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From the Private Secretary

26 March 1981

*gaskland*

Dear John,

EMERGENCY POWERS LEGISLATION

The Prime Minister has now had an opportunity to consider the Home Secretary's minute of 16 March about emergency powers legislation. She has noted the Home Secretary's and the Chancellor of the Duchy of Lancaster's view that the drafting of possible legislation to remedy the deficiencies under (a) and (b) in his minute should be deferred until there is a clearly foreseeable need for it. She, however, takes the view that legislation to cover these two points should be drafted, if possible by the beginning of the next Parliamentary session.

I am sending copies of this letter to the Private Secretaries to members of E Committee, David Heyhoe (Chancellor of the Duchy of Lancaster's Office), Anthony Mayer (Department of Transport), Jim Nursaw (Attorney-General's Office) and David Wright (Cabinet Office).

Yours ever,

*T. L. L. L.*  
 \_\_\_\_\_

John Halliday, Esq,  
 Home Office.

*ds.*

CONFIDENTIAL

*Mr Duguid*



Chancellor of the Duchy of Lancaster

PRIVY COUNCIL OFFICE  
WHITEHALL LONDON WC1A 9AT

*Gore Mach*

27 April 1981

✓  
MS

✓ TL to sec  
MS  
27/4

*Dear Willie,*

Thank you for you for your letter of 16 April about the drafting of possible amendments to the Emergency Powers Act. Although I still think that it would probably be more satisfactory for drafting to be postponed until there was a clearly foreseeable need for amending legislation, I do not feel very strongly about the issue, and in view of the points made by the Prime Minister and other colleagues, I am content to give drafting authority on the understanding that this work will not be allowed to impede essential work on any of our main programme bills for this Session or next.

I am copying this letter to the recipients of yours.

*Francis*  
*Francis*

FRANCIS PYM

The Rt Hon William Whitelaw, CH, MC  
Home Secretary  
50 Queen Anne's Gate  
LONDON

CONFIDENTIAL


27 APR 1981



PRIME MINISTEREmergency Powers Legislation

There is a disagreement here. The Treasury, supported by our Policy Unit (Flag A), think that legislation should be drafted on a contingency basis to deal with two gaps (identified as (a) and (b) in the Home Secretary's minute at Flag B) in our emergency powers legislation. This was also the view of CCU Ministers when they met. But the Home Secretary and the Chancellor of the Duchy now take the view that - with all the other pressures on the Parliamentary draftsmen - we should defer drafting until there is a clearly foreseeable need.

The Home Secretary's minute has been circulated to members of E Committee and of course to Francis Pym and the Attorney General (as well as to Normal Fowler). Do you wish to discuss this in E Committee? Or do you accept the Home Secretary's conclusion, subject to any dissent from E members? Alternatively, we could reply that, in your view, time must be found for the legislation to be drafted.



T.P. LANKESTER

May we have  
it drafted for  
the beginning of  
the next session  
not.

25 March 1981

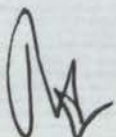
PRIME MINISTER

EMERGENCY POWERS LEGISLATION

". . . Governments have a duty, when the interests of the community are put at risk, to take whatever steps are necessary to ensure that access to essential goods and services is protected and the hardship inflicted on the community is limited as much as possible."

(Paragraph 306 of the Green Paper on Trade Union Immunities)

1. Mr. Whitelaw's minute of 16 March identifies three gaps in the Government's power to declare a State of Emergency. He says that CCU Ministers initially favoured drafting legislation on a contingency basis to deal with gaps (a) and (b). But Mr. Pym thinks such action should be deferred.
  
2. We think CCU were right. Although there are other measures, short of a State of Emergency, available to Government, they do not have the same psychological and "legitimising" effect. Mr. Pym's argument that it would be difficult to plug gap (b) unless we knew the precise circumstances is not convincing. If it's to be done, it should be done in a way which will apply to the full range of appropriate circumstances - and not simply designed to meet the needs of one case.
  
3. We note that CCU has put further action in hand on gap (c). The issues involved here will be difficult. There must be a point where the addition of extra powers to Government will tend to confer extra responsibilities as well - at the price of absolving the individuals involved from their own moral responsibilities. We are therefore doubtful about extending powers to deal with localised threats. But we think contingency drafting on gaps (a) and (b) should proceed without delay.



JOHN HOSKYNS



CONFIDENTIAL

✓ Mr. Duguid

Gort Mack

QUEEN ANNE'S GATE LONDON SW1H 9AT

16 April 1981

✓ MS

Dear Ladies

EMERGENCY POWERS LEGISLATION

You said to me in your letter of 25 February that you thought it would be preferable to defer drafting possible amendments to the Emergency Powers Act to extend the range of circumstances in which a State of Emergency could be proclaimed and also to widen its scope to encompass grave industrial or economic damage, until there was a clearly foreseeable need for such legislation, when it could be drafted to take fully into account the circumstances which required its introduction. I reported that view to colleagues in my minute of 16 March to the Prime Minister. You will have seen, however, the letter from the Prime Minister's office of 26 March which reported her view that the necessary contingency drafting should be put in hand and that if possible it could be completed by the beginning of the next Session. I should be grateful, therefore, to have your formal drafting authority for the preparation of this legislation.

I am sending copies of this letter to the Prime Minister, to the other members of E Committee, to the Secretary of State for Transport, the Attorney General, First Parliamentary Counsel, and to Sir Robert Armstrong.

Francis Pym

The Rt. Hon. Francis Pym, M.C., MP.

CONFIDENTIAL

21 APR 1977



*Environment*2 MARSHAM STREET  
LONDON SW1P 3EB

My ref: H/PSO/12688/81

Your ref:

= 3 APR 81

*De l'écrit*

In your minute of 16 March to the Prime Minister you invited colleagues' views on whether we should press for contingency drafting of legislation to make good possible gaps in the existing Emergency Powers.

I appreciate the reason for Nigel Lawson's suggestion because it is always as well to be ready for emergencies and do what one can to ease the pressure at the time. But our experience is that, when necessary, legislation can be prepared quickly. For that reason I, like you, am willing to accept the advice of the Chancellor of the Duchy that legislation should be prepared when the need arises.

I have noted the substance of the paper and I am content to accept it without discussion in E Committee.

I am copying this letter to those who received yours.

*Yours*  
*Michael Heseltine*

MICHAEL HESELTINE

The Rt Hon William Whitelaw MP



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16 APR 1951

CONFIDENTIAL

*Gov Hand*



DEPARTMENT OF TRANSPORT  
2 MARSHAM STREET LONDON SW1P 3EB

*re David*

The Rt Hon William Whitelaw, CH, MC, MP  
Secretary of State for the  
Home Department  
Home Office  
50 Queen Anne's Gate  
LONDON SW1

*1st* April 1981

*Jo Willie.*

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0/4*

Thank you for sending me a copy of your minute of ~~16~~ March to the Prime Minister. I am content with the paper about emergency powers legislation which is attached to your minute and for my part I see no need for it to be discussed in E Committee.

You also ask for views on whether we should accept the advice of the Chancellor of the Duchy that, because of competing claims from other legislation, contingency drafting of additional emergency legislation should not be undertaken at present. Emergencies which arise from industrial action can usually be foreseen over the period in which claims are made and negotiated and I feel that this should give enough notice for any emergency legislation to be provided, as indeed from time to time it is, when the need dictates.

For that reason I agree with you that we should accept the advice of the Chancellor of the Duchy.

*Norman Fowler*

NORMAN FOWLER

CONFIDENTIAL



- 7 APR 1981

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*A. Duguid*

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reach*

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Secretary of State for Industry

26 March 1981

The Rt Hon William Whitelaw CH MC MP  
 Secretary of State for the Home  
 Department  
 Home Office  
 Queen Anne's Gate  
 Petty France  
 LONDON  
 SW1

*TL*  
*27/3*

*Ian Liddle*

EMERGENCY POWERS LEGISLATION

Thank you for copying to me your minute of 16<sup>✓</sup> March to the Prime Minister reporting the conclusions of the Civil Contingencies Unit on the need and scope for changes in emergency powers legislation.

2. You asked for views on the question of contingency drafting. I have a good deal of sympathy with Nigel Lawson's wish to see some contingency drafting go ahead. However, I am also conscious of the burden many of us are putting on Parliamentary Counsel and in the light of the points made by Francis Pym I would not wish to press for drafting to be put in hand at the moment.

3. A copy of this letter goes to Francis Pym and Nigel Lawson and to the other recipients of your note.

*Evan*  
*Kear*

27 MAR 1981

