

Gazumping, gazundering, daisy chains etc.

English law, as we all well know (or should do), has the fine principle of domestic sanctuary, summed up in the ancient maxim that every man's house is his castle. However we have regrettably not gone nearly so far in protecting the householder as our former colony New Zealand, where in 1999 there was created a special criminal offence, with increased penalties, called *home invasion*. Mr Blair please copy.

The best our Mr Blair has so far done for the householder, and it is not very much, is to produce the Homes Bill. This was given a second reading in the House of Commons on January 8, the Conservative Party forbearing to divide against it (in other words sitting on the fence as usual).

Part I of the Bill deals with house sales; Part II with homelessness. As I have been trying unsuccessfully to sell my Oxford house since June, I shall concentrate on Part I. I am no stranger to what in the second reading debate was referred to as the daisy chain, though this casts an unjustified aspersion on a loved and innocent wild flower. I prefer simply to call those grim, yet too easily broken, shackles *the chain*. (My long-suffering wife, when I talked over this article with her, said she would very much like to *pull the chain*.)

In England there are very many problems involved with house sales. The chain, which is prominent among these problems, arises because very often each person who wants to buy a house also has one to sell. Usually he also has a mortgage on that house of his, and needs a another mortgage to finance the purchase of its replacement. The same applies to the person to whom he aims to sell his house, and so on *ad infinitum*. It only needs one link in the chain to snap and everyone suffers.

Another problem is gazumping. If the market is rising, and the above rigmarole continues too long, the owner who has informally agreed to sell to Mrs X for £Y finds that from someone else he could get £Y+ Z, and yields to temptation. Where on the contrary the market is falling Mrs X may find she can get the same sort of house elsewhere for £Y-Z, and so commits the act known as gazundering. Either of these natural human activities causes grief, so well-meaning souls want them stopped. That includes the Conservative Party, here as so often false to its philosophy.

The second reading of the Homes Bill was moved by the Minister for Housing and Planning, Mr. Nick Raynsford). He said:

“The Bill was published on 13 December alongside our policy statement, ‘Quality and Choice: A decent home for all - The way forward for housing’. That statement sets out our strategy for ensuring that everyone has the opportunity of a decent home. It followed our housing Green Paper . . . and our spending review announcement in July, which confirmed our commitment to more than double the capital investment in housing that we inherited in 1997, improving the quality, affordability and supply of housing and the choices available to all.”

The Minister went on to say that every MP would have had direct experience of the failings of the current house buying and selling system and know someone who had suffered frustration, heartache and, often, financial loss. The delays and uncertainties in the current system, he

added, put home buyers and sellers under enormous pressure: “Planning with confidence is impossible, and too often the end is dejection as the deal fails”.

What is the solution? Mr Raynsford gave his answer. “The Bill requires sellers to arrange for the key information about their homes, including searches and a mid-level survey, to be prepared up front, in the form of a seller's pack, before marketing starts. The pack will enable sellers and their agents to have the information that they need to set a realistic price, and buyers will be able to make a well-informed offer safe in the knowledge that they are unlikely later to encounter any nasty surprises”.

If only it were true! We would all rejoice. One after another, experts in the shape of chartered surveyors, solicitors, conveyancers *et al.* stood up to demonstrate to the House that it is not true. The Conservative MP for Eastbourne, Nigel Waterson, even moved an amendment to that effect (heavily defeated on a division). He added:

“I am tempted to say that this measure is a large sledgehammer to crack a small nut, except that the nut is signally absent. The Bill does not . . . tackle gazumping [or] its uglier sister, gazundering . . . the Bill has not a friend in the world apart from the Minister.”

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