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CC. M. [unclear]

CC T. Jack
(Lord Adv.)

10 DOWNING STREET

From the Principal Private Secretary

31 January 1985

Dear Hugh,

INTERCEPTION OF COMMUNICATIONS BILL

The Prime Minister held a discussion today about the submission of 25 January from Sir Robert Armstrong on the shape of the Bill and about the minute of 29 January from the Home Secretary about Parliamentary handling. The Lord President, Lord Chancellor, Foreign Secretary, Home Secretary, Secretary of State for Scotland, Lord Privy Seal, Secretary of State for Northern Ireland, Chief Whip, Attorney General, Lord Advocate and Sir Robert Armstrong were present.

Shape of the Bill

The Home Secretary said that a number of alternatives to the original Bill had been considered, and the only viable alternative appeared to be a shorter Bill with some of the detail transferred into regulations. It was doubtful whether this would present much advantage, since the House would insist that a draft of the regulations should be published and Members would no doubt move amendments to incorporate the regulations into the Bill. This would create a debate on the contents of the regulations both during the passage of the Bill itself and when the regulations were laid before the House, and it would also arouse criticism that the content of the regulations had not been incorporated into the Bill itself.

In a short discussion, it was generally agreed that, while the full Bill was unattractive, the alternative approach would present even greater disadvantages.

Handling of the Bill

In a discussion of the Parliamentary handling of the Bill, the following points were agreed:

- (i) the Committee stage of the Bill should be taken on the floor of the House.
- (ii) It was noted that the Leader of the Opposition had not so far accepted the Prime Minister's suggestion that he

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should receive from the Cabinet Secretary a briefing on security matters: this suggestion should be renewed and the Leader of the Opposition should be pressed to take it up. Briefing on the Bill should also be offered to Mr. Healey and Mr. Kaufmann on Privy Counsellor terms; and in view of his dual status as a Party leader and former Foreign Secretary, a similar briefing should be offered to Dr. Owen. The Cabinet Secretary should write to Mr. Edward Heath, Mr. James Callaghan, Mr. Roy Jenkins and Mr. Merlyn Rees offering to refresh their memories on the issues covered by the Bill: a similar offer should be made in due course to Lord Home and Lord Wilson when the Bill was about to come before the House of Lords.

(iii) The publication of the White Paper should take place as soon as possible, subject to keeping the interval between publication of the Bill, publication of the White Paper and Second Reading as short as possible.

European Convention on Human Rights

It was pointed out that the need for two Bills in the present session had arisen from cases brought before the European Court. This Court was not now operating in the ways intended by its founders and some of its judgements were eccentric: on the other hand HM Government was bound as a signatory of the Convention to adopt the findings of the Court into our domestic law. More cases went to the European Court from Britain than from any other country and one reason for this was that, because the European Convention was not incorporated into British law, complainants could not seek relief in the British courts. On the other hand, incorporation of the Convention into British law would raise very difficult issues in certain fields like immigration and prisons. But it was possible to consider incorporating the Convention with derogations, and it would be worth looking at this issue again.

Summing up the discussion, the Prime Minister said that it was agreed that the Home Secretary should now proceed with the Bill and the White Paper in the form attached to his minute of 16 January. He should discuss a timetable for the second reading with the Lord Privy Seal, with a view to publishing the White Paper and the Bill as soon as possible before the second reading. Briefings should be offered to Mr. Kinnock, Mr. Healey, Mr. Kaufman and Dr. Owen and these be carried out by officials. The Cabinet Secretary should write to Mr. Heath, Mr. Callaghan, Mr. Jenkins, Mr. Rees and in due course to Lord Home and Lord Wilson, offering to refresh their memories on the issues covered by the Bill. The Foreign Secretary and the Home Secretary, in consultation with the Lord Chancellor and other Ministers concerned, should look again at ways of reducing the impact of the findings of the European Courts on our law, including incorporation of the European Convention into UK law, possibly with derogations.

I am copying this letter to Janet Lewis-Jones (Lord President's Office), Richard Stoate (Lord Chancellor's

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Office), Len Appleyard (Foreign and Commonwealth Office), John Graham (Scottish Office), David Morris (Lord Privy Seal's Office), Jim Daniell (Northern Ireland Office), Henry Steel (Law Officers' Department), Iain Jack (Lord Advocate's Office), Murdo Maclean (Chief Whip's Office) and Richard Hatfield (Cabinet Office).

Yours ever,

Robin Butler

Hugh Taylor, Esq.,
Home Office.

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