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Why the European Human Rights Convention should not be part of our law

Mr Grotrian (20 March 1978) disposes of the red herring which Mr Thornberry (13 March) drew across this correspondence by suggesting that incorporation of the European Convention into our domestic law would reduce existing rights conferred by that law. Perhaps we can now return to the real difficulties involved in the incorporation of the Convention. These are first that the obscurity of our domestic law would be increased and secondly that non-elected judges would be given powers which properly belong to elected representatives.The first difficulty (if anyone doubts its force) is demonstrated by the examples Mr Grotrian gives. Thus he says that *Habeas corpus* would continue to be available 'in addition to any wider remedy which the Convention might be held to provide'. We should therefore have a long period of uncertainty while the courts worked out whether the Convention did indeed provide a wider remedy, and if so what it was exactly. Similar obscurity would be caused by most of the other provisions of the Convention. We can avoid both of these serious objections and still gain the advantages for civil liberty afforded by the Convention if we first identify the areas where our domestic law falls short of the requirements of the Convention, and then remedy the omissions by detailed legislation dovetailing into our existing law. The bodies concerned with promoting human rights could help in this - both by framing draft Bills and by pressing the Government to adopt them.[1]

[1] *The Times*, 5 April 1978.