax tribunals."

Entries omitted

3. The following entries shall be omitted:—

" Chairman of the Electricity Consumer Council.

Chairman of any of the National Boards constituted under the Nurses, Midwives and Health Visitors Act 1979, if appointed by the Secretary of State under section 5(8)(*a*) of that Act.

Director of the Scottish Agricultural Securities Corporation p.l.c. nominated by a Minister of the Crown or government department.

Distributor of Stamps appointed by the Commissioners of Inland Revenue for the Stock Exchange at Glasgow.

Registration Officer appointed under section 6(3) of the Representation of the People Act 1949."

Other amendments

4.—(1) In the entry " Chairman of the Distinction and Meritorious Service Committee for Northern Ireland " after the word " Service " there shall be inserted the word "Awards ".

(2) In the entry " Paid Chairman of a Health Board constituted under the National Health Service (Scotland) Act 1972 " for " 1972 " there shall be substituted " 1978 ".

(3) At the end of the entry " Chairman of the Management Committee of the Common Services Agency for the Scottish Health Service " there shall be added the words " constituted under the National Health Service (Scotland) Act 1978."

(4) For the entry " Chairman of the Post Office Users' National Council " there shall be substituted the following entry—

" Chairman of any of the Post Office Users' Councils established under section 14 of the Post Office Act 1969."

(5) In the entry " Director of ICL Public Limited Company nominated or appointed by a Minister of the Crown or government department " the words " or appointed " shall be omitted.

(6) At the end of the entry " Member of an Agricultural Marketing Board appointed under section 3 of the Agricultural Marketing Act (Northern Ireland) 1964 " there shall be added the words " or Schedule 2 to the Agricultural Marketing (Northern Ireland) Order 1982.".

(7) In the entry " Registration Officer appointed under section 8(2) of the Representation of the People Act 1983 " after " 8(2) " there shall be inserted " or (3) ".

PART IV OF SCHEDULE 1

5. In the second column of the entry relating to Her Majesty's Commissioner of Lieutenancy in the City of London for the words " The Cities of London and Westminster " there shall be substituted the words " The constituency comprising the whole of the City of London ".

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order amends the lists of offices which disqualify holders for membership of the House of Commons, and which are contained in Schedule 1 to the House of Commons Disqualification Act 1975.

(525145) 25 3/84 St. S.

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16. Amend the entry: Director of ICL Public Limited Company nominated or appointed by a Minister of the Crown or government department

to read: Director of ICL Public Limited Company nominated by a Minister of the Crown or government department

Since 1981 the Department of Trade and Industry has not had the right to appoint a director though it retains the right to be consulted about appointments and to nominate candidates for consideration. At present there are two Departmental nominees on the Board.

Sponsored by the Department of Trade and Industry.

17. Amend the entry: Member of an Agricultural Marketing Board appointed under Section 3 of the Agricultural Marketing Act (Northern Ireland) 1964

to read: Member of an Agricultural Marketing Board appointed under Section 3 of the Agricultural Marketing Act (Northern Ireland) 1964 or Schedule 2 to the Agricultural Marketing (Northern Ireland) Order 1982

The office-holders are appointed by a Minister and are paid from producers funds. They should be seen to be politically impartial.

The amendment is necessary because the 1964 Act, which will eventually be replaced entirely by the 1982 Order, still applies to two of the Marketing Boards. Both the 1964 Act and the 1982 Order will continue to apply until certain transitional steps are completed.

There are no additional office-holders brought into Schedule I.

Sponsored by the Department of Agriculture for Northern Ireland.

18. Entry to be deleted: Registration Officer appointed under Section 6(3) of the Representation of the People Act 1949

19. Amend the entry: Registration Officer appointed under Section 8(2) of the Representation of the People Act 1983

to read: Registration Officer appointed under Section 8(2) or (3) of the Representation of the People Act 1983

The entry to be deleted covers electoral registration officers in Scotland. The 1949 Act has now been consolidated in the 1983 Act, and the single proposed entry covers electoral registration officers throughout Great Britain. The Chief Electoral Officer for Northern Ireland is appointed under separate legislation and is disqualified by virtue of an entry elsewhere in Part III of the Schedule.

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DRAFT PQ

To ask the Minister for the Civil Service what arrangements are to be made to provide Members with information about the amendments contained in the resolution tabled today updating Schedule 1 of the House of Commons Disqualification Act 1975.

Draft answer

A detailed explanatory note is avialable from the Vote Office.

Reference

JD/AC/MB

OAL OFFICE NOTICE

MAISY COST CENTRE AND COST ELEMENT CODES

1. Cabinet Office Notice ON(84)29 explains that a new Management Accounting Information System (MAISY) is being introduced for 1984/85. I have already minuted to those responsible for client bodies about this and this minute relates to OAL's Central Administration Vote. As from 2 April all claims and bills paid out of our Administration Vote should show the relevant codes and I list below the more common ones that you are likely to use. In all cases claims etc. should show OAL /Cost Centre Code/ /Cost Element Code/ P.

Cost Centre Codes

Minister and Private Office	11100
OAL	11200
GAC	11300

Cost Element Codes

Season Ticket Advances	2232
Recoveries private telephone calls	3620
Travel and Subsistence - Staff - UK travel - private transport	5111
- public "	5112
- travel abroad	5113
- subsistence - UK	5116
- subsistence - abroad	5117
- Minister - UK travel	5121
- travel abroad	5123
- subsistence - UK	5126
- subsistence - abroad	5127
Course members - UK travel - internal courses	5161
- " - external courses	5162
- subsistence UK - internal courses	5166
- external courses	5168
Working lunches	5220
Entertainment - Minister	5921
- Conference teas and coffees	5925

2. Staff in the Government Art Collection should take particular care to ensure that payments relating to staff and general administrative expenses are shown against cost centre code 11300 and payments relating to the GAC subhead in Vote 10 are shown against cost centre codes 24100 or 24200. It is also important that the Minister's Private Office should distinguish between expenditure relating to OAL and to other responsibilities.

3. I take this opportunity to remind you that all foreign T&S claims should be rented via Mrs Ward-Furr in Room 130G/4. UK claims should be sent direct to Mrs V Gilbert, Cabinet Office, Finance Division 2, Room 1212, Alencon Link, Basingstoke RG21 1JB (IDS Service) (CBX 2083 220).

J F Cammack

4 April 1984

CODE 18-77

Distribution - Private Office, OAL, GAC

13 APR 1984

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DMB 13/4

01 211 6402

The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Offices
Whitehall
LONDON SW1A 2AT

12 April 1984

LEGISLATIVE PROGRAMME 1985/86

I refer to your letter of 4 April to the Lord Chancellor inviting bids for two further Bills for a firm place in the 1985/86 Legislative Programme. Your wish was that these should be Bills on which Instructions for Counsel should be ready by January.

You will recall that in order to make room for other legislation I accepted at QL on 7 February that my Petroleum Bill could not secure a place in 1984/85. I explained however that it would be essential to legislate no later than the following Session, and the Committee agreed that I might undertake consultations with the oil industry on the basis that there would be legislation, not in the 1984/85 programme, but thereafter.

It may be that you are already budgeting for the inclusion of the Petroleum Bill in the 1985/86 Session, but in case that is not so I would like to put it forward in response to your enquiry.

I attach the information about this Bill sought in your letter, together with a copy of the material on it originally submitted to QL. It is my intention to secure policy agreement on the main provisions of the Bill well before the end of this year so that Instructions for Counsel could indeed be ready by January 1985. Work on the preparation of the Bill is already in progress so that it can be ready for early introduction in the 1985/86 Session and it remains my view that it would be damaging, and would risk loss to the Exchequer, to defer it beyond this.

I am copying this letter to the recipients of yours.

PETER WALKER

CONFIDENTIAL

PETROLEUM BILL

This Bill would contain a range of measures relating to the control of oil and gas development on the UK Continental Shelf, the need for which has built up over a period. It is an essential part of the Government's policy of encouraging maximum development of the oil and gas resources of the Continental Shelf that operators should be given as much certainty as possible about the framework within which they function and that the legislative controls should be promptly adjusted to changing circumstances.

The need for certainty applies particularly to such matters as the regime for dismantling oil and gas installations and for field abandonment, and associated tax treatment. There are also risks that the deficiencies in the royalties regime which the Bill would remedy may be exploited by some in the industry, and the gap in control powers for Northern Ireland territorial waters ought to be remedied.

Most of the Bill would be technical rather than politically controversial but parts of it could give rise to controversy.

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CATEGORY OF BILL: PROGRAMME

PROPOSED GOVERNMENT BILLS 1984/85

NUMBER & TITLE: PURPOSE.	DEPT	POLITICAL ASPECTS	LENGTH; TIMING; PARL. PROCEDURE	FINANCIAL; MANPOWER; EC IMPLICATIONS	STATE OF READINESS
Number 1 Title Petroleum Bill Purpose: Royalties a. to apply to royalty payments amendments to the PRT valuation rules b. to put royalty payments on a cumulative basis (particularly in relation to abandonment costs) Licensing regime c. to impose a duty on licensees to dismantle oil/gas installations unless SoS agrees otherwise, plus power for SoS to make regulations and to set standards (and penalties) relating to abandonment, and to approve plans for abandonment of individual oil and gas fields	D/En	No public commitments made. Official opposition likely to oppose pipeline privatisation (j) and landed interests may oppose. (d) and (e) to be negotiated with Manx Government, though Home Office has already advised them that changes will be made. (f) may attract some critical comment from Irish Republic	Length: Medium/substantial (20-30 clauses) Timing Royal Assent desirable before end of 1984/85 Session Procedure Not suitable for introduction in the Lords	Financial effects: a. little effect until late 1980s. Thereafter some (unquantifiable) increase in royalty receipts b. little effect until late 1980s. Thereafter substantial (but unquantifiable) increase in royalty payments d & e. minor effects, but no increase over share which would have been paid if royalties had not been abolished for these fields. g. licence fees payable under these proposals would accrue to the Consolidated Fund	Policy clearance for all provisions except pipeline privatisation (j) by end May 1984. (j) Studies in progress to determine need for legislation: Policy clearance September/October 1984 Introduction by December 1984 if legislation on (j) is needed

ANNEX G

CATEGORY OF BILL: PROGRAMME

PROPOSED GOVERNMENT BILLS 1984/85

NUMBER AND TITLE; PURPOSE	DEPT	POLITICAL ASPECTS	LENGTH; TIMING; PARL. PROCEDURE	FINANCIAL; MANPOWER; EC IMPLICATIONS	STATE OF READINESS
d. (possibly)to change arrangements to share licence revenue with N. Ireland and Isle of Man consequent on the abolition of royalties on relevant new fields				MANPOWER: Small manpower savings in D/Energy and BNOC from privatisation of pipeline and storage system (j)	
e. to revise S 19(2) of the Petroleum and Submarine Pipe-Lines Act to permit IR to disclose to D/En information about tax valuation of production from relevant new fields - information needed for the assessment of notional royalties.				No EC implications	
f. to adjust regime of petroleum licensing in UK territorial waters adjacent to Northern Ireland.					
g. to amend model clauses in licenses to enable SoS to set metering standards in respect of separate fields in the same licensed area					

ANNEX G

CATEGORY OF BILL: PROGRAMME

PROPOSED GOVERNMENT BILLS 1984/85

NUMBER AND TITLE; PURPOSE	DEPT	POLITICAL ASPECTS	LENGTH; TIMING; PARL. PROCEUDRE	FINANCIAL; MANPOWER; EC IMPLICATIONS	STATE OF READINESS
Offshore Gas Storage h. to bring licensing of off-shore storage of gas under the control of the SoS i. to exempt BGC from notifying short lengths of high pressure pipe-line under S15 of the Oil and Gas (Enterprise) Act 1982 Privatisation j. to privatise Government Pipe-line and Storage System (Details dependent on further studies)					

12 APR 1988

CONFIDENTIAL

CC(84) 7

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

N.B.P.R.

FOREIGN AND COMMONWEALTH SECRETARY

BRUNEI AND MALDIVES BILL

I have seen your memorandum OD(84)12 about the content and timing of the proposed Brunei and Maldives Bill.

2. Subject to QL's agreement to the inclusion of the Maldives in the Brunei Bill, I am entirely content with your proposals.

3. Copies of this minute go to the other members of OD.

N.L.
9 April 1984

Parliament

Legislation Pt 12

CONFIDENTIAL

R M

FILE

OD: LCO CO
(FCO) DTI
HMT
LPO
MOD
LPS
CDL

10 DOWNING STREET

From the Private Secretary

9 April, 1984

BRUNEI AND MALDIVES BILL

The Prime Minister has seen the Memorandum of 3 April by the Foreign and Commonwealth Secretary contained in OD(84)12. Subject to any comments by other members of OD she is content with what is proposed.

I am sending a copy of this letter to the Private Secretaries to the other members of OD, and to Richard Hatfield (Cabinet Office).

E.J. COLES

P. Ricketts, Esq.,
Foreign and Commonwealth Office

CONFIDENTIAL

CONFIDENTIAL

cc PC

A.J.C. 9/4

PRIME MINISTER

with AJC

BRUNEI AND MALDIVES BILL

1. I have seen the Foreign Secretary's memorandum OD(84)12 asking for policy approval for the introduction of a Bill containing consequential amendments to UK legislation as a result of the admission to the Commonwealth of Brunei and Maldives. I have no objection to what he proposes or to the addition of the Maldives to the original proposal for the Bill. It seems to me that the Bill could well be suitable for Second Reading Committee procedure and introduction in the House of Lords, but we can consider that aspect when the Bill comes to Legislation Committee. I hope that it will be possible to prepare instructions speedily and to introduce the Bill at the beginning of next Session.

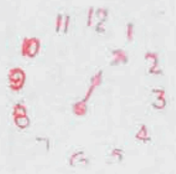
2. I am copying this to the other members of OD and Sir Robert Armstrong.

W.J.B.

JOHN BIFFEN
6 April 1984

CONFIDENTIAL

- 9 APR 1984



CONFIDENTIAL

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

6 April 1984

CIVIL AVIATION LEGISLATION: 1984/85

I thought, in my capacity as Chairman of Queen Speeches and Future Legislation Committee, that I should write to you, in your capacity as Chairman of the sub-Committee on disposal of public sector assets, about the two papers which are to be discussed by your sub-Committees.

The reason for my concern is not the policy content of the papers, but the suggestion which they contain about the scope of legislation for next Session. As you know, Cabinet agreed on 1 March that Nicholas Ridley should have an essential Civil Aviation Bill and a programme Public Transport Bill. The scope of the former concerned the control of air traffic movement at Heathrow. The scope of the latter concerned competition in bus services and the procedures for withdrawal of railway passenger services. I now see that the former seems to have extended to controls on all airports, whilst the latter has taken on a civil aviation dimension.

Whilst I understand the logic of taking general powers to control air traffic movements at all airports, I must point out that the Bill as now proposed will be far more controversial than that which was presented to us. As for the second Bill, it is simply not on to introduce in this way a totally new subject into a Bill which has been approved by Cabinet. I am very much afraid that a combination of the two in one Session would be seen as the beginning of a concerted attack on local government airports.

Naturally, I have no objection to your sub-Committee discussing the policy, but it would be wrong of me to let you do so on the assumption that your approval of the policy would ensure that legislation was provided next Session. If you approve

The Rt Hon Nigel Lawson MP

CONFIDENTIAL

the policy, Nicholas Ridley will have to put to QL his proposals for the expansion of his Public Transport Bill. I have to tell you that that will put the Committee in a very difficult position. We had a considerable amount of discussion about the scope of legislation on privatisation, and, much against our will, had to accept that there should be two such measures, one on buses and one on gas. To introduce another quite different component, especially one connected with local authorities in the Session in which the Abolition Bill is being fought through, is not an idea which is likely to commend itself to QL.

I am sending copies of this letter to the Prime Minister, the members of QL and E(DL), to Sir George Engle and to Sir Robert Armstrong.

PARLIAMENT: Legislation. PT 12

9 APR 1984

PRIME MINISTER (2)

w/e box

H Committee

At its meeting last week, H Committee considered two topics: fluoridation, and NHS recruitment advertising. Their conclusions coincided ~~agreed~~ with your views on both subjects, i.e., a power and not a duty to add fluoride, and an approach to the professional journals to try to persuade them to reduce advertising costs. The Committee agreed that if the latter tactic failed, the Secretary of State for Social Services should pursue the option of a national jobs register which would be put out to competitive tender among private publishing firms.

More parental influence over schools

At their meeting next week the Committee will be considering detailed proposals from the Education Secretary for increasing parental influence over schools. There are two main themes in his paper, a copy of which is at Flag A:-

(i) Giving parents the right to elect a majority of governors from among their number.

(ii) Legislating to define the respective roles of governing body, head teacher and LEA. Existing arrangements for church schools would not be affected.

If the Committee agrees, Sir Keith Joseph plans to publish his proposal as a Green paper in May with a view to legislation in 1985/8

Education support grants

The Committee will also be considering a paper summarising the Secretary of State's proposals for allocating education support

/ grants.

grants. He has £30 million to allocate. Nearly half would go towards the purchase of micro-computers and related staff training. Other main items will be the improvement of mathematics teaching, experiments in recording achievement for school leavers, and the provision of micro-electronic aids for handicapped children. Further details are in his paper at Flag B.

DMB

5 April, 1984.

With the Compliments
of the
Private Secretary
to the
Lord Privy Seal

CC/ESS

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

DMB 6/4

5 April 1984

Dear Hugh

see Pt 11 attached.

I am writing further to my letter of 13 January to reemphasise the point that no steps should be taken in relation to oral Statements to the House of Commons without first consulting this office, No 10 and the Chief Whip's Private Secretary. This includes occasions when, for example, Cabinet may decide that a Statement should be made on a particular day. In no circumstances should Departments inform the Speaker's office of a proposed Statement without first consulting this office. Failure to comply with this simple rule can only lead to considerable embarrassment for the Government. I should be grateful therefore if you and copy addressees of this letter could draw it to the attention of those concerned in your Department.

I am sending copies of this letter to those who received my earlier one of 13 January.

Yours ever,

David

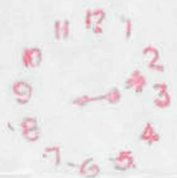
D C R HEYHOE
Private Secretary

H Taylor Esq
PS/Secretary of State for Home Affairs

Parliament Pt 12

legislative Programme.

6 APR 1984



CONFIDENTIAL

Ref. No: Env(84)6
Date: 5.4.84

THE LOCAL GOVERNMENT (INTERIM PROVISIONS) BILL

- SECOND READING -

Wednesday, 14th April 1984

CONTENTS

Conservative Research Department,
32 Smith Square,
London SW1
Tel. 222 9000

Enquiries on this brief to:
Charles Williams
Ext 2411

1. WHY THE BILL IS NEEDED NOW

Introduction

The Conservative Manifesto in 1983 promised to abolish the Metropolitan county councils (MCCs) and the Greater London Council (GLC) "which have been shown to be a wasteful and unnecessary tier of government".

In October 1983 the Government published a White Paper "Streamlining the Cities" which set out the proposals in more detail and invited comments. A summary of the replies received will shortly be published. Many comments were received from Labour-controlled local authorities and Labour supporters which, whilst impressive in their length, had little constructive to say about the future of local government in the areas concerned. In determining the precise arrangements that will exist after the abolition of these councils in April 1986 the Government will take account of points raised by business, voluntary and other organisations. Because of the need to consider these representations it is not possible to introduce legislation in the present session to abolish these councils.

If no action were taken elections for the GLC and MCCs would take place in May 1985. There is no point in electing members to serve on these bodies for less than 12 months so it is necessary to pass legislation now to enable those elections to be suspended in reasonable time.

The Bill also establishes a Staff Commission to supervise the transfer of staff employed by the councils and sasfeguard their interests; it is desirable that this should start work at an early date.

This will not prejudice the main debate

It is right that Parliament should not make a decision on Abolition until it considers the main bill in the next session. Accordingly, Mr Patrick Jenkin, the Secretary of State for the Environment, has promised that the order to implement the suspension of elections will not be introduced until the House of Commons has given the main bill a Second Reading.

Borough Nominees

The proposal to abolish the GLC and MCCs in April 1986 means that the Government must:

either Allow the 1985 elections to take place with councillors serving less than a year

or Extend the term of the present councillors

or Provide for transitional councils comprised of members of the borough councils

Never before has a whole council to be elected for a term of less than a year. If elections were held in 1985 they would amount to little more than a referendum on the Government's proposals. Such a test of opinion would be unprecedented and cannot be justified. Opinion has already been tested in the General Election and in Britain, unlike Switzerland, we elect governments to carry out a programme not to organise a series of referenda.

There are precedents for cancelling elections and extending the terms of councils prior to reorganisation. This was done in 1963 when London's local government was reorganised. The present situation of dissolving the upper tier of local government and devolving its function to the lower tier is different and the natural way of handling this situation is to form a transitional council from the members of the boroughs which will inherit the MCCs' responsibilities.

At present Labour controls the GLC and all six Metropolitan county councils. It appears that under the Government's proposals the transitional GLC will be under Conservative control. Depending on the results of the elections in the Metropolitan districts on May 3rd, one or more Metropolitan counties could change to Conservative control under the Government's proposals.

It is argued that the "Paving Bill" is undemocratic, unfair and smacks of political chicanery because it replaces Labour with Conservative control without elections being held. This is not so. The reason why control in some cases will change is that at more recent elections support for the Labour Party declined from what it had been in May 1981 when the present MCCs were elected. In Greater London one reason for the swing to the Conservatives betweeen May 1981 and the 1982 borough elections was the unpopularity of Ken Livingstone's regime, a regime that was implementing policies different to those of the "moderate" Labour which had been presented to the electorate in 1981.

The Government's proposals represent the most effective, economical and practical way of managing these councils in their final year.

Can Abolition be Achieved in One Year?

The transitional period is similar to that for the reorganisation in 1974 and the London reorganisation in 1965. The scale of the reorganisation is in fact considerably less. Much criticism is made of the quality of management in local government, yet faced with a challenge such as this, managers will rise to the occasion and meet the deadlines set as they have before. In the past reorganisation has been accomplished with the co-operation of the councils concerned. Of course non-cooperation by Labour councillors will add to the cost but will they really want to waste ratepayers' money in this way in the year before they themselves come up for election?

The Future of ILEA

The Bill provides for ILEA in the transitional year to be composed of the existing nominees of each borough and the members of the transitional GLC nominated by the inner London boroughs. This is to be an interim arrangement and Sir Keith Joseph, the Secretary of State for Education, has announced that education in inner London will become the responsibility of a directly-elected education authority. He said:

> "We propose that the successor body to the ILEA should be directly elected. We intend to provide for this in the main legislation abolishing the GLC and the metropolitan county councils, to be introduced in the next Session.
>
> It remains our intention thst the new education authority for inner London should be made subject to statutory review in the light of experience"
>
> (Hansard, 5th April 1984, Col 1124)

2. DETAILS OF THE BILL

Part I. This provides for commencement and termination and that Part II, the suspension of elections, can only be brought into force by Order which, as explained above, will not be introduced until the main Abolition Bill in the next session has received a Second Reading.

Part II. Clause 2 suspends elections to the GLC and MCCs and requires the borough councils in those areas to nominate members of their own authorities to serve as councillors of the GLC and MCCs from May 1985.

Each borough shall nominate the number of councillors set out in Schedule I. In London where parliamentary constituency and borough boundaries are coterminous, the number of nominees is the same as the number of parliamentary seats. In the MCCs the number of nominees is proportional to the electorate ranging between 3 and, in the case of Birmingham, 20. The interim Metropolitan county councils will be about half the size of the present councils.

The nominating boroughs will be required to reflect their own political composition in making their nominations. If a council fails to adequately represent minority parties its decision can be challenged in the Courts.

Clauses 4 and 5 allow for the councils to replace their nominees and requires that nominees should cease to be members of the MCC if they cease to be members of their borough council. The provision on politica balance must be adhered to when nominating to fill vacancies.

Part III. Clause 6 establishes a Staff Commission. On 30th March 1984, Mr Patrick Jenkin said:

> "I am well aware of the anxieties of those employed by the GLC and the Metropolitan counties. The Bill therefore establishes a Staff Commiss to look after the interests of staff affected by the proposed abolitio This has been widely supported; such commissions have been very successful in the past, beginning with the 1963 London Government Act. I intend to see that the abolition Commission matches its predecessors - both in standing up for the staff who obviously face unsettling uncertainties over the next year or two; and and in having a real understanding of the problems of new and old employers".
>
> (Department of Environment Press Release)

Clause 7 places a duty on the GLC and MCCs and their officers to supply information to the Secretary of State and to the borough and district councils.

Clause 8 relieves the Secretary of State of the duty to consider amendments to the Greater London Development Plan or a Metropolitan county structure plan and makes other, minor changes.

Clause 9 gives the successor authorities a right to be consulted on the budgets that the Metropolitan counties set for 1985/86. It also gives them the same rights as electors to object at the audit of the accounts of the GLC and the Metropolitan counties and also to take action in the courts if the auditor decides not to do so. These extended rights will apply to the accounts for 1983/84 to 1985/86.

3. QUESTION AND ANSWERS ON ABOLITION

Are the Proposals Hasty and Ill-Thought Out?

It has been suggested that instead of pressing ahead with abolition the Government should set up a Royal Commission or other enquiry. Such a course of action has been taken in the past by a government that wished to delay action. It is clear to this Government that there is a needless duplication of functions between the two levels of local goverment which can only be resolved by removal of the upper tier. No further enquiry is needed. In the shire counties where both county and districts have significant, clear and separate functions no reform is needed.

The White Paper, Streamlining the Cities, was published last summer to enable comments to be made and considered before the future arrangements were finalised It is because these arrangements are still being considered that an interim bill is necessary.

Will Abolition Save Money?

A study carried out by staff of some of the boroughs in Greater Manchester for per year will be saved. Savings come from the end of duplication of services in Greater Manchester for their councils shows savings of £11½ million per year from abolition and a similar exercise by staff of councils in the West Midlands showed that over £7 million per year will be saved. Savings come from the end of duplication of services in the fields of planning and highways and eliminating the central administrative services of the county council. The overheads of, say, six boroughs and one county will be greater than those of six boroughs alone. The study by Coopers and Lybrand carried out for the Labour-controlled MCCs says that costs will be higher after abolition. Coopers and Lybrand assumed a high level of co-operation between councils will be necessary in areas such as waste disposal and that such co-operation would not take place. Both assumptions are highly questionable. They did, however, admit that there could be savings in many areas, something their clients conceal.

Abolition of the GLC will save £200 million per year according to a study by four Conservative boroughs. This study, unlike those for Manchester and West Midlands assumes changes in policy insomuch as the extravagances of the Labour GLC would cease after abolition. That is why the exercise yields a much greater saving.

JOINT BOARDS

How Many Joint Boards Proposed?

Three in each of the six Metropolitan counties (fire, police and public transport), two in London (fire and ILEA), 20 in all. Some districts might take on public transport themselves.

Aren't Joint Boards Quangos?

No. A quango is a body appointed by Ministers. The joint boards will be local bodies composed of elected members of the borough and district councils, appointed by those councils.

Do Joint Boards Work?
The boroughs a and districts will be the channel of communication to joint boards and the responsibility of joint boards will rest on their councillors. With a more intelligible system there will be greater real accountability.

Seven police authorities are already joint boards and these arrangements have worked well.

The Passenger Transport Authorities in the provincial conurbations were originally constituted as joint boards by legislation introduced by a Labour government. These bodies proved capable of making and implementing strategic decisions such as the planning and initial stages of the Tyne and Wear Metro. The Government's plans will restore this situation though, with greater emphasis on competition and contracting out, efficiency will improve.

Does Effective Planning Needs a County-Wide Authority?
In a Socialist Britain Metropolitan county councils and the GLC would be needed to exercise control over development and commercial activity. Conservative policy is that effective regulation can be left to the boroughs,the degree of coordination needed between boroughs does not justify a county council.

There Will Be No Voice For London
The boroughs and London MPs will be a very effective voice for London. It is an an illusion that the GLC ever could be an effective voice for London and implement strategic decisions. The Labour GLC's propaganda, foreign policy and grants to weird groups sometimes distracts attention from a fact of central importance - that the GLC has no effective strategic role.

How Will Staff Be Transferred?
This will be decided in the light of consultations. In 1972 many staff were transferred in groups. It might be feasible to do this for readily identifiable staff engaged on services going to joint boards. But most services will be divided amongst boroughs and districts; they will recruit directly the staff they need.

Will Staff Be Protected?
The Government expect the successor authorities to set up effective co-operation arrangements for the use of specialist staff and equipment, where this is the most economical thing to do. Voluntary redundancy could achieve substantial reductions, but some compulsory redundancies cannot be ruled out. The level of redundanies will be reduced if the authorities take a responsible attitude to recruitment in the interim.

What Will Happen To Roads?
In London most metropolitan roads will become the responsibility of the boroughs who already maintain them under agency arrangements. A small number of key routes in inner London will become trunk roads.

The GLC has proved to be incapable of improving London's roads. After careful study, the Government will propose improvements to relieve bottlenecks in some places.

This does not mean the destruction of communities that the GLC alleges. As Transport Minister, Mrs Lynda Chalker, said:

> "Whatever is done must be conceived with sensitivity and care for the environment" (The Standard, 3rd April 1984).

The metropolitan district councils will become the highway and traffic authorities for all roads in their areas which are not trunk roads. For those district councils which already have agency arrangements the transfer of responsibility will be a fairly straightforward matter. For those which do not have such arrangements, the transfer will involve setting up such departments with the recruitment of staff from the MCCs. But every effort must be made to limit the manpower requirements and to make maximum use of private sector consultations and contractors.

Unlike the situation in Greater London, there is no need for a significant extension of the trunk road and motorway network in metropolitan areas on the abolition of the the county councils. Metropolitan district councils are well capable of taking over MCC roads, and many of the local road networks have as their focus the district centre. It is entirely appropriate for the district councils, in co-operation with neighbouring authorities, to manage and develop their roads in accordance with their perception of local needs.

There are however a few instances where trunking a section of road may be justified so that the trunk road network in the area can more adequately play its part in the national system of routes for through traffic. Conversely there may be instances where a road whose national function has declined or been superseded would more appropriately form part of the local road network. There may also be a case for considering whether it would be appropriate for the Department of Transport to take over the preparation of certain major new highway routes in metropolitan areas. Any such roads would need to pay their part in the national system as well as offering economic and environmental advatage to the localities they transverse and there must be a realistic prospect of their being built.

CW/PAC

5th April 1984

CONFIDENTIAL

PRIVY COUNCIL OFFICE
WHITEHALL LONDON SW1A 2AT

4 April 1984

DuB
13/4

Dear Quintin

LEGISLATIVE PROGRAMME 1985/86

At its meeting on 1 March (CC(84)8th Conclusions, minute 5), Cabinet invited The Queen's Speeches and Future Legislation Committee to select a further two Bills (ie additional to Trustee Savings Bank and Rents Bills) for a firm place in the legislative programme for 1985/86. The purpose of this letter is to invite you and other colleagues in charge of Departments to let me have any bids for these places by Wednesday 18 April.

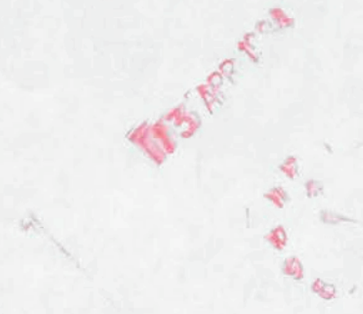
The main exercise for 1985/86 will take place later in the year. The purpose of the present round is to select now two particularly significant Bills which require considerable preparation and time for drafting so that resources can be committed to these Bills from now on with confidence that they will not be wasted. The intention is that Instructions for Counsel on these Bills should be ready by January 1985. Because there are only two places available, I suggest that colleagues should limit themselves to not more than one bid each; this may of course be for a Bill that has failed to find a place in 1984/85 or for a Bill which colleagues have always had in mind for the later Session. I would be grateful if colleagues making bids could support them with information on the main content of the Bill, any points on its importance and controversiality, probable financial or manpower implication, its probable length, and when policy decisions will be sought (bearing in mind, as I have said, that instructions should be with Parliamentary Counsel no later than January 1985). There is no need for the Ministers concerned to bid again for the Trustees Savings Bank or Rents Bills.

I am copying this letter to Ministers in charge of departments, other members of QL, Sir George Engle and Sir Robert Armstrong.

Yours ever

The Rt Hon Lord Hailsham of St Marylebone CH

CONFIDENTIAL



Position at Friday 30th March 1984

GOVERNMENT LEGISLATION

COMMONS PRIMARY

i. Second Reading Committee

	Date of Committee
Inshore Fishing (Scotland)(Lords) / Scottish Grand /	29 March +

ii. Awaiting Second Reading on the Floor

Education (Amendment) (Scotland) (Lords)
Animal Health and Welfare (Lords)
Cable and Broadcasting (Lords)
Mental Health (Scotland) (Lords)
Consolidation
Finance (No.2)

iii. Standing Committee

	Start Date
Ordnance Factories and Military Services	26 January
Data Protection	26 January
Matrimonial and Family Proceedings (Lords)(Special procedure completed)	5 April
Agricultural Holdings	29 March

iv. Awaiting Committee on the Floor

v. Awaiting Report and Third Reading

Trade Union	2 April (progress)
Health and Social	
Somerset House (Lords)	
Foreign Limitation Periods (Lords)	
Fosdyke Bridge (Lords) (Hybridity procedure completed)	
Police and Criminal Evidence	
London Regional Transport	4,5, and 9 April

vi. Consideration of Lords Amendments

Telecommunications	9 April

COMMONS SECONDARY LEGISLATION

*referral

ii. NEGATIVE

Annulment

EDM	TITLE	Party praying	Expiry of praying time	Ctte/Floor Date for debate
516	Education (Assisted Places (Incidental Expenses) (Amendment) Regulations 1984 (S.I. 1984, No. 148)	Lab/ Unoff.	31 March	
536	Electricity (Private Generating Stations and Requests by Private Generators and Suppliers) Regulations 1984 (S.I. 1984, No. 136)	Lab	19 March	Committee* Wed 4 April
557	British Nationality (S.I. 1984, No. 230)	Lab	After Easter Recess	
564	National Health Service (S.I. 1984, No. 298)	Lab	"	Floor
565	National Health Service (S.I. 1984, No. 299)	Lab	"	Floor
566	National Health Service (S.I. 1984, No. 300)	Lab	"	Floor
567	Rating and Valuation (S.I. 1984, No. 221)	Con	"	
572	Local Government (Direct Labour Organisations) (Competition)(Scotland) Regulations 1984	Lib	"	Committee Wed 4 April
610	Block Grant (Education Adjustments) (England) Regulations 1984 (S.I. 1984, No. 224)	Lab	"	Committee Wed 11 April
611	Local Government Superannuation (Amendment) Regulations 1984 (S.I. 1984, No. 201)	Lab	"	

EDM	TITLE	Party praying	Expiry of praying time	Date for deba Ctte/Floor
616	Local Government Superannuation (Scotland) Amendment Regulations 1984 (S.I. 1984, No. 254)	Lab	After Easter Recess	
617	National Health Service (Charges to Overseas Visitors)(Scotland) Amendment Regulations 1984 (S.I. 1984, No. 295)	Lab	"	
619	National Health Service (Charges for Drugs and Appliances)(Scotland) Amendment Regulations 1984 (S.I. 1984, No. 292)	Lab	"	
620	National Health Service (Dental and Optical Charges) (Scotland) Amendment Regulations 1984 (S.I. 1984, No. 293)	Lab	"	

COMMONS SECONDARY LEGISLATION

+ awaiting referra
to floor

i) Affirmative Orders

TITLE	DATE REQUIRED BY	DATE OF DEBATE FLOOR/COMMITTEE
Carriage by Air Acts (Application of Provisions)(Overseas Territories (Amendment) Order 1984		Committee Wed 28 March +
Administration of Estates (Small Payments)(Increase of Limit) Order 1984		Committee Wed 4 April
Fish Farming (Financial Assistance) Scheme 1984 (S.I. 1984, No. 341)		Committee Wed 28 March
General Practice Finance Corporation (Increase of Borrowing Powers) Order 1984		Committee Wed 4 April
Fines and Penalties (Northern Ireland) Order 1984		Floor (After Easter?)
Agricultural (Miscellaneous Provisions)(Northern Ireland) Order 1984		N I Committee Wed 11 April
European Assembly Constituencies (Scotland) Order 1984		Floor Wed 4 April
European Assembly Constituencies (England) Order 1984		Floor Wed 4 April

LORDS PRIMARY

County Courts (L)

Foster Children (Scotland) (L)

Registered Homes (L)

Repatriation of Prisoners (L)

Roads (Scotland) (L)

Tenants' Rights, Etc. (Scotland) (Amendment)

Rates

Rating and Valuation (Amendment) (Scotland)

Third Readings planned for week beginning Monday 2 April

Housing and Building Control — Thursday 5 April

Third Readings planned for week beginning Monday 9 April

Consideration of Commons messages

Town and Country Planning

GOVERNMENT PRIMARY LEGISLATION

1. Awaiting Royal Assent

	DATE Agreed to by Lords
Education (Grants and Awards)	

ii. Received Royal Assent

TITLE	DATE
Car Tax (Lords)	26/7/83
Companies (Beneficial Interests)	26/7/83
Consolidated Fund (Appropriation)	26/7/83
Finance	26/7/83
International Monetary Arrangements	26/7/83
Local Authorities (Expenditure Powers)	26/7/83
Medical	26/7/83
Value Added Tax	26/7/83
Oil Taxation	1/12/83
British Shipbuilders (Borrowing Powers)	21/12/83
Coal Industry	21/12/83
Consolidated Fund	21/12/83
Petroleum Royalties (Relief)	21/12/83
Consolidated Fund Act	13/3/84
Restrictive Trade practices (Stock Exchange)	13/3/84
Occupiers Liability	13/3/84
Tourism (Overseas Promotion)(Scotland)	13/3/84
Merchant Shipping	13/3/84
Education (Amendment)(Scotland)	13/3/84
Pensions Commutation	13/3/84
Prevention of Terrorism	22/3/84

COMMONS (EC DOCUMENTS)

(Early debates on EC documents on the floor or in Committee)

TITLE	DOCUMENT Nos.	Debate needed by	Committee/Floor Date of debate
Community Road Haulage Quota	7933/83		Committee Tues. 3 April
Reduction in Noise from Motor Vehicles	8307/83		Committee Tues 10 April

SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU

CONFIDENTIAL

nbpm
26/3

The Rt Hon Norman Fowler MP
Secretary of State for Social Services
Department of Health and Social Security
Alexander Fleming House
Elephant and Castle
LONDON
SE1 6BY

26 March 1984

Dear Norman,

FLUORIDATION

Thank you for sending me a copy of your letter of 12 March to Willie Whitelaw about the one issue of substance on fluoridation on which H Committee did not reach final agreement in considering my paper H(83)39 on 1 November last, namely which of the specific options for legislation should be adopted.

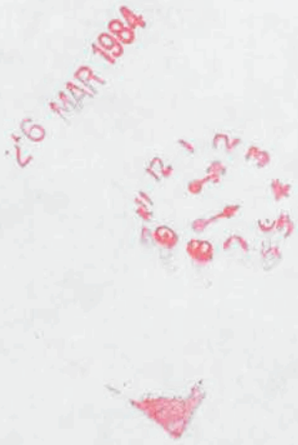
As you recognise, the second option (imposition of a duty on water authorities to add fluoride at the request of health authorities) would not be acceptable for Scotland where the water authorities are the elected Regional and Islands Councils. I therefore share your view that we should now proceed as quickly as possible on the basis of the first option (provision of a power to water authorities to add fluoride at the request of health authorities) which, as you say, was earlier favoured by a clear majority in H Committee.

Copies of this letter go to the recipients of yours.

Yours ever,

George.

PARL: Leg. Prog. Pt 12.



CC(NI)50

Secretary of State

Northern Ireland Office
Stormont Castle
Belfast BT4 3ST

The Rt Hon Norman Fowler MP
Secretary of State for Social Services
Department of Health and Social Security
Alexander Fleming House
Elephant and Castle
LONDON
SE1 6BY

26 March 1984

Dear Norman

FLUORIDATION

Thank you for copying to me your letter of 12 March to Willie Whitelaw about the option to be adopted for the legislation on fluoridation.

Now that Northern Ireland's first choice of compulsory fluoridation has been ruled out I would favour option 1 which gives water authorities power to add fluoride to the water on the recommendation of the appropriate health authority. Option 2 would create an anomalous situation in Northern Ireland as it would involve a Government Department - the Department of Environment (NI), which is the water authority for the Province - and its Minister having their actions determined by Health and Social Services Boards which are subordinate agencies appointed by another Department. If option 2 were chosen in Great Britain it is likely that, in order to avoid a constitutional anomaly, Northern Ireland would have to choose option 1 and so be out of step with the rest of the UK.

I am copying this letter to the recipients of yours.

Yours

Jim

SP

Parliament pt 12

Legislative Programme

Position at Friday 23rd March 1984

PB

GOVERNMENT LEGISLATION

COMMONS PRIMARY

i.	**Second Reading Committee**	**Date of Committee**
	Inshore Fishing (Scotland) (Lords) (Scottish Grand)	29 March
ii.	**Awaiting Second Reading on the Floor**	
	Education (Amendment) (Scotland) (Lords)	
	Animal Health and Welfare (Lords)	
	Cable and Broadcasting (Lords)	
	Mental Health (Scotland)(Lords)	
	Consolidation	
	Finance (No.2)	
iii.	**Standing Committee**	**Start Date**
	Police and Criminal Evidence	17 November
	London Regional Transport	17 January
	Ordnance Factories and Military Services	26 January
	Data Protection	26 January
	Matrimonial and Family Proceedings (Lords)(Special procedure completed)	27 March
	Somerset House (Lords)	27 March
	Foreign Limitation Periods (Lords)	27 March
	Fosdyke Bridge (Lords)(Hybridity procedure completed)	29 March ?
	Agricultural Holdings	29 March
iv.	**Awaiting Committee on the Floor**	
v.	**Awaiting Report and Third Reading**	
	Trade Union	26 March/2 April
	Rates	27 March/28 March
	Health and Social Security	
	Rating and Valuation (Amendment)(Scotland)	29 March
vi.	**Consideration of Lords Amendments**	
	Town and Country Planning	26 March

COMMONS SECONDARY LEGISLATION

* referred

+ awaiting referral to floor

i) Affirmative Orders laid

TITLE	DATE REQUIRED BY	DATE OF DEBATE FLOOR/COMMITTEE
Public Records (Commission for the New Towns) Order 1984		Floor
Public Records (British Railways Board) Order 1984		Wed 21 March + Committee
Carriage by Air Acts (Application of Provisions)(Overseas Territories (Amendment) Order 1984		
Housing (Percentage of Approved Expense for Repairs Grants) (Lead Plumbing Works)(Scotland) Order 1984	1/4	Committee* Wed 28 March
Mineworkers' Pension Scheme (Limit on Contributions) Order 1984	29/3	Floor
Redundant Mineworkers and Concessionary Coal (Payments Schemes) Order 1984	29/3	Floor
Administration of Estates (Small Payments)(Increase of Limit) Order 1984	reply awaited	
Fish Farming (Financial Assistance) Scheme 1984 (S.I. 1984, No.341)		Committee* Wed 28 March
General Practice Finance Corporation (Increase of Borrowing Powers) Order 1984	reply awaited	
Fines and Penalties (Northern Ireland) Order 1984		
Agricultural (Miscellaneous Provisions) (Northern Ireland) Order 1984		
European Assembly Constituencies (Scotland) Order 1984		

COMMONS SECONDARY LEGISLATION *referral

ii. NEGATIVE

Annulment

EDM	Title	Party praying	Expiry of praying time	Date for debate Cttee/Floor
516	Education (Assisted Places (Incidental Expenses) (Amendment) Regulations 1984 (S.I. 1984, No. 148)	Lab	31 March	
536	Electricity (Private Generating Stations and Requests by Private Generators and Suppliers) Regulations 1984 (S.I. 1984, No.136)	Lab	19 March	Committee* Wed 4 April
557	British Nationality (S.I. 1984, No. 230)	Lab	After Easter Recess	
558	Rates (S.R.(N.I.) 1984, No.51)	UUP	"	Committee * Wed 28 March
564	National Health Service (S.I. 1984, No 298)	Lab	"	
565	National Health Service (S.I. 1984, No. 299)	Lab	"	
566	National Health Service (S.I. 1984, No. 300)	Lab	"	
567	Rating and Valuation (S.I. 1984, No. 221)	Con	"	
572	Local Government (Direct Labour Organisations) (Competition)(Scotland) Regulations 1984	Lib		4 April

Revocations

LORDS PRIMARY

County Courts (L)
Foster Children (Scotland) (L)
Housing and Building Control
Registered Homes (L)
Repatriation of Prisoners (L)
Roads (Scotland) (L)
Telecommunications
Tenants' Rights, Etc. (Scotland)(Amendment)

Third Readings planned for week beginning Monday 26 March

-

Third Readings planned for week beginning Monday 2 April

-

Consideration of Commons messages

GOVERNMENT PRIMARY LEGISLATION

1. Awaiting Royal Assent

	DATE
	Agreed to by Lords

ii. Received Royal Assent

TITLE	DATE
Car Tax (Lords)	26/7/83
Companies (Beneficial Interests)	26/7/83
Consolidated Fund (Appropriation)	26/7/83
Finance	26/7/83
International Monetary Arrangements	26/7/83
Local Authorities (Expenditure Powers)	26/7/83
Medical	26/7/83
Value Added Tax	26/7/83
Oil Taxation	1/12/83
British Shipbuilders (Borrowing Powers)	21/12/83
Coal Industry	21/12/83
Consolidated Fund	21/12/83
Petroleum Royalties (Relief)	21/12/83
Consolidated Fund Act	13/3/84
Restrictive Trade practices (Stock Exchange)	13/3/84
Occupiers Liability	13/3/84
Tourism (Overseas Promotion)(Scotland)	13/3/84
Merchant Shipping	13/3/84
Education (Amendment)(Scotland)	13/3/84
Pensions Commutation	13/3/84
Prevention of Terrorism	22/3/84

CCNO

PRIVY COUNCIL OFFICE
WHITEHALL LONDON SW1A 2AT

23 March 1984

1 6pm June 26/3

Dear Norman

FLUORIDATION

Thank you for your letter of 12 March setting out three possible approaches which might be adopted in next Session's Fluoridation Bill and expressing a clear preference for the first one. You will have seen Patrick Jenkin's letter of 20 March arguing strongly for option 2, and Peter Rees' letter of 19 March suggesting that a decision should be preceded by a cost/benefit analysis. You are no doubt considering both those proposals and I think that it would be useful if you were to talk further to Peter Rees about his - which could affect the timescale for preparing the Bill - but it is clear that we will not resolve the main question without having a meeting. I suggest that we should take it at the H meeting arranged for 4 April and I should be grateful if you would circulate a memorandum to the Committee for that discussion.

I am copying this letter to the Prime Minister, members of H Committee, the Attorney General, the Lord Advocate and to Sir Robert Armstrong.

Yours

Willie

The Rt Hon Norman Fowler MP

Parliament Pt 12

Legislative Programme

CC NO

HOUSE OF LORDS,
SW1A 0PW

21 March 1984

PT 23/3

Family Law (Financial Provisions)(Scotland) Bill

In his letter of 1st March George Younger seeks the agreement of colleagues to the introduction of a Bill to implement the recommendations made by the Scottish Law Commission in their Report on Aliment and Financial Provision (Scots Law Com No.76). The Bill would reform the law of Scotland along somewhat different lines to the law of England and Wales, not only as it now stands but also as it will be when modified by the Matrimonial and Family Proceedings Bill.

The differences between the Scottish proposals and the law of England and Wales can be justified. The establishment of statutory principles to be followed by the court is necessary in Scotland to provide a greater degree of certainty and consistency, whereas in England and Wales this is already provided by the statutory guidance contained in section 25 of the Matrimonial Causes Act 1973 and a well developed body of precedent.

I concur in the proposal and I endorse George Younger's intention to follow closely the recommendations of the Scottish Law Commission.

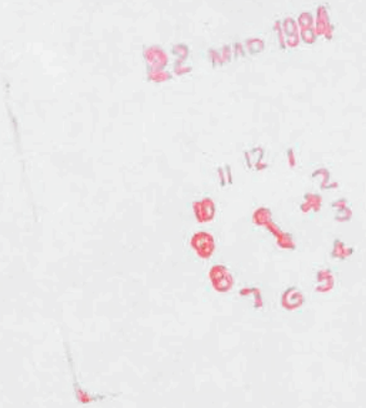
I am sending a copy of this to the other Members of H Committee and Sir Robert Armstrong.

LORD HAILSHAM OF ST. MARYLEBONE CH, F.R.S, D.C.L.

The Right Honourable
Viscount Whitelaw CH MC
Lord President of the Council
House of Lords
LONDON SW1A 0PW

Parliament pt 12

Legislative Programme



CONFIDENTIAL

SECRETARY OF STATE FOR THE ENVIRONMENT

2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref: J/PSO/12131/84

Your ref:

20 March 1984

noon Desk 20/3

Dear Willie,

FLUORIDATION

Norman Fowler wrote to you and other H Committee members on 12 March about the one issue still outstanding on fluoridation.

I agree with him that compulsory national fluoridation has been ruled out, and that the planned legislation should leave decisions on fluoridation to be taken at local level following local consultation. But there are real problems in leaving the final responsibility for these local decisions as unclear between water undertakings and health authorities as does Norman's proposal.

As a dental health matter, the decision is naturally one for health authorities. The water undertakings obviously have to implement this decision, but they are in no way qualified to influence the medical decision. Nor do they wish to. I had confirmation of this recently in a letter from the Chairman of the Water Authorities Association, the main purpose of which was to ask that the legislation left the decision firmly with health authorities. I agree with his statement: "If there is to be debate about the merits on health grounds, then the water authority is utterly the wrong forum, and should not be placed in the position of having to arbitrate between conflicting views".

In England and Wales statutory water authorities and companies are essentially utilities, non-representative and run by businessmen on commercial lines. This was the basis of the Water Act 1983 which reconstituted water authorities in this mould. As far as the business like management of water is concerned, I have no worries about attention being focussed on their non-elected status. We have had an intense focus on this very subject over the last year, and have won the argument that in so far as the Water Authorities are utilities they should be run like industries, with a business structure. But to give them a role in medical matters would indeed reopen the debate, on very weak ground. I am sure this point would be seized on by opponents of the Bill, and by its supporters too.

Parliament PT 12
legislation

CONFIDENTIAL

Double decision taking is a recipe for controversy and delay and these could well be exaggerated if the consumer consultative committees, newly established for each water authority, press the authority not to implement a health authority request. Faced with controversy the water authorities would be likely to use their discretion not to exercise powers. In that situation relationships between water authorities and health authorities will be sorely strained, and Ministers are likely to be drawn into local issues.

It is impossible to restore the pre-January position, because of the changes we have made in the water industry. The old, large water boards, made up mostly of elected local authority people were, arguably, more 'democratic' than the health authorities, and at least had some standing ground to resist the latter's medical expertise on the basis of an alleged understanding of local political opinion. That is no longer the position. Now the water authorities can only put their expertise as managers of a utility on the scales. That gives them nothing to say to the health authority in reality, and it would be far better to say so and take them out of the decision process. To do otherwise is a recipe for muddle and conflict.

As for any charges of 'gerrymandering' through using the second option, I understand that some who are advocating the first option also wish to couple with it "advice" from DOE/Welsh Office to water undertakings to implement health authority requests. If we were to follow this course, we would be open to much more substantial charges of gerrymandering, and of by passing Parliament at the same time.

I do not see the second option as diluting or changing our "local option" policy, only as an entirely justifiable method of clarifying the respective roles of two quite differently constituted public authorities. I have no Departmental view on the issue of fluoridation but a strong Departmental view on not involving the new water authorities in the very sort of political conflict we have sought to free them from in our 1983 Act.

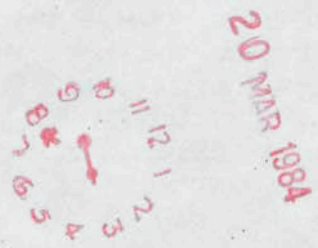
If correspondence does not lead to a clear decision to pursue the second option, I would like to discuss it once more in H Committee.

I am copying this letter to Norman Fowler and the recipients of his letter.

Yours ever

Patrick

PATRICK JENKIN



The Rt Hon Viscount Whitelaw PC CH MC

2F

CONFIDENTIAL

KAT 19/3

Mr Turnbull

To see. 1.30pm

I think.

DMB 19/3

Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Norman Fowler MP
Secretary of State for Social Services
Department of Health and Social Security
Alexander Fleming House
Elephant & Castle
LONDON
SE1 6BY

19 March 1984

Dear Secretary of State,

FLUORIDATION

Thank you for sending me a copy of your letter of ~~12~~ March to Willie Whitelaw.

I was surprised that your letter invites colleagues to decide on fluoridation policy without any attempt to assess the costs and benefits of the various alternatives. I note the political arguments that you put forward: but I do think these must be seen against a proper assessment of the alternatives.

I do not want to prejudge the political balance at this stage. I would only say that, since polls have suggested that 70% of the population support fluoridation, it is not self-evident that your recommendation will avoid political controversy, particularly with the medical professions.

Can I therefore ask that you produce for colleagues an assessment of costs and benefits? We can then consider in the light of this whether the matter needs to be discussed, or can simply be settled in correspondence as you propose.

I am sending copies of this letter to the recipients of yours.

Yours Sincerely

Paul Lever

PETER REES
(approved by the Chief Secretary and signed in his absence)

CONFIDENTIAL

Parliament : legislation A12

19 MAR 1984

The following image type has poor quality text due to the nature of the material.

Image quality is best available.

FCB

SCOTTISH OFFICE
WHITEHALL LONDON SW1A 2AU

cc: PS/SHHD
PS/Mr Ancram
Mr Jack
Mr Maxwell
Miss Pollock
PS/US of S
Solicitor
AUS of S
Director S+A.

RESTRICTED

The Rt Hon the Viscount Whitelaw PC CH MC
Lord President of the Council
Privy Council Office
Whitehall
LONDON
SW1A 2AT

14 March 1984

Dear Willie,

FAMILY LAW (FINANCIAL PROVISIONS)(SCOTLAND) BILL

In November 1981 the Scottish Law Commission published a Report on Aliment and Financial Provision. I am now writing to seek your agreement and that of H colleagues to the preparation of a Bill aimed at implementing the recommendations of the Report essentially as they stand. This will fulfil one of the commitments in our Scottish Manifesto. Cabinet recently approved QL's proposal that such a Bill be included in the 1984/85 legislative programme.

ALIMENT

2. The present law recognises a complicated hierarchy of legal liability for aliment (ie support of others by reason of kinship or marriage) which it is generally agreed is outdated. Under the Commission's proposals the only remaining legal, as distinct from moral, obligation would be

a. a reciprocal obligation between husband and wife (while their marriage lasts);

b. an obligation on either parent to support any child (legitimate or illegitimate or accepted as part of the family) up to the age of 18 or, if receiving education or training, up to a maximum age of 25.

They also recommend improvements in the law relating to actions for aliment. These proposals represent a straightforward modernisation of the law and should not be controversial.

FINANCIAL PROVISION ON DIVORCE

3. The present law in Scotland on financial provision on divorce, while enabling either party to apply for a periodical allowance or capital sum or both, does not offer guidance on the objectives of financial provision and simply directs the court to make on an application, such order, if any, as it thinks fit. The Commission

criticised this lack of clarity and recommended that the court should make an order only if it was (a) justified by one or more of 5 principles and (b) reasonable having regard to the resources of the parties. The 5 principles which the Commission adduced were -

i. Fair sharing of matrimonial property;
ii. Fair recognition of contributions and disadvantages;
iii. Fair sharing of the economic burden of child care;
iv. Fair provision for adjustment to independence; and
v. Relief of grave financial hardship.

4. Essentially the Commission's approach is that on the break up of a marriage there should be a fair sharing of all matrimonial property and that divorce should, so far as possible, constitute a clean break with any financial provision directed towards securing the independence of the parties rather than the indefinite continuation of the obligation of support. The Commission also recommend making available to the court a wide range of additional powers in relation to property adjustments on divorce such as the sale or transfer of property, the payment of capital sums by instalments and in particular the regulation of the use of the matrimonial home after divorce. Consonant with this approach they suggested that periodical allowances should be made only if the court was satisfied that a capital sum or transfer of property was not by itself appropriate and that periodical allowance should not be awarded for more than 3 years except in relation to the relief of grave financial hardship or to the fair sharing of the economic burden of child care notably where a parent was unable to earn because of the need to look after young children.

5. The question of periodical allowances will give rise to the main controversy. Ex-wives will wish support to continue; ex-husbands (and their second wives) supported by the Campaign for Justice in Divorce will continue to press strongly for the implementation of the Commission's proposals. An important consequential point is whether courts should have power to vary existing maintenance orders in accordance with the 5 principles. The Commission recommended against legislation with retrospective effect in part on principle and in part because it would involve a measure of unfairness to introduce a change in the rules after a decision on financial provision had been reached. An additional factor is that to change the rules could give rise to speculative litigation, much of it assisted by legal aid. In the light of a Court of Session decision in a 1983 case that a court has no power at present to award a periodical allowance for a fixed period, the Commission have made a supplementary recommendation that a court should be able to replace an order for periodical allowance made before the new legislation comes into force by an order for a fixed term; this would serve to reduce the amount of criticism from those who favour retrospection. I propose on this, as on other issues, to follow the recommendations of the Commission unless and until an overwhelming case for change is made out.

FINANCIAL EFFECTS

6. The Bill should have no direct effects on public expenditure and the indirect effects are hard to gauge. The establishment of the 5 principles may serve as encouragement to haggle over how much might be obtained under each heading or as guidelines for settlement. My guess is that initially there may be a temptation to drag on negotiations with some limited increase in legal aid costs, but that speedier settlements will result when a new pattern becomes established. Accordingly, the overall effect on legal aid should be marginal. Whether the

change in emphasis on capital payments will have any effect on DHSS assessments or otherwise is problematical, though I should wish to avoid a situation where we lay ourselves open to criticism that divorce settlements unfairly make potential recipients ineligible for benefits. In any event I do not consider the changes will have any marked effect on public expenditure. Any effect on the workload of the courts is also difficult to assess but it should not be great.

7. There are no EC implications.

OTHER EFFECTS

8. While the situation in relation to financial provision on divorce is markedly different in England and Wales, there is a natural tendency for critics to compare and contrast what they see as the good and bad features of each system. The implementation in the Matrimonial and Family Proceedings Bill of the somewhat different recommendations in the English Law Commission report on this topic has tended to highlight these. As indicated my intention is to stick closely to the recommendations of the Scottish Commission and to defend my decisions by reference to them.

9. I accordingly seek approval to implementation of the legislative recommendations in the Report, subject to adjustments found necessary on detailed consideration, in a Bill to be introduced in the 1984/85 session. I should be grateful if I might have colleagues' comments, or their concurrence, by the end of March.

10. I am copying this letter to other members of H Committee and to Sir Robert Armstrong.

Yours ever,

George.

CONFIDENTIAL

610

CABINET OFFICE,
WHITEHALL, LONDON SW1A 2AS

Chancellor of the Duchy of Lancaster

14 March 1984

12 bpm Dmb 15/3

Dear Willie,

FLUORIDATION

I have seen a copy of Norman Fowler's letter to you of 12 March.

I entirely agree with the recommendation that we should go for option 1. If the case for fluoridation is as compelling as is suggested, public opinion will gradually produce the right result - as it is with smoking - without the need for compulsion.

I am copying this letter to the Prime Minister, the other members of H Committee and Sir Robert Armstrong.

with DB?

Yours,
Arthur

COCKFIELD

The Rt Hon Viscount Whitelaw CH MC
Lord President of the Council
Privy Council Office
Whitehall
London SW1

CONFIDENTIAL

15 MAR 1984

CONFIDENTIAL

FILE R M

H Cttee:-

LPO	LPS
LCO	DHSS
HO	CDL
DES	D.Emp
NIO	Chief Sec
SO	D.Trans
WO	C.Whip
DOE	Capt. G.at A
	CO

10 DOWNING STREET

From the Private Secretary

14 March, 1984

FLUORIDATION

The Prime Minister has seen a copy of your Secretary of State's letter of 12 March to the Lord President about Fluoridation.

The Prime Minister agrees with your Secretary of State that the first option set out in his letter is to be preferred.

I am sending a copy of this letter to the Private Secretaries to the members of H Committee.

(David Barclay)

S. Godber, Esq.,
Department of Health & Social Security

CONFIDENTIAL

BSC.

PRIME MINISTER (1)

Fluoridation

Norman Fowler has sent the attached letter to H Committee colleagues seeking a final decision on the form of legislation on fluoridation.

When this subject was last considered, you were inclined to agree with the option now favoured by the Secretary of State, i.e. to give all water authorities a specific power to add fluoride to the water on the recommendation of the appropriate health authority. This would merely clarify the existing position. The main alternative would be to go further and impose a duty on water authorities to add fluoride if they were asked to do so by the health authority. The water authorities would prefer this, but it would be politically controversial.

Agree to maintain your support for legislation which clarifies rather than extends the present position? Yes. - a power only - NOT a duty.

DNB

13 March 1984

DEPARTMENT OF HEALTH & SOCIAL SECURITY

Alexander Fleming House, Elephant & Castle, London SE1 6BY

Telephone 01-407 5522

From the Secretary of State for Social Services

The Rt Hon Viscount Whitelaw PC CH MC
Lord President of the Council
68 Whitehall
LONDON
SW1

12th March 1984

Dear Willie.

FLUORIDATION

Following QL Committee's recent decision that I should take the lead on bringing forward an essential category Bill on fluoridation for introduction in the next Session, there is one issue of substance on which we did not reach final agreement during H Committee's consideration (H(83)20th Meeting) of George Younger's Paper (H(83)39) and on which a Ministerial decision is now needed before we can instruct Parliamentary Counsel.

The issue is which of the three options for legislation, set out in paragraph 5 of H(83)39), should be adopted. The first option, which was favoured by a clear majority of H Committee members, is to give all water authorities a specific power to add fluoride to the water on the recommendation of the appropriate health authority. The second option was to impose on all water authorities a duty to add fluoride at the request of the health authority and the third option was to make it compulsory for all water authorities to add fluoride.

The third option of compulsory national fluoridation has been ruled out following the inclusion of a passage in the public statements made by George Younger and myself on 6 December making it clear that fluoridation would continue to be at the request of Health Boards and Health Authorities. Both I and other Ministerial colleagues are now on record as having said that the planned legislation on fluoridation will leave decisions on the implementation of fluoridation schemes to be taken at local level following consultation of local opinion. As I see it, the choice therefore lies between the first and second options. Whilst recognising that the second option would best meet the wishes of the water authorities and indeed be likely to result in the greater expansion, at least in the short term, of fluoridation

E.R.

schemes, I continue myself to believe that it would be politically unwise for us to seek to go further than the first option. This has the great advantage that it can be presented to both Houses as representing no more than a restoration of the status quo pre-Jauncey and of the policy of successive administrations. This should help to ensure substantial support in the House, particularly from our side. We could also not be accused, as would be the case under the second option, of seeking to 'gerrymander' the present system of local decision-making in order to produce results more favourable to fluoridation. At the same time the water authorities would have the absolute assurance, which they have sought and has been lacking in the past, that they were entirely within their legal rights if they fluoridated the water at the request of a health board or authority. Finally, the first option could be adopted throughout the UK, whereas I understand George Younger would not be able to accept the second option for Scotland as the water authorities are elected there. Whilst such a disparity could be explained in terms of existing differences in water authority structures between the two countries, I believe it will be far preferable not to have to focus attention on the non-elected status of the English water authorities during discussion of the Bill.

This is obviously an important and sensitive issue. In the light of the factors outlined above, I think there is little choice however but to adopt option one, and I strongly recommend this course. I would be grateful to know within two weeks whether colleagues are content.

I am copying this letter to the Prime Minister, in view of her office's earlier involvement, and to other H Committee members.

Yours ever Norman

NORMAN FOWLER

PARLIAMENT
Legislation

From: THE PRIVATE SECRETARY

Mr Fletcher
I mentioned this
to the Prime Minister before
Her Audience.

HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

12 March 1984

FERB

13-3

1/ Mr Butler
2/ Prime Minister

13/3

Dear David,

As you will know, Mr W Hamilton has introduced a Bill for the abolition of hereditary peerages. It is down for Second Reading on 23 March when it is unlikely to be reached.

Since the Bill directly affects The Queen's Prerogative, it cannot be debated unless Her Consent has been signified. The practice is that even though the Government opposes such a Bill, Her Majesty should be advised to signify Her Consent on the ground that it would be wrong to prevent it being debated soley for want of Consent. Even though Mr Hamilton's Bill is unlikely to be reached, it seems prudent to obtain Consent in case, through some unforeseen contingency, there is in fact some time for debate. Mr Hamilton has written to the Home Secretary asking him to obtain The Queen's Consent and I enclose a copy of a letter from Mr Brittan to Sir Philip Moore to this effect.

I am copying this letter and enclosure to Private Secretaries to the Lord President, the Lord Privy Seal, the Minister of State, MPO, the Chief Whip and Sir Robert Armstrong.

Yours ever

Mike.

M J GILLESPIE

D Barclay, Esq

The National Archives

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A

B I L L

TO

End the practice of the creation of hereditary peerages; to make provision for the ending of existing peerages on the demise of the present incumbent; and to end the custom whereby retired Prime Ministers and other senior government and parliamentary office-holders are offered peerages. A.D. 1984.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. After the expiry of ninety days after the day on which this Act is passed, no new hereditary peerages shall be created. Bar to creation of hereditary peerages.

2. No former Prime Minister nor any other government or parliamentary office-holders shall be able to claim an hereditary peerage on or after retirement. Former Prime Ministers and other office-holders.

3. All hereditary peerages shall cease to exist on the demise of the existing incumbent. Ending of a hereditary peerage on demise of incumbent.

4. This Act may be cited as the Hereditary Peerages Act 1984. Short title.

Hereditary Peerages

A

B I L L

To end the practice of the creation of hereditary peerages; to make provision for the ending of existing peerages on the demise of the present incumbent; and to end the custom whereby retired Prime Ministers and other senior government and parliamentary office-holders are offered peerages.

Presented by Mr. W. W. Hamilton,
supported by
Mr. James Lamond, Mr. Gordon Brown,
Mr. Tom Clarke, Mr. Norman Buchan,
Mr. John Maxton, Mr. Robert Kilroy-Silk,
Mr. Tom Torney, Mr. Jack Straw,
Mr. Ray Powell, Mr. Roger Stott and
Mr. Frank Haynes

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PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

8 March 1984

Dear Gray,

HEREDITARY PEERAGES BILL

Thank you for your letter of 21 February about the Hereditary Peerages Bill which Willie Hamilton introduced on 23 February.

No other members of the Committee have commented, and I agree with you that there is no point in allowing debate on this Bill even if the opportunity were to present itself. As you suggest it should therefore be blocked at Second Reading - which I see Willie Hamilton has listed for 23 March.

I am copying this reply to the Prime Minister, to other Members of Legislation Committee and to Sir Robert Armstrong.

John Biffen

JOHN BIFFEN

Rt Hon Lord Gowrie
Minister of State,
Management and Personnel Office

PT 7/3

PRIVY COUNCIL OFFICE
WHITEHALL. LONDON SW1A 2AT

7 March 1984

Dear Gow,

UPDATING OF SCHEDULE 1 TO THE HOUSE OF COMMONS DISQUALIFICATION ACT 1975

You wrote to me on 21 February proposing an amending Order in April to the schedule of disqualifications from Membership of the House under the House of Commons Disqualification Act, 1975.

I agree that, prima facie, it is desirable to bring this schedule up to date in time for the European Assembly Elections in June, and, subject to the views of colleagues, I should be content to give the required drafting authority.

As regards the factual paper which Barney Hayhoe undertook last April to publish, I also agree that this might conveniently be published at the same time as the next updating.

I am, however, concerned to limit the risk that the publication of this paper will be taken as implying any Ministerial intention to stir this matter up. I would accordingly suggest that "publication" should be as discreet as possible; that the document should be referred to as a factual analysis of the existing provisions rather than as a "factual paper on the review of disqualification carried out in 1982", as referred to in your letter; and that we should, as necessary, disclaim any intention of proposing a general review. I am not aware of any widespread dissatisfaction with the present law, either inside or outside the House.

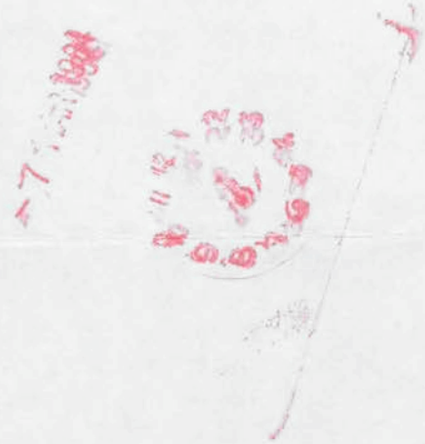
I am copying this to members of the Cabinet and to John Wakeham.

John Biffen

JOHN BIFFEN

Rt Hon Lord Gowrie
Management and Personnel Office
GOGGS

Parliament : Legislation A 11.



CONFIDENTIAL

4

PRIVY COUNCIL OFFICE

WHITEHALL. LONDON SW1A 2AT

6 March 1984

Prime Minister:

To note the Annex, which sets out the final version of the legislative programme

Dear Quintin

LEGISLATIVE PROGRAMME 1984-85

As you know, Cabinet approved the proposals put to them by the Queen's Speeches and Future Legislation Committee, subject to a few changes. I thought it would be useful to set out precisely the present position and I accordingly attach a list of the Bills in the programme as approved by Cabinet. I am writing separately to Norman Tebbit and Nicholas Ridley about the two square bracketed items.

I am very grateful to you for the speedy way in which your own Bills are now coming forward for policy clearance. I hope that our colleagues will prove equally assiduous. Our original recommendations were going to present enough difficulties, and the net addition of one major Bill makes it even more important to have as many major Bills as possible ready for the start of the Session. A key factor in a successful programme is a solid fortnight of Second Readings immediately after the Queen's Speech debate.

I cannot overemphasise the need to take a realistic view in looking at timetables. All Bills have to be drafted by the limited number of Parliamentary draftsmen available and Ministers in charge of Bills cannot assume that a draftsman will always be free to start work on their Bill immediately Instructions arrive. Similarly there are many examples of initial consideration by Parliamentary Counsel revealing flaws in the policy of the Bill with consequent delay while these are sorted out.

All this points to the need, which John Biffen and I have emphasised before, to ensure policy clearance at the earliest possible date, to exercise vigorous self-restraint about adding to the content of a Bill and to ensure that Departments devote adequate resources to preparation. We shall be keeping a close eye on progress but it is vital that all Ministers responsible for Bills do the same.

The Rt Hon The Lord Hailsham of St Marylebone CH

CONFIDENTIAL

There is one further point I should like to make. In the past, the Leader of the House of Commons has given drafting authority for non-Scottish Bills on an individual basis. John Biffen has concluded that this is not necessary for Bills with a place in the programme and for which policy approval has been given. He has therefore asked me to say that in future colleagues may assume drafting authority and send instructions to Parliamentary Counsel as and when they are ready, provided that policy approval has been given by the appropriate Cabinet committee and the topic is included in the contents of the Bill as agreed by Cabinet. Requests for drafting authority for other Bills, or for any additions to approved Bills, should continue to be made to him in the usual way.

I am sending copies of this letter to other members of QL, to all Ministers in charge of Departments, to Sir George Engle and to Sir Robert Armstrong.

Essential

1. Corporal Punishment in Schools (England and Wales)
2. New Towns and Urban Development Corporations
3. Mineral Workings
/4. Civil Aviation/
5. Fluoridation

Programme

6. Pollution (Protection of Food and the Marine Environment)
12a. Gas
14. Local Government (Greater London and Metropolitan Counties)
19. Brunei
21. Social Security and Health
22. Representation of the People
23. Prosecutions
30. Administration of Justice
32. Elections (Northern Ireland)
34. Heritage Scotland
35. Family Law (Financial Provisions) (Scotland)
37. Law Reform (Miscellaneous Provisions) (Scotland)
38. Insolvency [To be called "Protection of Creditors" I believe).
39. Bankruptcy (Scotland)
41. Films
49. Public Transport
52. Nationalised Industries

Uncontroversial

8. Further Education Establishments (Commercial Activities)
54. Opencast Coal (Planning)
18. State Immunity Act (Amendment)
55. Foreign Compensation
56. Enduring Power of Attorney
57. Land Registry and Law of Propert (Amendment)
58. Child Custody Orders (International Enforcement)
58a. Insurance
50. Merchant Shipping
60. English Industrial Estates Corporations

Contingent

53. Public Service (Transfer of Functions)
62. Insolvency Payments
63. Local Government Commission
64. Australia
65. Territorial Sea
66. Communications
68. Export Guarantees
69. Shipbuilding Redundancy Payment
/71. Doorstep Selling/
70. Imports, Export and Customs Powers Defence Act (Amendment)

PART 11 ends:-

SS/DTI to LPC 29.2.84.

PART 12 begins:-

CC(84) 8th 1.3.84.

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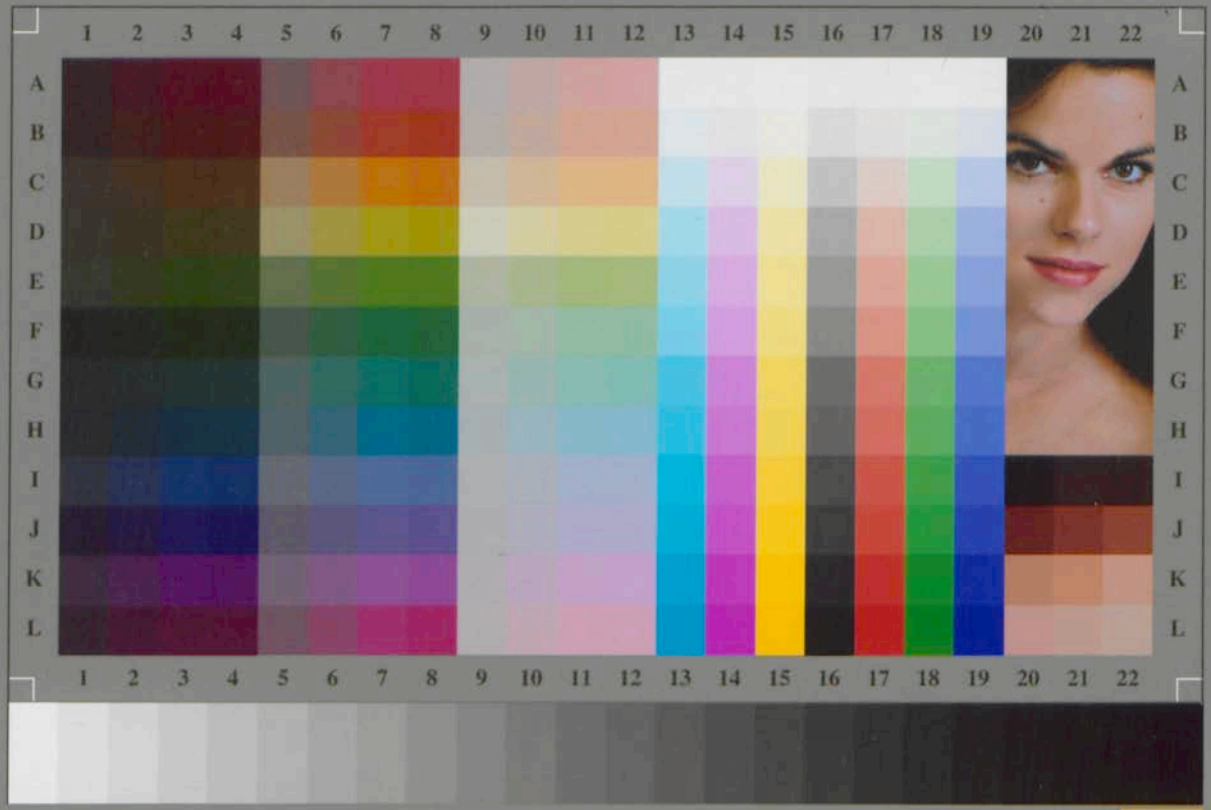

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