

1. MR. RICKETT
2. PRIME MINISTER

As I believe you know, the Home Secretary has decided to give in to BMA pressure on the Police and Criminal Evidence Bill and the attached answer announces his intention of exempting medical and other similar personal records from the relevant Clause of the Bill. I gather that the Police, when pressed, could not actually cite any examples of cases in which they had been impeded by the reluctance of the medical profession to give up documents which perhaps makes one wonder why they asked for this power in the first place. The Clause will still apply to articles. I gather that the BMA have accepted this.

I understand that the Home Secretary is going to make the same concession to journalists. This is, of course, recognition of reality; it has never harmed any journalists' career to go to gaol for protecting their sources.

14 April 1983

Thursday, 14th April, 1983.

Written No.

Sir Edward Gardner (South Fylde): To ask the Secretary of State for the Home Department, whether he has yet reached any conclusions as a result of his reconsideration of Clause 10 of the Police and Criminal Evidence Bill in the light of the representations made to him; and if he will make a statement.

MR. WILLIAM WHITELOW

The purpose of the Police and Criminal Evidence Bill is to modernise the law governing the investigation of crime and to promote the ability of the police to bring to justice those responsible for crime. In furtherance of these objectives, Clause 10 of the Bill, which follows the recommendations of the Royal Commission on Criminal Procedure, and provides for stringent safeguards, is intended to enable the police when investigating serious crime to obtain access to evidence of such crime for use in criminal proceedings in cases where considerations of confidentiality make it difficult for those holding such evidence to release it. As was made clear in the proceedings of the Standing Committee, it has never been the Government's intention, nor is it the effect of the Clause, that the police should be empowered to obtain material which would not itself be admissible in evidence in subsequent criminal proceedings, by reason, for example, of the rule against hearsay evidence.

However, I have taken very seriously and sympathetically the anxieties expressed by members of the medical and other caring professions and their voluntary counterparts that the provisions of the Clause would, however unintentionally, adversely affect their confidential relationships with those who seek their help; and I promised to look at the Clause again in this light.

To reassure those who are concerned and to remove any uncertainty I have decided to bring forward amendments to provide that confidential personal records relating to the work of the medical and other caring professions and their voluntary counterparts and other voluntary counselling agencies shall be altogether exempt from the provisions of the Clause.

The application of Clauses 9 and 10 to material held by journalists has also been the subject of representations. My hon. and learned Friend will be meeting representatives of the profession very shortly, and will discuss with them changes which I have it in mind to propose to meet the concern of journalists.

Articles (including documents) held on a confidential basis, other than the personal records which I have mentioned, will remain within the scope of the clause, but I shall propose the introduction of further safeguards on their production.

I also think that it would be desirable to take the opportunity presented by the Bill to extend so far as is reasonably practicable the protection of the procedure contained in Clause 10 to documents held on a confidential basis (for example by legal or financial advisers) which are at present, under the existing and less stringent statutory provisions, liable to seizure as a result of the execution of a magistrate's search warrant. I intend therefore to bring forward an amendment which will achieve this.

In this form Clause 10 of the Bill, while improving the ability of the police to obtain evidence of serious crime, will introduce safeguards against intrusion upon personal confidences which will be considerably stronger than those recommended by the Royal Commission on Criminal Procedure.

From: THE PRIVATE SECRETARY



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

13 April 1983

Dear Tim,

As you will know, the Home Secretary has been reviewing the provisions of clause 10 of the Police and Criminal Evidence Bill relating to disclosure of confidential records, in the light of the representations he has received.

He intends to announce tomorrow, in answer to a written Question, the changes he proposes to bring forward at Report Stage. You may like to see the text of the answer, a copy of which I attach. The answer will not be given until after Prime Minister's Questions.

... I am also sending copies to Private Secretaries to members of H Committee and to Richard Hatfield.

Yours ever,  
Tony Rawsthorne

A R RAWSTHORNE

T J Flesher, Esq