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c.c. Chancellor

FST MST EST



Sir Peter Middle

Mr Butler Mr Anon

Mr Kemp Mr Gilmore

Mr Bullocky Mr Kerolton

Mr Knight.

Mr Scholar Mr Croyer

Mr Lord.

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Lord Hailsham of
St Marylebone, CH, FRS, DCL
Lord Chancellor's Department
House of Lords
London
SW1A 0PW

29 January 1986

Dear Quintin,

BARRISTERS' AND SOLICITORS' REMUNERATION

Patrick Mayhew and yourself ^{with DW 2,} wrote jointly to Nigel Lawson on 24 January proposing a 20 per cent interim increase in all payments from public funds to barristers and solicitors involved in criminal prosecution and defence work, and in civil legal aid work.

I have to say that I regard this as an extremely difficult proposition. Following preliminary discussions on the Coopers & Lybrand report in the Autumn, I wrote to Patrick Mayhew and yourself on 30 November, explaining why I think that the report fails to make its case, and offering both a joint appraisal by officials and a subsequent meeting with you on the merits of the case.

The Coopers report is based on comparability, which is quite out of line with the approach of the Government to pay and remuneration issues. There were also serious flaws in its pursuit of this approach, such as the working year of only 210 days, and the fee-paid day of only 5½ hours, which led to overstatement of the comparable annual salary. Moreover, the report contains evidence that over-supply in the profession is a reason for what are seen as low earnings; but it is not a responsibility of the Government to tackle this problem, which is within the competence of the Bar Council itself. A comparison was drawn only with legal grades in the civil service, but even that was wrong: the report ignored the legal grades re-structuring which brings the suggested pay point for comparisons, and thus for the whole of the Report's conclusions on percentage increases, down from £21,000 to £18,000. I have not changed my view on any of these points since November.

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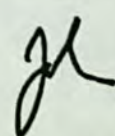
I can therefore see no defensible basis for a 20 per cent interim increase with no doubt further discussions to follow shortly thereafter on the remainder of the claim, quite apart from the fact that any such approach would hand over the initiative to the profession. You are aware of the difficulties I foresee - it would have a disastrous effect on our efforts to influence pay and remuneration in the economy generally, at a key stage in the pay round. It would be highly sensitive and damaging politically at a time when we have for sometime resisted all demands for any increase in government funds to meet the teacher's pay claim (except of course for the £1.25 billion over 4 years linked with restructuring and terms and conditions of service)

The public expenditure implications are costed in your letter at £95 million; but even this is not all, since the knock on effect on expenditure in Scotland and Northern Ireland is not considered, nor is the inflationary impact on the structure of charges for privately funded legal work, particularly on the civil side. The Reserve is under great pressure, with initiatives being proposed for example in employment measures, the urban programme and many other areas. I could not accept a £95 million call on the Reserve. To do so in the circumstances of your proposal, would simply discredit our expenditure control efforts.

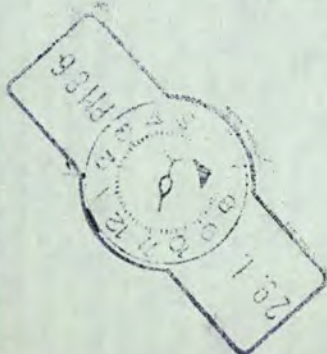
The remainder of your argument hinges on the concern of the Bar (you do not mention the attitude of the Law Society in all this) that rates are too low in real terms. I remain ready for discussion of the detailed evidence on all this, but I do not believe that it is the Government's job to tackle a problem of over-supply at the Bar by offering a higher rate than is necessary to attract competent barristers to do necessary work. The argument beyond this seems to be that the Bar is prepared to take what amounts to industrial action in order to put pressure on the Government by trying to compromise our law and order policies, and to hamper a successful start by the Crown Prosecution Service. I do not believe that we should attempt to buy off in this way a threat from a profession which is seen to have a range of restrictive practices which we tolerate only with reluctance.

I would be grateful therefore if Patrick Mayhew and yourself could reconsider your proposals. If you are unable to do so, I think that we should take the matter to colleagues in E(A).

I am copying this letter to the Prime Minister, Douglas Hurd, Tom King, Malcolm Rifkind, Michael Havers, Patrick Mayhew and Sir Robert Armstrong.

Yours ever,


JOHN MacGREGOR



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PRIME MINISTER

LEGAL AID FEES

There is a head of steam building up behind this subject, as the minutes below show.

The Lord Chancellor has also spoken to the Lord President. The Lord President reports that the Lord Chancellor is very concerned about this. The Lord Chancellor thinks that the Law Officers are in a resigning mood. The Lord President thinks that the Lord Chancellor is exaggerating. But he believes a concession will need to be made by the Treasury.

The Lord President thinks that the Lord Chancellor and the Law Officers would accept a meeting of E(A) provided it is early enough for them to be able to take the question to Cabinet if that proves necessary.

There clearly are wider political issues involved here which it would be wrong to settle in a small group of legal colleagues, the Chief Secretary and yourself. How can the Government be seen to give £95 million to lawyers, when at most £10 million more is in prospect for inner cities, the Treasury are trying to hold Lord Young's further employment measures to £50 million, and the Social Security Bill is going through the House?

There may be further developments tomorrow. But subject to those and to your views, I am arranging a meeting of E(A) for Monday.

DN

David Norgrove
29 January 1986

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PRIME MINISTER

FEEES FOR LEGAL AID

The Treasury have come back to me on this.

Before a meeting, whether in E(A) or separately, they would like to see whether the Chief Secretary can make any further progress with the Lord Chancellor. They therefore intend to try to arrange a meeting between the Chief Secretary and the Lord Chancellor on Thursday. The Lord Chancellor may or may not agree. It would therefore still be helpful to have your view on the forum for a discussion as in my earlier minute.

I tell you this because there seem to be strong feelings amongst the legal colleagues.

DW

DN

28 January, 1986.

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L(EA)
How, with some legal aid
work around - an interesting amount -
can lawyers be short on income?

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