



FLK

MFJ

cc: CO

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

*67*

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 this correspondence with the Lord Chancellor and with Jack Simon as you suggest.

*Yours ever*

*Margaret*

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

JCR ABC



GR

Re type for PM.

sub

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.

RIA

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~~ *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~~ <sup>that is why</sup> 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.*

CONQUEROR

PARLIAMENT: Leg. Pt 12



COMPTROLLER  
GENERAL

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.

*RAA*

ROBERT ARMSTRONG

13 September 1984



Lord RENTON

file

13/9  
ECL

GR. PL att. PM's letter  
of 8/8.

Ack 3/9

c.f. pps<sup>1</sup>

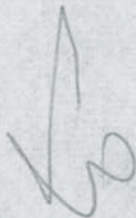
3 September 1984

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.

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/....



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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.