

PRIME MINISTER

The Lord President, as you will see from the attached correspondence, has decided not to intervene with the Education Secretary before the Bill reaches Committee Stage in the Lords. But he will speak to Sir Keith before the Report Stage. I understand that the Lord President is not at all satisfied with Sir Keith's letter and does not believe it meets the spirit of the commitments given to Baroness Cox.

MAA

Mark Addison

9 April 1986

DG2AZM

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

9 April 1986

Dear Keith

EDUCATION BILL: AMENDMENTS ON INDOCTRINATION

Thank you for your letter of 8 April about this. I note the points you make. I suggest that at this stage the best course is for us to see how the debate goes on Tuesday, when I understand from Caroline Cox that she will not press her amendments, but I should like soon after that to consider with you how we should handle the Report Stage of the Bill: we will obviously be in a better position then to judge what the difficulties are likely to be, if any. I have asked my office to arrange for us to meet in the middle of next week for this purpose.

I am sending a copy of this letter to the Prime Minister, the Lord Chancellor, the Secretaries of State for Wales, Northern Ireland, and Scotland, the Lord Privy Seal, the Chief Secretary, Treasury, the Attorney General, the Solicitor General, both Chief Whips and Sir Robert Armstrong.

[Handwritten signature]
Billie

The Rt Hon Sir Keith Joseph Bt MP





DEPARTMENT OF EDUCATION AND SCIENCE

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FROM THE SECRETARY OF STATE

Prime Minister (2)

The Lord President's view
I understand is that it does not meet
the spirit of the commitments given

8 April 1986

to become law. It will be taking
the matter up with Sir Keith.
MBA9/t

Dear Willie

EDUCATION BILL: AMENDMENTS ON INDOCTRINATION

1. When we met Lady Cox and others in your room on 18 March we discussed with her the amendments she has now put down for Committee Stage of the Education Bill with the aim of outlawing political indoctrination in schools - an aim with which we all agree. At that meeting I explained to her the difficulties that I saw with her amendments and undertook to explore whether the Government could offer her alternatives which would meet our shared aim and still be practicable and consistent with Government policy.

2. Parliamentary Counsel could not have been more co-operative in seeking to find a solution to the problem the Government faces. However, the more he has examined the problem the more he has been impressed by the difficulties. It is not just that, as we knew, there are problems of definition, evidence and enforceability: which make for bad law. However an amendment was formulated, the courts would inevitably be asked for judgements on specific cases before very long, and they would have to decide whether political indoctrination had taken place; such a judgement is bound itself to be seen as the taking of a political stance, and the impartiality of the judiciary would thus be impugned. Moreover, Parliamentary Counsel advises that it may be impossible (a) to allow for the promotion in the course of education of certain fundamental values such as support for Parliamentary democracy and the rule of law which we would all support and (b) to avoid the legislation being misused by our opponents against teachers who put forward arguments, for example, in favour of sound monetary or defence policy.

/3. When

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3. When politically controversial issues come up at school, treating them objectively entails balance. Caroline Cox's position on such balance is not wholly clear. But if partisan teaching is to be prohibited, the law has almost certainly to prescribe balance; that too has dangers - we could be requiring the presentation of unacceptable views simply to balance those which are acceptable.

4. The Solicitor-General who has seen Parliamentary Counsel's draft clauses has warned of the dangers of making justiciable the question of whether a particular view is politically partisan.

5. I met Lady Cox with Lord Charteris and others on 4 April, explained these difficulties to her, and showed her - as an earnest of our good intent - two alternative draft amendments by Parliamentary Counsel neither of which overcomes the obstacles. She was not persuaded of the objections and, in the absence of the Government offering her an amendment, she will want at Committee Stage on 15 April to debate - probably, she said, on a probing basis - the amendments she has put down. Unless she and the numerous supporters that she is sure she has are convinced by our answers, she will probably force a vote at Report if by then the Government has not offered her a solution.

6. We therefore have to decide before the debate on 15 April what to do now. I am impressed by the legal arguments put to me; and would not wish to go against the advice of the Law Officers. I believe that, although the legal arguments may not carry weight with the House of Lords, they might well do so with our supporters in the Commons. I therefore conclude that we should not offer any alternative amendments at Committee Stage and, although we should continue to reflect upon possible legislative solutions, I do not expect to have amendments to offer at later stages of the Bill's passage through the Lords. If we lose on a division, we shall have to seek to overturn it in the Commons.

7. Such an approach can be defended by other arguments. First, we must emphasise that it is not the law that has been the problem in pursuing cases of abuse but the lack of hard evidence; in the few cases where there has been evidence, LEAs have been ready to act at my prompting. Lady Cox and her colleagues accept that reliance on the law makes evidence even more crucial but do not face up to the problem of securing evidence. Second, we can refer to the provisions in the Bill requiring each year a report by school governors and an annual meeting of parents; while not removing fears of victimisation, these will give opportunities for parents collectively to voice their concern. Third, I continue to attach a good deal of weight to our draft statement of principles which will give parents and others quite properly worried about political indoctrination a basis for complaints.

8. An inquiry would have been an alternative to legislation, but I accept your advice that it cannot be conducted by a House of Lords Select Committee. The Prime Minister's view as recorded in her Private Secretary's letter of 7 April is that an inquiry of any kind would be unlikely to achieve very much.

/3. Finally,

9. Finally, it occurs to me that so far we have heard views on this issue only from peers whose primary expertise is not in jurisprudence. I wonder whether one or two law lords might discreetly be apprised of the legal issues involved before the debate on 15 April?

10. I am sending copies of this letter to the Prime Minister, Quintin Hailsham, Nicholas Edwards, Malcolm Rifkind, Tom King, John Biffen, John MacGregor, Michael Havers, Patrick Mayhew, Bertie Denham, John Wakeham and Sir Robert Armstrong.

Lawson
Kew

