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807

PREM 19/826

MTI

Confidential filing

Bill of Rights.

LEGAL  
PROCEDURE

October 1979

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
<del>23-4-80</del>							
<del>24-4-80</del>							
<del>30-4-80</del>							
<del>1-5-80</del>							
<del>6-5-80</del>							
<del>1-12-80</del>							
<del>3-12-80</del>							
<del>5-1-81</del>							
<del>21-5-81</del>							
<del>8-6-81</del>							
<del>24-6-81</del>							
<del>11-7-81</del>							
31-3-82							

PREM 19/826

TO BE RETAINED AS TOP ENCLOSURE

**Cabinet / Cabinet Committee Documents**

Reference	Date
H(79) 68	26.10.79
H(79) 14th Meeting, Minute 1	30.10.79
L(79) 62	2.11.79
CC(80) 17th Conclusions, Min 1 (extract)	24.11.80
H(80) 78	28.11.80
L(80) 73	1.12.80
H(80) 25th Meeting, Minute 2	2.12.80
L(80) 22nd Meeting, Minute 3	3.12.80
H(81) 37	21.5.81
H(81) 18th Meeting, Minute 1	1.6.81

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate CAB (CABINET OFFICE) CLASSES

Signed Wayland Date 11 October 2012

PREM Records Team

FILE

R M

31 March, 1982

BILL OF RIGHTS: ALL-PARTY TALKS

The Prime Minister has seen the Home Secretary's minute of 29 March. She agrees that no attempt should now be made to set up all-party talks on a Bill of Rights.

I am sending a copy of this letter to David Heyhoe (Lord President's Office).

W. F. S. RICKETT

J Halliday, Esq  
Home Office

*So*



Prime minister 1  
Content that no attempt  
should be made to set up  
all party talks on a  
Bill of Rights?

Yes  
no

LM  
30/3

PRIME MINISTER

BILL OF RIGHTS: ALL-PARTY TALKS

Last June I reported to you the conclusion of the Home and Social Affairs Committee that we should honour our Manifesto commitment by seeking to arrange all-party talks on a possible Bill of Rights. In view of the difficulties in deciding how Northern Ireland parties should be represented, and of the situation prevailing last July, you subsequently agreed that action to set up these talks should be deferred.

I have recently had an opportunity of discussing this matter further with the Lord President to whom I am copying this minute. We both hope you will agree that no attempt should now be made to set up all-party talks on a Bill of Rights.

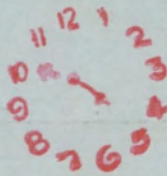
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hollw

29 March, 1982



3 0 MAR 1982



FILE

R H

Legal  
Procedure

17 July, 1981

Bill of Rights

The Prime Minister was grateful for the Home Secretary's minute of 14 July about the handling of all-party talks on a possible Bill of Rights.

No  
and  
before

The Prime Minister agrees that no action should be taken to set up all-party talks before the Recess, and that the Home Secretary should report again in the autumn.

I am copying this minute to the Private Secretaries to the Members of Cabinet, the Attorney-General, the Chief Whip and Sir Robert Armstrong.

W. F. S. RICKETT

Andrew Jackson, Esq  
Home Office

↓



PRIME MINISTER

Prime minister

Content to defer  
all party talks  
until after the recess?

Yes not

WM  
15/7

BILL OF RIGHTS

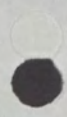
My minute to you of 3 June reported the conclusion of the Home and Social Affairs Committee that we should now honour our Manifesto commitment by seeking to arrange all-party talks on a possible Bill of Rights. The Chancellor of the Duchy of Lancaster has since discussed with the Secretary of State for Northern Ireland how the Northern Ireland parties should be represented at the talks and that will clearly be a difficult problem to resolve. More generally I doubt whether, in the light of events in the past 10 days, it is appropriate at the present time to pursue arrangements for setting up these talks. The Chancellor of the Duchy, with whom I have discussed the matter, shares my view that we should not try to take this further before the Recess. If you are content that we should handle the issue in this way, I shall report our conclusions to you when we have considered the matter further in the Autumn.

I am copying this minute to other Members of the Cabinet, to the Attorney General and the Chief Whip, and to Sir Robert Armstrong.

14

July 1981





16 JUL 1961



RESTRICTED



Legal  
Roadwe

THE HOME SECRETARY

W  
25/6

BILL OF RIGHTS

I have seen the Defence Secretary's minute to you of 16 June and wish to record my agreement with him that the danger of our Service disciplinary procedures being held to be incompatible with Article 5 or Article 6 of the European Human Rights Convention is a real one. I also agree that the risk of challenge will be significantly increased if the Convention is incorporated in our domestic law. If the exigencies of Service discipline make it impossible for us to amend our procedures so as to bring them unquestionably into conformity with the Convention - and I read the Defence Secretary's minute as indicating that that is his view - then I further agree with him that the only satisfactory course is for the Bill of Rights to include, from the outset, an express exception (what his minute describes as an "exemption clause") to cover us. I add that, if this is what we intend, I do not see how we can avoid revealing it at some stage during the all-party talks. For my part I would prefer to come out into the open as soon as possible.

I am copying this minute to the Prime Minister, the other Members of the Cabinet, the Chief Whip and Sir Robert Armstrong.

MH

24 June, 1981

RESTRICTED

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25 JUN 79  
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3 2 1

Legal Proc

Oct. 79

Bill of Rights

From: THE PRIVATE SECRETARY



Legal Procedure  
HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

CF?  
17 JUN 1981

Dear Mike

Thank you for your letter of 8th June to John Halliday asking for a draft reply to Mr. Beith's latest letter to the Prime Minister on all-party talks about a Bill of Rights.

As you know, the Home Secretary reported to the Prime Minister on 3rd June the conclusion reached by Home and Social Affairs Committee that the Government should now seek to arrange all-party talks. The Committee decided that, in view of the likely attitude of the Labour Party, the Chancellor of the Duchy of Lancaster should give the shadow Leader of the House advance notice of the Government's intentions. Until then we do not think it is possible to add to the Prime Minister's letter of 6th May to Mr. Beith.

... I am enclosing a draft reply, which subject to any views David Heyhoe might have, you might invite the Prime Minister to send.

Yours ever  
A. P. Jackson

A. P. JACKSON

Mike Pattison, Esq.

DRAFT LETTER

ADDRESSEE'S REFERENCE .....

TO	ENCLOSURES	COPIES TO BE SENT TO
Alan Beith Esq MP House of Commons LONDON SW1A 0AA		
(FULL POSTAL ADDRESS)		(FULL ADDRESSES, IF NECESSARY)

LETTER DRAFTED FOR SIGNATURE BY Prime Minister  
 (NAME OF SIGNATORY)

Thank you for your letter of 3 June about my reply to David Alton's supplementary question on 14 May about a Bill of Rights.

In referring to the question of entrenchment provisions I had in mind that these are normally regarded as a desirable characteristic of a Bill of Rights. Such provisions, however, are difficult to reconcile with our doctrine of Parliamentary Supremacy. The absence of such provisions from your Bill precisely illustrates the point I was making.

As to all-party talks, I recognise that, as you say, there is substantial support for a Bill of Rights in all parties but there is nothing I can add at the moment to my letter to you of 6 May.

*With the compliments of  
the Attorney-General*

*Attorney General's Chambers,  
Law Officers' Department,  
Royal Courts of Justice,  
Strand. W.C.2A 2LL*

01 405 7641 Extn. 3201

CM 16/6

MO 21/8/5

HOME SECRETARYBILL OF RIGHTS

In your minute of 3rd June you informed the Prime Minister of the conclusions reached by the Home and Social Affairs Committee on the question of holding all-party talks about a possible Bill of Rights. Whilst I am not personally in favour of this course, I am writing here not on general grounds but to put on record the concern of the Ministry of Defence about the potential implications of such legislation in the field of military discipline.

2. The problem was, of course, explained in some detail in your memorandum H(81)37. Basically it concerns the powers conferred on commanding officers by the Service Discipline Acts to award sentences of detention. There is a danger that if these summary powers came under judicial scrutiny they might be held to conflict with the provisions of Article 5 or Article 6 of the European Convention on Human Rights. So far the European Court of Human Rights has not had occasion to pronounce on them, though its judgement in the so-called Dutch Soldiers Case of 1976 suggests that it might not take a particularly favourable view in the event of such proceedings. If the Convention is incorporated in domestic law this will significantly increase the risk that our summary procedures will come under challenge. Since we regard the summary powers of commanding officers as essential for reasons of operational efficiency this is an eventuality which we would wish to avoid.



3. I understand that at the meeting of the Home and Social Affairs Committee on 1st June it was suggested that if it was established by judicial process that our summary procedures were in conflict with the Bill of Rights the situation could be remedied by seeking parliamentary authority for a derogation. Much, however, would depend on the situation in the House of Commons at the time but even under favourable circumstances there would be a period of uncertainty during which the administration of Service discipline might be seriously impaired. Sufficient justification exists for an exemption clause to be included in any Bill of Rights, and I would like to press for this to be included from the outset, since I would wish to avoid having to initiate the proposal, and expose the wider difficulty, during the course of all-party talks.

4. I am copying this minute to the Prime Minister, to other members of the Cabinet, the Attorney General and Chief Whip, and Sir Robert Armstrong.

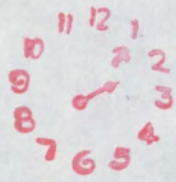
*J. Dawson. (Private Secretary)*  
*(Approved by Mr Nott and signed in his absence).*

Ministry of Defence

16th June 1981



16 JUN 1981





10 DOWNING STREET

*From the Private Secretary*

13 June 1981

*Dear Andrew*

The Prime Minister was grateful for the Home Secretary's minute of 3 June reporting the conclusions of the Home and Social Affairs Committee on a possible Bill of Rights. She has noted this without comment.

I am copying this letter to Private Secretaries of other members of the Cabinet, to the Attorney General and the Chief Whip, and to Sir Robert Armstrong.

*Yours sincerely*  
*William Kickett*

Andrew Jackson, Esq.,  
Home Office.

file

MFJ

8 June 1981

I am writing on behalf of the  
Prime Minister to thank you for your  
letter of 3 June.

I will place your letter before  
the Prime Minister and a reply will  
be sent to you as soon as possible.

MAP

Alan Beith, Esq., M.P.

BL

MFJ

cc CDLO

8 June 1981

I enclose a letter to the Prime Minister from Mr. Alan Beith, M.P., asking that the Government should proceed rapidly to all-party talks about a Bill of Rights.

I should be grateful if, in consultation with David Heyhoe (Chancellor of the Duchy's office), you could let me have a draft reply for the Prime Minister's signature. It would be helpful if this could reach me by Friday 19 June.

B/f →  
MAP

J.F. Halliday Esq  
Home Office

ms



Prime Minister

W  
4

PRIME MINISTER

It have agreed to open all party talks on a Bill of Rights. Mr Sym and Mr Atkins will consider how the minority in Northern Ireland should be represented. It felt the Govt should give cautious support for a Bill of Rights. Mr Whitelaw is sceptical and suggests King's line may need to be reviewed.

BILL OF RIGHTS

The Home and Social Affairs Committee discussed under my chairmanship on 1 June the report by officials commissioned by the Cabinet in April 1980 about the implications of a possible Bill of Rights. There was general agreement in principle that we should now honour our Manifesto commitment by seeking to arrange all-party talks on the desirability and possible content of such a Bill. We agreed that all the parties in the House of Commons with Members representing constituencies in Great Britain should be invited to take part in the talks, together with the Ulster Unionists and the Democratic Unionist Party. The Chancellor of the Duchy of Lancaster is to consider with the Secretary of State for Northern Ireland how the minority in Northern Ireland should be represented at any talks. The attitude of the Labour Party towards the proposed talks is likely to be uncertain and divided. The Committee agreed that lack of co-operation by the Labour Party should not in itself prevent the talks from being held or, indeed, prevent a Bill of Rights from being introduced at a later stage if that seemed the right course in the light of our consultations; but the Chancellor of the Duchy has agreed to give the shadow Leader of the House advance warning of our intentions. He and I will then consider further how and when the invitations to the suggested talks might be issued, and report our conclusions to you.

W  
4/6

The Committee felt that it would not be practicable for the Government to adopt an attitude of strict neutrality in any all-party talks, and that we should embark on them, assuming that they can be arranged, with the object of making a cautious advance towards an agreed Bill of Rights. The general view was that the Bill should be limited to incorporating the European Convention on Human Rights into our domestic law, though some members of the Committee, including the Attorney General, would have preferred to include further safeguards of fundamental rights not explicitly covered by the Convention. Others, including myself, while not objecting to the opening of all-party talks on the lines I have indicated, have yet to be fully convinced of the case for a Bill of Rights, and believe that we may well have to modify our opening position in the light of any further difficulties identified as discussions progress.

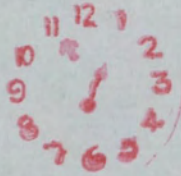
I am copying this minute to other members of the Cabinet, to the Attorney General and Chief Whip, and to Sir Robert Armstrong.

W  
4/6

3 June 1981



- 4 JUN 1981



L.J. Harris. <sup>4</sup>  
Legal Purposes

THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

H(81)37  
21 May 1981

*Whe*  
This comment has been  
passed to the Cabinet Office Secretary  
Prime Minister COPY NO 2

**ACTION**

*I agree that the  
disadvantages outweigh the  
advantages. Unless we  
are in a better position  
to deal with it.*

CABINET *W*  
46/5

The Home Secretary does not favour  
incorporating the European Convention  
on Human Rights into our  
laws. He asks for colleagues  
views on opening all party talks  
and on what HMG's position  
should be.

HOME AND SOCIAL AFFAIRS COMMITTEE

A BILL OF RIGHTS

Memorandum by the Secretary of State for the Home Department

*W*  
21/5

In our Manifesto we referred to a Bill of Rights as one of the important matters we should wish to discuss with all parties. This commitment has been repeated on several occasions in the debates on the Bills introduced by Lord Wade to incorporate the European Convention on Human Rights into our domestic law, most recently by the Solicitor-General during the Second Reading debate in the Commons on 8 May when he said that the Government saw these all party talks as very important.

2. In April 1980 I was asked by the Cabinet (C(80)17th meeting) to arrange for officials to study the implications of a Bill of Rights for existing legislation, to up-date two earlier reports on the subject as necessary, and to report to Ministers on the questions requiring decision. Officials have now produced the attached report. I think the report, though it does not represent a fully agreed view of all departments, correctly identifies the main advantages and disadvantages of incorporating the European Convention into domestic law as:

Main advantages

- (a) a coherent code from which it would be difficult to depart later;
- (b) some possible improvement in the rights of individuals;
- (c) some more immediate access (than by recourse to Strasbourg) for the individual to remedies; and
- (d) some improvement in our international standing.

Main disadvantages

- (a) a loss of clarity and certainty from our law;
- (b) an inappropriate shift in the balance of power from Parliament to the judiciary;
- (c) probable costs; and
- (d) serious difficulties for particular areas of our law and practice.

Legal Proc

File

ds

**CONFIDENTIAL**



**10 DOWNING STREET**

*From the Private Secretary*

5 January 1981

The Prime Minister has seen the Chancellor of the Exchequer's minute of 30 December, about Lord Wade's proposed Bill of Rights.

She has noted the Chancellor's concerns about protection for individuals from expropriation of their property, or acts by Government which nearly deserve that description. She hopes that the work in hand on incorporating the rights established by the European Convention into our domestic legal system is already taking account of these particular problems. She agrees with the Chancellor that this should be an important consideration.

I am sending copies of this letter to Stephen Boys-Smith (Home Office), Michael Collon (Lord Chancellor's Department) and Francis Richards (Foreign and Commonwealth Office).

**M. A. PATTISON**

Peter Jenkins, Esq.,  
HM Treasury.

3/4

**CONFIDENTIAL**



*cc Mr Wolfson  
Mr Duguid*



Treasury Chambers, Parliament Street, SW1P 3AG  
01-233 3000

PRIME MINISTER

*Prime Minister*

*Does the work not  
include their  
aspects already?  
no*

*The Chancellor sees some merit  
in a Bill of Rights. Do you  
wish to endorse his request  
(para 5) for protection against  
expropriation to be considered  
seriously in the present  
work?*

*MP 31/11*

BILL OF RIGHTS

I saw the Home Secretary's Memorandum H(80)78 of 28th November, and was content with the line proposed for reacting to Lord Wade's Bill. It has, however, prompted me to think a little more widely about the whole issue.

2. I am becoming increasingly impressed by the need, if we take a reasonably long view, to do everything we can to provide individuals with some protection against expropriation - or near expropriation - of their property. We found ourselves earlier this year unable to remedy what many have regarded as very unfair compensation terms under the Aircraft and Shipbuilding Industries Act 1977. And if threats made at the Labour Party Conference are to be believed and are ever fulfilled, a position may arise in the future when property is taken without any compensation being paid at all. This absence of protection is already to some extent an inhibiting factor in privatising enterprises in the public sector; at the least it could worsen the terms on which private participation can be obtained, and at the worst it could prevent privatisation altogether.

3. I readily understand the problems involved in securing protection of this kind. It would, of course, need to be entrenched adequately in order to be effective. And I can see that it could lead to awkward and potentially embarrassing



challenges in the more general area of human rights. There could also be public expenditure implications for the administration of justice - and for the cost of remedial action if adverse judgements came to be made. But if that expenditure represented no more than the cost of preventing or righting injustice, we could hardly - in logic - complain.

4. I have given some thought to the possibilities of casting what we wish to do in a form which can be represented as taking a European initiative. I am aware that the European Commission have made a proposal that the Communities should accede to the European Convention on Human Rights. However, as I understand it, such a proposal would not ease the practical difficulties I have already referred to and would in addition pose some formidable problems of Community competence and for the relationship between the European Court of Justice and the European Commission on Human Rights. So that particular approach appears to have little to commend it.

5. That does not, however, exclude the less complex possibility - envisaged in Lord Wade's Bill - of incorporating the rights established by the European Convention into our domestic legal system. It is this possibility which is still being studied interdepartmentally. I hope that that work will take full account of the feeling that I have expressed in favour of providing, if possible, much firmer protection for individuals against the risk of expropriation of their property.

6. I am sending copies of this minute to the Home Secretary, the Lord Chancellor and the Foreign and Commonwealth Secretary.

(G.H.)

30 December 1980

30 DEC 1980

11 2 1  
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8 7 6 5 4

COPIED



10 DOWNING STREET

THE PRIME MINISTER

6 May 1980

TMP  
cc to  
CO  
CDK  
TCO  
MIO  
Legal Procedure

Dear Mr. Beith,

Thank you for your letter of 16 April about Lord Wade's Bill of Rights Bill. We wish, as you say, to discuss a possible Bill of Rights with other parties. We said in our Manifesto that this was a subject which we would wish to discuss with all parties.

However, I can see no prospect of all party talks about a Bill of Rights until the current talks on Scotland and Northern Ireland have been concluded. We shall approach the parties as soon as possible after that.

Yours sincerely  
Margaret Thatcher

Alan Beith, Esq., M.P.

BS



10 DOWNING STREET

~~Make~~

John Stevens telephoned  
about the PM's letter to  
Alan Beith MP on Lord Wade's  
Bill of Rights Bill. (It's still in  
the PM's signature folder)

They think that it is unwise  
to use the sentence quoted from  
the manifesto in the letter as  
it has been well overtaken.

See draft at flap.

Terron  
7.5.80

From: THE PRIVATE SECRETARY



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

*Legal Procedure*

30 April 1980

*Dear Mike,*

... Thank you for your letter of 23rd April asking for a draft reply to Mr. Beith's letter of 16th April to the Prime Minister. I enclose a draft.

I have sent copies of this letter and enclosures to Ian Maxwell (Lord Chancellor's Office), John Stevens (Chancellor of the Duchy of Lancaster's Office) and David Wright (Cabinet Office).

*Yours*

*Christine Stewart*

MISS C. J. STEWART

Michael Pattison Esq.,

## DRAFT LETTER

ADDRESSEE'S REFERENCE .....

<p><b>TO</b></p> <p>Alan Beith Esq MP House of Commons London SW1A 0AA</p> <p><b>(FULL POSTAL ADDRESS)</b></p>	<p><b>ENCLOSURES</b></p>	<p><b>COPIES TO BE SENT TO</b></p> <p>hidden copies to:</p> <p>Private Secretary to Lord Chancellor</p> <p>Private Secretary to Chancellor of the Duchy of Lancaster</p> <p>Private Secretary to Sir Robert Armstrong</p> <p><b>(FULL ADDRESSES, IF NECESSARY)</b></p>
--	--------------------------	--

LETTER DRAFTED FOR SIGNATURE BY Prime Minister  
(NAME OF SIGNATORY)

Thank you for your letter of 16 April about Lord Wade's Bill of Rights Bill. We wish, as you say, to discuss a possible Bill of Rights with other parties. As we said in our Manifesto (page 21, under the heading "The Supremacy of Parliament"):

"It is not only the future of the Second Chamber which is at issue. We are committed to discussions about the future government of Scotland, and have put forward proposals for improved parliamentary control of administration in Wales. There are other important matters, such as a possible Bill of Rights, the use of referendums, and the relationship between Members of the European Parliament and Westminster, which we shall wish to discuss with all parties".

However, I can see no prospect of all party talks about a Bill of Rights until the current talks on Scotland and Northern Ireland have been concluded. We shall approach the parties as soon as possible after then.

File

Legal  
Procedure



B/F 30.4.80

10 DOWNING STREET

From the Private Secretary

23 April 1980

I enclose a copy of a letter from Mr. Alan Beith, M.P. to the Prime Minister about the Bill of Rights Bill.

As you know, the Prime Minister spoke to the Lord Chancellor yesterday about this Bill, and the Lord Chancellor is to raise the matter at Cabinet tomorrow. Following that discussion, I would be grateful if you could let me have a draft reply for the Prime Minister to send to Mr. Beith. It will be helpful if this could reach us by 30 April.

I am sending copies of this letter and enclosure to Ian Maxwell (Lord Chancellor's Office), John Stevens (Chancellor of the Duchy of Lancaster's Office) and David Wright (Cabinet Office).

W. A. PATTISON

Miss Christine Stewart,  
Home Office.

TGR



PRIME MINISTER

*Legal  
Proactive*

You asked the Lord Chancellor to raise under this item the Bill of Rights Bill.

The Bill has completed progress in the Lords, but the Government are preventing further progress at present in the Commons. You and the Lord Chancellor tentatively concluded:

- i. that a Bill of Rights embodying the European Convention on Human Rights was on balance desirable, provided there was not too great a conflict with domestic legislation;
- ii. that it would therefore be in order to offer all-Party talks on the matter when the present talks on the government of Scotland have come to a conclusion;
- iii. that, simultaneously, there should be a study within Departments of the implications for domestic legislation on this proposal.

You said that this looked like a matter for the third Session.

*(Home Office note at A)*

The Home Secretary will want to speak on this, which is his departmental responsibility. The Secretaries of State for Scotland and Northern Ireland may also wish to speak, as separate legislation would be required in both cases. You may want to ask the Chancellor of the Duchy of Lancaster to comment on the prospects for the talks on the government of Scotland. The Secretary of State for Defence and the Foreign and Commonwealth Secretary may also have comments about the Bill of Rights proposal.

Subject to the discussion, you may want to record the conclusions you discussed with the Lord Chancellor yesterday, and to give instructions about approaches to the Parties and replies to the letters written by Lord Wade to the Lord Chancellor

/and Mr. Beith

and Mr. Beith to yourself. I attach Mr. Beith's letter to you,  
and the relevant extract from the Manifesto.

*MA*

23 April 1980

From: THE PRIVATE SECRETARY



**CONFIDENTIAL** HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

23 April 1980

Dear Mike,

LORD WADE'S BILL OF RIGHTS BILL (HL)

... Thank you for sending me a copy of your letter on 22nd April to Ian Maxwell about the question of a Bill of Rights, to be raised orally by the Lord Chancellor in tomorrow's Cabinet. The Home Secretary thinks the Prime Minister might like to see, in advance, the attached note which sets out the position as he sees it.

I have copied this letter and enclosure to Ian Maxwell and David Wright.

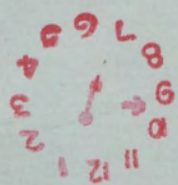
Yours,

Christie Stewart

MISS C. J. STEWART

**CONFIDENTIAL**

M. A. Pattison, Esq.



24 APR 1980

LORD WADE'S BILL OF RIGHTS BILL

1. As indicated in the letter of yesterday from Mr. Pattison at No.10, the Lord Chancellor is to raise orally at Cabinet to-morrow the question of a Bill of Rights. He wishes to seek the Cabinet's guidance about how to discharge his commitment to Lord Wade to keep him in touch with progress on the matter. There are two issues: the all-party talks and the proposed interdepartmental study of the effects on existing legislation of incorporating the European Convention on Human Rights into our domestic law.

All-Party Talks

2. The Manifesto said (page 21, under the heading "The Supremacy of Parliament"):

"It is not only the future of the Second Chamber which is at issue. We are committed to discussions about the future government of Scotland, and have put forward proposals for improved parliamentary control of administration in Wales. There are other important matters, such as a possible Bill of Rights, the use of referendums, and the relationship between Members of the European Parliament and Westminster, which we shall wish to discuss with all parties".

3. On 30 October 1979 the Home and Social Affairs Committee considered a memorandum (H (79) 8) by the Home Secretary and Lord Chancellor about a Bill of Rights introduced by

/Lord

E.R.  
Lord Wade. The Committee concluded (H (79) 14th Meeting, Minute 1) that:-

The Lord Chancellor should announce during the Second Reading of Lord Wade's Bill that the Government would be ready to engage in discussions with all parties on a possible Bill of Rights at a suitable time.... The Home Secretary would consider further with the Chancellor of the Duchy of Lancaster what arrangements might be made for talks with other parties, but these would not be initiated until after the all-party talks on the Government of Scotland were finished.

4. Lord Wade's Bill passed the House of Lords. It is being blocked in the House of Commons: and is unlikely to make further progress.
5. During the second reading debate in the House of Lords on Lord Wade's Bill on 8 November the Lord Chancellor made clear that the Government was ready to hold the all party talks and indicated that he was considering sounding Labour and Liberal peers on the prospect of agreement being reached to hold talks on the incorporation of the European Convention on Human Rights into our domestic law. The Lord Chancellor subsequently wrote to House of Lords Liberal and Labour leaders. So far as is known he has so far received no response from them, but the Liberal Party has pressed for time to be made available in the House of Commons for consideration of Lord Wade's Bill.

6. Talks with the Labour and Liberal Parties about the Government of Scotland (i.e. the handling of Scottish Parliamentary business) have now started. We understand that all three parties are keen to make constructive progress and that it is possible that the talks will come to an end at some point this summer.
7. In the circumstances it would be best to adhere to the view taken by H Committee last October, that talks on a Bill of Rights should not be initiated until the talks on Scotland have been concluded.

Proposed Interdepartmental Study

8. The implications of incorporating the European Convention into our law, including the effects on existing legislation, have already been considered both by a House of Lords Select Committee under the Chairmanship of Lord Allen of Abbeydale, which reported in 1978, and, in more detail, by an Interdepartmental Working Group under Mr Cubbon (as he then was), whose report\* was published by Mr Jenkins in 1976. There may not be much scope for further work on these matters in advance of decisions on the major issues of principle. But if Ministers wish the matter to be pursued further by officials at this stage it would be appropriate for the Home Office to take the lead, as before. This would have to be on the understanding that such work would not prejudice the progress of more urgent Home Office business.

\*copy attached

Home Office, SW1

23 April 1980

23 April 1980

I am writing on behalf of the Prime Minister to acknowledge your letter to her of 16 April about the Bill of Rights Bill.

The Prime Minister has seen your letter and will be replying to you shortly.

M. A. PATTISON

Alan Beith, Esq., M.P.



C

We will encourage the improvement of language training in schools and factories and of training facilities for the young unemployed in the ethnic communities. But these measures will achieve little without the effective control of immigration. That is essential for racial harmony in Britain today.

## THE SUPREMACY OF PARLIAMENT

In recent years, Parliament has been weakened in two ways. First, outside groups have been allowed to usurp some of its democratic functions. Last winter, the Government permitted strike committees and pickets to take on powers and responsibilities which should have been discharged by Parliament and the police. Second, the traditional role of our legislature has suffered badly from the growth of government over the last quarter of a century.

We will see that Parliament and no other body stands at the centre of the nation's life and decisions, and we will seek to make it effective in its job of controlling the Executive.

We sympathise with the approach of the all-party parliamentary committees which put forward proposals last year for improving the way the House of Commons legislates and scrutinises public spending and the work of government departments. We will give the new House of Commons an early chance of coming to a decision on these proposals.

The public has rightly grown anxious about many constitutional matters in the last few years—partly because our opponents have proposed major constitutional changes for party political advantage. Now Labour want not merely to abolish the House of Lords but to put nothing in its place. This would be a most dangerous step. A strong Second Chamber is necessary not only to revise legislation but also to guarantee our constitution and liberties.

It is not only the future of the Second Chamber which is at issue. We are committed to discussions about the future government of Scotland, and have put forward proposals for improved parliamentary control of administration in Wales. There are other important matters, such as a possible Bill of Rights, the use of referendums, and the relationship between Members of the European Parliament and Westminster, which we shall wish to discuss with all parties.

CONFIDENTIAL



File

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10 DOWNING STREET

From the Private Secretary

B/F 23 4 80  
for Cabinet

22 April 1980

The Lord Chancellor spoke to the Prime Minister this morning about the future handling of Lord Wade's Bill of Rights Bill. As a result of his earlier discussions with Lord Wade, he felt he had an obligation to return to the matter with the Bill's sponsor. He had made approaches to the Labour Party, but had had no response from that quarter.

The Lord Chancellor explained his view that there would be some value in embodying the European Convention on Human Rights in domestic law, and that such legislation would not infringe on Parliamentary sovereignty nor would it require major derogations for other domestic legislation. There would need to be some derogations for the avoidance of doubt. He had, over time, come round to a position of mild support for such legislation.

The Prime Minister said that she favoured a Bill of Rights if it could be effective, and if it would not require a great many derogations. In view of the timetable, there was unlikely to be room for this before the third Session of Parliament. The Lord Chancellor said that it would be consistent with his earlier discussion with Lord Wade to say either that there could be no further action until the all-Party talks on the Government of Scotland were concluded, or that the Government would itself introduce an improved Bill in the next Session. The Prime Minister said that she was prepared to agree that the matter should be the subject of all-Party talks after the Government of Scotland discussions had concluded, and that there should simultaneously be a study in Departments on how a Bill of Rights would affect existing legislation. This would probably be an item for the Parliamentary programme in the third Session. She asked the Lord Chancellor to raise the matter orally at Cabinet on 24 April under the Parliamentary Affairs item.

I understand that the Cabinet Office will note on the agenda for the 24 April Cabinet that the Lord Chancellor will mention this matter.

I am sending copies of this letter to Christine Stewart (Home Office) and David Wright (Cabinet Office).

M. A. PATTISON

Ian Maxwell, Esq.,  
Lord Chancellor's Office.

CONFIDENTIAL

PRIME MINISTER

cc Miss Stephens  
Mr. Gow

The Lord Chancellor would like to have a brief chat with you about the Bill of Rights Bill. Alan Beith has written to you on this (attached) and Lord Wade has also written to the Lord Chancellor.

Lord Hailsham has no qualms about holding this conversation with Prince Andrew present, and we have therefore pencilled it in for 1215 tomorrow. This will add a little variety to the Prince's day, where your other meetings are mainly on Civil Service matters.

Agree to see Lord Hailsham tomorrow?

MAP

21 April 1980

From: Alan Beith MP



HOUSE OF COMMONS  
LONDON SW1A 0AA

16th April 1980

*Dear Mrs Thatcher*

You will recall that the Bill of Rights Bill, which has passed through the Lords and now awaits a Second Reading in the Commons, has been the subject of discussions between its sponsor, Lord Wade, and the Lord Chancellor. Both the Lord Chancellor and the Lord Advocate have stated that the Government would welcome all-party talks on the Bill. The Parliamentary Liberal Party has now considered the matter: We very much regret that the Government is blocking progress on the Bill in the Commons and that time has not been found for a Second Reading debate. We do, however, believe that the issue is so important that all-party talks should go ahead without delay.

Lord Wade will be communicating with the Lord Chancellor in similar terms.

*Yours sincerely*

*Alan Beith*

The Rt. Hon. Margaret Thatcher, MP.,  
The Prime Minister,  
10 Downing Street,  
London SW1.



HS  
cc HO  
LCO

10 DOWNING STREET

THE PRIME MINISTER

31 December 1979

Dear Mr. Smith,

Thank you for your letter of 13 December about Lord Wade's Bill of Rights and my reply to your recent Question in the House,

As you quite rightly point out, the present version of Lord Wade's Bill does not attempt to entrench the provisions of the European Convention on Human Rights in our law, though at Committee Stage Lord Wade moved an amendment which would indeed have introduced an important degree of entrenchment. The Lord Chancellor advised against the amendment and Lord Wade withdrew it.

As to our policy towards this Bill, I believe that such an important constitutional change should proceed as far as possible on the basis of agreement. Our manifesto at the General Election included a possible Bill of Rights among the subjects suggested for consultation between all parties. The Government intends to approach other parties on this matter at a suitable time. As you may know, the Lord Chancellor has already written to the Liberal and Labour leaders in the House of Lords to seek their views on the prospects for such talks.

/ I see JS

I see that the Bill is now down for Second Reading on 8 February, but I think it is clear that, in view of the very full Parliamentary timetable before us, it is unlikely to make significant progress in the Commons this session. You may recall that the Lord Chancellor made this point to Lord Wade on Second Reading.

Yours sincerely

Alan Beith

Alan Beith, Esq., M.P.



HOME OFFICE  
QUEEN ANNE'S GATE LONDON SW1H 9AT

21 DEC 1979

Dear Nick,

... You wrote to Ian Maxwell on 14th December enclosing a copy of a letter which the Prime Minister had received from Alan Beith. This is really a Home Office matter and I enclose a draft letter for the Prime Minister's consideration.

At their meeting on 7th November the Legislation Committee agreed that as there was no prospect of there being Parliamentary time available in the Commons for Lord Wade's Bill to be debated he was to be urged to withdraw his Bill. As he has not done so, the Whips have arranged for the Bill to be blocked in the Commons. While Mr. Beith speaks of the "encouraging line" taken by the Lord Chancellor, it is fair to remind him that Lord Hailsham made it clear on Second Reading that the Bill had no chance of becoming law this session.

In his letter, Mr. Beith correctly points out that entrenchment is not a feature of Lord Wade's Bill. However, he incorrectly states that entrenchment was not advocated during the Bill's passage through the Lords. Lord Wade himself proposed an amendment at Committee Stage which would have introduced an important degree of entrenchment, though he withdrew it, on the advice of the Lord Advocate and the Lord Chancellor.

... I enclose a copy of Lord Wade's Bill, as brought from the Lords, for your information.

I have sent Ian Maxwell a copy of this letter and of the draft letter to Mr. Beith.

Yours

Christine Stewart

MISS C. J. STEWART

DRAFT LETTER

ADDRESSEE'S REFERENCE .....

TO	ENCLOSURES	COPIES TO BE SENT TO
<p>Alan Beith, Esq., M.P. House of Commons, LONDON. SW1A 0AA</p> <p>(FULL POSTAL ADDRESS)</p>		<p>Home Office Lord Chancellor's Department</p> <p><i>type form CCIG</i></p> <p>(FULL ADDRESSES, IF NECESSARY)</p>

LETTER DRAFTED FOR SIGNATURE BY ..... PRIME MINISTER  
(NAME OF SIGNATORY)

Thank you for your letter of 13th December about Lord Wade's Bill of Rights and my reply to your recent question in the House.

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progress in the Commons this session. You may recall that the  
Lord Chancellor made this point to Lord Wade on Second Reading.

FROM THE PRIVATE SECRETARY



HOUSE OF LORDS,  
SW1A 0PW

19th December 1979

J.A. Chilcot Esq.,  
Private Secretary to  
The Secretary of State for the  
Home Department,  
Queen Anne's Gate,  
London S.W.1.

Vms

Dear John,

You will have received a copy of Nick Sanders' letter to me of 14th December 1979 and its enclosures, relating to Alan Beith's letter to the Prime Minister of 30th December about a Bill of Rights.

I understand that our respective officials have been in touch concerning this, and that your Department will now be putting up a draft reply. This letter is merely to confirm that arrangement.

I am sending a copy of this letter to Nick Sanders and to John Stevens.

Yours sincerely

Jan Maxwell

120 DEC 1979

12 1 2 3 4 5 6 7 8 9 10 11 12



10 DOWNING STREET

*From the Private Secretary*

14 December 1979

cc HO. RD  
C. Dickey

Mr. A. BEITH  
(Bill's Rights)

I attach a letter the Prime Minister has received from Alan Beith MP, together with the relevant extract from Hansard. Could you please let me have a draft reply for the Prime Minister to send to Mr Beith, ideally to reach us by 12.00 hrs on Friday, 21 December?

I am copying this letter and its enclosures for information to John Stevens and John Chilcot.

N. J. SANDERS

I Maxwell Esq  
Lord Chancellor's Office

TWR

RH.



10 DOWNING STREET

*From the Private Secretary*

14 December 1979

I am writing on behalf of the Prime Minister to thank you for your letter of 13 December about your question in the House on 11 December on the subject of the Bill of Rights. I will place your letter before the Prime Minister and you will be sent a reply as soon as possible.

N. J. SANDERS

Alan Beith Esq MP  
House of Commons

TCR

From Alan Beith MP



HOUSE OF COMMONS  
LONDON SW1A 0AA

13th December 1979

*R412*

*Dear Mrs Thatcher,*

I am sorry not to have given notice before raising the Bill of Rights at Question Time on Tuesday. You may not have realised when you replied to me that entrenched clauses are not a feature of the Bill, and were not advocated during its passage through the Lords.

It would be useful to know whether the encouraging line taken by the Lord Chancellor in the Lords is going to be similarly pursued in the Commons by the Government.

*Yours sincerely  
Alan Beith*

The Rt Hon Mrs Margaret Thatcher MP  
Prime Minister  
10 Downing Street  
London SW1

H. R.

11 December 1979

OFFICIAL REPORT:

VOLUME

COLUMN 1073

**Mr. Beith :** When the Prime Minister consults her colleagues, will she take the opportunity to clarify the Government's attitude to the Bill of Rights which was introduced by Liberals in another place and which has passed all its stages in that place? Has she noticed that Lord Denning has added his voice to those who want to see that Bill enacted?

**The Prime Minister :** There are many hon. Members who would wish to have a Bill of Rights. The question is whether one could ever entrench such a Bill in our constitution. It is doubtful whether, having the doctrine of parliamentary supremacy, we could ever entrench a Bill of Rights in this country. In theory it is possible to entrench it by a referendum, but I do not believe that under our constitution we could be certain that it would stay there.

