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Prime Minister
No print response to
the Attorney-General's letter
which you saw earlier today,
together with a letter he
sent the Lord Chancellor
earlier in the day.

Rt Hon Sir Michael Havers QC MP
Attorney General
Law Officers' Department
Attorney General's Chambers
Royal Courts of Justice
LONDON WC2A 2LL

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30 June 1980

Dear Michael

Employment Bill: Clause 17

fly A.

Your letter of 30 June has evidently crossed with mine of the same date to the Lord Chancellor which I copied to you. You will have seen from that letter and its enclosed draft reply to Sir John Stebbing that I do not think the fears expressed in the letters to the Prime Minister from the President of the Law Society and the Chairman of the Bar are at all well founded. Indeed, in some respects what they say is plainly wrong.

There is no uncertainty about the policy to which the Clause is intended to give effect. That policy was adopted by E Committee on 23 March and the draft clause giving effect to it was approved by Legislation Committee on 1 April. Because of the importance of the issue, we took the unusual step of appending a statement of the policy to the paper for Legislation Committee (L(80)26). I believe you were present at both meetings.

Nothing that has happened since then has caused me to doubt that the policy agreed by E is the right one or to suppose that the expression given to it in the Bill is defective. The amendments put down in the Lords by Orr Ewing and others (to which both Sir John Stebbing and Peter Taylor refer) are of course designed to implement a quite different policy, namely, limiting immunity to primary action alone. They are not, as the letters to the Prime Minister seem to suggest, designed primarily to achieve greater clarity of drafting than Clause 17.

My objective throughout has been to devise the clearest and most direct legislative expression of our agreed policy. Clause 17 was approved by Legislation Committee as getting as near as any draft was likely to get to that objective and Parliamentary Counsel's letter of 31 March to you explained why he had drafted the Clause in this particular form and how he expected it to operate. If even at this late stage - the Lords are due to debate the Bill on Report on Monday



and Tuesday of next week - some way can be found of improving the drafting of the Clause in order to give effect the better to the agreed policy, I would of course be very happy to consider it and I have asked my office to arrange for us to meet to discuss this tomorrow.

I am copying this letter to the Prime Minister (with a copy of my letter of earlier today to the Lord Chancellor which she may find it helpful to see at this stage) and to the Lord Chancellor.

— May B.