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CONFIDENTIAL

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Lord President of the Council  
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NBM

21 January 1987

Dear Willie,

THE COMMUNITY CHARGE: ARRANGEMENTS FOR MARRIED AND UNMARRIED COUPLES

1. I refer to Memorandum E(LF)(87)1 by Nicholas Ridley and Nicholas Edwards, which we are to discuss at E(LF) on Thursday 22 January. In my letter of 10 December I expressed reservations about the proposal to extend joint and several liability to unmarried couples living together and, on considering the more detailed presentation of the proposal contained in this paper, I remain opposed to it.

2. Extension of joint and several liability to unmarried couples is bound to raise the temperature of the debate about the privacy implications of community charge registration and about the enforceability of the charge. If we are to have joint and several liability for unmarried couples I do not think it is reasonable to wait until debts arise before beginning the process of trying to establish that the joint liability exists. It seems to me a very important principle that we should not set out to impose a liability on individuals without warning them of it, and that can only be done by seeking to establish whether or not joint liability exists at the time of registration. This is, of course, embodied in the provisions of the Abolition of Domestic Rates Etc (Scotland) Bill. But it means that, with joint and several liability for unmarried couples, the process of registration would be bedevilled by all the criticism of and resistance to a process involving 'snoopers'.

3. I am not sure how much will be achieved in practical terms by widening joint and several liability as proposed. A partner in a co-habiting couple who is receiving supplementary benefit/income support will be likely to have his or her community charge rebate assessed on the basis of their joint income. The addition of joint and several liability in those circumstances will make very little difference in practice to the problems of recovery of the community charges due. The proposal will therefore only have a potentially significant effect in improving recovery in the case of the relatively small proportion of couples where one partner has no income and the other has adequate income but declines to support his or her partner. But it would also place an extra liability on the partner with little or no income and this could draw criticism. Our

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proposals have already attracted such criticism just this week from Scottish Women's Aid: they argue that the principle of joint and several liability could mean that debts might build up in the women's name where the man who is the wage earner does not give his partner enough money to pay their community charges.

4. At the practical level, it will be far from straightforward to determine when joint and several liability should be applied to unmarried couples living together. These difficulties are revealed in paragraph 8(2) of the Memorandum: the wording of that definition as it stands could, for example, cover grandmothers living with their families, au pairs, or brothers and sisters living together. It will be far from simple for local valuation courts in England and Wales to handle cases such as this: I understand that social security tribunals have had some difficulty with such cases and that it has not proved possible to establish a reasonable degree of consistency of treatment in their decisions.

5. For all these reasons I prefer to opt for the more straightforward approach contained in my Bill, confining joint and several liability to married couples and of recording that liability in the (unpublished) part of the register. It seems to me that this meets adequately our original concern that we should not be creating a personal liability for wives who had no means of meeting it. I think that to widen liability as proposed by Nicholas Ridley and Nicholas Edwards would cause more trouble than it would be worth.

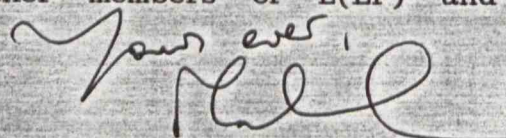
6. This seems to me to be a matter on which it would be very difficult to maintain a substantial difference of approach north and south of the Border. If liability is to be widened throughout Great Britain, however, I would have to amend my Bill, at Report Stage, which could draw severe criticism.

#### Married couples: separation

7. The paper also proposes a definition of what constitutes separation from that contained in my Bill. I have gone for the simple concept that the couples are 'separated and live apart'. It seems to me that these words describe very adequately the circumstances in which joint liability is no longer appropriate. The proposal in the Memorandum contains two elements: either that there should be a court order or deed of separation; or that the couple are separated in such circumstances that the separation is likely to be permanent. The first part of the proposed definition will cover only a limited range of cases. The second will extend that range but is framed in terms which are likely to be productive of considerable administrative effort: I understand that it is drawn from income tax legislation but that it has not been fully clarified by the courts and that the satisfactory administration of it involves a good deal of negotiation between the Inland Revenue and the parties involved.

8. I therefore prefer to retain the definition contained in my Bill. I would prefer that this should also be applied south of the Border, though if the Committee otherwise strongly favours the proposal in the Memorandum I would be content for it to be applied in England and Wales alone.

9. I am copying this to the other members of E(LF) and to Sir Robert Armstrong.

*Your ever,*  


MALCOLM RIFKIND



LOCAL GOLF  
RATES  
AT 5

