



CCBJ

HOUSE OF LORDS,  
SW1A 0PW

RESTRICTED

24 September 1984

*Ancient had Chief Justice  
and Home Sec's reply.*

*My dear Leon:*

TIME LIMITS IN CRIMINAL PROCEEDINGS

*24/9*

Thank you for copying to me your letter of 17 September to Willie Whitelaw. As you say in your letter I continue to have doubts about the value of statutory time-limits and I think it as well that colleagues should know what those doubts are.

I believe the principal concern of the public is that criminals should not escape justice and that they should be properly punished when convicted. In my view there is nothing more damaging to public confidence in our system of justice than the acquittal of people who otherwise would be convicted because of the breach of a technical rule unrelated to the merits of the case. There is legitimate concern, which I fully share, about delay in the courts; but this cannot be overcome by the elimination from the lists of some of what in my view might be the more serious cases. Thus I take it as essential to any system of time limits that it should include provisions for extending the limit or exempting cases from it so as to prevent unmeritorious acquittals. I believe you would accept this. But in my view this would mean that it would have to be drawn so widely that, like the 8 week rule in the Crown Court Rules, the limit would be more honoured in the breach than the observance.

In my evidence to the Home Affairs Committee of the House of Commons I showed that the factors which cause delay, at least in the Crown Court, are seldom due to delay by the prosecution. Such factors are the complexity of cases, unavailability of witnesses, or their mysterious disappearance, the need to link up with other cases, the need to have the gravest cases tried by the most experienced judges, and so forth. All these would be good reasons to extend any time-limit. As a result the time-limit would become a hollow gesture. Moreover, the aim of very many of the most culpable defendants is to initiate plausible reasons for delaying trial.

I do not believe that statutory time-limits would actually reduce delay. I also suspect that this would rapidly become apparent in the passage of any necessary legislation through Parliament, and if such legislation were passed the working

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The Right Honourable Leon Brittan QC MP  
Secretary of State for the Home Department  
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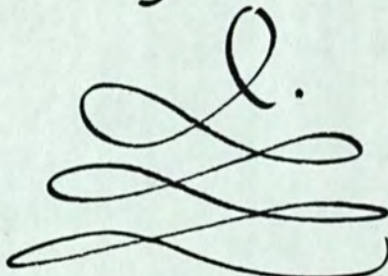
of the except<sup>is</sup> would produce constant pressures both from the law and order enthusiasts and the civil rights lobbies. We should indeed be preparing in pickle a rod for our own backs.

Finally, time-limits could actually be counter-productive: a limit of 100 days, for instance, which you mention in your paper, would probably conduce to slackness outside London where the average waiting time in a custody case is now only 58 days.

All this is, of course, primarily for you and the Attorney General, especially bearing in mind the administrative responsibilities he will soon have for prosecutors. Furthermore, it is the judiciary who would have to administer any system of time-limits, and I note that you have written to the Lord Chief Justice about your proposal. We must see what he says in reply before coming to conclusion<sup>s</sup>.

I am copying this letter to the Prime Minister, the other members of H Committee, the Attorney General and Sir Robert Armstrong.

yrs:

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and flourishes.

Have Always

JUL 79

Sentency Policy

25 SEP 1984

