



10 DOWNING STREET

PRIME MINISTER

Employed Solicitors

The Lord Chancellor's recommendation is inconsistent with the decision of Cabinet on 15 December 1983 (Flag A) and *with* your own statement of Government policy in the House on 20 December (Flag B).

Agree a firm letter to H Committee in line with Policy Unit recommendations?

DMB

15 February 1985

*I have
strong views
we 2 would
cannot now
retract
not.*

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PRIME MINISTER

15 February 1985

CONVEYANCING BY EMPLOYED SOLICITORS

The Lord Chancellor is still opposed to allowing employed solicitors to carry out conveyancing. According to his latest H paper, this proposal would give rise to "insoluble" conflicts of interest, reduce consumer protection and, possibly, competition too.

Officials from several Departments have considered the conflict of interest problem at length. With the exception of the LCD officials, who have been looking over their shoulders to the Lord Chancellor's emphatic views, they have agreed that the problem is limited. The only example to emerge in several months of discussion relates to retentions of funds by the building society, pending completion of repairs and the like. The solution is simple: building societies should offer a basic, conveyancing-only service and should make this clear to the borrower at the outset.

The recommended safeguards against building societies using their bargaining position to compete unfairly with independent solicitors would provide the latter with a greater degree of protection than other sectors of the economy enjoy.

Whichever Minister to whom it fell to announce that the conflict of interest problem is "insoluble", would look ridiculous. How could he explain why it is that an individual

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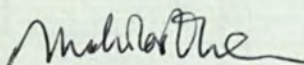
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who aspires to own and manage a house is, at the same time, deemed incapable of understanding that the building society's solicitor would be available to carry out conveyancing, but not to assist the borrower in disputes with the building society? This patronising attitude to the public is contrary to our entire philosophy of choice, competition and responsibility. We would also face the embarrassment that we dissuaded the promoters of the Housebuyers Bill from perservering with it, by letting it be understood that we would solve the conflict of interest question.

We recommend that you intervene on this occasion to say that:

1. You note the majority conclusion of the officials' report that the conflict of interest problem could be taken care of, provided that lending institutions offer a basic conveyancing service and make its limitations clear.

2. ^{We cannot} ~~You question whether we can~~ now deny lending institutions the chance to compete and housebuyers the opportunity to choose in this matter. It would be contrary to our entire philosophy. Moreover, it would be difficult to explain why individuals aspiring to buy and manage a house were incapable of understanding what an employed solicitor could and could not do, under the arrangements envisaged in the report.


NICHOLAS OWEN

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