

PRIME MINISTER

CONFISCATION OF THE PROFITS OF DRUG TRAFFICKING

The attached letter from the Home Secretary sets out his proposals for introducing forfeiture legislation which was of course discussed at the Drugs meeting last Tuesday. You will recall that it was agreed that the Home Secretary should see if the forfeiture legislation on drugs could be linked with the proposed legislation to restrict alcohol at football grounds.

The attached letter sets out the way in which the Home Secretary proposes to translate the idea of forfeiture into legislation. The approach he has adopted seems sensible, and the Policy Unit are content with it in general terms. They are, however, concerned that the Courts should be encouraged to link more closely the fine imposed with the assets possessed by the drug barons. Hartley Booth believes there should be a presumption that the fine would equal the "drug related assets" which the existing proposals would already require the Courts to assess.

The key consideration so far as timing, and legislative vehicle, are concerned seems to be that the football legislation on alcohol should not be delayed. This is where the political imperative seems strongest, where there are unlikely to be difficulties with the Opposition, and where the legislation is already well tried. The proposed legislation on forfeiture may well prove more controversial and certainly involves a significant change in the criminal law. It may well be, therefore, that proceeding with the legislation on alcohol and on forfeiture together will not prove to be possible.

There are at this stage two options:

- (i) Agree that the Home Secretary should do his best to develop both sets of proposals together, but that if

there is any risk of the legislation on alcohol being delayed as a result, the two should be uncoupled;  
or

- (ii) agree at this stage to uncouple them, to avoid unnecessary complications and to enable ~~its detailed~~ *the forfeiture* provisions to be looked at more carefully.

Which would you prefer?

Mark Addison

MARK ADDISON

10 June 1985

I spoke to the EPS  
and think this is better,  
I think that the  
legislation will have  
to be uncoupled now.

mb

FILE

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10 DOWNING STREET

11 June 1985

From the Private Secretary

Dear Hugh

CONFISCATION OF THE PROFITS OF DRUG TRAFFICKING

The Prime Minister has seen the Home Secretary's letter of 10 June to the Lord President. She also discussed the matter briefly with the Lord Privy Seal and the Chief Whip yesterday.

She is inclined to the view that the legislation to introduce forfeiture of the profits of drug trafficking should now be uncoupled from the football legislation to restrict alcohol at grounds in England and Wales. This would avoid any question of delaying the football legislation, and would ensure the proposals on forfeiture were fully and carefully considered.

I am sending copies of this letter to the Private Secretaries to members of H and L Committees, to the Secretaries of both Committees, Henry Steel (Law Officers' Department), Iain Jack (Lord Advocate's Office), Brian Shillito (First Parliamentary Counsel's Office) and Richard Hatfield (Cabinet Office).

Y Ocas  
Mark Addison

MARK ADDISON

Hugh Taylor, Esq.,  
Home Office.

cc	LPO	DHSS	LAD	CAL
	WCO	DIM	M/S, FO (Rifkind)	Hickson (co)
	DES	CST	M/S, HO (Shaw)	Shillito (co)
	NIO	DOT	FST	Brearley (co)
	SO	PCO	Lord Denham	CWO
	WO	MWP	CO	WPSO
	DOE	WOD	watson (co)	

da

Office of the Parliamentary Counsel 36 Whitehall London SW1A 2AY

Telephone Direct line 01 273 5288, 3429 as from 13.6.85  
Switchboard 01 273 3000

Lord President of the Council  
Privy Council Office  
70 Whitehall  
SW1

11 June 1985

Dear Lord President

#### CONFISCATION OF PROFITS OF DRUG TRAFFICKING

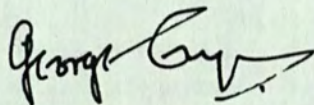
In his letter to you of 10 June <sup>with Met</sup> the Home Secretary expresses the hope that a Bill covering the profits of drug trafficking as well as football hooliganism could be drafted "by the end of next week" - that is, by Friday 21st June. This is simply not possible.

2. The proposed drugs provisions are both novel and complex, and will be difficult to get right. I understand that in the course of preparing drafting instructions a number of difficulties have been identified by the Home Office legal advisers, and that these are now under consideration by the Criminal Department. Drafting cannot begin until these questions are resolved and drafting instructions sent. This comes as no surprise to me, since it inevitably takes time to get to the bottom of novel proposals. In particular, the whole concept of "laundering" the proceeds of trafficking needs careful thought, and may have to cover transactions in parts of the United Kingdom other than England and Wales. Difficult questions of Scottish law might then arise.

3. The aim - a tall order - is to get a Bill dealing with hooliganism to Legislation Committee in the week beginning with the 24th June. Even if a second draftsman is brought in to work in parallel on the drugs provisions, there is no possibility of those provisions being ready for Legislation Committee before the beginning of next month - and until firm drafting instructions are received it is impossible to say how long the preparation of those provisions might take. It is thus plainly impossible for the drugs provisions to be included in the hooliganism Bill without delaying the latter.

I am sending copies of this letter to the Prime Minister, the Home Secretary and the members and Secretary of L Committee.

Yours sincerely

A handwritten signature in cursive script, appearing to read "George Engle". The signature is written in dark ink and is positioned above the typed name.

GEORGE ENGLE

FROM:

THE RT. HON. LORD HAILSHAM OF ST. MARYLEBONE, C.H., F.R.S., D.C.L.

CC/HB



HOUSE OF LORDS.  
LONDON SW1A 0PW

NBPM

19th June, 1985

The Right Honourable  
The Viscount Whitelaw, CH MC  
Lord President of the Council,  
Privy Council Office,  
70 Whitehall,  
London,  
SW1.

Dear Willie.

Confiscation of the Profits of Drug Trafficking

I have seen copies of Leon Brittan's letter to you of 10th June, the Prime Minister's Private Secretary's reply of 11th June, First Parliamentary Counsel's letter of the same date and Leon's further letter to you of 12th June. I am responding to his request for views on the proposals set out in his letter of 10th June.

File with MIA

I certainly agree that there is a strong case for legislation to deal with the increasing threat posed by drug trafficking and that the nature of the problem will require that legislation to break new ground. While I also agree that there should be considerable support for legislation in all parties, there will inevitably be criticism deriving from that very novelty, and it will be important to get the provisions right, as far as possible, before they are introduced into Parliament.

Not surprisingly in these circumstances, it would appear to me that significant problems both of principle and practice remain; and which in my view require further consideration before proposals are finally approved.

Looking at the proposals listed in the letter of 10th June, I note, for instance, the comments of First Parliamentary Counsel on the proposed new offence. The proposals for the assessment and imposition of fines also raise difficult questions of detail and of the relationship with existing sentencing powers, as does the proposed inference to be drawn from apparent means. The proposed powers of confiscation have to be considered against the current lack of enforcement machinery in the Crown Court. The proposed machinery for pre-trial restraint of assets is likely to be complicated and will have to be co-ordinated with the confiscation procedure; I wonder also whether Parliament will be content to leave such far-reaching powers to Rules rather than having at least the major principles ~~enshrined~~ in primary legislation.

/...

A further cluster of difficulties no doubt surrounds the proposed extension of confiscation and pre-trial restraint of assets to third parties and the proposed opportunity for them to demonstrate that "value" had been given.

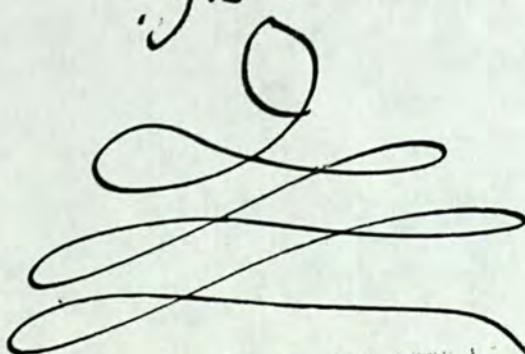
There may be other points of difficulty such as third party property rights, the effects of possible appeals on confiscation and freezing assets, and the connection between assets frozen and confiscated on the one hand and precise offences charged and proved on the other.

As I have said, I am entirely supportive in principle. No doubt your officials will seek to secure such assistance as they can from my own hard-pressed staff in carrying forward work on these lines.

I must also however finally register a point about the resource implications. The relevant section in Leon Brittan's letter of 10th June is to the effect that the new powers should be revenue-producing overall. I take this to mean that the Crown Prosecution Service will only pursue cases where fines from confiscation will more than cover public expenditure costs, including, I assume, those incurred by the courts and on civil and criminal legal aid for which I am responsible. In principle, this seems a reasonable approach, but Peter Rees will need to consider the mechanics for ensuring that there is no increase in public expenditure, since, under present arrangements, fines are not appropriated in aid of total expenditure. I cannot cover any new commitments from my existing resources; nor at the present time can I hazard a guess as to the additional amounts concerned. Although cases may, as Leon says, be few, they could be complex and costly. I therefore would have to ask, before final policy approval is given, for confirmation that additional resources would be allocated to me at the appropriate time.

I am sure these problems are not insuperable, but I do suggest that they require further consideration before proposals are finally approved.

I am copying this letter to the Prime Minister, members of H Committee, the Attorney General, and First Parliamentary Counsel.

Yrs  


FROM: THE RT. HON. LORD ...  
OF ST. MARVLETON ...



CC 4B  
CABINET OFFICE  
70 Whitehall,  
London SW1A 2AS  
Telephone 01-233 3340

4 June 1985

NB9M

Mr Willie

CONFISCATION OF THE PROFITS OF DRUG TRAFFICKING

I have seen the recent correspondence on this subject.

When I was in North Wales last week the police emphasised to me that their experience was of an increasing tendency to be dealing with people whose involvement in drugs was entirely commercial. Whereas historically they had seen the drug problem as part of an alternative culture they were now increasingly dealing with a business.

If this be true (and it is certainly the perceived truth among our supporters) I am very much in favour of trying to find time to legislate to confiscate profits. This becomes the more urgent as our profile on the whole issue of drug abuse becomes higher.

I am sending a copy of this letter to the Prime Minister, members of H Committee, Grey Gowrie, David Young, Michael Havers and to Sir Robert Armstrong.

Yours ever

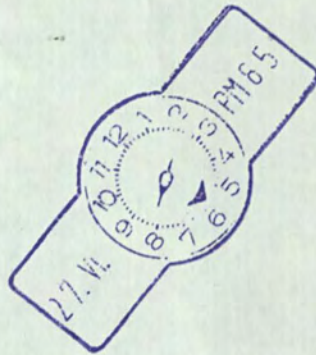
*[Handwritten signature]*

JOHN SELWYN GUMMER

The Rt Hon Viscount Whitelae CH MC  
Lord President of the Council  
Privy Council Office  
Whitehall  
London SW1



Home Affairs Pt 2  
Drugs.





cc HB

NORTHERN IRELAND OFFICE  
WHITEHALL  
LONDON SW1A 2AZ

SECRETARY OF STATE  
FOR  
NORTHERN IRELAND

The Rt Hon Leon Brittan QC MP  
Home Secretary  
Queen Anne's Gate  
LONDON  
SW1H 9AT

NBPM  
24 June 1985

Dear Secretary of State,

CONFISCATION OF THE PROFITS OF DRUG TRAFFICKING

You asked for comments on your letter to Willie Whitelaw of 10 June, even though you are no longer proposing to couple legislation to introduce forfeiture of the profits of drug trafficking with that to restrict alcohol at football grounds in England and Wales.

I do not want to comment in any detail on your proposal but I would agree that the serious drug problems you are faced with merit drastic measures of this nature.

In Northern Ireland we are fortunate in not having problems anything approaching those in Great Britain, but I think it would be wrong for us not to keep firmly in line with any measures you decide to take, especially as you say the proposals are consistent with international thinking.

It is too early to consider how we might extend the proposals to Northern Ireland but I would not like to rule out the possibility of extending directly the proposed legislation to Northern Ireland. As you know this is being done with Keith Raffan's Bill on increased penalties for drugs offences but what you are now proposing has far-reaching implications and will not be so simple to treat in this manner. We would need to see the draft Bill before a final decision could be taken and I would be grateful if your officials would keep mine apprised of developments.

I am copying this letter to the Prime Minister, members of H & L Committees, the Attorney General, the Lord Advocate, the First Parliamentary Counsel and Sir Robert Armstrong.

Yours Sincerely  
Neil Ward  
for <sup>DH</sup> Private Secretary  
(Approved by the Secretary of  
State and signed in his absence  
in Belfast)