

FROM:

THE RT. HON. LORD HAILSHAM OF ST. MARYLEBONE, C.H., F.R.S., D.C.L.



HOUSE OF LORDS,
SW1A 0PW

Prime Minister

*cc'd
C*
*Await Policy Unit advice
+ minute from Lord Pes:*

Conveyancing for Reward

I think we should remember the terms of reference of the Farrand Committee which the Cabinet agreed should be the basis on which we should proceed. These were as follows:

"1. To consider what tests or other evidence of competence are needed for non-solicitor conveyancers in order to provide the public with a satisfactory assurance of adequate skill; how any such tests might be administered; and what other requirements should be placed on non-solicitor conveyancers to ensure adequate consumer protection.

2. To consider the scope for simplifying conveyancing practice and procedure, and any other matters concerning the simplification of house purchase which may be referred to the Committee."

I need hardly remind colleagues that the composition of the Committee was also agreed.

On the first limb of its terms of reference the Committee reported unanimously, and this report was the basis of my paper to H. The terms of reference show clearly that the object of legislation was not merely to promote competition, but to do so while ensuring adequate protection for the public. Since publication the Committee has received wide acceptance from the public and interested bodies. The report on the second limb of the terms of reference is still awaited.

In the light of this I am broadly content with the Chief Secretary's proposals of 18th October 1984 on the way in which we should implement the Farrand Committee's recommendations on non-solicitor conveyancers, but there are one or two points I should make.

(1) Whilst I agree that the Council should have statutory purposes which will inhibit it from acting unduly restrictively, and that the Council should have regard to the need to ensure that licensed conveyancers should provide an efficient and economical service, I do not believe it can be required to ensure that a "simple" service is provided. Simplicity depends upon the general law and the nature of the individual transaction, rather than on the will of the conveyancer. Of course if the Farrand Committee's report on the second limb of its terms of reference (which I expect to receive at the end of this year) enables us to simplify the conveyancing process, it may well be appropriate to amend the tests of competence required, as the Committee itself recognised. But we shall not know the answer until we see what they say.

(2) Although I note the belief that some of the recommendations may prove unduly restrictive, our best approach must be to emphasise that it is the Council and not the Committee which is to ensure that the restrictions it lays down are no greater than is necessary to provide adequate consumer protection, and in doing this the Council will have to take its own view of the requirements recommended by the Farrand Committee. If we start to indicate in advance of the final report on the second limb that particular recommendations are too restrictive, we should be expected to express firm views on all the recommendations. This would be inappropriate for legislation of this nature, where ex hypothesi the detailed rules are to be made by the Council subject to a Government veto.

(3) On employed solicitors, I agree that officials should give urgent consideration to what safeguards can be devised to ensure that the consumer is protected against conflicts of interest and anti-competitive practices. It should however be borne in mind that the main effect of opening competition to the salaried employees of building societies and banks will be to siphon off work from small competitive independent firms of solicitors and (if Farrand is implemented) licensed conveyancers and putting it into the hands of large and wealthy corporations. This does not

and may well reduce it
necessarily increase competition. However the main purpose here
is to avoid conflicts of interest.

I am copying this minute to other members of H Committee,
the Parliamentary Under Secretary of State for Corporate and
Consumer Affairs and Sir Robert Armstrong.

H. of S: M.

22nd October, 1984

22 OCT 1981

10
11
12
1
2
3
4
5
6
7
8
9

Legal Procedure

NO. 8 Conveyancing

CONTRACTOR

11