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Conclusions

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CABINET

CONCLUSIONS of a Meeting of the Cabinet
held at 10 Downing Street on
THURSDAY 7 MARCH 1985
at 10.00 am

P R E S E N T

The Rt Hon Margaret Thatcher MP
Prime Minister

The Rt Hon Lord Hailsham of St Marylebone
Lord Chancellor

The Rt Hon Leon Brittan QC MP
Secretary of State for the Home Department

The Rt Hon Sir Keith Joseph MP
Secretary of State for Education and Science

The Rt Hon Michael Heseltine MP
Secretary of State for Defence

The Rt Hon Nicholas Edwards MP
Secretary of State for Wales

The Rt Hon John Biffen MP
Lord Privy Seal

The Rt Hon Norman Tebbit MP
Secretary of State for Trade and Industry

The Rt Hon Michael Jopling MP
Minister of Agriculture, Fisheries and Food

The Rt Hon Nicholas Ridley MP
Secretary of State for Transport

The Rt Hon Earl of Gowrie
Chancellor of the Duchy of Lancaster

Rt Hon Viscount Whitelaw
President of the Council
Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign and
Commonwealth Affairs
Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
Rt Hon Peter Walker MP
Secretary of State for Energy
Rt Hon George Younger MP
Secretary of State for Scotland
Rt Hon Patrick Jenkin MP
Secretary of State for the Environment
Rt Hon Norman Fowler MP
Secretary of State for Social Services
Rt Hon Tom King MP
Secretary of State for Employment
Rt Hon Peter Rees QC MP
Deputy Secretary, Treasury
Rt Hon Douglas Hurd MP
Secretary of State for Northern Ireland

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THE FOLLOWING WERE ALSO PRESENT

The Rt Hon Sir Michael Havers QC MP
Attorney General

The Rt Hon Lord Cameron of Lochbroom QC
Lord Advocate (Item 6)

Sir Patrick Mayhew QC MP
Solicitor General (Item 6)

The Rt Hon John Wakeham MP
Parliamentary Secretary, Treasury

Mr John Gummer MP
Paymaster General

SECRETARIAT

Sir Robert Armstrong
Mr P L Gregson (Items 4 and 5)
Mr D F Williamson (Items 2 and 3)
Mr B G Cartledge (Items 2 and 3)
Mr C J S Brearley (Items 1 and 6)
Mr A J Wiggins (Items 4 and 5)
Mr R Watson (Items 1 and 6)

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PARLIAMENTARY
AFFAIRS

1. The Cabinet were informed of the business to be taken in the House of Commons during the following week.

Conflict of
Interest in
the House
of Commons

THE SECRETARY OF STATE FOR ENERGY said that he was concerned about the tendency of Select Committees to appoint as advisers people with strongly held, publicly known and often extreme positions on subjects about which they would be advising. An example had just occurred with the appointment as an adviser to the Environment Select Committee of a leader of the opponents of nuclear power at the Sizewell Inquiry. Although the Committee had a second adviser who was more in favour of nuclear power, his appointment by no means balanced the first.

In discussion, it was pointed out that difficulties were arising in Parliament not only as a result of the appointment of inappropriate advisers to Select Committees, but also because certain Members of Parliament (MPs) were retained to represent specific interests. They then spoke and voted in response to the views of their paymaster rather than in the interest of their constituents and the nation. This was contrary to the strict rules of the House of Commons and went further than the expression of general views by, for example, a farmer or a company director.

THE PRIME MINISTER, summing up a brief discussion, said that there were obvious dangers in attempting to alter current practice on Members' interests. Nevertheless the present position was unsatisfactory and open to criticism and should be examined. The first stage would be for the Government to determine how it thought the role of MPs as lobbyists should be constrained, given the similarities, which were bound to be pointed out, between a paid lobbyist and a MP who had a second source of income as a farmer or a member of Lloyds, for example. The issue should be examined by a small group of Ministers, in the light of further information about the present position.

The Cabinet -

1. Took note, with approval, of the Prime Minister's summing up of their discussion and instructed the Secretary of the Cabinet to prepare material as a basis for further discussion.

Scottish
Rate Levels

THE SECRETARY OF STATE FOR SCOTLAND said that he would that day be making a statement on the increase of local authority rates in Scotland as a result of the recent revaluation and measures which he intended to take as a result. It would not deal with the unacceptably large

increases by Edinburgh District Council. Action on this would depend on the operation of Scottish rate limitation legislation and more time was required to go through the necessary procedures.

Mortar
Attack on
Newry Police
Station

THE SECRETARY OF STATE FOR NORTHERN IRELAND said that the tragic mortar attack on Newry police station did not represent the use of a new technique by the Irish Republican Army. Press reports to the contrary had been rebutted, as had suggestions that the Catholic community in Newry were rejoicing at the terrible event. Further action was being taken to protect police stations from this kind of attack.

The Cabinet -

2. Took note.

FOREIGN
AFFAIRS

Nigeria

Previous
Reference:
CC(85) 7th
Conclusions,
Minute 2

2. THE FOREIGN AND COMMONWEALTH SECRETARY said that it was still unclear whether the trial in Nigeria of the two British employees of Bristow Helicopters Limited, which was due to take place on 19 March, would be turned into a political event or into a pretext to hold the two men hostage. Present indications were that this was not likely to happen; but there could be no guarantee as to the outcome. The two men, who had been involved in servicing an aircraft which had subsequently left Nigeria illegally and had therefore been accused of complicity in its departure, had been transferred to a maximum security gaol on 15 February. The conditions of their detention had markedly deteriorated and on 5 March consular access to the detainees had for the first time been denied. Strong representations had been made both to the Nigerian Acting High Commissioner in London and in Lagos: everything possible would be done to secure an improvement in conditions for the two prisoners and to regain consular access to them. Publicity in the United Kingdom for their predicament could be expected.

Libya

Previous
Reference:
CC(85) 6th
Conclusions,
Minute 2

THE FOREIGN AND COMMONWEALTH SECRETARY said that a meeting between British and Libyan officials had taken place, as planned, in Rome on 5 March. It had been made clear to the Libyans that the meeting did not constitute a prelude to a restoration of normal relations and that it was not the first in a series of such exchanges. The Libyans had complained strongly about the British Government's attitude towards Libyan dissidents in the United Kingdom and about the alleged difficulties encountered by Libyan students here. They had not made an issue of the sentences imposed recently on four Libyans in Manchester. The British response to Libyan complaints had been firmly discouraging; British officials had stressed the British Government's grave concern over Libyan threats of support for the Irish Republican Army and for

other terrorist activity. The Libyans had not been encouraged to expect a restoration of consular relations, and no arrangements had been made for further meetings, although the Italian authorities had offered to host one in a few months' time.

Turks and
Caicos
Islands

THE FOREIGN AND COMMONWEALTH SECRETARY said that a difficult situation had arisen in the Turks and Caicos Islands. This dependent territory, with a population of under 8,000, was progressing towards independence on the Tuvalu model but so far had a relatively unsophisticated constitution, under which an elected Legislature chose a Chief Minister. The present incumbent of this office, Mr Norman Saunders, had been arrested, together with two political colleagues, by the United States Drug Enforcement Administration in Miami on 5 March on charges relating to drug trafficking. They were due to appear before a Grand Jury in ten days' time, and bail of \$2 million was being demanded by the United States authorities. This created problems for the government of the Islands. The Governor took the view that government could not continue under the leadership of a Chief Minister who was either under detention in the United States or awaiting trial on bail. The Governor was therefore seeking to secure Mr Saunders's resignation. There were some indications that other members of the Administration, including the Second Minister, Mr Francis, might help to bring about this outcome. If, as a result of his detention, the Chief Minister failed to attend meetings of the Legislature, he could be required to resign on this account. In the last resort, however, it might be necessary to empower the Governor, through an Order in Council, to remove Ministers who faced serious criminal charges. Such action might be open to accusations of high-handedness or of presuming the guilt of the accused. The British Government was in the ambiguous position of being concerned, on the one hand, to do everything possible to stop traffic in drugs but, on the other, of being obliged to respond to appeals for consular protection for the Chief Minister and his colleagues while they were in the United States. Such an appeal had in fact been lodged, and British consular officials were on their way to visit the detainees. The question of bail, and of any possible liability by the British Government to provide it, would take some days to resolve. If the Chief Minister were to be released on bail, his eventual return to the United States to stand trial would be dependent on the normal extradition procedures. In the meantime, necessary precautions for maintaining internal security in the Turks and Caicos Islands were being taken: the Royal Navy's Caribbean guard ship was on station within two hours' sailing time from the Islands; and a company of British troops in Belize was on seven hours' notice to move. Two officers of the Metropolitan Police Special Branch were on their way to the Islands. In Parliament, a Private Notice Question on the episode had been disallowed on the previous day but might well be revived.

In a short discussion, it was noted that in equity a voluntary resignation by the Chief Minister, although the best outcome to aim for, should in theory be temporary, pending the determination of his

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innocence or guilt; although in practice he would be obliged, if found innocent, to regain his position afresh through the relevant constitutional procedures. The possibility that the United States authorities might fail to sustain their charges against Mr Saunders could not be excluded; but the evidence against him was strong and the sums of money involved substantial.

Iran/Iraq

Previous
Reference:
CC(84) 33rd
Conclusions,
Minute 3

THE FOREIGN AND COMMONWEALTH SECRETARY said that, in a further flare-up of activity in the Gulf War, an Iranian bombardment of Basra had been countered by an Iraqi missile attack on the Iranian town of Desful. The necessary precautions for the safety of British subjects in Basra were being taken. The United Nations Secretary-General had again appealed to both sides to cease hostilities.

Zambia

THE FOREIGN AND COMMONWEALTH SECRETARY said that one of three people whom the police, acting on information provided by Her Majesty's Customs and Excise, had arrested on 21 February for being found in possession of 1½ kilos of heroin, had implicated a fourth individual who turned out, on investigation, to be a Third Secretary at the Zambian High Commission in London, Mr Godfrey Lubinga. Mr Lubinga had claimed diplomatic immunity in order to frustrate a search of his residence. A request had subsequently been made to the Zambian Government for the waiving of Mr Lubinga's diplomatic immunity; this request had been granted on the personal instructions of President Kaunda, who was strongly opposed to traffic in drugs. As a result of this helpful response by the Zambian President, Mr Lubinga was being detained for investigation, pending his possible trial.

New Zealand

Previous
Reference:
CC(85) 7th
Conclusions,
Minute 2

THE PRIME MINISTER, in a short discussion of the policy of the New Zealand Government with regard to calls at New Zealand ports by naval vessels either carrying nuclear weapons or under nuclear power, said that during his call on her on 4 March the New Zealand Prime Minister, Mr David Lange, had professed confidence that a way could be found of ensuring that ships of the Royal Navy did not breach his Government's policy. The Prime Minister said that she, for her part, had made it clear that she saw no such possibility and that there could be no question of either confirming or denying the carriage of nuclear weapons by Royal Navy ships. It had been clear from the discussion that, although Mr Lange was concerned to find a way off the political hook on which he had impaled himself, he had not thought the issue through and had no realistic ideas on how it could be resolved.

In further discussion, it was noted that the United Kingdom should do nothing to abet an irresponsible policy which sought to differentiate

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between United States and British naval deployments and that, in present circumstances, a visit to New Zealand by Royal Navy ships planned for 1986 could not proceed. It was pointed out that New Zealand's readiness, in two world wars, to send her troops halfway round the world in the defence of freedom created compelling grounds for the continued defence of New Zealand's interests by the United Kingdom, particularly in the European Community; but that a weakening of New Zealand's commitment to Western defence could call this support into question; it carried, in any case, significant penalties for the United Kingdom in terms of goodwill in the European Community. Reactions by her Allies to New Zealand's ill-considered policy should not be such as to reinforce Mr Lange's commitment to it by enhancing his domestic political position. Given the fact that alternative ports of call for United States naval vessels were geographically so far distant, however, the strength of the American response was understandable.

The Cabinet -

Took note.

COMMUNITY AFFAIRS

Enlargement of the Community

Previous Reference: CC(85) 7th Conclusions, Minute 3

3. THE FOREIGN AND COMMONWEALTH SECRETARY said that all the unresolved issues in the negotiations on the enlargement of the Community would come to the Council of Ministers (Foreign Affairs) on 17-20 March. On 17 March the United Kingdom had successfully held together the group of five member states who had taken a common position. It would now be necessary to push through a satisfactory solution. On integrated Mediterranean programmes there would be a continuing battle to cut down Greek expectations.

Finance

Previous Reference: CC(85) 4th Conclusions, Minute 4

THE FOREIGN AND COMMONWEALTH SECRETARY said that an apparent understanding between the Federal German Chancellor, Herr Kohl, and President Mitterrand of France on the handling of the Community budget and the revised own resources decision concealed a disagreement. The French thought that the Germans had accepted to go ahead with the revised decision providing new resources from 1 January 1986 at the latest, but the Germans had made this conditional on ratification of the accession treaties with Spain and Portugal. Such misunderstandings or changes in the German position had become more common and were causing some frustration within the Community. In discussion it was said that it was becoming unrealistic to expect that the United Kingdom's 1,000 million ecu abatement would be implemented in 1985 through the revised own resources decision. If so, there would be criticism, which could be of political importance. It might therefore be better to press

now for the abatement to be covered in an intergovernmental agreement. On the other hand, it was argued that, although in the end the decision might be to implement the United Kingdom's abatement in 1985 through an intergovernmental agreement, this could give rise to difficulties in the Parliaments of some member states. It was too soon to conclude that it could not be implemented through an article in the revised own resources decision. Both options could be kept open, at least in the next Foreign Affairs Council. It was also pointed out that the Germans were increasingly taking the view that, because they were the largest net contributors to the Community budget, they should get what they wanted on certain national interests; recent examples were the authorisation of national payments to German farmers, the dispute at the Dublin European Council on the addition of sugar to German wine and the current difficulties which Germany was making on the handling of the Community budget and the increase in own resources.

The Cabinet -

Took note.

INDUSTRIAL
AFFAIRS

Coal Industry
Dispute

Previous
Reference
CC(85) 7th
Conclusions,
Minute 4

4. THE SECRETARY OF STATE FOR ENERGY said that, following the decision of a special delegate conference of the National Union of Mineworkers (NUM) on 3 March, there had been a return to work on 5 March without a negotiated settlement. As might have been expected, there had been resistance to a resumption of work in a few areas, but the percentage of NUM members not on strike was expected to rise to some 98 per cent that day, the main exceptions being around 1,000 miners in Scotland and the bulk of the 2,000 miners in Kent. The National Coal Board (NCB) was now rapidly stepping up movements of coal to power stations so as to ensure adequate endurance in the autumn, and oilburn was being gradually reduced. There would continue to be difficulties for a period over the dismissal of miners found guilty of serious criminal and disciplinary offences. The Select Committee on Employment had announced that it would be undertaking an inquiry into that issue. The NCB would now press ahead with its plans to decentralise decision making and to bring capacity into a more realistic relationship with demand. The Board would endeavour to honour its agreement with the National Association of Colliery Overmen, Deputies and Shotfirers, but the attitude of the NUM would make it difficult to achieve a generally accepted revision of the colliery review procedure.

THE SECRETARY OF STATE FOR EMPLOYMENT said that the manner in which the return to work had occurred would raise difficult issues about whether the dispute could be deemed to have ended for the purpose of the rules about eligibility for unemployment benefit. The line to take was that this was a matter for the Chief Adjudication Officer in each area.

THE SECRETARY OF STATE FOR TRANSPORT said that the blacking of coal movements by railwaymen had ceased and that British Rail (BR) was already moving all the coal offered to it. The rail unions had tabled a

claim for a 30 per cent increase in pay despite the losses incurred by BR as a result of the coal strike. It seemed possible however that the claim would not be pursued vigorously and that an early settlement at a reasonable level might be secured.

The Cabinet -

1. Congratulated the Secretary of State for Energy on the ending of the miners' strike.
2. Took note.

Industrial Action by Teachers

Previous Reference: CC(85) 7th Conclusions, Minute 4

THE SECRETARY OF STATE FOR SCOTLAND said that the industrial action by Scottish teachers was continuing, including selective strikes in Ministers' constituencies. The parents of the children affected seemed reluctantly to appreciate that there was little that the Government could do; it might be necessary before long to seek to escalate the dispute, but this could well prove unpopular. The fact that the local authority employers were generally sympathetic to the teachers meant that there was no real prospect of any effective action being taken against the individuals involved in the selective strikes.

THE SECRETARY OF STATE FOR EDUCATION AND SCIENCE said that in England and Wales selective strikes were causing more trouble in cities than in the shire county areas, while the withdrawal of teachers' goodwill was having a disruptive effect throughout the country.

In further discussion the following points were made -

- a. There was continuing concern about the success of the tactic of seeking to put pressure on Ministers through their position as constituency Members of Parliament. Despite the view of the House authorities that this did not amount to an attempt to put improper pressure on Parliament, it was felt that selective action by teachers against all supporters in Parliament of one particular party should be regarded as a breach of privilege, and that action against a limited number of the supporters of that party should equally be so regarded.
- b. Before anything was done to ventilate the arguments in public, consideration should be given to how the Government would react if the Speaker rejected a complaint of breach of privilege, and what sanctions could be imposed if a complaint were upheld by the Committee of Privileges. It would also be for consideration whether further amendments should be made to trade union law to provide for some action against individuals engaged in selective strikes, or to make trade unions financially liable for the consequences of such strikes.

THE PRIME MINISTER, summing up the discussion, said that the Cabinet remained deeply concerned about the tactics adopted by Scottish teachers in concentrating their action in Ministers' constituencies; that concern should be brought to wider public attention. The Lord Privy Seal, in consultation with the Law Officers and with the assistance of the Secretary of the Cabinet, should prepare a full statement of the case for a complaint of breach of privilege, together with an analysis of the steps open to the Government in the light of the Speaker's response. The Secretary of State for Employment, in consultation with the Law Officers, should review the scope for effective Government action to counter selective strikes intended to inflict substantial economic or political damage at minimal cost to the trade unions concerned, and the possibility of changes in trade union law which would facilitate such action.

The Cabinet -

3. Took note, with approval, of the Prime Minister's summing up of their discussion.

4. Invited the Lord Privy Seal, in consultation with the Law Officers, and with the assistance of the Secretary of the Cabinet, to prepare a statement of the case for a complaint of privilege which would serve to bring the issue before the wider public, and to consider what steps would be open to the Government in the light of the Speaker's possible response to such a complaint.

5. Invited the Secretary of State for Employment, in consultation with the Law Officers, to review the scope for effective Government action to counter selective strikes, and to consider the possible need for further changes in trade union law.

5. THE SECRETARY OF STATE FOR EMPLOYMENT said that the February figures showed a fall in unemployment of 17,000. On a seasonally adjusted basis, however, there was an increase of 20,000. His assessment remained that the underlying trend was an increase of 10,000-15,000 a month. At the same time short-time working was at its lowest, and overtime working at its highest for five years, and there had been an increase during the previous year of 340,000 in the total number of people in employment (as against an increase of 150,000 in the number of unemployed). Growth in part-time employment had been particularly marked, while there had also been an increase in the number of self-employed. Although the end of the miners' strike would not of

ECONOMIC
AFFAIRS

Unemployment
Previous
Reference:
CC(85) 4th
Conclusions,
Minute 6

itself reduce the number of unemployed, it would remove an obstacle to the improvement in the performance of the economy, and so the prospects for jobs.

The Cabinet -

Took note.

6. The Cabinet considered a memorandum by the Lord President of the Council (27/5) 6) about conveyancing by employed solicitors.

THE LORD PRESIDENT OF THE COUNCIL said that when Cabinet last considered the issue of conveyancing there were two lines of approach. One was to allow solicitors employed by banks, building societies and similar institutions to undertake conveyancing and the other was to provide for the establishment of a new profession of licenced conveyancers. At that time, it had been thought that the former would be rather easier to achieve than the latter. In practice, this had not proved to be the case and legislation to establish the profession of licenced conveyancers was now before the House of Lords in the Administration of Justice Bill. On employed solicitors, however, real difficulties of conflict of interest had emerged which made it arguable whether employed solicitors should be allowed to offer conveyancing services. A group of officials had been asked to study the problems involved and they had devised a "basic service", as described in Annex A of his memorandum, to minimise conflicts of interest. This "basic service" would not include advice about the mortgage or other financial issues or about any other matters on which the interests of borrower and lender might not coincide. The Home and Social Affairs Committee had been unable to agree whether, on this basis, conflicts of interest would be dealt with acceptably and whether the advantages which would ensue to the consumer as a result of adopting this course of action would justify the risk of reduced consumer protection. They had recognised the attractions to the consumer of the building societies providing a more comprehensive service, but also that the service would be significantly more limited than that provided by an independent solicitor. The Committee had been unable to reach a final conclusion and the issue had therefore to be referred to Cabinet for a decision.

In discussion, the following points were made -

- a. The work of the group of officials had established that such conflicts were more extensive than had been thought when the matter was first considered by the Cabinet, and the "basic service" which they had suggested minimised but did not eliminate them.

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CONVEYANCING BY EMPLOYED SOLICITORS

Previous Reference: CC(83) 37th Conclusions, Minute 4

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- b. Independent evidence had shown that the cost of conveyancing by solicitors had already been reduced as a result of increased price competition and this would be reinforced when the new profession of licenced conveyancers came into being.
- c. The "basic service" was limited by constraints upon the employed solicitor not to advise in specified areas, and whatever warnings to this effect he gave to the house purchaser, it seemed likely that in practice many purchasers, especially first time buyers, would tend to accept the services of the employed solicitor. The purchaser would view it as more convenient and might believe that it would influence his chance of securing a mortgage. He would tend to underestimate the dangers of conflict of interest, even if they had been explained to him. There must be doubts that the explanation would in fact be such as to convince an untutored customer.
- d. The arguments against the use of employed solicitors would be more impressive if they did not assume that advice currently given by independent solicitors was both effective and uninfluenced by their relationships with the building societies. At present, a purchaser going to a small independent solicitor might find himself being given advice that was considerably less able than that which might be given by a large organisation.
- e. The examples of conflict of interest which had been suggested as being seriously damaging to the use of employed solicitors would occur only in a limited number of transactions. It would be worth risking some diminution of consumer protection at the margin in order to secure the advantages to the consumer of the use of employed solicitors.
- f. Whatever the balance of advantage between reduced consumer protection and increased consumer choice, it was clear that any legislation put before Parliament would meet with considerable difficulty.
- g. One way of avoiding conflicts of interest might be to limit the use of employed solicitors to those cases where the loan was awarded by another institution. This could mean, for example, that the solicitor employed by one building society would be able to advise his client on all the aspects of a transaction, including a loan by another society, without restriction. Even a solicitor in this position might, however, seek to influence the client to transfer the mortgage transaction to his employer. The implications of such an approach needed further investigation.
- h. The position would be different when the new profession of licenced conveyancers was established. A client might reasonably expect advice on a wide range of topics from a solicitor but he would expect a licenced conveyancer to undertake conveyancing work only. The use of employed licenced conveyancers would therefore present different questions.

THE PRIME MINISTER, summing up the discussion, said that the Cabinet did not accept that the proposal for employed solicitors to provide a "basic service" (as set out in the Annex to C(85) 6) for house-buyers was a satisfactory way of resolving the problems of conflict of interest. There remained, nonetheless, a strong body of opinion that it was desirable, if at all possible, to find an acceptable way of enabling employed solicitors to undertake conveyancing. Further consideration should be given to the possibility of allowing conveyancing to be undertaken by solicitors employed by institutions other than the one undertaking the loan, or to limiting the service in other ways eg to the conveyance alone or to employed licenced conveyancers when these were established. The discussion had also revealed considerable disquiet about the quality of the service currently provided by independent solicitors and in particular the ability of the Law Society to discipline members of the profession and provide redress where inefficiency or malpractice had occurred.

The Cabinet -

1. Took note, with approval, of the Prime Minister's summing up of the discussion.
2. Invited the Lord Chancellor to consider alternative ways, including those mentioned in the Prime Minister's summing up, of enabling employed solicitors to provide services to house-buyers which would avoid the problems of conflict of interest set out in C(85) 6 and to report urgently to the Home and Social Affairs Committee in the first instance.
3. Invited the Lord Chancellor to consider what further action was needed to ensure the efficiency and probity of solicitors, and to ensure that complaints against solicitors were effectively dealt with and that redress against malpractice or inefficiency was readily available and to report to the Home and Social Affairs Committee.

Cabinet Office

7 March 1985