C(75) 51 - Ryder Report: Possible Methods of giving Effect to Recommendations. Note by the Attorney General

52 - Decisions on British Leyland: Informing the European Commission. Note by the Secretary of State for Foreign and Commonwealth Affairs

53 - British Leyland: The Ryder Report. Note by the Secretary of State for Industry

54 - Export of Arms Spares for South Africa. Memorandum by the Lord President of the Council

55 - Select Committee on Science and Technology Government Observations on Report - Session 1974. Offshore Engineering. Note by the Secretary of State for Energy

56 - The Report of the Committee on the Preparation of Legislation. Note by the Lord President of the Council

57 - World Economic Interdependence and Trade in Commodities. Note by the Prime Minister

58 - Export of Arms Spares and Equipment to South Africa. Memorandum by the Secretary of State for Trade

59 - Employee Participation on Company Boards. Memorandum by the Secretary of State for Trade

60 - Public Expenditure. Memorandum by the Prime Minister

61 - The Significance of the Borrowing Requirement. Note by the Chancellor of the Exchequer

62 - Public Expenditure and Economic Strategy. Memorandum by the Chancellor of the Exchequer

63 - Public Expenditure Survey 1975. Memorandum by the Chancellor of the Exchequer

64 - Textile Imports. Memorandum by the Chancellor of the Duchy of Lancaster

65 - Late Implementation of the Housing Finance Act. Memorandum by the Secretary of State for the Environment

66 - Development of the Social Contract on Pay. Memorandum by the Secretary of State for Employment
C(75) 67 - Draft TUC Statement on the Development of the Social Contract. Note by the Secretary of State for Employment

68 - Industrial Democracy. Memorandum by the Lord Chancellor

69 - Industrial Democracy. Memorandum by the Secretary of State for Trade

70 - Pay Options and the Prospect for Inflation. Note by the Secretary of the Cabinet

71 - Contingency Plans for Threatened Rail Stoppage. Memorandum by the Secretary of State for the Home Department

72 - Effect of Pay Norms. Note by the Chancellor of the Exchequer

73 - Legislative Programme 1975-76. Memorandum by the Lord President of the Council

74 - 1975 Report from the Select Committee on the Parliamentary Commissioner for Administration. Note by the Lord Privy Seal

75 - New Parliamentary Building. Memorandum by the Secretary of State for the Environment and the Lord President of the Council
CABINET

RYDER REPORT: POSSIBLE METHODS OF GIVING EFFECT TO RECOMMENDATIONS

Note by the Attorney General

1. Effect may be given to the recommendations in the Ryder Report either i. (as suggested by the Report) by means of an application to the Court, or ii. by legislation which wholly avoids going to the Court.

i. SCHEME INVOLVING COURT APPLICATION

2. The advantages of the Ryder proposal are that it should enable the Government to get control of British Leyland (BL) without a hybrid Bill and without a charge of "forced nationalisation"; it enables shareholders to salvage something of their investment, and it is less easy for them to claim that the price is unfair, since they are offered a chance to buy more shares at the same price. Finally, it gives BL (in its new form) a reasonably large equity lease to finance future borrowings, and enables the shares to be valued at above par.

3. The disadvantages of the Ryder proposal are as follows:-

Under the scheme as envisaged in the Report an application to the court under section 206 of the Companies Act 1948 would have to be made. The court may want to be satisfied that statutory authority exists for expenditure of moneys to implement the scheme. It is therefore necessary to consider the possibilities.

4. The Industry Act 1972 has three defects. It does not allow the Government to acquire more than 50 per cent of the shares of a company, the limits on expenditure authorised by the Act are comparatively low, and it is at least doubtful whether purchase of the shares from private shareholders is "financial assistance" within the meaning of the Act. On this last point, in my view a court is more likely than not to hold that the purchase by the Government of these shares is not "financial assistance" to the industry as intended by the Act.
5. It would be possible to amend section 8 of the Industry Act 1972 in the Industry Bill to allow more than 50 per cent of the shares to be held. But an amendment to allow the purchase of shares to be treated as "financial assistance" would be likely to prove controversial and difficult.

6. Nor will the passage of the Industry Bill (which would enable the National Enterprise Board (NEB) to acquire the shares) be of assistance in the time needed: the court could not, in my view, properly accept a Government undertaking before the Bill is law, and the Government could not properly commit the NEB, which is not even set up, to purchasing the shares and providing the money.

7. It follows, in my opinion, that to enable the Ryder scheme to secure the approval of the court, and to be implemented, the Government would need to take sufficient power by means of a short enabling Bill, along the lines of the Rolls Royce (Purchase) Act 1971, to provide the moneys to pay for shares bought or subscribed for, and to provide assistance up to a specified sum for the undertakings in the BLMC group. Such a Bill is unlikely to be regarded as hybrid.

8. But even after passage of such a Bill there are serious difficulties connected with the application to the court. Treasury Counsel has advised that the risks of delay or of failure cannot be dismissed as unreal. In particular, "a majority in number representing three fourths in value" of each class of members and creditors affected by the scheme present and voting, in person or by proxy, must approve the scheme. (It appears likely that the holders of convertible loans would be the only creditors affected by the scheme). To obtain this approval, the blessing of the present Board, and in particular of Lord Stokes, would almost certainly be necessary. Indeed by virtue of section 206 the company itself almost certainly will have to make the application to the court. Even with the approval of the Board, the shareholders may reject the scheme: for though the Government's offer is generous, it may be thought that tactical opposition will produce a still better offer. If the requisite majority of shareholders etc. is not achieved, the scheme must fall at that stage, and the Government has wasted time and will have to start again by a different method.

9. Even if the requisite majority of shareholders approve the scheme (as may be likely) the possibilities for delay at every stage of the court procedure are great. The court would allow representatives of objecting shareholders an opportunity to file evidence and be heard; if a sufficient case for urgency can be made out it would probably be possible to have the case heard during the Long Vacation (in August and September) and though this would not guarantee completion by October, it would give the scheme a fair chance of getting through by then. The possibility of appeal to the Court of Appeal cannot be wholly excluded.
10. Thus the success of the Ryder proposals, involving application to the court depend heavily on a firm recommendation by the Board to the shareholders in support of these proposals. If such is given, the risks of action under section 206 may be worthwhile taking. If it is not, there is a real risk of failure either before or at the stage of the members' and creditors' meeting or on the application itself.

ii. LEGISLATION NOT INVOLVING APPLICATION TO COURT

11. An alternative method, which would preserve most of the advantages of the scheme in the Ryder Report, would be to implement it by legislation. It is clear that such legislation would be hybrid, since it compulsorily affects the rights of private individuals: nonetheless it is likely to be a good deal less controversial than out-and-out nationalisation. The essential elements of such a Bill would be:

i. an offer by the Government to the shareholders to buy their shares at a specified price;

ii. an obligation on the company to raise additional capital by making a rights issue at the same price to be underwritten by the Government;

iii. authority to the Government to pay for shares bought or taken up; and

iv. the over-riding of restrictions in the Company's Articles or Loan Deeds preventing i. and ii.

12. The actual form of the legislation would have to be carefully considered and some variation from Ryder is possible. I doubt whether such legislation could be passed this session. A possible timetable, given that some petitions against the Bill are bound to be presented (particularly on the footing that what the Government is doing is reconstructing the company without allowing to the shareholders the safeguards afforded by the Companies Acts), might be for the Bill to be through the Commons by the end of this session (ie, including the October period). It would then have to go through the Lords, but it could go through much more quickly, since all objections would have been fully considered by the Commons Select Committee.

13. A further option is a Bill to nationalise BL or to acquire its assets as a going concern. It would inevitably by hybrid. The timetable given above would be likely to be extended, since the controversy would inevitably be greater, both in principle and as respects valuation methods.

S S

Law Officers' Department
18 April 1975
CABINET

DECISIONS ON BRITISH LEYLAND: INFORMING THE EUROPEAN COMMISSION

Note by the Secretary of State for Foreign and Commonwealth Affairs

The Ministerial Group on British Leyland invited me to advise on procedure for informing the European Economic Community Commission of decisions taken on British Leyland Motor Corporation. A note by officials is attached.

L J C

Foreign and Commonwealth Office

18 April 1975
NOTE BY OFFICIALS

1. Under Article 93.3 of the EEC Treaty there is an obligation to inform the Commission of any plans to grant or alter aids to industry. In December 1974 the Commission was notified of the proposal to guarantee an increase in BLMC's overdraft. They were told that this was an interim measure to sustain the company while support for its investment programme was considered and that details of this longer term scheme would be notified in due course. We took the line that this assistance to a company with a focal position in the economy was justifiable under Article 92.3(c) of the EEC Treaty and that it would not adversely affect trading conditions to an extent contrary to the common interest. The Commission raised no difficulty but asked for as long as possible advance notice of the longer term proposals and suggested that problems would be reduced if any aids were related to British Leyland's investment programme and were not likely to lead to over-capacity.

2. In considering how to handle the Commission we also have to take account of current developments in the car industry in other EEC countries. The French Government have taken certain measures to assist their car industry. Volkswagen are having serious difficulties. This will increase the pressure on the Commission to carry out their responsibilities as laid down in the Treaty in respect of measures which we adopt to support BLMC. It is important that the Commission should be able to say that they were notified in advance of the British proposals for BLMC.

3. It would appear appropriate therefore for the UK Permanent Representative to be instructed to approach the Commission at a high level as soon as a decision has been taken on BLMC. We should aim to give a minimum of 48 hours notice before a public announcement. In speaking to the Commission the Permanent Representative would emphasise that the proposal for the underwriting of the Rights Issue involves the Government in acquiring the majority if not the whole of the equity, and that what is therefore involved is the extension of public ownership and control over a major element in the economy. The proposed additional overdraft facilities and long term loans represent essential support for BLMC's investment programme and cannot be regarded as a form of aid which might distort competition in a way "which might be deemed incompatible with the Common Market" (in terms of Article 92 of the EEC Treaty). The UK representative should seek to steer the Commission in the direction of saying, if questioned after the further announcement, that they/
that they had been notified of our proposals and were studying them.

4. There would be advantage if the UK Representative could be authorised to show a copy of the version of the Ryder Report which is to be published to a senior member of the Commission.

5. If action on these lines is approved, the necessary instructions will be drafted by officials in the FCO and Department of Industry in consultation with the Cabinet Office.
CABINET

BRITISH LEYLAND: THE RYDER REPORT

Note by the Secretary of State for Industry

For the information of my colleagues I am circulating with this note a copy of the edited version of the Ryder Report which will be published as a Parliamentary paper at 4.30 pm on Thursday 24 April.

A W B

Department of Industry

23 April 1975
British Leyland: the next decade

An abridged version of a Report presented to the Secretary of State for Industry by a Team of Inquiry led by Sir Don Ryder

Ordered by The House of Commons to be printed 23rd April, 1975

NOT FOR PUBLICATION
BROADCAST OR USE ON CLUB TAPES
EMBARGOED
UNTIL 12:00 HOURS
ON 24 APR 1975

THIS DOCUMENT IS ISSUED IN ADVANCE ON THE STRICT UNDERSTANDING THAT NO APPROACH IS MADE TO ANY PERSON OR ORGANISATION ABOUT ITS CONTENTS BEFORE DATE OF PUBLICATION.
RETURN to an Order of the Honourable the House of Commons dated 23rd April, 1975 for

British Leyland: the next decade

An abridged version of a report presented to the Secretary of State for Industry by a Team of Inquiry led by Sir Don Ryder

Ordered by The House of Commons to be printed 23rd April, 1975
Foreword

It was announced by the Secretary of State for Industry, the Rt. Hon. Anthony Wedgwood Benn, MP, in the House of Commons on 18th December 1974 that the Government had appointed a team, led by Sir Don Ryder, to conduct an overall assessment of the present situation and future prospects of the British Leyland Motor Corporation Limited. Their Report was received on 26th March 1975.

The following text comprises that Report, edited to remove confidential material.
26th March, 1975

The Rt. Hon. Anthony Wedgwood Benn
Secretary of State for Industry

Sir,

We were appointed by you on 18th December, 1974 to conduct, in consultation with the Corporation and trade unions, an overall assessment of the British Leyland Motor Corporation’s present situation and future prospects, covering corporate strategy, investment, markets, organisation, employment, productivity, management/labour relations, profitability and finance, and to report to the Government.

In the course of our Inquiry we have had many meetings with members of the Board and senior executives of British Leyland and we and our supporting staff have visited nearly all the Corporation’s plants. We are aware that these discussions and visits and the task of providing information have imposed heavy burdens on the Management and their staff at a particularly difficult time. We should like to record our appreciation of the courtesy with which we were treated and the helpful manner in which our requests were handled.

We have also had meetings with trade union representatives, including representatives of British Leyland shop stewards, both in London and at the various plants and a meeting with elected representatives of British Leyland middle management. The written submissions which they made to us and the talks we had with them were of great help to us in our work.

Finally we should like to acknowledge the many written submissions we received from organisations and individuals and the willingness with which many of them gave up time to talk to us or our supporting staff about British Leyland. To them and to all who have helped in the preparation of the Report we express our thanks.

We now submit our Report.

SIR DON RYDER, Chairman
R A CLARK
S J GILLEN
F S McWHIRTER
C H URWIN
## Contents

<table>
<thead>
<tr>
<th>Summary</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Chapter</strong></td>
<td></td>
</tr>
<tr>
<td>1. Events leading to the inquiry</td>
<td>11</td>
</tr>
<tr>
<td>2. Prospects for the industry</td>
<td>13</td>
</tr>
<tr>
<td>3. The right strategy for BL</td>
<td>14</td>
</tr>
<tr>
<td>4. Financial position</td>
<td>18</td>
</tr>
<tr>
<td>5. Product range and markets</td>
<td>25</td>
</tr>
<tr>
<td>6. Engineering</td>
<td>25</td>
</tr>
<tr>
<td>7. Procurement</td>
<td>27</td>
</tr>
<tr>
<td>8. Production</td>
<td>28</td>
</tr>
<tr>
<td>9. Industrial relations</td>
<td>31</td>
</tr>
<tr>
<td>10. Distribution</td>
<td>43</td>
</tr>
<tr>
<td>11. Controls and systems</td>
<td>43</td>
</tr>
<tr>
<td>12. Organisation and management</td>
<td>43</td>
</tr>
<tr>
<td>13. Special products</td>
<td>60</td>
</tr>
<tr>
<td>14. Cost of the programme</td>
<td>60</td>
</tr>
<tr>
<td>15. Financing of the programme</td>
<td>66</td>
</tr>
</tbody>
</table>

## Appendices

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Representations received</td>
<td>73</td>
</tr>
<tr>
<td>B. British Leyland plants visited</td>
<td>74</td>
</tr>
</tbody>
</table>
Summary

1. We were appointed on 18th December 1974... to conduct, in consultation with the Corporation and the trade unions, an overall assessment of BLMC's present situation and future prospects, covering corporate strategy, investment, markets, organisation, employment, productivity, management/labour relations, profitability and finance; and to report to the Government (Hansard, col 1727). At the same time the Government obtained Parliament's approval to a guarantee by the Government of lending by the banks to British Leyland (BL) of up to £50m. Chapter 1 of the Report outlines briefly the origin and nature of the financial crisis at BL which brought about the Government intervention. It also includes (paragraph 1.11) the confidential guidelines given to the Team to amplify the published terms of reference.

Prospects for the industry

2. We decided that, in assessing BL's situation and prospects, it would be useless to take a short-term view. In the motor industry three or four years must elapse between the decision to introduce a new model or to undertake a major plant modernisation and the completion of these projects. Once the new model is introduced and the new plant is in full operation, many more years must elapse before resources can be available to replace the model or renew the plant. Therefore decisions made now about a capital expenditure programme extending over five to seven years must take into account market prospects ten years from now.

3. Our starting point was therefore to examine world market prospects for the motor industry generally over the period to 1985. It is unusually difficult to make such an assessment at present. The past eighteen months have seen a sharp rise in the price of oil relative to other goods, historically high rates of inflation throughout the world, and a cutback in economic growth and consumer demand in the main industrial countries. As a result car sales which had grown rapidly over the two decades up to 1973 fell abruptly in all major markets in 1974 and may be no higher and perhaps even somewhat lower this year. Along with more long term anxieties about the environment and congestion, the recent drop in demand has raised some doubts and uncertainties about future prospects for the motor industry.

4. The conclusions we have reached are set out in Chapter 2. Broadly our view is that while the world market for the motor industry over the next decade will undoubtedly be less buoyant than in the recent past and will be more fiercely competitive, particularly in the early years when there is likely to be excess capacity, it will remain a large and valuable market. Moreover, in some...
areas of the world and for some types of vehicles considerable growth in sales
can be expected.

5. Nearly half the vehicles produced by BL are cars for the UK market. The
UK market for cars depends mainly on trends in the economy, particularly in
the growth of consumers' expenditure, and on action which Governments take
to influence these trends. On reasonable assumptions about these matters
(discussed in paragraphs 2.11 to 2.16) we think that the total UK car market
should start to grow again in 1976, should by 1980 have recovered to the 1973
peak of 1.6m vehicles and should between 1980 and 1985 grow further to at least
1.7m vehicles and possibly a higher level.

6. The prospects in overseas markets for cars are discussed in paragraphs
2.17 to 2.20. In Western Europe (excluding the UK), which accounted for
nearly 60 per cent (some 200,000) of BL's overseas car sales last year, we believe
that total demand will start to recover next year, should reach around 9m cars
in 1980 (13 per cent higher than in 1973) and at least 10m cars (26 per cent
higher than in 1973) by 1985. In most other markets, including the USA,
which last year accounted for about 15 per cent (some 52,000) of BL's overseas
car sales, the pattern is expected to be more like that in the UK - a recovery to

7. The prospects for vans both in the UK and Western Europe are broadly
the same as those for cars (paragraphs 2.31 to 2.33).

8. The UK market for heavy trucks is discussed in paragraphs 2.23 to 2.26.
Partly as a result of the tendency to replace such vehicles more frequently because
of more stringent vehicle legislation and the cost and scarcity of qualified
maintenance staff, total UK demand for heavy trucks seems likely to be about
30 per cent higher than last year by 1980 and there should be some further

9. The prospects in overseas markets for heavy trucks (paragraphs 2.27 to
2.30) are good. This is particularly true of those countries which either produce
oil (Iran and Nigeria) or have good access to favourably priced oil (Turkey)
and are growing fast. In these three countries it seems likely that demand for
heavy trucks will more than double by 1985. There is also a large market for
heavy trucks in Western Europe which shows modest but significant growth
prospects over the next few years and where BL has a major opportunity for
increasing its penetration.

10. For buses there are problems in forecasting demand both in the UK and
overseas, since it turns on the placing of particular large contracts. In the
UK BL is a dominant supplier of many types of bus (notably double deck buses)
and operators seem likely to want to place large orders over the next few years
which BL could not meet (paragraphs 2.34 to 2.37). We recommend in Chapter
5 (paragraph 5.27) that the Department of the Environment should as a matter
of urgency hold discussions with BL and the major UK bus operators to work
out arrangements for better co-ordination between the bus operators and BL
to phase orders and deliveries. As capacity becomes available, both to meet
home demand and to supply overseas markets on a more regular basis, BL will have to make a more systematic attempt to forecast overseas demand for buses (paragraph 2.34).

11. For agricultural tractors, which accounted for only 13,000 of BL’s total sales of over 1 million vehicles in 1973/74, demand at home and overseas will probably continue to decline, although there will be growth in some countries where mechanisation of agriculture is likely to develop over the next few years.

The right strategy for BL

12. Against the background of this assessment of world market prospects we considered what strategy BL should follow over the next decade and our conclusions are set out in Chapter 3. We examined the following issues:

(i) Whether there is a future for BL as a vehicle producer.
(ii) Whether BL should diversify into non-vehicle activities and divest itself of its existing peripheral activities.
(iii) Whether BL should remain a producer of both cars and commercial vehicles.
(iv) Whether BL should remain a producer of both volume and specialist cars.
(v) In which geographical areas BL’s marketing effort should be concentrated.

13. We concluded that there was undoubtedly a future for BL as a vehicle producer. Although competitive pressures will increase over the next decade, there is no reason why BL should despair of improving its position in this very valuable market. Vehicle production does not involve the kind of advanced technology which can only be financed in very strong and highly developed economies such as the United States. On the other hand, although there is likely to be an increasing trend towards local manufacture in the developing countries, there is enough scope for sophistication and refinement to give established producers with skilled labour forces a competitive edge in the developed countries. In general, therefore, vehicle production is the kind of industry which ought to remain an essential part of the UK’s economic base. We believe, therefore, that BL should remain a major vehicle producer, although this means that urgent action must be taken to remedy the weaknesses which at present prevent it from competing effectively in world markets.

14. Since BL is already a very large company and needs to concentrate its managerial skills and resources on improving its competitive position as a major producer of vehicles, we concluded that it would not be wise for BL to diversify its activities into unrelated sectors of industry. We have, however, recommended a neutral policy on the divestment of BL’s existing peripheral activities—the operations grouped in BL’s Special Products Division and Prestcold Ltd. We provide some factual information about these activities in Chapter 13, pointing out that there are major market opportunities and growth prospects for Prestcold in particular which need to be vigorously pursued. We have therefore proposed that, following the Report, there should be a detailed investigation of the future of these companies.
15. We concluded that BL should remain a producer both of cars and of trucks and buses (paragraph 3.7) and also that BL should continue in both the "volume" and the "specialist" sectors of the car market. In particular we considered whether BL should abandon the "small/light" sector of the market. In practice, this would mean that BL would not provide for any replacement for the Mini in its future product plans. We concluded that there were strong arguments both on commercial grounds and on national economic grounds for BL to continue in the small/light sector of the market (paragraph 3.8). In order to compete effectively in all the major sectors of the car market BL would have to cut out competition between models in the same sector, and reduce the number of different body-shears, engines, transmissions etc. Similar rationalisation would be necessary in trucks and buses (paragraph 3.9). BL would also need to build on the reputation for quality and distinction which it enjoys in the more expensive sectors of the market. All its models, throughout the product range, should have sufficient distinction to ensure a competitive edge against the very high volume producers (paragraph 3.10).

16. On markets (paragraph 3.11) we concluded, following the analysis in Chapter 2, that the main thrust of BL's marketing effort overseas should be to increase its present small share of the expanding Western European market both for cars (under 3 per cent at present) and for trucks and buses (about 1 per cent at present). BL should also continue to take full advantage of the very rapidly growing market for trucks and buses in certain developing countries such as Iran, Nigeria and Turkey.

Financial position

17. In Chapter 4 we set out our assessment of BL's financial capability for carrying out this strategy. An examination of past trading results shows that throughout the period since BL was formed in 1968, profits were wholly inadequate and insufficient to maintain the business on a viable basis (paragraphs 4.3 to 4.6). To make matters worse nearly all the profit was distributed as dividends instead of being retained to finance new capital investment (paragraphs 4.7 and 4.8). A substantial proportion of BL's fixed assets were old and had been fully written down. The depreciation charge was therefore an inadequate measure of what should have been spent on capital replacement (paragraphs 4.9 to 4.11). Working capital was also run down to a critical level (paragraph 4.12).

18. We concluded therefore that BL's present levels of capital expenditure and working capital were far too low. Even to maintain these levels in real terms would, because of inflation, require BL to earn at least £100m a year profit, (paragraph 4.13) and much larger sums would need to be earned to make up for the capital rundown in the past.

19. [The forecast of BL's profits and cash position to end September 1975 given here has been omitted for reasons of commercial security.]

We concluded, therefore, that very large sums would be needed from external sources to finance the action required to make BL a viable business.

Product range and markets

20. In considering what action would be required to make BL viable, we
looked first at BL’s product range and market objectives. Our conclusions are set out in Chapter 5.

21. On the product plan the time lag referred to in paragraph 2 of this Summary meant that we could not make any recommendations for introducing new models before the end of 1978. [The summary of the Team’s proposals for new models given here has been omitted for reasons of commercial security.]

22. Our other recommendations, together with BL’s existing product plan to the end of 1978, are mainly directed to product rationalisation. [The summary of the Team’s proposals for a reduction in the number of models, engines, transmissions and axles given here has been omitted for reasons of commercial security.]

23. With this product plan we consider that BL should be able to retain in the early nineteen-eighties its present share of the UK market for cars, trucks and buses. BL’s base in the UK market is still one of its major strengths. As competition from imports will increase substantially, maintaining this home market share will require a considerable and sustained marketing effort by BL (paragraph 5.31).

24. We recommend, however, that BL should devote more effort than in the past to developing overseas sales. In recent years BL has had a poor reputation in many overseas markets for not keeping delivery promises, for shortage of parts, and for inadequate after-sales service. We comment on the reasons and the possible remedies in paragraph 5.32. Within overseas markets we recommend that the main emphasis should be on Western Europe (in accordance with the market assessment in Chapter 2 and the proposed strategy in Chapter 3). In Western Europe (excluding the UK) BL should aim to improve its share of the car market from around 3 per cent to around 4 per cent and of the truck market from around 1 per cent to around 5 per cent. BL should also take full advantage of the opportunities for truck sales in the richer developing countries such as Iran, Nigeria and Turkey.

Engineering

25. We next examined BL’s engineering resources and facilities to see whether they would be capable of carrying out this extensive programme of product development and rationalisation. Our conclusions and recommendations are set out in Chapter 6. We consider that the dispersed and fragmented organisation of BL product development engineering is a serious weakness. We propose that the skills concerned with various aspects of product development – product planning, styling engineering and vehicle engineering – should be brought within a single product development organisation for cars and that there should be a similar organisation for trucks and buses (paragraphs 6.2 to 6.5). BL also needs new central laboratories and workshops for the design and development of new cars and components. We recommend that these should be built by 1979; as an interim measure, temporary facilities, probably at Solihull, should provide the centre of control for vehicle engineering personnel; the truck and bus facilities at Leyland should be extended as a matter of urgency (paragraphs 6.6 and 6.7). An early decision is needed on how test track facilities can best be provided for BL (paragraph 6.8).
Production

26. We next examined the adequacy of BL's production facilities. A detailed study has been made which will be available in due course for BL's ongoing management. Our main conclusions and recommendations are set out in Chapter 8.

27. For historical reasons BL has a large number of plants scattered throughout the country. Although some progress has been made since the merger towards a more logical arrangement of manufacturing operations in the different locations, there is still too much movement of manufactured parts and sub-assemblies between plants. In body and assembly operations we recommend that individual plants should be associated with one or more model lines from the receipt of pressed out panels to final assembly (paragraphs 8.5 and 8.6). Likewise, plants should specialise in the production of engines, gearboxes and chassis without distinction by model type and without being involved in body assembly operations (paragraph 8.7). Similar parts should be produced in the same location (paragraph 8.8). A senior executive should be appointed to develop BL's parts manufacturing activities to improve costs and reduce the number of different parts (paragraph 8.9). Substantial economies could and should be achieved quickly by a programme to improve the layout of processes within plants (paragraph 8.10).

28. The most serious feature of BL's production facilities is, however, that a large proportion of the plant and machinery is old, outdated and inefficient (paragraph 8.11). [Information about the age of BL's plant and machinery given here has been omitted for reasons of commercial security.] BL's foundries are in urgent need of modernisation to bring them up to modern efficiency levels and safety and environmental standards. These serious deficiencies are the result of the lack of provision for capital expenditure discussed in Chapter 4 and referred to in paragraphs 17 and 18 of this Summary. A massive programme to modernise plant and equipment at BL must therefore be put in hand immediately (paragraphs 8.13 and 8.14) in conjunction with the new product plan.

Organisation and management

29. We then considered whether BL's existing organisation and management would be appropriate to carry out the strategy we had proposed and the necessary programme of product rationalisation, reorganisation of production and engineering facilities, and new capital investment. Our conclusions and recommendations are set out in Chapter 12. We are convinced that BL's present organisational structure has harmful effects on the efficiency of BL's operations and is likely to impede its future development. It combines most of the disadvantages of both centralised and decentralised organisations with few of the advantages of either (paragraph 12.4). There has been inadequate integration of the product planning, engineering, manufacturing and marketing of cars. The Managing Director has too many people reporting to him. The creation of a large corporate staff has undermined the authority and responsibility of line management.

30. Our approach has been to divide up BL's activities, within the overall corporate structure, into four separate businesses—British Leyland Cars, British Leyland Trucks and Buses, British Leyland Special Products and British Leyland
International (Chart 12.3). Each would be a profit centre in its own right with its own Managing Director. At corporate level there would be a non-executive Chairman and a Chief Executive and a corporate staff drastically reduced to the absolute minimum (paragraph 12.18).

31. We considered and rejected the approach of dividing up BL’s car operations into two or three separate divisions based on products (Austin Morris, Rover Triumph and Jaguar). We believe that this would impede the policies of product rationalisation and integration of design, engineering and production recommended in Chapters 5, 6 and 8 (paragraphs 12.11 to 12.13).

32. We attach the greatest importance to the maximum delegation of authority and responsibility within the new structure from the Chief Executive to the four Managing Directors and from them to the line management below them. This would take place within a framework of corporate planning and control which we outline in paragraphs 12.14 to 12.17.

33. Our proposals for the internal organisation of the four separate businesses are set out in paragraphs 12.21 to 12.23 and Charts 12.4 to 12.7. The most important proposals are those relating to British Leyland Cars where we recommend four line divisions—one dealing with product planning, development and engineering, one with manufacturing, one with sales and marketing, and one with parts and KD (‘knocked down’) activities. This is a radical change from BL’s present organisation which consists of separate divisions for different products dealing with their own engineering and marketing and, to some extent, manufacturing, co-ordinated by corporate staff.

34. Associated with this new organisational structure and approach there will have to be changes in BL’s top management. Our proposals are in paragraphs 12.24 and 12.25. In some cases we have been able to recommend particular individuals; in other cases, for reasons which are explained, we have not been able to do this but we have candidates in mind. The quality of BL’s second rank management is generally good, and often very good.

Industrial relations

35. Throughout our inquiry we were aware that, although we had many proposals to make BL more competitive—fewer and better models, improved facilities for design, engineering and production and changes in organisation and management—BL’s success would depend most of all on the skills, efforts and attitudes of its 170,000 employees. We have therefore examined industrial relations at BL at some length in Chapter 9 of our Report. We do not subscribe to the view that all the ills of BL can be laid at the door of a strike-prone and work-shy labour force (paragraph 9.2). Nevertheless, it is clear that if BL is to compete effectively there must be a reduction in the man-hours lost through industrial disputes (paragraphs 9.3 and 9.4). More productive use must also be made both of BL’s existing capital investment and the planned additional capital investment and this must mean more realistic manning levels and more mobility and interchangeability of labour (paragraphs 9.5 and 9.6).

36. We found ample evidence that BL’s employees at all levels want to make
their contribution to solving BL’s problems (paragraph 9.8) and we must therefore find ways of sustaining and developing this constructive approach. We consider it essential (paragraph 9.9) that the progress of the capital expenditure programme and the injection of new finance by the Government should be staged and that each stage should depend on evidence of a tangible contribution by BL’s work force and management to the reduction of industrial disputes and the improvement of productivity. Careful forward manpower planning will be needed (paragraph 9.10), particularly in areas where major rationalisation of production facilities is undertaken.

37. We considered measures to improve industrial relations at BL under three main headings—payment systems, collective bargaining and industrial democracy.

38. We concluded that there should be no major change in the system of payment by measured day work; there is, however, scope for improving the system and the possibility of introducing some incentive element in the future should be kept under review (paragraphs 9.12 to 9.15).

39. We recommend that BL should continue to negotiate basic wages and conditions through the Engineering Employers’ Federation but should keep under review the balance of advantage of remaining within the Federation (paragraph 9.19). The basic agreements negotiated through the EEF are supplemented by local bargaining at plant level. We consider that the multiplicity of bargaining units and renewal dates is an unsettling factor in BL’s industrial relations. We therefore recommend that discussions should be held with the trade unions about a gradual but substantial reduction in the number of collective bargaining units within BL and about a reduction in the renewal dates for wage settlements (paragraphs 9.20 to 9.22). BL line management in the new bargaining units should have sufficient delegated authority to negotiate effectively (paragraph 9.23).

40. The most crucial factor in improving industrial relations at BL and in creating the conditions in which productivity can be increased is, however, that there should be some significant progress towards industrial democracy. Means must be found to take advantage of the ideas, enthusiasm and energy of BL’s workers in planning the future of the business on which their livelihood depends (paragraph 9.24). The contribution which we are seeking to the reduction of industrial disputes and the improvement of productivity can only be made in an atmosphere of joint problem-solving by management and unions. There should be a framework, removed from the normal arrangements for collective bargaining, in which agreement can be reached on the action required (paragraph 9.32).

41. We have therefore proposed a new structure of joint management/union councils, committees and conferences, in which BL’s shop stewards and particularly their senior shop stewards will have a major rôle. The terms of reference of these bodies are in paragraphs 9.36 and 9.37. Trade union members will have to recognise the new responsibilities which the shop stewards are exercising on their behalf and ensure that the right people are chosen to exercise these responsibilities. The first stage in implementing the proposals must be to explain
them fully and discuss them with BL’s management and senior trade union representatives (paragraph 9.39).

Procurement, distribution, controls and systems

42. Our comments and recommendations about procurement, distribution and controls and systems are recorded briefly in Chapters 7, 10 and 11. Many of the matters dealt with are related to our main proposals on organisation and management in Chapter 12 (see paragraphs 29 to 34 of this Summary).

Cost of the programme

43. We have therefore sought to devise a comprehensive and balanced programme to make BL a viable and fully competitive vehicle producer. In Chapter 14 we have assessed the financial consequences of the programme up to the end of September 1982. In doing so we have thought it necessary to make some assumptions about future rates of inflation and these are explained in paragraph 14.3.

44. Inevitably, because of the backlog of past massive under-investment, the capital expenditure required is very large. In constant price terms it is £1,264m and in inflated price terms £2,090m over the eight years to end September 1982 (paragraphs 14.4 to 14.8). There will also have to be an increased provision for working capital of around £260m in constant price terms or £750m in inflated price terms (paragraph 14.9). Although the cost of this programme is large we are convinced that this expenditure is necessary to make BL viable and fully competitive.

45. A forecast has been prepared of the effect of this additional expenditure in improving BL’s profits on certain assumptions—including an important assumption about the contribution from the work force in agreeing to manning reductions and greater mobility and interchangeability of labour. Our forecast is that BL’s profits as a percentage of sales should improve to 11 per cent in 1981/82 compared with an average of 6.5 per cent in the period 1968/69 to 1973/74. BL’s return on capital employed is also forecast to improve to 19.6 per cent in 1981/82 compared with an average of 9.6 per cent in the period 1968/69 to 1973/74 (paragraphs 14.10 to 14.13). While we recognise that this is not a satisfactory return, it must be appreciated that it is caused by the past massive under-investment. After 1982 BL should start to reap the benefits of the new capital expenditure programme.

46. We then analysed the effect on BL’s cash flow. Although BL is forecast to achieve a positive cash flow in 1981/82 there is likely to be a requirement for funds from external sources during the period 1974/75 to 1980/81 of £1,300m to £1,400m in inflated price terms. In the period to end September 1978 the requirement is forecast to be £900m in inflated price terms.

Financing of the programme

47. In Chapter 15 we set out our proposals for financing the requirement of £900m in inflated price terms up to the end of September 1978. In our view a very large part of the funds can only be provided by the Government (paragraphs 15.2 to 15.4) and we argue (paragraph 15.5) that there is an overwhelming-
ly strong case for the Government to provide the funds because of BL’s importance to the national economy. We recommend strongly against appointing a receiver for BL (paragraph 15.6).

48. We therefore propose that the Government should be prepared to provide £200m in equity capital now and up to £500m in long term loan capital in stages over the period 1976 to 1978 (paragraph 15.9). The equity capital should be provided by the Government’s underwriting of a rights issue to existing shareholders, following a capital reconstruction through a Scheme of Arrangement. It is likely that relatively few shareholders will take up these rights and the Government will therefore be left with most of the shares. The rights issue should be preceded by an offer by the Government to buy out existing shareholders at a price of 10p per share. [The Team’s judgement about the percentage of the enlarged equity capital likely to be acquired by the Government has been omitted.] On the inflation assumptions explained in paragraph 14.3 of Chapter 14 a further £500m is forecast to be required between end September 1978 and end September 1982. It is not possible to foresee the type of financing which will be appropriate for a period so far ahead but the Government must be prepared to make funds available either as loan capital or as a mixture of loan and equity capital (paragraph 15.22).

49. We recommend that, following the initial injection of £200m of equity capital, there should be review points on each occasion when a further tranche of funds is provided to assess the contribution being made to the reduction of industrial disputes and the improvement in productivity (paragraph 15.23).

Timing

50. The timing of the programme outlined in our Report is crucial to BL’s survival. [The Team’s proposals about the timetable have been omitted].

Presentation

51. When the Government announces its intentions about BL, a major effort must be made to ensure that the proposals are fully understood by the employees and that the employees recognise the implications for them. A series of meetings will have to be arranged throughout BL at which the new management of BL can explain what the capital expenditure programme means for the future of BL, that the injection of substantial funds from the Government will be dependent stage by stage on progress towards reducing industrial disputes and improving productivity, and that management and trade union representatives have been asked by the Government to set up a new structure of joint councils, committees and conferences to seek agreement on the action required.
CHAPTER 1

Events leading to the inquiry

1.1 The British Leyland Motor Corporation Ltd (BL) began a series of high-level discussions with the Department of Trade and Industry (later the Department of Industry) in the summer of 1973. At that time BL was drawing up a new capital investment programme for the following five to six years. The Government was concerned primarily about the extent to which, as part of this programme, new projects might be undertaken in the assisted areas, in return for selective financial assistance under Section 7 of the Industry Act 1972.

1.2 From the autumn of 1973 onwards, a succession of events—the oil crisis, the three-day week, the deterioration in economic prospects in the United Kingdom and world markets, and the rapid increase in inflation—caused BL to re-appraise radically both its capital investment programme and its financial position. Whereas BL's budget in the autumn of 1973 had assumed a profit before tax of £68 million in 1973/74, a loss of £16 million was reported for the first half year to the end of March 1974.

1.3 This turn-round in BL's profitability made it much more difficult for the Corporation to assume that it could finance expansion from its own resources. At the same time the downward revision of market forecasts both cast doubts on BL's capacity to earn adequate profits in the medium term and weakened the case for investment in additional capacity. The cost of the original programme had in any case increased to over £900 million. BL therefore concluded in the summer of 1974 that the original capital investment programme would have to be scaled down to the minimum consistent with maintaining a viable business and that, even at that level, it could not be financed from BL's own resources.

1.4 In July 1974 BL therefore made a presentation to its principal bankers (the four clearing banks—Barclays, Lloyds, Midland and National Westminster) to seek their support for a revised capital investment programme of £507 million spread over the six years 1972/73 to 1977/78. Of this total £142 million was due to have been spent by September 1974, leaving £365 million for the four years from October 1974 to September 1978. BL had arrived at the new programme by cutting out most of the planned capacity increases and by deferring or eliminating some model changes. Only 9 per cent of the expenditure was for the expansion of existing capacity and the remainder was divided almost equally between expenditure on modernisation and expenditure on tooling and facilities for new models. To finance this modified plan BL sought medium-term finance of £150 million, of which £50 million would reduce existing UK overdraft facilities.
1.5 At about the same time there were also discussions between BL and the Department of Industry about the capital investment programme. The Department was concerned about the wider and longer term economic consequences of a cut-back in BL’s capital investment. BL therefore indicated the developments which could be financed if, in addition to the finance being sought from the banks, £100 million could be made available from external sources.

1.6 Meanwhile, BL was becoming aware that its cash position was deteriorating even more seriously than had been foreseen earlier in the year. The Board reviewed the position at the end of September. A cash conservation programme was instituted and approvals of capital expenditure were restricted. The clearing banks also became seriously concerned about BL’s cash position and in November instructed Mr J.T.H Macnair, a partner in the firm of accountants Thomson McLintock & Co, to examine the validity of the cash projections BL had made available to them the previous July.

1.7 The seriousness of the situation was revealed when the unaudited results for the year ending 30th September 1974 became available. These suggested that, in the year to the end of September 1974, the Corporation had made a net loss of £9.9 million to which should be added a loss on the closure of the Australian subsidiary of £11.8 million, a total loss of £21.7 million. (Actual published results in the Annual Report were a net group loss of £8.3 million, a loss on the Australian subsidiary of £15.7 million and total group losses of £23.95 million). Net liquid assets at the end of September 1973 of £50.7 million had changed into net liabilities of £43.1 million (audited figures altered this to £35.2 million) and the Corporation’s overdraft (UK and overseas) stood at £148 million (offset by bank deposits of £105 million).

1.8 These results were discussed at a meeting between BL, the banks and the Department of Industry on 27th November 1974. It was revealed that the position had worsened further since the end of September. BL was expected to reach the limit of its existing UK overdraft facilities of £152 million during December and a further cash outflow of £30 million was expected during January. It became clear that, in these circumstances, the banks were most unlikely to grant BL further facilities.

1.9 After a series of meetings involving Ministers, officials, BL and the banks the Secretary of State for Industry announced on 6th December that:

‘because of the company’s position in the economy as a leading exporter and its importance to employment both directly and through the many firms that are dependent on it, the Government are informing the company’s bankers that the approval of Parliament will be sought for a guarantee of the working capital required over and above existing facilities.

In response to the company’s request for support for its investment programme, the Government also intend to introduce longer-term arrangements, including a measure of public ownership. In order to help the Government in framing a scheme for this purpose, they propose to appoint a high level team, led by Sir Don Ryder, including members drawn from the Industrial Development Advisory Board, to advise on the company’s situation and prospects, and the team will
consult with the company and the trade unions in the course of its work’.

(Hansard, 6th December 1974, col 2115).

1.10 On 18th December the Secretary of State laid the resolution before Parliament to enable the Government to guarantee a further £50 million lending by the banks to the Corporation under Section 8 of the Industry Act 1972. In doing so he announced the names of the Team members, Messrs R A Clark, S Gillen, F S McWhirter and C H Urwin, and described its remit as: ‘... to conduct, in consultation with the Corporation and the trade unions, an overall assessment of BLMC’s present situation and future prospects, covering corporate strategy, investment, markets, organisation, employment, productivity, management/labour relations, profitability and finance; and to report to the Government’.

(Hansard, Wednesday 18th December, col 1727).

1.11 In addition the following confidential guidelines were given to the Team, in amplification of the terms of reference, to indicate the matters which would need to be covered in the Report:

(i) an assessment of the current financial position of the Corporation, with particular reference to profitability, cash flow and financial structure;

(ii) an assessment of the recent performance of the Corporation and its strengths and weaknesses;

(iii) a broad review of the future size and structure of the Corporation, including its modernisation and development programme;

(iv) an assessment of the financial needs of the Corporation over the longer term (at least 4 years) and the type of financing required;

(v) advice as to any special considerations which should be taken into account by the Government in determining the extent of public ownership, together with specific proposals on the terms for Government finance;

(vi) the financial objectives which the Corporation should seek to attain bearing in mind the Government’s statement on the White Paper on the Regeneration of British Industry that the National Enterprise Board will seek to secure an adequate return on that part of the nation’s capital for which it is responsible and the consequences and cost of modifying these objectives to take account of other aspects of the national interest—e.g. employment (national and regional) and balance of payments;

(vii) the role of employees in the company’s decision making’.

CHAPTER 2

Prospects for the industry

[This Chapter sets out BL’s assessments of total demand for cars and other types of vehicle in the UK and major overseas markets in the period 1975–85, comments on these assessments and gives the Team’s conclusions. The detailed material in this Chapter is omitted for reasons of commercial security but the Team’s general conclusions are given in paras 2 to 11 of the Summary.]
CHAPTER 3

The right strategy for BL

3.1 In the light of the assessment of future prospects for the motor industry set out in Chapter 2, the Team considered what strategy BL should follow over the next decade.

3.2 In doing so we had in mind the significance of BL to the United Kingdom economy. With a turnover of some £1,600 million in 1973/74, BL is one of the dozen or so largest companies in the private sector. Over the years it has been our biggest single exporter and accounts for some 38 per cent of total exports of motor vehicles and components. It has about 170,000 employees in the UK and provides several hundred thousand more jobs indirectly in industries supplying components and materials, in motor vehicle distribution and in service trades in the areas where it is concentrated. In the West Midlands BL accounts for over 10 per cent of male manufacturing employment directly and a much larger proportion indirectly. BL also has plants in the assisted areas, notably in Scotland, Wales and Merseyside.

3.3 The main strategic issues are as follows:

(i) whether there is a future for BL as a vehicle producer;
(ii) whether BL should diversify into non-vehicle activities or divest itself of its existing peripheral activities;
(iii) whether BL should remain a producer of both cars and commercial vehicles;
(iv) whether BL should remain a producer of both volume and specialist cars;
(v) in which geographical areas BL's marketing effort should be concentrated.

BL’s future as a vehicle producer

3.4 Some 94 per cent of BL’s sales are of vehicles. The assessment of prospects for the vehicle industry in Chapter 2 indicates that, despite the recent drop in sales and current uncertainties about oil prices and economic conditions generally, some market growth can be expected over the next decade. Although competitive pressures will increase over this period, there is no reason why BL should despair of improving its position in this very valuable market. Vehicle production does not involve the kind of advanced technology which can only be financed in very strong and highly developed economies such as the United States. On the other hand, although there is likely to be an increasing trend towards local manufacture in the developing countries, there is enough scope for sophistication and refinement to give established producers with skilled labour forces a competitive edge in the developed countries. In general, therefore, vehicle production is the kind of industry which ought to remain an essential part of the UK’s economic base. If the UK were to opt out of vehicle production, it is not easy to see where the process of opting out would end. If BL were to cease production, there would be a substantial loss of exports (£485 million in 1973/74) and an even
more substantial increase in imports (BL had sales of £843 million in the UK market in 1973/74). We are convinced, therefore, that BL must remain a major vehicle producer. However, in our view this can only be achieved if action is taken now to remedy the weaknesses which at present prevent it from competing effectively in world markets. These matters are dealt with in later Chapters of the Report.

Diversification or divestment

3.5 Since BL is already a very large company and should continue as a major vehicle producer, we do not believe that it should attempt to diversify its activities into unrelated sectors of industry. The question of whether particular components could be more economically produced by BL itself instead of being bought in from outside suppliers should of course be kept under review. It could indeed be advantageous for BL eventually to take over some minor producers of materials and components to improve security and quality of supply. But an extension of BL's interests outside the vehicle industry would only distract the management from the main task which faces the Corporation.

3.6 We have considered whether early action should be taken to dispose of those existing activities of BL which do not fall within the main car and truck and bus business. These are mainly in the Special Products Division and are discussed in detail in Chapter 13 of the Report. Some of these activities involve the production of specialist vehicles or mobile heavy equipment (eg Coventry Climax, Alvis, Aveling Barford) which have some link with the main vehicle business. Others (eg the foundries) are concerned in varying degrees with supplies to the main vehicle business. Others again (eg Prestcold) have no natural link with BL's main activities. We believe that the right strategy for BL on the possible divestment of these activities should, at this stage, be a neutral one. Following the Report, we recommend a detailed investigation of the future of these companies. The companies are described more fully in Chapter 13 of the Report.

Cars and commercial vehicles

3.7 In 1973/74 BL sold 853,000 cars and 167,000 commercial vehicles (mainly trucks and buses). We believe that BL should continue as a producer in both these sectors. As Chapter 2 showed there are considerable prospects for growth in the overseas market for heavy trucks. Moreover, if there is any possibility in the longer term that car demand will be restricted because of urban congestion, pollution and other environmental factors, energy conservation or economic developments which cannot at present be foreseen, the same factors are unlikely to apply in the same way or in the same degree to the demand for trucks and buses. Measures to restrict car usage may, for example, lead to an increase in demand for buses. The right strategy for BL is therefore to continue as a producer of both cars and commercial vehicles.

Volume cars and specialist cars

3.8 Having accepted that BL should remain a major producer of cars, we considered whether it should continue as at present to cover the full range of the market from the 'small/light' sector (represented by the Mini) to the luxury sector (represented by the Jaguar). In the past the more expensive
models produced by BL (not only Jaguars, but also Rovers and Triumphs) have proved more profitable, and a less satisfactory return has been earned on volume cars, particularly the Mini. We therefore examined whether BL should adopt a strategy of abandoning the bottom end of the volume car market. This would mean in effect that no replacement would be brought forward for the Mini. We are strongly of the view that this would be the wrong strategy. The fact that BL is represented in all the major sectors of the car market is a potential strength. This is particularly true at a time when there is a good deal of uncertainty about future trends in car demand. It is possible that pressure for energy conservation will shift demand in favour of the smaller cars. This may in turn make the small car business relatively more profitable than in the past. Moreover, producers with models at the small end of the market have a better chance of securing customers who are buying a car for the first time and may retain these customers, as their income increases, in the higher sectors of the market. There are also important considerations affecting the national economy. In 1974 16 per cent of total UK sales were in the small and light sectors of the car market, in which the Mini competes. The Mini accounted for nearly half of these sales. If BL were to opt out of this sector of the market, there would undoubtedly be a very substantial increase in car imports. The Mini makes up a substantial proportion of BL’s exports, particularly in Europe. In 1973/74, nearly two-thirds of the cars sold by BL in Western European export markets were Minis. It ought therefore to be both in BL’s interest and in the national interest to remain in the small/light sectors of the car market as well as the medium, large, luxury and sports car sectors.

3.9 While it is to BL’s advantage to be represented in all the major sectors of the car market, BL has suffered from having an unusually large number of different models and power transmission units. At present BL has nine different saloon car body shells and twelve basic car engine types. If BL is to compete effectively there must be a substantial programme of product rationalisation, competition between different BL models in the same sector must disappear and there must be a much greater common use of components, suspensions and structures. There is a similar need for rationalisation in truck and bus production.

3.10 It has been argued that BL will be unable to compete effectively in the production of volume cars because it cannot match the very high volumes of the major European and Japanese producers, notably Volkswagen, Toyota, Nissan, Fiat and Renault. We do not accept this. But BL’s strategy must be to build on the reputation for quality which it enjoys in the more expensive sectors of the market. All its models, throughout the product range, should have sufficient distinction to ensure a competitive edge.

Markets

3.11 The assessment of prospects for the industry in Chapter 2 indicated that, while little growth is expected in the UK market and also (although this may be pessimistic) in the US market, substantial growth in demand is expected in Western Europe. At present, however, BL’s market share in Western Europe is less than 3 per cent. We believe that BL must aim, over the next 10 years, to secure a higher share of this expanding market. BL also has
only a small share of the Western European market for trucks and buses (about 1 per cent). Although truck and bus demand is likely to grow more rapidly in the developing countries and BL should therefore maintain its effort in these markets (particularly in countries such as Iran, Nigeria and Turkey), there is nevertheless scope for a major development of BL truck and bus sales in Western Europe.

Summary

3.12 Our recommendations about BL's strategy over the next decade are therefore as follows:

(i) BL should continue to be predominantly a vehicle producer and should not diversify its activities into other sectors of industry;

(ii) BL should at this stage adopt a neutral policy towards the divestment of its existing peripheral activities, and following this Report there should be a detailed investigation of the future of these companies;

(iii) BL should remain a producer both of cars and of trucks and buses.

(iv) BL should continue to produce both volume and specialist cars and should compete in all the major sectors of the car market ranging from the small/light sector to the luxury sector;

(v) there should, however, be a substantial programme of product rationalisation;

(vi) In order to compete effectively with the larger volume producers, BL must build on the reputation for quality and distinction which it enjoys in the more expensive sectors of the market. All its models, throughout the product range, should have sufficient distinction to ensure a competitive edge;

(vii) the main thrust of the marketing effort outside the UK over the next decade must be to secure a larger share of the Western European market, both for cars and for trucks and buses.
CHAPTER 4

Financial position

4.1. The purpose of Chapters 4 to 13 of this Report is to assess BL’s present capability for carrying out the strategy outlined in Chapter 3, to identify the weaknesses, and to recommend action to remedy these weaknesses.

4.2. Chapter 4 is concerned with BL’s financial position. This is examined under the following main headings:
   (i) BL’s trading results since it was formed in 1968;
   (ii) the provision made over this period for investment in fixed capital and for the necessary increases in working capital;
   (iii) the latest profit forecast for the period to end September 1975;
   (iv) the latest forecast of the cash position to end September 1975.

Trading results 1968/74

4.3. A summary of the trading results of BL since its formation is as follows:

<table>
<thead>
<tr>
<th>TABLE 4.1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BL trading results</strong></td>
</tr>
<tr>
<td><strong>Years ended 30th September</strong></td>
</tr>
<tr>
<td>1,050</td>
</tr>
<tr>
<td><strong>Sales</strong></td>
</tr>
<tr>
<td>974</td>
</tr>
<tr>
<td><strong>Trading profit</strong></td>
</tr>
<tr>
<td>45</td>
</tr>
<tr>
<td><strong>Interest</strong></td>
</tr>
<tr>
<td>7</td>
</tr>
<tr>
<td><strong>Profit before tax</strong></td>
</tr>
<tr>
<td>38</td>
</tr>
<tr>
<td><strong>As percentage of sales</strong></td>
</tr>
<tr>
<td>3.9%</td>
</tr>
</tbody>
</table>

*Note: The above profits are after charging:*

**Depreciation:**
- Properties: 3 3 3 3 3 3 4
- Plant: 24 24 24 25 24 26 27

**Tooling amortisation:**
- 14 14 15 19 16 15 11

The results for the year ended 30th September 1968 (except for vehicles sold) include fourteen months trading of British Motor Holdings Limited.

4.4. The annual output, in terms of vehicles sold, has not varied significantly since the formation of the Group, the highest and lowest years being within 9 per cent of the average annual sales volume for the entire period. The limiting factor throughout the period has been production capability, with
the two worst years, 1970 and 1974, having suffered from heavy production losses.

4.5. The trend of trading profits before interest broadly reflects the trend of volumes produced, with particularly poor results in 1970 and 1974. The 1974 results were also affected by restrictions on passing on cost increases under the counter-inflation legislation and as a result of competitive pressures in export markets.

4.6. The main point which emerges from Table 4.1 is that the profit before tax, throughout the period, has been inadequate. As a percentage of sales it has never been higher than 4.2 per cent (1969) and the overall rate for the whole period was only 2.3 per cent.

4.7. Despite this low level of profits BL has over the period distributed nearly all of them as dividends. In our view this policy was clearly wrong. The split between dividends and retentions is shown in the following table:

<p>| TABLE 4.2 |
| Deductions and appropriations from profits  |
| Years ended 30th September  |</p>
<table>
<thead>
<tr>
<th>£m</th>
<th>£m</th>
<th>£m</th>
<th>£m</th>
<th>£m</th>
<th>£m</th>
<th>£m</th>
<th>£m</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Profit before tax</td>
<td>38</td>
<td>41</td>
<td>4</td>
<td>32</td>
<td>32</td>
<td>51</td>
<td>2</td>
<td>200</td>
</tr>
<tr>
<td>Tax deferred</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Tax payable</td>
<td>18</td>
<td>20</td>
<td>2</td>
<td>14</td>
<td>7</td>
<td>11</td>
<td>(6)</td>
<td>66</td>
</tr>
<tr>
<td>Total tax</td>
<td>18</td>
<td>20</td>
<td>2</td>
<td>14</td>
<td>7</td>
<td>11</td>
<td>(6)</td>
<td>66</td>
</tr>
<tr>
<td>Profit after tax</td>
<td>20</td>
<td>21</td>
<td>2</td>
<td>18</td>
<td>21</td>
<td>28</td>
<td>(7)</td>
<td>103</td>
</tr>
<tr>
<td>Minority interest</td>
<td>(1)</td>
<td>(1)</td>
<td>(2)</td>
<td>(1)</td>
<td>2</td>
<td>(1)</td>
<td>(1)</td>
<td>(5)</td>
</tr>
<tr>
<td>Extraordinary items</td>
<td>—</td>
<td>(2)</td>
<td>(6)</td>
<td>(1)</td>
<td>1</td>
<td>—</td>
<td>(16)</td>
<td>(24)</td>
</tr>
<tr>
<td>Profit/(loss) after all items</td>
<td>19</td>
<td>18</td>
<td>(6)</td>
<td>16</td>
<td>24</td>
<td>27</td>
<td>(24)</td>
<td>74</td>
</tr>
<tr>
<td>Dividends</td>
<td>15</td>
<td>15</td>
<td>5</td>
<td>11</td>
<td>12</td>
<td>9</td>
<td>3</td>
<td>70</td>
</tr>
<tr>
<td>Retentions</td>
<td>4</td>
<td>3</td>
<td>(11)</td>
<td>5</td>
<td>12</td>
<td>18</td>
<td>(27)</td>
<td>4</td>
</tr>
</tbody>
</table>

4.8. Over the whole period the net profits after charges including extraordinary items amounted to £74m, of which £70m has been paid out by way of dividend. There should however have been substantial retentions to finance the increased cost of replacing fixed assets and additional working capital. Even if all the profits of £74m had been retained, together with the £49m of new funds raised by a rights issue in 1972, this would have been inadequate to meet BL's capital needs.

Capital expenditure

4.9. Apart from retained profits and new capital, the major source of funds to finance capital investment is the charge made by a company against its profits for the depreciation of existing assets. Although BL’s accounting policies have been conservative, the charge for depreciation in the accounts, as a measure of the annual investment required, has been inadequate. This is partly due to the fact that a high proportion of the plant, throughout the
period 1968 to 1974 had already been fully depreciated. Depreciation of factory plant is provided on a straight line basis over periods ranging from eight to ten years. Amortisation of special tools, dies and jigs is on a straight line basis over three years or less in certain circumstances, and revenue expenditure on research and development is written off as incurred. The extent to which the fixed assets in use by BL have already been fully depreciated in earlier years is shown in the following table:

**Table 4.3**

<table>
<thead>
<tr>
<th>Year of Acquisition</th>
<th>Cost (£m)</th>
<th>Accumulated Depreciation (£m)</th>
<th>Net Book Value (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>To 30th September</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974</td>
<td>53</td>
<td>3</td>
<td>50</td>
</tr>
<tr>
<td>1973</td>
<td>49</td>
<td>15</td>
<td>34</td>
</tr>
<tr>
<td>1972</td>
<td>20</td>
<td>7</td>
<td>13</td>
</tr>
<tr>
<td>1971</td>
<td>28</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td>1970</td>
<td>21</td>
<td>14</td>
<td>7</td>
</tr>
<tr>
<td>1969</td>
<td>20</td>
<td>15</td>
<td>5</td>
</tr>
<tr>
<td>1968</td>
<td>28</td>
<td>23</td>
<td>5</td>
</tr>
<tr>
<td>1967</td>
<td>21</td>
<td>19</td>
<td>2</td>
</tr>
<tr>
<td>1962–1966</td>
<td>78</td>
<td>78</td>
<td>—</td>
</tr>
<tr>
<td>1957–1961</td>
<td>112</td>
<td>112</td>
<td>—</td>
</tr>
<tr>
<td>1952–1956</td>
<td>17</td>
<td>17</td>
<td>—</td>
</tr>
<tr>
<td>Pre 1952</td>
<td>2</td>
<td>2</td>
<td>—</td>
</tr>
<tr>
<td></td>
<td>449</td>
<td>318</td>
<td>131</td>
</tr>
</tbody>
</table>

In fact the table understates the proportion of old plant since in today's prices the cost of the plant acquired many years ago would be much higher.

4.10. Table 4.3 therefore shows not only that BL is still using an unacceptably high proportion of old plant but also, since this old plant was fully written off some years ago, that the provision made for replacement over the period since 1968 has been lower than it should have been. The only reason why BL has been able to record the slender profits set out in Table 4.1 is that these were arrived at without setting aside funds for replacing a substantial part of BL's plant.

4.11. As a result of these factors BL's actual capital expenditure over the period since 1968 has been modest as is shown in the table below:

**Table 4.4**

<table>
<thead>
<tr>
<th>Year to 30th September</th>
<th>Plant (£m)</th>
<th>Properties (£m)</th>
<th>Total (£m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1968</td>
<td>27</td>
<td>4</td>
<td>31</td>
</tr>
<tr>
<td>1969</td>
<td>23</td>
<td>6</td>
<td>29</td>
</tr>
<tr>
<td>1970</td>
<td>34</td>
<td>6</td>
<td>40</td>
</tr>
<tr>
<td>1971</td>
<td>25</td>
<td>4</td>
<td>29</td>
</tr>
<tr>
<td>1972</td>
<td>20</td>
<td>2</td>
<td>22</td>
</tr>
<tr>
<td>1973</td>
<td>30</td>
<td>6</td>
<td>36</td>
</tr>
<tr>
<td>1974</td>
<td>53</td>
<td>24</td>
<td>77</td>
</tr>
</tbody>
</table>

**Net operating assets**

4.12. There has also been a rundown to a critical level in BL's net
operating assets—ie the working capital needed to finance stocks and day to day trading—since 1971. This is shown in the following table:

<table>
<thead>
<tr>
<th>Table 4.5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BL’s net operating assets</strong></td>
</tr>
<tr>
<td><strong>As at 30th September</strong></td>
</tr>
<tr>
<td>£m</td>
</tr>
<tr>
<td>Sales for the year</td>
</tr>
<tr>
<td>Net operating assets</td>
</tr>
<tr>
<td>Percentage of sales</td>
</tr>
</tbody>
</table>

**Effects of inflation**

4.13. It is clear therefore that, even in a non-inflationary economy, BL would by 1974 have been in an extremely vulnerable position. For several years it had been spending far too little on replacing its fixed capital and had been running down its working capital. Inflation means however that even to maintain the expenditure on plant replacement and to finance working capital at the same level in real terms, much higher levels of profit are required. It has been calculated that, at current rates of inflation, BL would need to earn £100m more profit a year than it does at present merely to finance inflationary increases in fixed and working capital, ie to stand still. This ignores any provision to make up for past under-investment, and makes no allowance for dividends.

[Paragraphs 4.14 to 4.27 analyse BL’s profit and cash forecast and borrowing position up to the end of September 1975.]

4.28. Very large sums will therefore need to be provided from external sources to finance the new capital investment and other action required to make BL a viable business. The action required is described in the following chapters under various detailed headings. The cost of the action required is analysed in Chapter 14 and the financing of the additional expenditure is dealt with in Chapter 15.
operating assets—ie the working capital needed to finance stocks and day to day trading—since 1971. This is shown in the following table:

<table>
<thead>
<tr>
<th>TABLE 4.5</th>
</tr>
</thead>
<tbody>
<tr>
<td>BL's net operating assets</td>
</tr>
<tr>
<td>As at 30th September</td>
</tr>
<tr>
<td>£m</td>
</tr>
<tr>
<td>Sales for the year</td>
</tr>
<tr>
<td>Net operating assets</td>
</tr>
<tr>
<td>Percentage of sales</td>
</tr>
</tbody>
</table>

Effects of inflation

4.13. It is clear therefore that, even in a non-inflationary economy, BL would by 1974 have been in an extremely vulnerable position. For several years it had been spending far too little on replacing its fixed capital and had been running down its working capital. Inflation means however that even to maintain the expenditure on plant replacement and to finance working capital at the same level in real terms, much higher levels of profit are required. It has been calculated that, at current rates of inflation, BL would need to earn £100m more profit a year than it does at present merely to finance inflationary increases in fixed and working capital, ie to stand still. This ignores any provision to make up for past under-investment, and makes no allowance for dividends.

[Paragraphs 4.14 to 4.27 analyse BL's profit and cash forecast and borrowing position up to the end of September 1975.]

4.28. Very large sums will therefore need to be provided from external sources to finance the new capital investment and other action required to make BL a viable business. The action required is described in the following chapters under various detailed headings. The cost of the action required is analysed in Chapter 14 and the financing of the additional expenditure is dealt with in Chapter 15.
ANNEX 4.1

BL’s capital structure, borrowings and borrowing powers

Share and loan capital

**Share capital**

4.1.1. The present authorised share capital of BL is £175m in 700 million ordinary shares of 25p each. The issued share capital at 30th September 1974 comprised the following:

<table>
<thead>
<tr>
<th>Ordinary Shares of 25p each</th>
<th>Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fully paid</td>
<td>592,658,414</td>
<td>£148,164,603</td>
</tr>
<tr>
<td>Partly paid—issued</td>
<td></td>
<td></td>
</tr>
<tr>
<td>under the British Leyland Share Incentive Scheme</td>
<td>9,668,644</td>
<td>£171,992</td>
</tr>
<tr>
<td></td>
<td><strong>602,327,058</strong></td>
<td><strong>£148,336,595</strong></td>
</tr>
</tbody>
</table>

4.1.2. The market price of the ordinary shares at mid-March was around 8p and the market capitalisation of BL was around £48m.

4.1.3. The amount paid on the partly paid shares at 30th September 1974 totalled £171,992 (5 per cent of the subscription price), the balance of the subscription price being £3,267,827; in certain circumstances, relating to termination of employment, the Board is empowered to restrict the subscription price to the par value of the shares (which would total £2,417,161). The subscription prices of these partly paid shares which were issued at various times between August 1970 and July 1972 varied between 30p and 51p, the price for the bulk of them being between 30p and 40p.

4.1.4. The total issued and fully paid share capital of 593m ordinary shares of 25p each was issued as to 537m at the time of formation of BL (in exchange for shares in the two constituent companies), 54m by way of a rights issue in 1972, and the balance of 2m on conversion of Loan Stock (referred to below) and full payment of Incentive Scheme shares.

**Convertible Unsecured Loan Stock**

4.1.5. On 24th February 1972 a rights issue of 7½ per cent Convertible Unsecured Loan Stock (‘the Loan Stock’) repayable at par in 1982–87 was made. The Loan Stock carries the right, exercisable on 31st March each year, to convert into ordinary shares at the rate of 25p nominal of ordinary share capital for every 55p nominal of Loan Stock. The total balance of the Loan Stock outstanding at 30th September 1974 was £26,766,669 (which, if fully converted, would represent 48,666,670 shares). In addition, under the terms of the share incentive scheme, there is a balance of £156,149 outstanding on part of the Loan Stock which had been subscribed by members of the share
incentive scheme and on which only 5 per cent had been paid at 30th September 1974. The market price of the Loan Stock at mid-March was 41p (ex dividend) and the market value of the Loan Stock as a whole was some £11m.

Other borrowings

4.1.6. In addition to the Loan Stock, at 30th September 1974 the following loans were outstanding, all of which with minor exceptions are repayable at par:

<table>
<thead>
<tr>
<th>Secured:</th>
<th>£000</th>
<th>£000</th>
</tr>
</thead>
<tbody>
<tr>
<td>6½% Debenture Stock of Leyland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South African Limited 1971–81</td>
<td>85</td>
<td></td>
</tr>
<tr>
<td>7¼% Debenture Stock of Aveling-Barford Limited 1986–91</td>
<td>879</td>
<td></td>
</tr>
<tr>
<td>7½% Debenture of Ashok Leyland Limited 1979–83</td>
<td>1,066</td>
<td></td>
</tr>
<tr>
<td>Other loans redeemable after more than 5 years</td>
<td>1,013</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3,043</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Unsecured:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>BL:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6% Unsecured Loan Stock 1998–2003</td>
<td>12,436</td>
<td></td>
</tr>
<tr>
<td>6.1% Unsecured Loan Stock 1977–82</td>
<td>3,376</td>
<td></td>
</tr>
<tr>
<td>7½% Unsecured Loan Stock 1987–92</td>
<td>9,933</td>
<td></td>
</tr>
<tr>
<td>8% Unsecured Loan Stock 1998–2003</td>
<td>10,869</td>
<td></td>
</tr>
<tr>
<td>5½% Unsecured Loan of 60 million Swiss Francs 1979–84 (repayable in instalments from 1979)</td>
<td>8,696</td>
<td></td>
</tr>
<tr>
<td>7½% Department of Trade and Industry Loan redeemable in 1982</td>
<td>10,000</td>
<td></td>
</tr>
<tr>
<td>7½% 100 million French Francs Bonds 1977–87 (repayable in instalments from 1977)</td>
<td>9,058</td>
<td></td>
</tr>
<tr>
<td>Leyland Innocenti S.p.a.:</td>
<td>73,248</td>
<td></td>
</tr>
<tr>
<td>9½% 9,000 million Italian Lire Loan 1976–84 (repayable in instalments from 1976)</td>
<td>5,837</td>
<td>70,205</td>
</tr>
</tbody>
</table>

Borrowing powers

4.1.7. The borrowing powers under the Articles of Association are restricted to one and one half times the aggregate of BL’s issued share capital and the reserves of the Group. Based on the balance sheet at 30th September 1974 this limit is £390.3m.

4.1.8. The borrowing limits imposed by the Loan Stock and other loan Trust Deeds are:

(a) The total amount outstanding of monies borrowed by BL and specified UK subsidiaries may not exceed one and one half times the aggregate of the share capital of BL and the reserves, as defined, of the UK Group, less the book value of investments in overseas subsidiaries. Based on the balance sheet at 30th September 1974, this limit is £305m.

(b) The total aggregate amount outstanding of all secured borrowing of BL and all borrowings of UK subsidiaries other than BLUK may not exceed 30 per cent of the limit at (a) above. Based on the balance sheet at 30th September 1974, this limit is £91.5m.

There are also restrictions on the disposal of the whole, or substantial parts of, the UK business.
### BL’s year-end Balance Sheets: 1968-74

<table>
<thead>
<tr>
<th>Year</th>
<th>1968 £m</th>
<th>1969 £m</th>
<th>1970 £m</th>
<th>1971 £m</th>
<th>1972 £m</th>
<th>1973 £m</th>
<th>1974 £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital employed:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fixed assets</td>
<td>170</td>
<td>173</td>
<td>184</td>
<td>181</td>
<td>176</td>
<td>203</td>
<td>240</td>
</tr>
<tr>
<td>Tools, dies and jigs</td>
<td>17</td>
<td>17</td>
<td>18</td>
<td>17</td>
<td>20</td>
<td>32</td>
<td>46</td>
</tr>
<tr>
<td>Trade investments</td>
<td>15</td>
<td>22</td>
<td>25</td>
<td>13</td>
<td>16</td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>Net operating assets</td>
<td>98</td>
<td>125</td>
<td>176</td>
<td>221</td>
<td>150</td>
<td>122</td>
<td>139</td>
</tr>
<tr>
<td>Net liquid assets</td>
<td>18</td>
<td>1</td>
<td>(79)</td>
<td>(90)</td>
<td>6</td>
<td>51</td>
<td>(35)</td>
</tr>
<tr>
<td>Corporation tax</td>
<td>9</td>
<td>10</td>
<td>2</td>
<td>8</td>
<td>4</td>
<td>5</td>
<td>—</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>309</td>
<td>328</td>
<td>322</td>
<td>334</td>
<td>374</td>
<td>414</td>
<td>400</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>1968 £m</th>
<th>1969 £m</th>
<th>1970 £m</th>
<th>1971 £m</th>
<th>1972 £m</th>
<th>1973 £m</th>
<th>1974 £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financed by:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Share capital</td>
<td>134</td>
<td>134</td>
<td>134</td>
<td>135</td>
<td>148</td>
<td>148</td>
<td>148</td>
</tr>
<tr>
<td>Reserves</td>
<td>104</td>
<td>105</td>
<td>94</td>
<td>99</td>
<td>121</td>
<td>139</td>
<td>112</td>
</tr>
<tr>
<td>Loan stock</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>27</td>
<td>27</td>
<td>27</td>
</tr>
<tr>
<td>Minority interests</td>
<td>9</td>
<td>10</td>
<td>12</td>
<td>12</td>
<td>8</td>
<td>10</td>
<td>11</td>
</tr>
<tr>
<td>Loans</td>
<td>62</td>
<td>79</td>
<td>82</td>
<td>88</td>
<td>68</td>
<td>71</td>
<td>73</td>
</tr>
<tr>
<td>Deferred exchange</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>9</td>
<td>6</td>
<td>—</td>
</tr>
<tr>
<td>Deferred taxation</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>2</td>
<td>10</td>
<td>23</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>309</td>
<td>328</td>
<td>322</td>
<td>334</td>
<td>374</td>
<td>414</td>
<td>400</td>
</tr>
</tbody>
</table>

The net operating assets are analysed as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>1968 £m</th>
<th>1969 £m</th>
<th>1970 £m</th>
<th>1971 £m</th>
<th>1972 £m</th>
<th>1973 £m</th>
<th>1974 £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inventory, less deposits</td>
<td>207</td>
<td>251</td>
<td>292</td>
<td>338</td>
<td>305</td>
<td>354</td>
<td>472</td>
</tr>
<tr>
<td>Creditors</td>
<td>(201)</td>
<td>(222)</td>
<td>(245)</td>
<td>(240)</td>
<td>(262)</td>
<td>(363)</td>
<td>(479)</td>
</tr>
<tr>
<td>Debtors</td>
<td>131</td>
<td>148</td>
<td>167</td>
<td>165</td>
<td>160</td>
<td>189</td>
<td>192</td>
</tr>
<tr>
<td>Taxation and other current liabilities</td>
<td>(39)</td>
<td>(52)</td>
<td>(38)</td>
<td>(42)</td>
<td>(53)</td>
<td>(58)</td>
<td>(46)</td>
</tr>
<tr>
<td><strong>Net operating assets</strong></td>
<td>98</td>
<td>125</td>
<td>176</td>
<td>221</td>
<td>150</td>
<td>122</td>
<td>139</td>
</tr>
</tbody>
</table>
CHAPTER 5

Product range and markets

[In Chapter 5 of the Report the Team make detailed recommendations about BL's future product and marketing policies. For reasons of commercial security, these have not been published, but they are dealt with in general terms in paragraphs 20 to 24 of the Summary.]

CHAPTER 6

Engineering

6.1. An important factor in the success of the policy of product and component rationalisation that we recommend in the previous Chapter will be the organisation of the engineering resources available to the Corporation and the facilities in which to design and test the new products. The Team consider that the car and commercial vehicle operations should each have a single and clear cut line of management responsibility for product development and product development engineers in one location with adequate supporting facilities.

Organisation

6.2. Within a corporation manufacturing cars or commercial vehicles there is a variety of engineering talents. Some of these are concerned with the development of new products, others are more closely associated with the manufacture of the current models. The first group includes the following: product planners who plan the outline of a model for a particular place in the market; styling engineers who design the model to conform to parameters set by the product planners relating to certain basic size characteristics of the model, and vehicle engineers who translate the ideas of product planners and styling engineers into requirements for production. The second group of engineering skills relates to production. They include the task of ensuring that the model prototypes can be manufactured in volume on a production line up to an acceptable standard, and the responsibility for plant and machine layout and performance.

6.3. At present in BL the engineers involved in product development are dispersed among the different product divisions. We recommend that all these talents should be the responsibility of a single product development organisation within the car operation, and there should be a similar arrangement for
trucks and buses, which would have unified management responsibility for all the skills necessary for designing and developing new cars (or commercial vehicles). The central engineering capability would pool all the scarce design and planning resources in order to provide the designs for the rationalised models that we recommend in Chapter 5. We believe that the creation of this single product planning group is an urgent preliminary step in reorganising BL's management structure. We have detailed proposals for the organisation of this group which will be made available to the new management.

6.4. We recommend that the engineering skills which relate to the manufacturing process should continue to be designated as line responsibilities under the manufacturing management.

6.5. The central engineering capability will perform one other important function. The most striking example of the fragmented engineering approach in the Corporation at present is the quantity of part numbers. We were told that BL has 4 to 5 times the quantity that Ford (UK) has. This increases handling costs, slows production processes and magnifies scheduling and purchasing problems. The reason is that engineering staffs, who create the specifications for parts, are not in a single organisation with the maximum degree of co-ordination. The numbers they give to release documents, which become the parts' numbers, are not on a common system. Engineering effort is at present being wasted on trying to achieve standardisation. In our view this can only be achieved satisfactorily through a central engineering organisation. The organisation should also be able to achieve cost reductions through a corporate, unified approach to: materials specifications; package standards; drawing office standards, and test procedures. In addition it should assist in defining responsibility and creating methods for design cost control and product modifications.

Facilities

6.6. An important aspect of the design and development process is the ability to test components and complete models in the laboratory and in all driving conditions. At present BL has office, workshop and laboratory space for their car divisions at scattered points at 5 different sites. They have no test track, using the facilities at the Motor Industry Research Association (MIRA) establishment at Nuneaton, and a few other scattered locations. The Truck and Bus Division has workshop and laboratory facilities and a test track at Leyland.

6.7. We recommend that BL should plan for a central complex of laboratories and workshops to be built by 1979 for its car operations. As an interim measure temporary facilities, probably at Solihull, should provide the centre of control for all car engineering personnel. The Truck and Bus facilities at Leyland should be extended as a matter of urgency.

6.8. The Team have not been able to examine all the implications of the proposal to acquire a test track for BL. A track is urgently needed. [Various possibilities are discussed; these are omitted for reasons of commercial security.] We recommend that the new BL management should take an early decision on this.
CHAPTER 7

Procurement

[This Chapter discusses BL's purchasing arrangements and relationships with its suppliers and is omitted for reasons of commercial security.]

CHAPTER 8

Production

8.1. In order to become an efficient, profitable producer of cars and commercial vehicles BL must remedy the shortcomings in its manufacturing facilities and techniques. The two main aspects on which urgent action is required are:

(i) The need to reorganise production facilities to provide for specialisation in particular manufacturing activities.

(ii) The replacement of outdated and inefficient plant and machinery.

Plant location and activities

8.2. There are 55 main manufacturing plants in BL—the breakdown at present is as follows:

- 29 involved in car production
- 13 in the Truck and Bus Division
- 11 in the Special Products Division
- 2 in Prestcold

This Chapter is concerned mainly with the car and truck and bus operations and those foundries which are at present under the Special Products Division.

8.3. The main concentration for car operations is in the Midlands around Birmingham, Coventry, Solihull, Oxford and Swindon. Truck and bus operations reflect the locations of the original companies which, at one time or another, have been merged into BL and are scattered throughout the country from Scotland (Glasgow and West Lothian) through Leyland to Bristol, Lowestoft, Southall and Park Royal. The companies under the Special Products Division are at Grantham, Leicester, Nottingham, Coventry, Tipton (Staffs) and Birmingham. In addition, the foundry operations are at Tipton, Leeds, Keighley, Wellingborough (Northants), Longbridge, Coventry and Farington in the Leyland complex.
8.4. In examining the operations in which each plant is involved, it is useful to separate the different functional processes associated with car manufacture. They are:

(a) Body and assembly operations: from stamping panels through the assembly of the body (body in white), painting, trim and final assembly of the complete car.

(b) Power train and chassis operations: the foundry work on producing castings for engines and cylinders; the manufacture of engines, suspensions (axles and chassis) and transmissions.

(c) Parts: the supply of sub-assemblies and components—electricals, brakes, radiators etc.

The functional categorisation of truck and bus operations is similar except that in the case of buses, there is a sharper distinction between the manufacture of main components—engines, axles and transmissions—and the final assembly which is mainly in the hands of specialist coach builders.

Body and assembly operations

8.5. The major inherited problem, created by the dispersed nature of these locations, is the difficulty of controlling and supervising the movement of manufactured parts and sub-assemblies between plants. This movement is apparent in the Truck and Bus Division where there is a complicated routeing cross-pattern as panels and major assemblies move from one plant to another. For example, the plant at Bristol, besides producing single and double-deck bus chassis, takes axles from Bathgate and engines from Leyland and supplies chassis to coachbuilders in Leeds and Lowestoft. Some movement of parts and material between plants is essential. For human and financial considerations, BL clearly cannot start afresh and plan new plant layouts on ‘green field’ sites with all assembly and finishing operations in one place. BL has to live with its existing plants and it has made considerable progress towards the rationalisation of movement between them. There is still, however, some unnecessary movement, particularly in the car divisions, which transport unpainted body shells to another location for paint, trim and final assembly.

8.6. We recommend that the Corporation should expedite the rationalisation of its assembly operations. The aim should be to bring together body assembly processes so that individual plants are associated with one or more model lines from receipt of the pressed out panels to final assembly. This will avoid the wasteful transport of unpainted bodies from one location to another.

Engines, suspensions and transmissions

8.7. The major programme of product rationalisation called for in Chapter 5 requires that activities associated with the manufacture of major components should be brought together. Plants should specialise in engines, gear-boxes, and chassis without distinction by model type and without being involved in the body assembly operations. The families of engines and gear-boxes should be fewer, be common to different model types and have similar characteristics throughout the range.
8.8. There is a considerable degree of vertical integration in BL in that the Corporation owns its own foundries and companies specialising in parts and sub-assemblies. The car divisions are responsible for five plants involved in the manufacture of carburettors, radiators and other components. The Truck and Bus Division has similar interests in BUTEC. Although wholly owned by BL, these plants sell components to other motor manufacturers, but in many instances supply only part of BL's requirements. They cannot rely on a steady run of production orders from BL to maintain their profitability. Similar type parts are also produced in various locations so that the expertise that goes with their manufacture is dispersed throughout the Corporation. We recommend that the Corporation rationalise its present system of parts manufacture so that similar parts are produced in the same location.

8.9. We also recommend the appointment of a senior executive responsible for parts manufacture. He should achieve the following objectives: a better degree of self-reliance in the Corporation on its own parts production; an improvement in the flow of parts supplied into the power train and body assembly operations; and a major reduction in the quantity of part numbers by a deliberate programme of commonisation.

Plant layout

8.10. Besides the rationalisation of activities between plants, we recommend that BL should improve the layout of processes within plants. Many layouts are not efficient; the piecemeal expansion of facilities over the years has compromised original plans and added appreciably to the costs of handling materials. We consider that substantial economies could be achieved almost immediately by an early plant layout improvement programme. We have specific proposals which can be made available to the new management.

Investment in plant and machinery

8.11. The serious under-provision for depreciation we have observed in Chapter 4 has been brought out dramatically in the evidence we have heard and seen about the under-capitalisation of BL’s production facilities. In the automotive industry, most machinery is replaced after 8–12 years. In BL more than half the machines and equipment are over 15 years old. Apart from the need to introduce new models, BL would in any event need a heavy programme of investment to bring its machines and equipment up to modern working standards. [Detailed information in this paragraph and in an Annex about the age of BL's plant and machinery is omitted for reasons of commercial security.] This record of under-investment is the main reason for the low productivity of BL’s work force compared with say Fiat or Volkswagen. It also engenders low morale among the work force and worsens industrial relations.

8.12. The main area in which capital under-provision is most in evidence is in the foundries. BL owns 7 foundries which make about 54 per cent of the
Corporation's requirement for grey iron and 20 per cent of its requirement for aluminium. The productivity levels are judged to be less than half those in plants which use more modern equipment. The Team are convinced that a substantial programme of investment is needed for BL foundries not least to bring them up to the safety and environmental standards now required. This is not, however, a problem confined to the Corporation. It is a national issue which concerns the United Kingdom's industrial base. We therefore recommend that, once the broad outlines of BL's future are decided, discussions should be held with representatives of the foundry industry, both inside and outside BL, to plan a strategy of development and investment for the future. In the meantime, however, British Leyland should begin a programme for the improvement of their foundries at an estimated cost, in today's prices, of £50 million.

8.13 The programme of modernisation of facilities that BL must undertake can, in most areas, be associated with model changes. When tooling up for a new product, the opportunity should be taken to improve facilities. This is not a policy which BL have followed in the past. There have been occasions when facilities for a new product have been 'tacked on' to the plant producing the existing product. This attitude must change. BL must adopt a co-ordinated and comprehensive approach to its product rationalisation programme which would include an element for the automation of existing work processes. We believe that this, together with a programme of improved plant layout and the implementation of the Team's other recommendations, will bring production efficiency up to the level of the Corporation's competitors. We do not, however, recommend that BL should build any major new plant on a green field site in a new location. There will be exceptions to this in the case of foundries and possibly certain component manufacturing operations.

Summary

8.14. Our recommendations on BL's production facilities are as follows:

(i) BL should reorganise its car manufacturing operations to provide for specialisation in body assembly work, power train and transmission or parts manufacture.

(ii) The existing plants in the body assembly group should be engaged in all operations from receipt of stamped panels to final assembly of complete vehicles.

(iii) Plants in the power train and transmission group should specialise on a functional basis and not be involved in body assembly work.

(iv) The truck and bus operations should be similarly organised so that, as far as is practicable, different plants specialise in particular activities.

(v) BL should rationalise its system of parts manufacture so that similar parts are produced in the same location.

(vi) Among the organisational changes necessary, BL should appoint a senior executive with responsibility for all parts manufacture.

(vii) BL should undertake an urgent programme to improve plant layout.
(viii) BL's expenditure on equipment to improve working practices and automate manufacturing processes should, in most areas, be associated with model changes.

(ix) Except for foundries and possibly certain component manufacture, there seems no need for BL to build any major new plant on a green field site in a new location.

(x) The future of BL's foundries will need to be considered in a wider national context. In the meantime, however, BL should plan for the improvement of its own foundries.

CHAPTER 9

Industrial relations

9.1. Other chapters of this Report discuss a whole range of proposals which we believe will help to make BL more efficient and competitive—fewer and better models, improved facilities for design, engineering and production, and changes in organisation and management. These proposals cannot be implemented without the investment of very large sums of public money. But, even with these new plans and new resources, the success of BL over the next decade will depend mainly on the skills, efforts and attitudes of its 170,000 employees.

9.2. BL has suffered a good deal in recent years from adverse publicity about its work force. Its strike record is continually discussed in the Press and there have been stories about serious over-manning in particular plants. These reports are particularly damaging to BL's reputation in overseas markets. We do not subscribe to the view that all the ills of BL can be laid at the door of a strike-prone and work-shy labour force. While BL has suffered seriously from interruptions to production, these have often been the result of factors outside the control of BL's work force—breakdowns in plant and equipment, faulty scheduling, shortages of materials and components, and external industrial disputes. Moreover, some BL plants, for example, in South Wales, have an excellent industrial relations record. Similarly, one of the main reasons why BL's workers produce less than workers at Fiat or Volkswagen is that so much less has been spent by BL on new plant and equipment. Nevertheless, when these necessary allowances and qualifications have been made, there remain two problems which must be dealt with in any programme for BL's future over the next decade:

(i) The interruptions to production resulting from industrial disputes within BL must be reduced.

(ii) More effective use must be made both of BL's existing capital investment and of the planned additional capital investment.

The scale of these problems is set out in the following paragraphs.
Strikes: Scale of the problem

9.3. BL has estimated that in 1973/74 it lost a total of 23.8 million man-hours through industrial action, of which some 9.6 million man-hours were attributable to disputes within BL. A comparison with figures for earlier years is given in the following table:

<table>
<thead>
<tr>
<th>Financial years to end September</th>
<th>External</th>
<th>Internal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1969/70</td>
<td>4.0m</td>
<td>5.0m</td>
<td>9.0m</td>
</tr>
<tr>
<td>1970/71</td>
<td>0.3m</td>
<td>8.0m</td>
<td>8.3m</td>
</tr>
<tr>
<td>1971/72</td>
<td>3.4m</td>
<td>10.0m</td>
<td>13.4m</td>
</tr>
<tr>
<td>1972/73</td>
<td>3.9m</td>
<td>7.4m</td>
<td>11.3m</td>
</tr>
</tbody>
</table>

9.4. It has been pointed out that the man-hours lost in 1973/74 represent only 3 per cent of the total of some 300 million man-hours a year available to the company from its manual workers. In fact, however, the effect is much more severe than these figures would indicate. This is partly because the profitability of vehicle production is very sensitive to degrees of utilisation of capacity. Moreover, much depends on the timing of industrial disputes. They can have particularly damaging effects when total market demand is high, as for example in 1973. BL's inability to supply as a result of industrial disputes was a contributing factor to financial difficulties in the latter part of 1974. BL estimated that it lost 37 per cent of scheduled production during October and November 1974. About half of this was due to quality faults, facility failures, programme changes and absenteeism. But the remaining loss (19 per cent of scheduled production) was due to industrial disputes and most of this (15 per cent of scheduled production) was due to disputes within BL. The timing of particular strikes can also critically affect model launches and the winning of contracts. For example, in the early months of this year, despite the efforts of the unions involved, the engine tuners' strike at Cowley delayed the launch of the new ADO 71 model from the beginning to the end of March and the strike at Castle Bromwich resulted in the loss of a South Korean contract. It must be recognised that BL's experience is not unique in the British motor industry. Indeed, in the first nine months of 1974 BL's record was rather better than that of Ford or Chrysler (48 hours per employee lost compared with 53 and 50 respectively). But BL's performance must be improved if it is to compete effectively in world markets.

Productivity: Scale of the problem

9.5. On labour productivity many of the comparisons made between BL and its competitors both in the UK and overseas are unfair and unreliable. For example, The Economist published on 1 March a table showing that in 1973 BL produced only 5.9 vehicles per man compared with 8.3 for Ford UK, 10.1 for Ford Germany, 11.6 for Volkswagen and 14.6 for Renault. But these comparisons do not take into account the type and sophistication of vehicles produced (eg BL's luxury cars and heavy trucks and buses) or the extent to which bought-in materials and components are used.

9.6. Nevertheless, BL accepts that, comparing like with like, its labour productivity is often less than that of its competitors. [An example given here
is omitted for reasons of commercial security.] Over BL's car operations as a whole, considerably more manpower is used than the theoretical standard manpower required. This is partly because of old and outdated plant and machinery and partly because of currently agreed manning levels.

9.7. In considering how to deal with these problems, the Team did not attempt to allocate blame for past short-comings. Instead, the approach was to assess the scope for improvement in the future and to propose action which should achieve this improvement.

9.8. We recommend in Chapters 5, 6 and 8 of the Report that there should be a major new capital investment programme to modernise BL's design, engineering and production facilities and to provide for a new rationalised model range. Against this background, the Team believe that it is both essential and feasible to look for significantly greater co-operation between management and workers than in the past, leading to fewer industrial disputes, more realistic manning levels and more mobility and interchangeability of labour. In our discussions with BL trade union representatives, it was repeatedly stressed to us that BL's workers wanted the Corporation to be a viable and successful enterprise. They accepted that, once the deficiencies of past under-investment had been remedied and any necessary changes made in organisation and management, BL could not expect any continuing subsidy from the Government and should be able to compete effectively in world markets. We found ample evidence that BL's employees at all levels want to make their contribution to solving BL's problems. The responsible rôle adopted by the trade unions at BL over the disputes of recent months is symptomatic of this new attitude. It would be disastrous if, after the Government announced substantial assistance for BL and the capital expenditure programme was put in hand, the work force no longer felt the same obligation to help constructively in solving BL's problems.

9.9. We must therefore find ways of sustaining and developing the present constructive and realistic approach of BL's workers to the company's situation. We recommend that the progress of the capital expenditure programme and the injection of new finance by the Government should be staged. This is dealt with in more detail in Chapter 15 on the financing of the programme. It must be made clear that each stage will depend on evidence that some tangible contribution is being made both by BL's work force and its management to the reduction of industrial disputes and the improvement of productivity.

9.10. The improvement of productivity will inevitably mean a gradual reduction in the number of workers required to produce a given number of vehicles. If, however, the capital expenditure programme goes ahead and BL achieves the increased sales which are planned, any manpower reductions from increased productivity will be partly, perhaps mainly, offset by the expansion of BL's capacity, and the additional manpower needs arising from that. Moreover, although natural labour wastage has drastically reduced over the past year, it is still averaging 7 and 8 per cent and past experience has shown that a substantial response is made to calls for voluntary redundancy from older workers. Even so, careful forward manpower planning will be needed,
particularly in areas where some major rationalisation of production facilities is undertaken.

**Action to improve industrial relations**

9.11. The essence of our proposals is to promote a deeper sense of commitment by BL’s workers to the success of the enterprise on which their livelihood depends. To make this possible there must be a major effort to improve industrial relations within BL. We have considered what specific measures should be taken under three main headings:

(i) Payment systems.

(ii) Collective bargaining.

(iii) Industrial democracy.

These matters, as well as BL’s situation and prospects generally, were discussed by the Team at meetings held jointly with representatives of the Executive Council of the Confederation of Shipbuilding and Engineering Unions and an elected group of BL shop stewards and staff representatives. The Team also had a meeting with elected representatives of BL’s middle management.

**Payment systems**

9.12. Until 1971 BL workers engaged directly in production were paid largely on a piecework system, and indirect workers had pay structures based on some derived relationship with piecework earnings. In 1970 BL took the view that the piecework system was a major source of friction, dispute and inequity in the Corporation. The major disadvantages as BL saw it were as follows:

(i) Piecework involved a large number of individual negotiations and bargains at shop floor level.

(ii) These negotiations took up a great deal of time and frequently led to industrial disputes—for example, arguments over payment for waiting time.

(iii) The introduction of a new model or a modification of a model involved a new round of piecework negotiations and potential disputes. (BL claims that the piecework negotiations over the Clubman variant of the Mini took six months and cost 18,000 units in lost production.)

(iv) Piecework resulted in wide disparities in pay levels which gave rise to further grievances and disputes. (BL claims that in the Cowley assembly plant 1,000 claims were referred to works manager level in the last year of piecework.)

(v) There was a lack of income security. Lay-offs arising from disputes elsewhere in the Corporation or outside the Corporation could mean a sharp reduction in piecework earnings.

9.13. BL therefore decided to move to a system of measured day work beginning with the workers who were starting production of the Marina in Cowley in early 1971. To improve the attractiveness of the new system lay-off pay was also introduced. The change was not welcome to many workers who thought that they fared better under the old system. Although the amount of
time lost through disputes over the changeover was small, BL accepts that in order to secure acceptance of the measured day work system, they had to agree to manning levels which were often excessive. By September 1974 some 94 per cent of BL’s hourly-rated employees were being paid under the day work system.

9.14. BL believes that the new system will eventually bring significant benefits in improving industrial relations and in making it possible to plan and control production more effectively. In our discussions with BL trade union representatives, they argued that measured day work discouraged improvements in labour productivity, because it provided no reward for individual effort. They accepted that it was not desirable to abandon measured day work and return to piecework. They suggested, however, that in the interests of promoting better labour productivity, BL might introduce some form of incentive payment to supplement normal measured day work earnings.

9.15. The Team consider that there should be no change in the measured day work system at present. The move to measured day work has not yet been fully digested, and not enough time has elapsed for its advantages and disadvantages to be properly assessed. In particular, BL needs more time to work out acceptable standards of production performance as a basis for judging the potential for increasing productivity in the future. There is, nevertheless, scope for improving the measured day work system by agreement with the trade unions. This could at some time in the future include the introduction of some incentive element, and this possibility should be kept under review.

Collective bargaining

9.16. Collective bargaining arrangements in BL are extremely complex, and like many other aspects of the Corporation, reflect the historical evolution of BL from a large number of small companies. The 170,000 employees are divided among some 60 plants, 8 divisions and 17 different unions. As a consequence, the number of bargaining units (ie separate groups of employees covered by a single pay agreement on the main terms and conditions of their employment) is very large. There has been some progress in reducing the number of units in recent years. For example, at Triumph five separate plants have been brought together for wage bargaining purposes, hourly-rated employees in Jaguar are covered by a single unit, efforts are being made to integrate all Rover plants into a single hourly-rated bargaining unit and some progress is also being made in Truck and Bus Division. Nevertheless, there still remain 246 separate units. In one location, Castle Bromwich, there are nine bargaining units for hourly-rated employees. In some locations (eg Cowley) there is separate bargaining in the Body and Assembly plants, even though pay parity has been established between them.

9.17. It is BL’s policy to reduce the number of bargaining units. They argue that under the present arrangements the Corporation is in an almost continuous bargaining situation. The settlement of a claim in one location leads to a negotiation in another. The result in their view is to increase the instability of BL’s industrial relations.
9.18. The trade unions have in the past been suspicious of BL’s wish to reduce the number of bargaining units, because of their opposition, to the introduction of centralised bargaining on a corporation-wide basis of the kind which operates at Ford. They have, however, agreed to centralised bargaining over pension arrangements.

9.19. BL at present negotiates basic wages and conditions of employment (eg the 40 hour week, the four-week holiday entitlement) through the Engineering Employers’ Federation (EEF), and this basic agreement is then supplemented by separate agreements negotiated locally. If BL wanted to change to a system under which basic wages and conditions were negotiated centrally for BL as a whole or for major sectors of BL’s activities (eg cars, trucks and buses etc) this would call in question BL’s continued membership of the EEF. Although the EEF would probably not require BL to leave the Federation, it is questionable whether it would make sense for BL to stay, once its basic wages and conditions were no longer negotiated through the EEF. For the time being BL prefers to continue to negotiate through the EEF. We do not recommend any change in this arrangement at present, although BL should keep under review the balance of advantage of its remaining within the EEF.

9.20. Meanwhile, however, there is scope for reducing the number of bargaining units. In discussion with the Team the trade union representatives showed sympathy with the idea that there might be further progress towards a reduction in the number of bargaining units, provided that this was achieved gradually. They also recognised that BL would have more scope for delegating authority to negotiate to the level of individual bargaining units if these units were large enough to have a genuinely separate identity.

9.21. Collective bargaining at BL is also complicated by the wide variety of different renewal dates for the various agreements. There would be advantage in substantially reducing the number of dates. In discussions with the Team, the trade union representatives accepted that this would be beneficial. The Social Contract guidelines provide the flexibility for a restructuring of this kind on a once-for-all basis.

9.22. We therefore recommend that there should be a substantial reduction in the number of bargaining units at BL in the interests of good industrial relations and that, in the context of Government financial assistance to BL, further discussions with the trade unions should be held to work out a phased programme. An interim objective should be to aim at having not more than one unit for hourly-rated employees and another unit for white-collar employees at each location. An even smaller number might be envisaged eventually to reflect the new organisational structure for BL proposed in Chapter 12. A reduction in the number of renewal dates for agreements should also be discussed with the trade unions. Finally, maximum use should be made of the new Advisory, Conciliation and Arbitration Service to settle issues where agreement cannot be reached under the normal bargaining arrangements.
9.23. If full benefit is to be derived from these improvements in the collective bargaining machinery, it is essential that BL line management in the new bargaining units should have sufficient delegated authority to negotiate effectively. In Chapter 12 on organisation we have proposed a new structure in which BL corporate staffs are drastically reduced, corporate control and co-ordination are kept to the essential minimum, and responsibility and authority are devolved as far down the line as possible. This new approach has special relevance to industrial relations. In recent years, for a variety of reasons, there has been a tendency for BL's line management to be seen as having little real authority in bargaining. This tendency must be reversed. There will be a continuing need for a Director of Personnel at corporate level to advise the Board and Chief Executive on general issues of industrial relations policy and to give guidance to BL line management on negotiating strategy. But the responsibility for the conduct of negotiations must rest, and be seen to rest, with line management in the new bargaining units.

**Industrial democracy**

9.24. The most crucial factor in improving industrial relations at BL and in creating the conditions in which productivity can be increased is, however, that there should be some significant progress towards industrial democracy. Means must be found to take advantage of the ideas, enthusiasm and energy of BL's workers in planning the future of the business on which their livelihood depends. The objective should be to remove frustrations caused by management decisions imposed remotely from above. Workers' representatives need to be given more information about their company so that they can better appreciate management's problems and co-operate more constructively in solving those problems.

9.25. One of the main problems in devising arrangements of this kind at BL is the complexity of organisation on the trade union side. BL has to deal with seventeen different trade unions co-ordinated nationally in the Confederation of Shipbuilding and Engineering Unions (CSEU). A great deal of power and influence rests, however, with the shop stewards at plant level. Although there is a British Leyland Shop Stewards Committee, this is an unofficial body which is not recognised by BL or by the trade unions. There is therefore no single standing official body which could be said specifically to represent BL's employees. In order to assist the Team to carry out effective consultations for the Inquiry, the CSEU arranged a meeting of BL shop stewards in Birmingham on 3rd February and this meeting elected twelve representatives who were able to join with CSEU representatives in subsequent meetings with the Team. This arrangement was of great value to the Team. However, the composition of the shop steward representation did not reflect the balance of membership as between different unions or the distribution of employees between different BL divisions and plants. The Team received written representations from various trade unions both locally and nationally to the effect that the shop steward delegation was unrepresentative, that it had not been democratically selected and that the submission being made to the Team did not properly reflect the views of BL workers. It is clear that, if progress is to be made towards industrial democracy in BL, means must
be found of ensuring that there is adequate and balanced representation of the work force.

9.26. The trade union representatives put forward written submissions setting out their proposals for participation. These were framed on the assumption that BL would, as the trade unions recommended, be nationalised. They recognised that if the Government did not find it practicable to take BL wholly into public ownership somewhat different proposals for participation would be necessary.

9.27. The trade union proposals can be summarised as follows:

(i) There would be a series of joint Management/Union committees at all levels operating under an overall Group Board of Management.

(ii) The Committees would consist of elected voting union members with non-voting ex-officio management who would report on and account for policies and management.

(iii) There would be three levels of Committees:
(a) Department Committee—directly elected by union members (dealing with the affairs of a factory department).
(b) Factory/Area Committee—directly elected by union members (dealing with matters affecting a factory or group of factories in an area).
(c) Divisional Committee—elected by the Factory Committees (this Committee would put forward ideas on the need for developments in the division within the overall strategy of the Corporation, would ensure that the overall strategy was carried out within the division, and that ‘agreed financial commitments’ were implemented, and would be responsible for consultation with the lower level Committees).

(iv) The Board of Management would have ‘overall responsibility for the general direction of the Corporation’s activities’.

(v) The Board would be composed of Union and Government nominees on a 50/50 basis. Union members would be elected from the Divisional Committees while Government nominees would be appointed on a basis of consultation between the Unions and the Government. In addition, management would be represented in a non-voting ex-officio capacity.

(vi) The Board of Management would appoint the Management Team. The Board would need to sanction ‘all new policy decisions’ by management.

(vii) There would be full disclosure of all relevant information at the various levels of the organisation.

9.28. The trade union proposals raised two main issues which the Team believe are best considered separately—worker representation on the Board and improved arrangements for involvement and consultation at divisional and plant level.
9.29. The proposal for worker representation on the Board raises a major issue of Government policy which is of general significance. The Team are aware that the Government is considering the proposals made in the Labour Party Green Paper ‘The Community and the Company’ and in the TUC’s 1974 Report on industrial democracy for a two-tier board structure in which there would be 50 per cent trade union representation. These proposals would involve major changes in company law and in the statutes governing the nationalised industries. In our view, consideration of whether there should be elected worker representation on the Board of BL should be deferred until the Government has determined its general policy on the composition of company boards and boards of nationalised industries.

9.30. We welcome, however, the readiness of the trade union representatives to consider the setting up of joint management/union committees at divisional, plant and factory department levels. There is already a considerable number of management/union committees in BL, as in most companies of this size and type, to discuss particular matters such as production, safety and the canteen. These committees are mainly at plant level. Hitherto these bodies have not been very effective. Mainly this is because there has been inadequate management commitment to the consultative process. Discussions have been limited to trivial matters and management has been represented at too junior a level to ensure that employee views are genuinely taken into account in decision-taking. Trade unions, for their part, have often been suspicious of such bodies as either ineffective or designed to undermine normal bargaining arrangements. Tentative efforts recently by BL to set up a consultative council at corporate level have not been welcomed by trade union representatives, partly because of fears that it might lead to centralised collective bargaining.

9.31. We believe that there are several factors which should help in setting up a new and genuinely effective structure of committees to involve BL’s workers in decision-making. The crisis at BL has made all workers acutely aware of the wider issues affecting the future of the Corporation. In order to ensure that the workers understand what is happening and can contribute constructively to solving BL’s problems, it is already accepted that they must be provided with much more information than in the past about the Corporation’s performance and future plans. The Government’s proposals for planning agreements will also entail discussion of BL’s future plans by Government, management and workers, subject to safeguards about national security and commercial confidentiality.

9.32. The most important reason for setting up a new structure of joint management/union committees is the need to provide a forum in which representatives of BL’s workers can contribute effectively to improving BL’s efficiency. We have recommended in paragraph 9.9 above that the capital expenditure programme and the injection of Government finance should be staged and that each new stage should depend on evidence of a contribution both by BL’s workers and its management to a reduction in industrial disputes and increased productivity. Such a contribution can be made only with knowledge and understanding of future plans and in an
atmosphere of joint problem-solving by management and unions. There should be a framework, removed from the normal arrangements for collective bargaining, in which agreement can be reached on the action required.

9.33. We therefore recommend that, following this Report, a new structure of joint management/union committees should be worked out in consultation with the trade unions. The trade union proposals summarised in paragraph 9.27 above seemed to us to go further than is practicable. Over the next decade, BL will need the highest quality professional management it can get at all levels. Management must have executive responsibility and must be given the necessary scope for applying their skills in the interests of BL and its work force. On the other hand, there would be no point in establishing committees which were purely consultative, were expected to do little more than rubber-stamp management decisions, and which were confined to discussing trivialities. In the proposals outlined below, we have tried to devise machinery which will result in positive agreed action, without eroding management's executive responsibility.

9.34. We recommend that there should be no joint management/union committee at corporate level. We explain in Chapter 12 why we believe that BL should be run, as far as possible, as four separate businesses—BL Cars, BL Trucks and Buses, BL Special Products and BL International. We therefore propose that at the top tier of the new committee structure there should be two Joint Management Councils—the BL Cars Joint Management Council and the BL Trucks and Buses Joint Management Council. We do not recommend similar arrangements for Special Products and International. Apart from a small white-collar staff in London, nearly all the employees of BL International are overseas. As explained in Chapter 13, BL Special Products is a holding company for a number of separate undertakings producing diverse products. Arrangements for worker involvement in those undertakings should be developed in ways which take account of their particular circumstances and needs and the industries in which they are operating.

9.35. Below the two main Joint Management Councils, there should be two other tiers of Joint Management Committees. At the higher of these two tiers BL Cars should be divided up into not more than about eight meaningful units and BL Trucks and Buses should be divided into not more than about five such units. The units should be broadly consistent with the new organisation structure proposed in Chapter 12 and also make sense geographically. These groupings might be based partly on locations (eg the Longbridge complex of plants) and partly on divisional organisation. These Committees would be called simply Joint Management Committees with the appropriate prefix, eg Longbridge Joint Management Committee. The basic tier of the three-tier structure would be a large number of Departmental Joint Management Committees for each department or shop.

9.36. The composition and terms of reference of these bodies would be as follows:

(i) Joint Management Councils for BL Cars and for BL Trucks and Buses
Chairman: Managing Director BL Cars/BL Trucks and Buses.

Members: A manageable number (not more than say 15) consisting of the senior management team of BL Cars/BL Trucks and Buses, and union representatives drawn one from each of the second tier Joint Management Committees.

Terms of reference:
(a) to examine future plans to make BL a more competitive producer of cars (or trucks and buses);
(b) to seek as far as possible to reach agreement on these plans, while recognising that executive responsibility rests with management;
(c) to keep under review the implementation of these plans.

(ii) Joint Management Committees
Chairman: the senior BL executive within the area or division.
Members: senior management within the area or division, and senior shop stewards and senior staff association representatives within the area or division.

Terms of reference:
(a) to work out, within the framework of the overall plan for BL Cars (or Trucks and Buses), more efficient means and methods of production and improvements in the working environment in the area of operations covered by the Committee;
(b) to seek as far as possible to reach agreement on the action required, while recognising that executive responsibility rests with management;
(c) to keep under review the implementation of the action agreed.

9.37. We also recommend that, in addition to the Councils and Committees, there should twice a year be two Management/Union Conferences, one for BL Cars and another for BL Trucks and Buses. The Conferences would be organised by the relevant Joint Management Council. The BL Cars Management/Union Conference would be attended by all members of the Joint Management Committees and Departmental Joint Management Committees within BL Cars. The same would apply in BL Trucks and Buses. The relevant Joint Management Council would be on the platform and the Conference would provide an opportunity for the Council to give a report on its work over the previous six months and to hear the views and suggestions of Committee members—both management and unions. Once a year the Chief Executive of BL should attend each conference. We consider that these Conferences are necessary to ensure:

(i) that there is adequate liaison between the Councils and Committees at the various levels;
(ii) that Committee members at both area and divisional level and departmental level have a full sense of involvement in the success of the business in which they operate (whether cars or trucks and buses) as a whole;
(iii) that Committee members at both levels take full account in their work of the overall plans for the business (whether cars or trucks and buses) as a whole.

9.38. We are aware that, in putting forward these proposals, we are giving a major role to BL’s shop stewards, and particularly its senior shop stewards. We believe that it is essential to the success of any new initiative for joint committees that it should recognise the realities of power and influence within the existing employee organisations. Only in this way can BL hope to obtain any genuine commitment on behalf of the work force. It may be argued that some of these shop stewards are motivated by extremist political views and do not act in conformity with the policy of their unions or the interests of their members. It must be for the members themselves to recognise the responsibilities which the shop stewards are exercising on their behalf and to ensure that the right people are chosen to exercise these responsibilities. So that there should be no misunderstanding about the role of the committees and to secure full participation in their activities by all employees, the widest possible publicity should be given to the setting up of the committees and their terms of reference.

9.39. The proposals for joint councils and committees which we have outlined will require more detailed elaboration in a number of important respects—for example, the basis on which BL Cars can be divided to provide not more than eight units at the Joint Management Committee level. Moreover, the proposals cannot succeed unless they have support and co-operation from BL’s trade union representatives and workers. The first step in implementing the proposals must therefore be to explain them fully and discuss them with BL’s management and senior trade union representatives.

Summary

9.40. Our recommendations can be summarised as follows:

(i) BL cannot succeed unless there is a reduction in the man-hours lost from internal industrial disputes and more efficient use both of existing capital investment and the proposed additional capital investment.

(ii) The new capital expenditure programme and the injection of Government finance into BL should be staged and each new stage should depend on evidence of a contribution both by the work force and the management to the reduction of industrial disputes and improved productivity.

(iii) There should be no major change in the present system of payment by measured day work; there is, however, scope for improving the system, and the possibility of introducing some incentive element in the future should be kept under review.

(iv) BL should continue to negotiate basic wages and conditions through the Engineering Employers’ Federation but should keep under review the balance of advantage of remaining within the Federation.

(v) Discussions should be held with the trade unions about a further gradual but substantial reduction in the number of collective bar-
gaining units within BL and about a common reduction in the number of renewal dates for wage settlements.

(vi) To enable BL’s workers to contribute constructively to solving BL’s problems, there should be a new structure of joint management councils, committees and conferences on the lines proposed in paragraphs 9.33 to 9.38.

(vii) So that there should be no misunderstanding about the role of these new bodies and to secure full participation in their activities by all employees, the widest possible publicity should be given to their establishment and terms of reference.

(viii) The first step in implementing the proposals must be to explain them fully and discuss them with BL’s management and senior trade union representatives.

CHAPTER 10

Distribution

[This Chapter discusses BL’s arrangements for distribution and relationships with its distributors and dealers in the UK, and is omitted for reasons of commercial security.]

CHAPTER 11

Controls and systems

[This Chapter describes and assesses the management controls and systems operated within BL and is omitted for reasons of commercial security.]

CHAPTER 12

Organisation and management

Present organisation

12.1. The present organisation of BL, as adopted in November 1974, is shown in Chart 12.1. It has the following main features:

(i) The Chairman is also the Chief Executive; there is no formal statement of the extent to which the ultimate responsibility for
the day to day operations of the Corporation rests with the Chairman as Chief Executive or has been delegated to the Managing Director.

(ii) It is a mixture of an organisation based on products (trucks and buses and three separate groups of cars—Austin Morris, Rover Triumph and Jaguar) and an organisation based on functions (e.g. the two manufacturing divisions, Body and Assembly and Power and Transmission, and the International Division, responsible *inter alia* for BL's overseas marketing).

(iii) As a result, an unusually large number of line divisions—nine in all—report direct to the Managing Director; in fact, since there is at present no head of the International Division, the six directors or managing directors of the various international operations report to the Managing Director who thus has fourteen direct subordinates with line responsibility.

(iv) In order to assist the Managing Director in exercising these responsibilities, there is a large corporate staff under some fifteen senior executives who also report direct to him, although they are loosely grouped under the five most senior of their number.

12.2. The steps which led to the present organisation are outlined in Chart 12.2. When BL was formed in 1968 by the merger of Leyland Motors and British Motor Holdings, themselves the result of a series of mergers over the previous two decades, the form of organisation reflected the earlier company structure—Austin Morris (formerly BMC), Pressed Steel and Jaguar from BMH, and Rover Triumph and Truck and Bus from Leyland. Although it was the declared intention at the time of the merger in 1968 in a document signed by Sir George Harriman and Lord Stokes that the Corporation should not be a holding company with largely autonomous subsidiaries but an 'integrated' organisation, the basic structure remained little changed until the two re-organisations of 1974. It is generally accepted that there were conflicting schools of thought within the Corporation—some working towards full integration and others hoping to preserve the independence of the old company structure. The present form of organisation is largely the result of these historical factors. The large Austin Morris/Pressed Steel operation has been broken down into separate divisions but the Rover Triumph and Jaguar Divisions remain mostly unchanged except for the loss of their parts and KD ('knocked down') activities to the newly created Parts and KD Division. The other main feature of the past few years has been the building up of a large corporate staff.

**Defects of present organisation**

12.3. We consider that the present organisational structure has serious defects and has significantly harmful effects both on the efficiency of BL's operations and on its future development. The organisation is now generally accepted as unsatisfactory by the higher management of BL and is defended only as an interim arrangement. There are, however, no agreed plans within BL about the eventual form of organisation which should be adopted or the timetable for achieving it.
12.4. In brief, the present structure of BL combines most of the dis­advantages of both centralised and decentralised organisations with few of the advantages of either. In particular, the main defects are as follows:

(i) There is inadequate co-ordination and integration of the product planning, engineering, manufacturing and marketing of cars.

(ii) Co-ordination within the car business as well as co-ordination between the car business and BL’s other activities is the responsibility of the Deputy Chairman and Managing Director who thus has too wide a span of detailed control.

(iii) The creation of large corporate staffs to assist him to carry out these responsibilities has further increased the number of executives reporting directly to him (14 line plus 5 to 15 staff).

(iv) The resulting complex of line/staff relationships leads to lengthy discussions both in formal committees and ad hoc groups and delays decisions.

(v) The extensive use of corporate staffs undermines the authority and responsibility of line management without bringing them under effective control.

(vi) The Truck and Bus Division and the International operations have suffered from the concentration of effort and resources at headquarters on the co-ordination of the UK car operations.

12.5. These basic defects in the organisational structure have been aggravated by a reluctance in BL’s top management to delegate responsibility.

Principles for a new organisation

12.6. In considering what should be the new organisational structure we have been guided by the following main principles:

(i) We do not believe that the Corporation as a whole is too large to be manageable, given the right organisational structure and the right management. There are advantages for BL in being a producer both of cars and of trucks and buses. There would, however, be advantage in dividing up BL’s activities, within the overall corporate structure, into separate businesses which would be profit centres in their own right.

(ii) The new structure must facilitate and not impede the policies of product rationalisation and re-organisation of production facilities outlined in Chapters 5 and 8.

(iii) The Chairman should be non-executive. The Chief Executive should have full authority and responsibility for the operations of the Corporation as a whole.

(iv) The Chief Executive should have only as many people reporting to him as he can effectively control directly.

(v) The corporate staff should be drastically reduced to those functions where a corporate co-ordinated approach is essential.

(vi) Management responsibility should be delegated down the line to the maximum possible extent and the main units into which the
Corporation is divided should be given the maximum possible autonomy within the overall corporate framework.

(vii) In order to put an end to the organisational tensions and uncertainties from which BL has suffered over the past 7 years, the structure we propose should be announced immediately and implemented as a single stage operation without delay, rather than evolved through various interim stages over a number of years.

Proposed new structure
12.7 We have aimed to divide up the Corporation into identifiable units which are large enough to operate as coherent and separate entities. Three sectors of BL's activities can be readily recognised as separate operations—Truck and Bus, Special Products and International.

12.8. The production and marketing of trucks and buses have special characteristics. These vehicles are more complex and expensive and lend themselves less easily to techniques of volume production. The purchasers tend to be large companies or public authorities and there is a need for close contact between purchaser and manufacturer, sometimes extending to the development of special designs or modifications. BL's truck and bus activities are already organised in a separate division. We believe that the truck and bus business will be better able to realise its full potential if it is recognised as a profit centre in its own right and is given maximum autonomy within the overall framework of the Corporation.

12.9. Similarly Special Products Division already operates largely as an industrial holding company within BL. We recommend that it should continue to do so, as a separate profit centre. It should, however, incorporate Prestcold Ltd which is at present a separate company outside the BL divisional structure. The foundry activities of Special Products Division are more closely linked with vehicle manufacturing and should be integrated with BL's car and truck and bus operations, joining the foundries already under the present manufacturing divisions.

12.10. Although the present BL organisation chart (Chart 12.1) refers to an International division there is in fact no satisfactory structure for BL's overseas manufacturing and distribution. There is no head of the division and the various overseas directors and managing directors report directly to the Corporation Managing Director and, in some cases, direct to the Chairman. The staffs dealing with international activities in London appear to be largely confined to co-ordination and monitoring. This vital sector of BL's operations thus has no effective voice to argue on its behalf at corporate level. We therefore propose that a new and more effective International Division should be created under its own Managing Director who would have a seat on the Board. With a small staff in London he would be responsible for BL's overseas manufacturing and distributive operations as a separate profit centre with maximum autonomy within the overall framework of the Corporation. In particular the International Division would have considerable freedom to fix the prices of BL's products in overseas markets, subject to overall corporate pricing policy. The head of the Division would be expected to formulate and press the case
for a forward strategy in overseas markets, where BL is generally believed to have missed valuable opportunities in recent years.

Cars: Main structure

12.11. The major issue for consideration has, however, been the organisation of the car activities of BL. We considered the following options:

(i) The amalgamation of the present six car divisions, partly functional and partly product-based, into a single car business.

(ii) Re-organisation into three divisions based on product groupings—Austin Morris, Rover Triumph and Jaguar.

(iii) Re-organisation into two divisions based on product groupings—an Austin Morris ('volume car') division and a Jaguar, Rover Triumph ('specialist car') division.

(iv) Re-organisation into two divisions based on product groupings—an Austin Morris/Rover Triumph division and a Jaguar division.

12.12. We concluded that the creation of a single integrated car business as a separate profit centre within the Corporation would best serve the interests of BL in the future. We recognised the strength of the arguments which have preserved the separate identity of the Rover Triumph and Jaguar divisions within the Corporation since the merger—the need to preserve the distinctive product identity of the 'specialist' cars and the loyalty of employees at all levels within these divisions to the old company structures. BL cannot, however, compete successfully as a producer of cars unless it can make the most effective use of all its design, engineering, manufacturing and marketing resources. BL cannot afford to develop, produce and market competing models. It must use the minimum possible number of different body shells, power and transmission units and components. Manufacturing facilities must also be deployed flexibly. Our proposals on these matters are set out in Chapters 5, 6 and 8. We do not believe that these policies can be satisfactorily implemented with a structure under which Austin Morris, Rover Triumph and Jaguar are separate entities. This argument applies equally to options (ii), (iii) and (iv) above. Under the product-based approach the task of co-ordination between the various car operations would, as now, be a matter for the Managing Director, the corporate staffs and committees. We do not consider that this arrangement has worked satisfactorily in the past, and it would be even less likely to operate satisfactorily if, as we believe is essential, the car divisions were genuinely separate profit centres.

12.13. We therefore propose that, in addition to the three profit centres identified in paragraphs 12.7 to 12.10 (Trucks and Buses, Special Products and International), the whole of BL's car operations should form a separate profit centre. We do not believe that this need detract from the distinctive product identities of the 'specialist' cars. Moreover, although the car business will be large, we believe that it can be organised internally into manageable and accountable units.

Planning and control

12.14. The Managing Directors of the four separate profit centres would operate within the framework of a corporate plan for BL as a whole covering
a period of five to seven years and a set of annual business plans for each of
the four operations. BL does not at present have a system of planning of this
kind.

12.15. Under the new proposals the corporate plan would be prepared
in the following way. The general assumptions and parameters (for example
on economic trends) would be provided from the centre. The four separate
businesses would then put forward their plans on all aspects of their opera­
tions for the next five to seven years which, after review and discussion
between the Chief Executive and the Managing Directors, would be welded
into a coherent corporate plan. Particularly in the early years of the new
planning arrangements the major contribution to the development of the
forward plans would inevitably come from the four separate businesses
rather than from the centre. After approval by the Board the corporate
plan would set the framework for the Corporation’s activities for the next
five to seven years and it would be rolled forward annually.

12.16. Similarly each of the four Managing Directors would put
forward his annual business plan in the light of the current corporate plan.
This would not be a purely financial document, but would set out objectives
for all aspects of the business, including product development, production,
marketing and manpower, the action required to achieve these objectives and
the expected results in terms of cash flow and profits throughout the period.
These business plans would be reviewed by the Chief Executive and com­
mittments would be agreed by the Chief Executive and the Managing
Director concerned and approved by the Board. Performance would be
reviewed regularly and the Managing Directors would be answerable to the
Chief Executive for variances from their commitments. The Managing
Directors would be expected to adopt the same approach to the control and
supervision of the levels of management below them.

12.17. An important feature of the new profit centre concept would be
that each of the four separate businesses would be expected to service the
appropriate proportion of BL’s borrowings.

Corporate organisation

12.18. The corporate staff would be kept to the absolute minimum
necessary to enable the Chief Executive to carry out his co-ordinating and
monitoring responsibilities. The philosophy should be that the bulk of staff
resources should be located in the four separate businesses. Apart from a
small corporate public relations staff, the staffs at corporate level would be
confined to:

Finance, planning and control
(the emphasis would be on the development of sound future plans and on
monitoring performance against commitments).

Secretarial, legal and corporate auditor
(the corporate internal auditing function is grouped with the Secretarial
function to provide an independent counter-balance to the finance function
as conceived above).
Personnel

(this would include the formulation and co-ordination of industrial relations policy; responsibility for industrial relations negotiations would be at divisional or plant level).

The total number of staff required for these functions at corporate level should be the minimum and very much less than the present total of around 1,000 (some 550 in London and some 450 in Coventry). There should be a consequent reduction in office accommodation in Central London. There would need to be an increase in staff below corporate level, particularly in the car activity as explained below. The proposed corporate organisation is shown in Chart 12.3.

Board membership

12.19. We propose that, in addition to the non-executive Chairman and the Chief Executive, the Board of the Corporation should include the Managing Directors of Cars, Trucks and Buses, International, and Special Products and, because of the crucial importance of these functions, the Director of Finance, Planning and Control and the Director of Personnel. We also consider that at present the Secretarial function should be represented on the Board, because of the long experience of the current holder of that post (see below under Management). In addition to the executive directors there should be three or four part-time non-executive Board members with industrial and commercial experience.

Nomenclature

12.20. At present BL is organised into divisions. In order to underline the new profit centre approach, to reflect the size and importance of the new integrated car business, and to develop loyalty to the new units, we suggest that the four components of the Corporation should no longer be described as divisions but should be called:

- British Leyland Cars;
- British Leyland Trucks and Buses;
- British Leyland International;
- British Leyland Special Products.

Organisation below Corporate level

12.21. The proposed internal organisation of Trucks and Buses, International and Special Products is shown in Charts 12.4, 12.5 and 12.6 respectively. Although there are no major differences from the present internal structure of those divisions they will, as explained earlier, operate with much more autonomy, and British Leyland International will have a much more positive rôle.

12.22. We have given detailed consideration to the internal organisation of British Leyland Cars which will account for the major part of the Corporation's turnover. The main reason for amalgamating the car activities into a single entity is to achieve the maximum possible integration of engineering, production and marketing. We therefore propose that the internal organisation of British Leyland Cars should reflect this objective and that it should be composed of four line divisions—one dealing with product planning, develop-
ment and engineering, one with manufacturing, one with sales and marketing and one with parts and KD. The structure is set out in Chart 12.7.

12.23. We are not including in the report any detailed recommendations about the organisation of the divisions within British Leyland Cars. We consider that this is primarily a matter for the new management to decide. We have, however, developed proposals which we would be ready to discuss with the new management at a later stage.

[Paragraphs 12.24 and 12.25, which contain the Team's proposals for appointments at the higher levels in the new organisational structure, have been omitted.]
British Leyland Motor Corporation
Development of present operating divisions since 1968*

Notes:
(1) This chart shows divisions with direct responsibility to the Managing Director of British Leyland
(2) This chart shows the divisional structure at various dates; changes in the structure will have occurred between these dates rather than on them
Proposed new corporate organisation

- BOARD OF DIRECTORS
- CHAIRMAN
- CHIEF EXECUTIVE
- CORPORATE P.R.
- SECRETARIAL, LEGAL & CORPORATE AUDITOR
- FINANCE, PLANNING & CONTROL
- PERSONNEL
- TRUCKS & BUSES
- CARS
- INTERNATIONAL
- SPECIAL PRODUCTS
Proposed internal organisation—BL Truck & Bus

- CHIEF EXECUTIVE
  - MANAGING DIRECTOR
    - CARS
    - TRUCK & BUS

- FINANCE, PLANNING & CONTROL
- SYSTEMS
- PERSONNEL
- MANUFACTURING
- SALES AND MARKETING
- PARTS & KD

British Leyland Motors Corporation
Development of present operating divisions since 1968

CHART 12.4
Proposed internal organisation—BL International

NOTE: Eastern & Western operations cover those remaining areas of the world not specified, using UK as the dividing line and the Pacific as the fringe.
Proposed internal organisation—BL Special Products

CHART 12.6

CHIEF EXECUTIVE

MANAGING DIRECTOR

SPECIAL PRODUCTS

AVELING BARFORD

ALVIS

COVENTRY CLIMAX

PRESTCOLD

SPECIALIST EQUIPMENT OPERATIONS
Proposed internal organisation—BL Cars

CHIEF EXECUTIVE

MANAGING DIRECTOR

TRUCK & BUS

FINANCE, PLANNING & CONTROL

SYSTEMS

PERSONNEL

PRODUCT PLANNING DEVELOPMENT & ENGINEERING

MANUFACTURING

SALES AND MARKETING

PARTS & KD
CHAPTER 14

Cost of the programme

14.1 Chapters 5 to 12 set out a programme to make BL a viable and fully competitive vehicle producer. This has the following main elements:

(i) the introduction of a new and rationalised model range;
(ii) the modernisation and reorganisation of production facilities;
(iii) a vigorous marketing effort to maintain and increase sales, especially in Western Europe;
(iv) radical changes in BL’s organisation and management;
(v) a contribution from BL’s employees, through new machinery for worker participation, to the reduction of industrial disputes and an improvement in productivity.

14.2 This chapter assesses the financial consequences of this programme under the following headings up to and including BL’s financial year 1981/82:

(i) the capital expenditure required;
(ii) the estimated additional need for working capital;
(iii) the forecast profits;
(iv) the scale of funds to be provided from external sources.

14.3 The programme has been costed both in constant price terms (ie based on average 1974/75 costs and selling prices) and in inflated price terms. It is desirable to make an inflation adjustment because, as explained in Chapter 4, inflation at current rates has a major effect on cash flow and financing. The inflation assumptions used, for illustrative purposes, are as follows

<table>
<thead>
<tr>
<th>BL financial years to end September</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974/75</td>
<td>22½%</td>
</tr>
<tr>
<td>1975/76</td>
<td>15%</td>
</tr>
<tr>
<td>1976/77</td>
<td>12½%</td>
</tr>
<tr>
<td>1977/78</td>
<td>12½%</td>
</tr>
<tr>
<td>1978/79</td>
<td>12½%</td>
</tr>
<tr>
<td>thereafter</td>
<td>10%</td>
</tr>
</tbody>
</table>
The inflation assumptions used for the later years are, of course, highly speculative. The detailed proposals for raising finance in Chapter 15 of the Report do not however go beyond September 1978 and the forecasts of profit as a percentage of sales discussed later in this Chapter are not significantly affected by different inflation assumptions.

**Capital expenditure**

14.4 The capital expenditure requirement over the eight years to end September 1982 is estimated at £1,264 million in constant price terms and £2,090 million in inflated price terms. In constant prices the annual capital expenditure rises from £102 million in 1974/75 to £215 million in 1977/78 and then declines to £112 million in 1981/82. Throughout this period the annual capital expenditure will be considerably higher than in any year since BL was formed in 1968, even allowing for inflation.

14.5 The breakdown of the expenditure is shown in the following table:

<table>
<thead>
<tr>
<th>TABLE 14.1</th>
<th><strong>BL's capital expenditure requirement</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><em>£m = at inflated prices as defined in paragraph 14.3</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2,090</td>
<td>102</td>
<td>169</td>
<td>248</td>
<td>331</td>
<td>850</td>
<td>345</td>
<td>320</td>
<td>259</td>
</tr>
<tr>
<td></td>
<td>1,264</td>
<td>102</td>
<td>138</td>
<td>181</td>
<td>215</td>
<td>636</td>
<td>182</td>
<td>181</td>
<td>153</td>
</tr>
</tbody>
</table>

14.6 As the table shows, about three-quarters of the capital expenditure will be in the car operations. Of this total for cars of some £1,500 million in inflated price terms, some £1,000m will be capital expenditure arising from the introduction of new products and the improvement of existing products (e.g. model facelifts). In fact the split between expenditure on new products and expenditure on the modernisation of facilities is somewhat arbitrary. The introduction of a new model normally involves substantial replacement of existing plant and machinery. The Team's proposals about BL’s product range are set out in Chapter 5. The capital expenditure details are set out in the following table:

[Table 14.2 is omitted for reasons of commercial security.]

14.7 Nearly £400 million in inflated price terms will be required for expenditure on the modernisation of car production and engineering
facilities. The case for such expenditure is argued in Chapters 6 and 8. An indication of the breakdown of the expenditure is given in the following table:

[Table 14.3 is omitted for reasons of commercial security.]

14.8 The capital expenditure required for the truck and bus operations is estimated at £346 million in inflated price terms. Of this some two-thirds (£239 million) will be concerned with the modernisation of production facilities. The annual breakdown is set out in the following table:

[Table 14.4 is omitted for reasons of commercial security.]

**Working capital**

14.9 With the benefit of this capital expenditure, and the new model range, and in accordance with the marketing objectives set out in Chapter 5, total sales of BL are forecast to increase from £1,885 million in 1974/75 to £2,790 million in 1981/82 in constant price terms (£5,935 million in inflated price terms). This will require a substantial increase in BL's working capital. As explained in Chapter 4 (paragraph 4.12), BL's net operating assets were run down to unusually low levels during 1973 and 1974 (£122 million representing 7.8 per cent of annual turnover at 30th September 1973, and £139 million representing 8.7 per cent of annual turnover at 30th September 1974). It is assumed that in order to maintain adequate levels of stocks BL will need to have net operating assets at about 15 per cent of annual turnover throughout the period to end September 1982. This would involve an increase in net operating assets from end September 1974 to a level of £891 million at end September 1982, ie an increase of some £750 million in inflated price terms, or some £260 million in constant price terms.

**Profit forecast**

14.10 The cost of the programme to end September 1982 in terms of the additional requirement both for investment in fixed capital and for working capital is therefore forecast to be some £1,500 million in constant price terms and some £2,800 million in inflated price terms. In order to decide whether the provision of additional resources on this scale can be justified, it is necessary to forecast how far the programme will improve BL's profitability. In doing so, two important considerations must be borne in mind:

(i) in a company like BL where there is an immense backlog of modernisation to be caught up, several years must inevitably elapse before even quite substantial amounts of new investment begin to have a significant effect on profitability;

(ii) profit forecasts for a period as far ahead as 1981/82 must inevitably be based on a wide range of assumptions about matters such as market trends, exchange rates etc and these are listed in Annex 14.1; although in the tables that follow, figures are provided to the nearest £1 million for illustrative and arithmetical convenience, this should not be taken as implying that the forecasts have that degree of precision or reliability.
14.11 One important area in which assumptions have to be made is the contribution to be expected from the work force in improving efficiency by agreeing to manning reductions and greater mobility and interchangeability of labour. Over the 8 years to end September 1982, a benefit of some £400 million has been allowed for these factors—nearly a quarter of the forecast cumulative profit before interest and tax. We consider that an improvement of this kind is feasible in the context of the new capital expenditure and the new approach to industrial relations and worker participation outlined in Chapter 9. Depending on the success of this approach, even bigger improvements in efficiency might be obtained. If, on the other hand, no substantial improvement is achieved, particularly in the early lean years of the period, BL's viability will be put in jeopardy and it will be much less easy to justify the later stages of the capital investment programme.

14.12 The following table forecasts the sales and profitability of BL, on the assumption that funds will be available to finance the proposed capital expenditure programme and additional working capital required and in accordance with the assumptions in Annex 14.1:

The table shows that profits before depreciation and amortisation, interest and tax as a percentage of sales are expected to increase to 11.0 per cent in 1981/82 compared with an average of 6.5 per cent in the period 1968/69 to 1973/74. It also shows that BL would earn enough profit to cover interest on the assumption (which is unrealistic, for the reasons explained in Chapter 15) that all additional requirements for capital could be provided by borrowings bearing interest at 12 per cent.

14.13 There is also an improvement in the return on BL's capital employed, as is shown in the following table:

The table shows that profit before all interest and tax as a percentage of total capital employed is forecast to increase to 19.6 per cent in 1981/82 compared with an average of 9.6 per cent in the period of 1968/69 to 1973/74. While we recognise that this is not a satisfactory return, it must be appreciated that it is caused by massive under-investment in the past. After 1982 BL should start to reap the benefits of the new capital expenditure programme.

Funds required from external sources

14.14 The following table shows the effect of the capital expenditure programme and the increase in working capital on BL's cash flow:

14.15 It is clear, therefore, that although BL is forecast to achieve a positive cash flow in 1981/82, there is likely to be a requirement for funds from external sources during the period 1974/75 to 1980/81 of £1,300 million to £1,400 million in inflated price terms. As explained earlier, the requirements for the later years are less certain, and it is preferable therefore to
concentrate on the requirement for the period to end September 1978. On the basis of Table 14.7 this would appear to be of the order of £900 million in inflated price terms. Proposals for financing this requirement and the implications for Government involvement in the ownership and control of BL are discussed in Chapter 15.

14.16 The financial consequences of the programme we propose can be summarised as follows:

(i) There is a capital expenditure requirement for the eight years to end September 1982 of £1,264 million in constant price terms or £2,090 million in inflated price terms.

(ii) An increased provision for working capital is required of around £260 million in constant price terms or £750 million in inflated price terms.

(iii) After allowing for improvements in efficiency, BL's profits as a percentage of sales are forecast to improve to 11.0 per cent in 1981/82 compared with an average of 6.5 per cent in the period 1968/69 to 1973/74.

(iv) BL's return on capital employed is forecast to improve to 19.6 per cent in 1981/82 compared with an average of 9.6 per cent in the period 1968/69 to 1973/74.

(v) On the assumption (which is in practice unrealistic) that all BL's additional requirements for capital were to be met by borrowings at an interest rate of 12 per cent per annum, BL would earn enough profits to cover the interest.

(vi) In inflated price terms, the funds to be provided from external sources are forecast to be of the order of £1,300 million to £1,400 million, of which some £900 million is likely to be required before end September 1978.
Main assumptions underlying the profit forecasts in Tables 14.5, 14.6 and 14.7

1 The annual rates of inflation will be:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>1974/75</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>22¹⁄₂%</td>
</tr>
<tr>
<td>1975/76</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>15%</td>
</tr>
<tr>
<td>1976/77</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>12¹⁄₂%</td>
</tr>
<tr>
<td>1977/78</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>12¹⁄₂%</td>
</tr>
<tr>
<td>1978/79</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>12¹⁄₂%</td>
</tr>
<tr>
<td>thereafter</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>10%</td>
</tr>
</tbody>
</table>

2 Except to a minor degree, the inflation rates used will apply worldwide, or to the extent that they do not, there will be compensating adjustments in currency exchange rates.

3 Inflation rates will apply "across the board"; in other words the rates assumed will be equally valid for wage increases, material, costs, selling prices and capital costs.

4 Where profit is given after interest an interest rate of 12 per cent will apply throughout the period on all borrowing other than fixed term borrowings which existed at 30th September 1974.

5 Total demand for vehicles in world markets up to 1985 will be as set out in Chapter 2.

6 BL will retain around 33 per cent of the UK car market and will increase its penetration in the Western European car market from under 3 per cent to nearly 3.6 per cent by 1981/82 (rising subsequently, outside the forecast period, to 3.9 per cent by 1984/85).

7 There will be a benefit of some £400 million cumulative to end September 1982 through improved industrial relations, manning reductions and greater interchangeability and mobility of labour as a result of the measures proposed in Chapter 9.

8 The new capital expenditure programme and the other main recommendations in the report about the product plan, production and engineering facilities and changes in organisation and management are implemented without delay.
CHAPTER 15

Financing of the programme

15.1 Chapter 14 indicated the scale of funds which would need to be provided both in the period up to the end of September 1978 and, with less certainty, over the subsequent four years to the end of September 1982, in order to put BL on to a viable and profitable basis. This Chapter sets out the Team’s proposals on how these additional funds should be provided and on the extent to which the Government should become involved in the ownership and control of BL.

Nature of the problem

15.2 Table 14.7 showed that BL is forecast to have a negative cash flow amounting cumulatively to nearly £1,400 million in inflated price terms by the end of September 1981. Thereafter there is a cash inflow. On the assumption that this negative cash flow of £1,400 million was to be financed by borrowing at the rate of 12 per cent per annum, it is forecast that BL would generate enough profit to pay the interest although clearly, in view of the need to retain profits to finance investment, there would be nothing available for dividends. Moreover borrowings would rise (in inflated price terms) from some £135 million at end September 1974 to £1,507 million at end September 1981. This is shown in the following table:

[Table 15.1 is omitted for reasons of commercial security.]

15.3 It is clear therefore that, irrespective of the borrowing limits explained in Annex 4.1 to Chapter 4, BL would become grossly over-burdened with fixed interest capital. Borrowings as a percentage of shareholders’ funds would rise from 188 per cent at end September 1975 to 475 per cent by end September 1978.

15.4 It would be impossible for BL to finance the programme which we have proposed, and which is vital to BL’s competitiveness in the longer term, from commercial sources. BL is already in short term financial difficulty (see Chapter 4) and the present Government guarantee of £50 million is not likely to cover the position much longer. BL cannot therefore survive unless the Government is ready to provide a very large part of the funds required from external sources amounting to £900 million in the period to end September 1978 and the funds necessary in the period from then to end September 1982.

Justification for a Government contribution

15.5 There is in our view an overwhelmingly strong case for financial assistance from the Government to make BL a viable and internationally competitive vehicle producer. As explained in Chapter 3, BL is one of our major exporters and, so long as it maintains its present one-third share of the UK
car market, makes a major contribution to saving imports. It has 170,000 employees and provides jobs indirectly for many hundreds of thousands more. The world market for cars and commercial vehicles, while not growing as fast as in recent years, nevertheless, as Chapter 2 shows, provides considerable opportunities for BL over the next decade. We consider that a major new capital investment programme combined with improvements in labour productivity, should by the nineteen eighties substantially improve BL's profits and return on capital employed (see Chapter 14: Tables 14.5 and 14.6). In our view, therefore, although BL's requirements for additional funds are large, the economic arguments fully justify a Government contribution of this order.

Method of Government intervention

15.6 On the assumption that the Government will be prepared to accept responsibility for meeting BL's needs for additional funds, we have considered how the Government might best intervene. The present equity shareholders have in practice lost their investment and it might therefore be argued that the right course should be to withhold further assistance and allow BL to go into receivership. The Government would then purchase BL from the receiver and it would become a wholly Government owned company. There are however very strong arguments against this. Receivership would be widely misunderstood by BL's customers and suppliers particularly abroad and by its employees. The damage to BL's commercial reputation and the unsettling effect on BL's industrial relations could be very serious. The results would be even more harmful than when Rolls-Royce went into receivership since BL is in a consumer oriented industry.

15.7 We have assumed therefore that the Government will wish to avoid a receivership. We have also assumed for the purposes of this Report, although this is a matter for political decision, that the Government will not wish to introduce a special hybrid Bill to take BL compulsorily into public ownership.

15.8 The broad outline of our proposal is therefore as follows:

(i) The Government should concern itself at present with the financing of the first stage of BL's requirements (ie the £900 million which, depending on the rate of inflation, is likely to be required before end September 1978) and, while recognising that further finance is likely to be required in the period from end September 1978 to end September 1982, should defer consideration of the method of financing during this second period.

(ii) Part of the first stage requirement should be provided as new equity capital so as to give BL a reasonable debt/equity ratio; the remainder should take the form partly of long term loans from the Government, partly (if this can be arranged) of long term loans from institutions, and partly of short term overdraft facilities from the banks.

(iii) Since the Government, through the provision of new equity capital, is likely to have a dominating shareholding in BL, an offer should be made to purchase the existing share capital of BL.

(iv) Before the new equity capital can be provided it will be necessary to reorganise BL's capital structure through a Scheme of Arrangement.

(v) The sequence of events would be:
(a) Offer for the existing share capital and, at the same time, a capital reconstruction through a Scheme of Arrangement.

(b) Provision of new equity capital.

(c) Provision of long term loan capital.

**Scale of new equity capital required**

15.9 The requirement for funds from external sources (see paragraph 15.4) is £900 million in the period to end September 1978. Of this some £200 million is available from current overdraft facilities, leaving a balance of £700 million. In order to provide a reasonable debt/equity ratio we propose that the new capital to be provided should take the following form:

<table>
<thead>
<tr>
<th>New equity capital</th>
<th>...</th>
<th>£200 million</th>
</tr>
</thead>
<tbody>
<tr>
<td>New long term loans</td>
<td>...</td>
<td>£500 million</td>
</tr>
</tbody>
</table>

**Offer to existing shareholders**

15.10 Details of BL’s existing capital structure are given in Annex 4.1 to Chapter 4. BL’s existing shares have a nominal value of 25p. Shareholders who subscribed to the February 1972 rights issue did so at a price of 45p per share. At mid-March 1975 however the price was 8p per share and BL’s market capitalisation was about £48 million. At September 1974 the ‘book’ value of net assets per share was approximately 43p; this is not, in our view, anything like a realisable or realistic figure, and is therefore irrelevant.

15.11 Since it is intended that the Government should be ready to provide new equity capital amounting to some £200 million, this could clearly dwarf the existing equity capital. We therefore suggest that present shareholders should be given an opportunity to sell their shares. This would not only help to protect the Government from the charge of being in a position where it could oppress minority shareholders but would also, to the extent that the offer is accepted, give the Government a larger stake in the ownership of BL.

15.12 In our judgment the Government should offer 10p per existing share of 25p nominal value. This judgment is not based on any fixed relationship with the present market price of 8p but on a view of what might be regarded as fair in all the circumstances. The proposal to reconstruct the capital and to provide new equity capital would be known at the time of the offer. If this offer were accepted by all the existing shareholders the cost would be around £60 million.

15.13 [This paragraph, which comments on the likely attitude of BL shareholders to the offer, is omitted.]

**Capital reconstruction**

15.14 The par value of 25p of the existing ordinary shares is clearly in excess of their present market value. Under the Companies Act 1948 shares cannot be issued at a substantial discount from par value without the approval of shareholders and of the Court. We do not believe this to be a practicable course. In addition it is not possible for BL to issue ordinary shares of a lower nominal value as the purpose of creating such shares would be to have dividend and capital rights more favourable than those attached to the existing
ordinary share capital of BL and this is precluded by the terms of BL’s outstanding convertible unsecured loan stock. BL therefore cannot do this without the consent of the Convertible Unsecured Loan Stockholders and there is no apparent incentive to them to agree to this change.

15.15 We recommend that the Corporation should be reconstructed in such a way that its Ordinary shares stand at a reasonable premium over their par value. This should be achieved by the creation of a new company which would make an offer for the existing share capital of BL. We suggest that a new Company, say BL 1975, be formed with an authorised capital of Ordinary shares of 50p nominal value sufficient to permit the offer and the subsequent rights issue. Under a Scheme of Arrangement under Section 206 of The Companies Act 1948 BL 1975 would offer to acquire the existing share capital of BL on the basis of 1 new share of 50p for every 10 existing shares of 25p. At the same time the Government would offer to acquire each new Ordinary share allotted at a price of £1 per share (equivalent to 10p per existing Ordinary share of 25p). The Convertible Loan Stockholders would be entitled to convert their stock and accept the offer. It is unlikely, however, that they would do this because the market value of the loan stock exceeds the value of the offer for the underlying Ordinary shares. We suggest that BL 1975, as part of the Scheme of Arrangement, offers to acquire the existing convertible loan stock in exchange for an issue of a new convertible loan stock in BL 1975 which would carry suitably adjusted terms.

15.16 The scheme for the Ordinary shares would require the approval of a simple majority of those shareholders present and voting at the Meeting but representing (in person or by proxy) not less than three-fourths in number of the shares held by those voting. A Scheme of Arrangement would bind all shareholders and all Convertible Loan Stockholders and would therefore avoid any problem of minority interests in BL as a subsidiary of BL 1975. A Scheme of Arrangement would also provide the opportunity effectively to cancel BL’s share incentive scheme. Following the reconstruction and before the rights issue BL 1975 would have an issued share capital of approximately 60 million Ordinary shares with a nominal value of £30 million and a market capitalisation as before (taking the market price of 8p per existing share) of £48 million equivalent to 80p per Ordinary share of 50p.

Rights issue

15.17 When the capital has been reconstructed, it will be possible to raise the additional £200 million of new capital. Ordinary shareholders of any public quoted company are normally entitled to have first subscription rights on any issue of new equity capital. Consequently, the appropriate way by which the Government can provide new equity capital to BL is by underwriting a rights issue to existing shareholders and holders of convertible unsecured loan stock. The Government will have itself become an ordinary shareholder under the terms of the offer (paragraphs 15.10 to 15.13) and accordingly will have acquired rights to subscribe for some of the new shares. In addition it is likely that most of the existing shareholders will not wish to put new money into BL and will therefore take up their rights which will be left with the Government as underwriter.
15.18 We propose that the £200 million should be raised by an issue of 200 million of the new Ordinary shares of 50p each (following the reconstruction referred to in paragraph 15.15) at a price of 100p per share, in the proportion of 10 new shares for every 3 Ordinary shares then held; the holders of the existing Convertible Unsecured Loan Stock would also have rights to subscribe based on the assumption that they had approved the exchange of their existing stock for an equivalent stock of BL 1975.

15.19 The new issue of £200 million would represent about 77 per cent of the enlarged capital. The Government's ultimate equity holding would depend on the degree of acceptance of the offer and of the rights taken up by the existing shareholders. [The remainder of this paragraph gives the Team's view about the percentage of the enlarged equity capital likely to be acquired by the Government.]

Loan capital and overdraft

15.20 As explained in paragraph 15.9, BL will in the period to end September 1978 require, in addition to new equity capital of £200 million, new long term loan capital amounting to some £500 million. We therefore propose that it should be a term of the rights issue that the Government would provide further finance of a specified amount by way of interest bearing 15 to 20 year loan capital. In addition it might be made a condition that, if the Government, following the offer and rights issue, had an equity participation of not less than 75 per cent, the long term finance would be provided on marginally more generous terms. Consideration should also be given to raising part of the non-equity funds (a) from private institutions such as insurance companies and FFI for long term loan capital, and (b) from banks by short term overdraft facilities for working capital (in addition to the existing overdraft facilities which we expect to be maintained).

15.21 We suggest that the timing of the additional long term loans should be:

<table>
<thead>
<tr>
<th>Year ended 30th September</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>£100 million</td>
</tr>
<tr>
<td>1977</td>
<td>£200 million</td>
</tr>
<tr>
<td>1978</td>
<td>£200 million</td>
</tr>
</tbody>
</table>

Future needs

15.22 On the inflation assumptions explained in paragraph 14.3 of Chapter 14 it is forecast that a further £500 million will be needed to finance BL's requirements between end September 1978 and end September 1982. It is not possible to foresee the type of financing which will be appropriate for a period so far ahead but the Government must be prepared to make funds available either as loan capital or as a mixture of loan and equity capital.

Relationship with progress in improving labour productivity

15.23 In Chapter 9 it was stressed that the progress of the new capital expenditure programme and the injection of public money into BL should depend, step by step, on evidence of a contribution by the work force to improving BL's efficiency. It was also explained in Chapter 14 (paragraph 14.11) that in the profit forecast for BL a substantial benefit is being assumed
from this improvement. The phased nature of the additional funding outlined in the preceding paragraphs of this Chapter will provide some review points to assess whether adequate progress is being made in improving productivity. Following the initial injection of £200 million of equity capital there will be review points as follows:

mid 1976       loan of £100 million
mid 1977       loan of £200 million
mid 1978       loan of £200 million
late 1978 onwards £500 million in loan or loan/equity in further stages.

Legal powers

15.24 We recognise that the Government would not be able under the powers provided by the Industry Act 1972 to implement the proposals about equity capital set out in paragraphs 15.10 to 15.19. Under section 8 of the Act it is not possible either to buy shares from existing shareholders (since this is not a form of financial assistance to the company) or to acquire more than 50 per cent of the equity share capital of a company. However, under the Industry Bill at present before Parliament the 50 per cent prohibition will be removed and the National Enterprise Board, when established, will have the power to purchase shares from existing shareholders. If the Government decides to implement the financing proposals set out in this Chapter, it will clearly wish to give careful consideration to the question of legal powers, bearing in mind the urgent need to make the offer and take up the new equity capital and the possibility that the Industry Bill may not be enacted in time.

[Paras 15.25 and 15.26, which contain the Team’s suggestions about the timetable, are omitted.]

Summary

15.27 The main features of our proposals on the future financing of BL are as follows:

(i) A very large part of the additional funds of £900 million which (allowing for inflation) BL is likely to require up to end September 1978 will have to be provided by the Government.

(ii) There is a strong case on economic grounds for Government finance to put BL on a viable and profitable basis in the longer term.

(iii) The Government should be prepared to provide £200 million in equity capital now and up to £500 million in long term loan capital in stages over the period 1976 to 1978.

(iv) The equity capital should be provided by the Government’s underwriting of a rights issue to existing shareholders, following a capital reconstruction by a Scheme of Arrangement. It is likely that relatively few shareholders will take up these rights and the Government will therefore be left with most of the new shares.

(v) The Scheme of Arrangement should be accompanied by an offer by the Government to buy out existing shareholders at a price of 10p per existing share.

(vi) BL could, depending on assumptions about inflation, require a further £500 million between end September 1978 and end September 1982 and the Government should be prepared to provide funds for this
purpose either as loan capital or in a mixture of loan and equity capital.

(vii) Before the various tranches of new money are put into BL, there should be reviews of the contribution being made by BL’s workers and management to the improvement of productivity and efficiency.
APPENDIX A

Representations received

The Team held discussions with the British Leyland Board and with individual senior executives of the Corporation and its subsidiaries in the United Kingdom and overseas. We also met and received written submissions from representatives of middle management, from representatives of the Confederation of Shipbuilding and Engineering Unions on behalf of the trade unions at British Leyland, from an elected group of British Leyland shop stewards and staff representatives and from shop stewards and staff representatives at the plants visited.

In addition we met or received written memoranda from a number of organisations and individuals with a business or personal interest in the Corporation, including:

- Association of Public Passenger Transport
- Birmid Qualcast
- British Insurance Association (Investment Protection Committee)
- British Steel Corporation
- Confederation of British Industry
- Confederation of British Road Passenger Transport
- Distributors and dealers for British Leyland
- Guest Keen and Nettlefold
- Guild of Motoring Writers
- Joseph Lucas Ltd
- Leyland Blueline Distributors’ Association
- London Transport Executive
- Motor Agents’ Association
- National Bus Company
- Society of Motor Manufacturers and Traders
- Trades Union Congress
- West Midlands Passenger Transport Executive
APPENDIX B

British Leyland plants visited by the team or their supporting staff

Body and Assembly Division
- Cowley Body Plant
- Cowley Assembly Plant
- MG Assembly Plant, Abingdon
- Swindon Body Plant
- Castle Bromwich Body Plant, Birmingham
- Radiator Plant, Llanelli
- Pressing Plant, Llanelli
- Radiators, Oxford
- Rearsby Components, Leicester
- SU Carburetters, Birmingham

Power and Transmission Division
- Longbridge
- Drews Lane, Birmingham

Rover/Triumph Division
- Solihull Plant
- Birmingham Engine and Transmission Plant, Acocks Green
- Cardiff Plant, Pengam, Cardiff
- Coventry Plant, Canley
- Liverpool Plant, Speke
- Bordesley Green Plant, Birmingham

Jaguar Division
- Radford Engine and Transmission Plant, Coventry
- Browns Lane Assembly Plant, Coventry

Parts and KD Division
- Cowley

Truck and Bus Division
- Leyland (including Farington Foundry)
- Albion, Scotstoun, Glasgow
- Bathgate, West Lothian
- AEC Plant, Southall
- Guy, Wolverhampton
- Bristol Commercial Vehicles
- Leyland National, Workington
Special Products Division

West Yorkshire Foundries, Leeds and Keighley
Aveling Barford, Grantham
Barfords of Belton, Grantham
Goodwin Barsby & Co, Leicester
Scammell Trailers, Hoveringham
Coventry Climax Engines Ltd, Coventry
Alvis Ltd, Coventry

Prestcold, Theale, Reading
CABINET

EXPORT OF ARMS SPARES FOR SOUTH AFRICA

Memorandum by the Lord President of the Council

1. In his memorandum C(75) 47 the Secretary of State for Trade seeks agreement to proposals for bringing to an end the supply to South Africa of spare parts for weapons. My colleagues will wish to be aware of the discussions of this subject by the Defence and Oversea Policy Committee, at the last of which I took the chair in the absence of the Prime Minister.

2. The conclusion reached by the Committee on 14 November 1974 was that in principle we should be prepared to continue the policy of supplying spare parts to South Africa but that if the contractual position in any particular case was such as to show that an exception should or could properly be made to this general principle, the Committee should consider it. At a further discussion, on 21 March, the majority of the Committee reaffirmed that conclusion after considering proposals by the Secretary of State for Trade, the effect of which would have been in their view substantially to modify it. The Secretary of State for Trade challenges this policy on the grounds set out in paragraph 5 of C(75) 47; and he proposes action to phase out the supply of spares, which he considers will be understood as a consistent and defensible development of our publicly stated policies towards South Africa and will not provoke harmful reactions on our defence sales to other countries or on our civil trade with South Africa.

3. The majority in the Committee were led to their conclusion by a different assessment of these matters. They considered that the course advocated by the Secretary of State for Trade would represent a marked hardening of our policy, which could lead to substantial difficulties and endanger our interests over a wide area. The withholding of spare parts would be severely damaging to the South African defence forces and could lead to retaliation by South Africa against our non-military exports. A decision to withhold spares necessary to maintain equipment already supplied would be noted by other countries and could damage our reputation world wide as a supplier of defence equipment. We were not under pressure from the African countries to tighten our restrictions on arms supplies to South Africa still further. Mr Vorster's efforts to obtain a
settlement in Rhodesia had led to an improvement in South Africa's relations with her neighbours. Our own relationship with South Africa, though formally correct rather than cordial, was producing some useful results and would not be assisted if a new irritant were now introduced; nor would our relations with South Africa's neighbours be helped. The view of the majority was clear; the case had not been made for changing our policy in the direction desired by the Secretary of State for Trade, and on the contrary our political and commercial interests in Africa and elsewhere would not be served by such a change.

E S

Privy Council Office

28 April 1975
CABINET

SELECT COMMITTEE ON SCIENCE AND TECHNOLOGY
GOVERNMENT OBSERVATIONS ON REPORT -
SESSION 1974

OFFSHORE ENGINEERING

Note by the Secretary of State for Energy

Attached is a Confidential Final Revise copy of the White Paper on the Government Observations on the Select Committee's Report on Offshore Engineering which is circulated for the information of my colleagues. It is proposed to lay this before Parliament on Tuesday 6 May for publication the following day.

EGV

Department of Energy

5 May 1975
<table>
<thead>
<tr>
<th>CONTENTS</th>
<th>Paragraphs</th>
</tr>
</thead>
<tbody>
<tr>
<td>NORTH SEA OBJECTIVES</td>
<td></td>
</tr>
<tr>
<td>The Government's Strategy</td>
<td>2–5</td>
</tr>
<tr>
<td>North Sea Hydrocarbons and Energy Policy</td>
<td>6</td>
</tr>
<tr>
<td>THE ROLE OF BRITISH INDUSTRY</td>
<td></td>
</tr>
<tr>
<td>Achievements to Date</td>
<td>7–10</td>
</tr>
<tr>
<td>Sites for the Construction of Platforms</td>
<td>11–14</td>
</tr>
<tr>
<td>The Offshore Supplies Office</td>
<td>15–16</td>
</tr>
<tr>
<td>Sub-sea Systems</td>
<td>17–20</td>
</tr>
<tr>
<td>ECGD Support for Offshore Work</td>
<td>21–23</td>
</tr>
<tr>
<td>RESEARCH AND DEVELOPMENT</td>
<td></td>
</tr>
<tr>
<td>Organisation for Offshore Technology</td>
<td>24–28</td>
</tr>
<tr>
<td>Commercial Work in Defence Establishments</td>
<td>29–31</td>
</tr>
<tr>
<td>R &amp; D to Increase Recoverable Oil and Gas Reserves</td>
<td>32–34</td>
</tr>
<tr>
<td>SAFETY OF OPERATIONS OFFSHORE</td>
<td></td>
</tr>
<tr>
<td>Government Measures and Initiatives</td>
<td>35–38</td>
</tr>
<tr>
<td>Certification of Installations</td>
<td>39–42</td>
</tr>
<tr>
<td>Voluntary Safety Code and Inspection</td>
<td>43–45</td>
</tr>
<tr>
<td>Diving Safety</td>
<td>46–49</td>
</tr>
<tr>
<td>A Unified Inspectorate for Diving Safety</td>
<td>50–51</td>
</tr>
<tr>
<td>HYDROGRAPHY AND THE ROLE OF THE ROYAL NAVY</td>
<td></td>
</tr>
<tr>
<td>Hydrography Surveys of the UK Continental Shelf</td>
<td>52–53</td>
</tr>
<tr>
<td>Notification of Obstacles to Navigation</td>
<td>54–57</td>
</tr>
<tr>
<td>Protection of Offshore Installations</td>
<td>58–60</td>
</tr>
<tr>
<td>EDUCATION AND TRAINING</td>
<td>61–64</td>
</tr>
</tbody>
</table>

APPENDIX: Regulations made under the Mineral Workings (Offshore Installations) Act 1971
SELECT COMMITTEE ON
SCIENCE AND TECHNOLOGY
GOVERNMENT OBSERVATIONS ON REPORT
SESSION 1974

OFFSHORE ENGINEERING

1. In this White Paper the Government sets out its observations on the Report on Offshore Engineering from the Select Committee on Science and Technology published in November 1974.

NORTH SEA OBJECTIVES

The Government's Strategy

2. The Select Committee believe that the Government needs to go into greater detail in explaining its offshore objectives and the means by which they are achieved and suggest that merely stating a target production figure [for offshore oil] for 1980 is not sufficient. These objectives must be made as part of a total energy policy (paragraph 114).

3. The Government has fully acknowledged the need to indicate an adequately defined sense of direction in the exploitation of North Sea oil and gas and has taken a series of steps to demonstrate the main features of its strategy as the situation has demanded. First, in May 1974, the Secretary of State for Energy's Report to Parliament set out in a clear and detailed way the prospects for Continental Shelf production of both oil and gas to 1980 and beyond, taking into account the prospects for discoveries not yet made; it also gave details of the likely development of the ten fields then declared commercial. In July of the same year - only five months after taking office - the Government's White Paper on "United Kingdom Offshore Oil and Gas Policy" (Cmnd. 5696) set out its proposals for:

(a) securing a fairer share of profits for the nation from North Sea exploitation and maximising the gain to the balance of payments; and
(b) asserting greater public control in order to safeguard the national interest in an important resource which belongs to the nation.

4. Estimates of the demand for platforms to support the development programme were included in a policy paper on platform construction sites, published on 12 August 1974 (see paragraphs 11-14 below). In statements on 6 December 1974, the Secretary of State for Energy clarified important aspects of the Government's policy on depletion, refining and disposal of North Sea oil; and on 25 February 1975, the Paymaster General announced full details of the Government's taxation proposals including the rate of Petroleum Revenue Tax. The Petroleum and Submarine Pipe-lines Bill, which was presented to Parliament on 8 April 1975, includes provisions to enable the Government to establish the British National Oil Corporation, to improve the Government's control over the construction and use of submarine pipe-lines, to effect certain
changes in the terms of existing petroleum production licences and to authorise the construction or extension of refineries. Most recently, the Government published on 14 April this year, a further Report to Parliament – “Development of the oil and gas resources of the United Kingdom”. Whereas the earlier Report (and its predecessor in 1973) was confined to oil and gas reserves and production, this year’s Report also includes sections on international negotiations, the opportunities created by offshore activity for British industry, training, safety, and environmental protection.

5. As to research and development (R & D), the direction of effort of the Ship and Marine Technology Requirements Board (SMTRB) has been indicated both in its first Annual Report, published in June 1974 by the Government, and in separate statements sent to the firms and organisations known to have an interest in the field.

North Sea Hydrocarbons and Energy Policy

6. The Government’s policies on the development of North Sea resources are of central importance but as the Committee pointed out, they are, of course, only one element in the overall strategy for energy. The policies stand alongside a number of other major initiatives taken during the past year: the Coal Industry Examination which has mapped out a new future for the coal industry; the decision on nuclear reactor choice which has opened the way for the future development of nuclear power in this country; and the programme of measures on energy conservation which is directed at the other side of the market, energy demand. The Government fully recognises that there is a complex inter-relationship between these areas and that policies on each of them need to be formulated within an integrated framework of forecasts and analysis. The objectives for North Sea development have certainly been formulated within this overall approach.

THE ROLE OF BRITISH INDUSTRY

Achievements to Date

7. The Select Committee have referred to the evidence submitted by the Department of Energy that 55 major UK contractors, 800 sub-contractors, and 2,000 other companies had been involved in supplying goods and services to offshore projects at the beginning of 1974; they feel that some large companies are reluctant to become involved in offshore work and that there is still insufficient pioneering effort by small and medium-sized firms (paragraph 36). The Committee also state that the effective recovery of resources from below the sea requires the adaptation of existing engineering skills from many different applications (paragraph 58).

8. The Government has certainly been anxious to promote vigorous and profitable British involvement in offshore oil and gas exploitation. It accordingly strengthened the Offshore Supplies Office (OSO) which has the responsibility of helping to ensure that UK industry is given a full and fair opportunity to compete in the UK Continental Shelf market and to help promote worth-
while new ventures. British industry has had some considerable successes to date. In particular, 3 steel platforms have been built in Scotland and North East England including the two biggest offshore oil platforms ever constructed; with the 7 steel and 3 concrete structures for oil field development under construction or on order from UK yards, this country has won 13 of the 19 orders so far placed for oil production platforms for the UK sector of the North Sea. Moreover, in the second half of 1974, over 150 platform modules were on order or being fabricated in the UK. Important orders have also been won for drill ships, for underwater working and for the whole range of generating and process equipment needed on the platforms. The Government now estimates that around 40,000 jobs have been created in Scotland as a result of oil-related development and in North East England some 6,700 people are employed by major contractors on North Sea work with more in prospect.

9. In all this work, the Government has been encouraging the adaptation of existing skills in British industry, particularly in the engineering sectors. Only by being successful in the markets for the current generation of offshore equipment and services can British industry expect to be well placed to meet the longer term demand for the second and third generation equipment that will be needed to exploit hydrocarbon deposits beneath even deeper waters.

10. The Government shares the Committee's disappointment (paragraph 51) that British firms have not found it attractive even with offers of Government financial assistance to move into some of the specialist offshore activities such as pipelaying and offshore installation. British interests do have important financial stakes in some of the major items of equipment (including ownership of a very large crane ship and a substantial interest in a lay barge) but there are no British operating companies. They are, however, risky business areas where the competition is strongly entrenched. Moreover a number of new lay barges and heavy-lift crane ships have been built in recent years for foreign firms thus reducing the market opportunities. But the OSO will continue to look for new opportunities that may arise and stands ready to help any British firms keen to enter the business.

Sites for the Construction of Platforms

11. The Select Committee recommend that the Government should avoid the risk of too many platform construction sites and keep the situation under review (paragraph 54).

12. The Government published a Policy Paper “Construction Sites for Offshore Oil Production Platforms” on 12 August 1974 which sets out the case for a coherent Government strategy for the allocation and public control of a limited number of sites for the building of concrete platforms for the production of oil on the UK Continental Shelf. The paper proposed that a limited number of sites should be taken into public ownership with a number of objectives in view, including the maximisation of their use and the consequent avoidance of proliferation. Powers to this end are included in the Offshore Petroleum Development (Scotland) Act, which received the Royal Assent on 13 March 1975.
13. To help in the formulation of policy it was necessary to form the best possible estimate of likely demand for major platforms for the UK sector of the North Sea, and the policy statement of 12 August 1974 contained such estimates. These figures are kept under regular review and revised forecasts will be published shortly.

14. Since the demand estimates included in the statement suggested that there would be a shortfall of concrete platform production capacity in the UK, the Government identified the seven designs of concrete platforms most favoured by the oil companies. The policy statement indicated that most of the orders forecast could be obtained for UK yards if production sites for the majority of these designs could be found. This has now been done and, following a series of planning decisions by the Secretary of State for Scotland, sites have been found for all but one. The Government’s policy continues to emphasise not only the need to avoid proliferation and to ensure continuity of operations at those sites which are developed but also the desirability of ensuring that platforms can be built in Britain in order to promote the interests both of the platform constructors themselves and of the many medium and small sized firms that can win secondary orders.

The Offshore Supplies Office (OSO)

15. The Select Committee suggest that, even with the planned expansion, the OSO will be too small and under-financed for the job it has to do, that greater emphasis should be placed on the “progress-chasing” function and that there should be more local offices (paragraph 87).

16. One of the first decisions announced by the present Government in April 1974 was to expand the OSO and therefore during 1974 the staffing complement was increased from about 60 to 180 and the Headquarters moved to Glasgow; by the end of April 1975, the staff in post totalled 163. The Office now possesses a wide range of expertise including engineers, scientists, economists and people brought in specially from industry to add to the experience of the civil servants. The need for progress-chasing was one of the factors determining the extent of the expansion but the main responsibility for this function must rest with industry. The efforts of the OSO and the Department of Energy’s Petroleum Division can only complement those made by the oil companies and suppliers by identifying and tackling obstacles in the North Sea programme which it is within the control of Government to overcome. The need for more staff in the OSO for this and other functions will, however, be kept under continuing review. Indeed, since the Committee reported, a new Platform Sites Directorate has been set up within the OSO to oversee the development of the platform construction sites that are being taken into public ownership. At the local level, the OSO has been strengthening its links with the regional offices of the Department of Industry in England, as well as the offices in Scotland and Wales. This avoids duplication of effort. As to finance for promoting new ventures, the OSO works within the framework of the Industry Act 1972 and finance has not been a limiting factor.

Sub-sea Systems

17. The Select Committee recommend that the Government should look closely
at the potential application of sub-sea systems (paragraph 51) and they make a specific proposal for a joint Government/industry venture to assist the development in industry of the expertise and apparatus required for sea bed completions (paragraph 76); they note the main recommendations made by the Working Party on Technology for Exploiting Offshore Oil and Gas and hope that these proposals will be speedily implemented (paragraph 75 and Annex II).

18. The Government fully endorses the Committee's view that sub-sea completions could have an increasingly important part to play in the exploitation of offshore oil and gas in deeper waters. A large number of systems or partial systems are already in use in relatively shallow waters such as in the Gulf of Mexico. For deep water operations the technology still has to be fully developed; and the extent and speed with which such systems will come into widespread use is inevitably uncertain, depending among other things on how much oil is found in deep waters in future and the relative economics of alternative means of exploitation.

19. In this situation, the Government is operating on two fronts. The first is to ensure that it is fully informed about existing concepts for sub-sea systems. For this purpose the Department of Energy and British Petroleum (BP), working through the SMTRB and with the assistance of the Department of Industry, commissioned an appraisal by consultants of the whole range of novel production systems, including sea bed completion systems. The conclusions of this appraisal are being considered by Government as part of a more general exercise devoted to specifying in detail the ways in which the conclusions of the Working Party on Technology for Exploiting Offshore Oil and Gas can best be followed up. This work will take some months yet to complete. When it is done, however, it will provide the basis for a coherent and comprehensive approach to policy on R & D related to the exploitation of oil and gas in deeper waters. In the course of the work, the possibility of a specific joint venture between Government and industry as suggested by the Committee will be borne in mind but it would be premature to make any decisions on it at this stage.

20. The second aspect is that of involvement by British industry in the development of sub-sea completion systems. There is already some involvement through BP's stake in the SEAL consortium and other British firms are pursuing alternative concepts. But the Government agrees that more involvement by industry could be advantageous. The OSO attaches a high priority to this area and has devoted considerable efforts to encouraging, for example, partnerships that could be of advantage to British firms. Precisely how industry can best be involved will depend to a considerable extent on which systems prove to be the most effective. Accordingly, the OSO keeps closely in touch with the developing situation with the aim of helping British industry to capitalise on the opportunities when they arise.

**ECGD Support for Offshore Work**

21. The Select Committee recommend that assistance to firms for offshore schemes should be comparable to that of Export Credit Guarantee Department (ECGD) support and that these facilities should be made available to UK firms seeking offshore business (paragraph 81).
22. The ECGD, under its statutory authority, has the power to issue guarantees only for the purpose of encouraging trade with other countries. Its facilities cannot therefore be used to cover contracts between UK suppliers and UK registered companies operating on the UK Continental Shelf while foreign suppliers can use their national export credit schemes. This is of course the normal situation for goods used within the UK but the Continental Shelf situation has two special features: first UK firms have no tariff protection and second the usual compensating advantage of proximity to the market is in many cases negligible or non-existent. Also for many items British firms new to the market are facing powerful competition from overseas firms with long experience in the business.

23. Consequently, in November 1973 the then Government instituted under Section 8 of the Industry Act 1972 the Offshore Supplies Interest Relief Grant Scheme and, under it, grants may be paid to reduce the cost of credit involved in the supply of goods and services to fixed installations for developing oil and gas resources in the UK Continental Shelf. The current rate of grant is 3% per annum. Precise comparisons between the effective rate of borrowing with the benefit of these grants and terms under ECGD facilities are difficult to make because they depend both on the particular borrowing arrangements made by oil companies and on assumptions about interest rate movements for up to eight years hence. The 3% grants go a long way to close the gap between interest rates for commercial borrowing and fixed rate export credit schemes but the Government keeps the position under review so that the need for further action can be considered if it seems justified.

RESEARCH AND DEVELOPMENT

Organisation for Offshore Technology

24. The Select Committee recommend that a Board separate from the SMTRB should be set up to deal with marine technology (paragraph 96); that the new Board should have a larger budget (paragraph 97); and that it should be a focal point for information on marine technology (paragraph 98).

25. The organisation of Government in areas such as this always involves a difficult balance between sometimes conflicting criteria. As the Committee point out, clear objectives and lines of responsibility are desirable; but at the same time, the structure must facilitate as far as practicable co-ordination of complementary interests. Problems of this kind arise particularly in the field of marine technology because of the variety of activities that go on in the marine environment (oil and gas exploitation, other minerals, fishing, commercial shipping, defence activities and so on) and because of the vast range of industrial and commercial interests that have some application in the marine field. The marine sector does not represent a single industry in itself but is a market for parts of most of the country’s major industrial sectors. The organisational structure for marine technology must therefore take account of Departments’ functional responsibilities for the different customers for the research (in the fields of energy, industry, shipping, defence, fisheries and the environment).
26. In this situation, the Government believes that it would be wrong to separate entirely the SMTRB's responsibilities for shipping and shipbuilding from those for marine technology generally. There can be important overlaps between the two areas and the risk of losing the benefits of technology transfers between them should be minimised. Moreover, the SMTRB has been in existence now for only just over two years and the Government believes that in that time the work of the Board has substantially improved the effectiveness of the Government's R & D expenditure within its field of responsibility. However, the Government considers that re-arrangement of the functions of the SMTRB is necessary particularly in the light of the creation of the Department of Energy since the Board was established. Accordingly, the Secretary of State for Energy is setting up a new advisory Board, the Offshore Energy Technology Board (OETB), under the Chairmanship of his Chief Scientist to take over from the SMTRB the responsibility for supervising the development of his Department's programme of R & D related to offshore oil and gas exploitation.

27. The OETB, which will include among its members senior executives from oil companies, will advise on R & D directed both towards ensuring the safety of offshore installations and towards improving the competitive position of British industry in the offshore field; it will report to the Secretary of State for Energy. In particular, this arrangement will enable the research programme to be integrated with the total efforts of the Department of Energy in the offshore field which is essential if the results of successful R & D are to be effectively exploited. The Committee emphasised the need to relate R & D closely to the industry it is meant to serve and the participation by senior executives from the oil companies – who are the ultimate customers for the R & D – will facilitate this. To ensure co-ordination with other parts of the Government machine, the new Board will also have representatives from other Government Departments; and importantly there will be cross-membership with the SMTRB which will continue to deal with the marine technology requirements of the Departments of Industry and Trade.

28. The new Board will advise on the expenditure of the Department of Energy's budget for offshore marine technology, which includes that part of the SMTRB's budget allocated for offshore oil and gas technology. The need for additional finance for new projects coming within the ambit of the OETB will of course depend on its assessment of the priorities and the circumstances prevailing at the time but the Government has noted the Select Committee's view that the new Board proposed by them should have a larger budget than that allocated to offshore affairs under the previous arrangements.

Commercial work in Defence Establishments

29. The Select Committee recommend that Defence establishments should be enabled to undertake further commercial work on a contract basis, participate in joint projects with industry or Civil Departments, and should make their facilities more widely known in industry (paragraph 74).

30. The Government accepts the importance of making available the expertise and facilities of Defence R & D Establishments to undertake work in support
of the offshore industry. This policy has been pursued for some time within the limits of existing resources as shown in the evidence submitted to the Select Committee describing a number of areas in which relevant research work is carried out. Additional resources arising as a result of reductions in defence commitments will be made available to meet clearly defined civil requirements.

31. The Ministry of Defence, in consultation with the Departments of Industry and Energy, are examining further measures to ensure that the expertise and facilities available in Defence R & D Establishments are brought to the attention of industry. Contacts with existing and potential civil customers are being extended, and further progress has been made towards identifying a programme of civil requirements since the Ministry of Defence gave evidence.

R & D to Increase Recoverable Oil and Gas Reserves

32. The Select Committee propose that a joint Government/industry venture should explore the problems involved in increasing the recoverable oil and gas reserves of sub-sea fields and develop the relevant technology (paragraph 76).

33. The problems of increasing the recoverable reserves of oil and gas fields are basically the same whether these fields are under the sea or on land. This is a matter that has been a subject for research by the oil companies for many years because even a small increase in percentage recovery can lead to very large increases in actual volumes. In the past, increases have come from such techniques as water, gas or solvent injection, underground combustion and variations of these techniques.

34. Nevertheless, the Government agrees that there is probably still scope for further improvements in recovery techniques and will give careful consideration to proposals for research work leading to increased oil and gas recovery.

SAFETY OF OPERATIONS OFFSHORE

Government Measures and Initiatives

35. The Select Committee recommend that more R & D and better safety standards must be devised to improve the safety of operations offshore and below the sea; navigation standards must be tightened and measures for the control of pollution improved (paragraph 76).

36. The Government appreciates that the rapid development of the offshore industry has pushed current technology to the present known limits; and, because of this, the UK was one of the first countries to introduce a comprehensive statutory code of safety. In a little over three years, the Government has introduced seven sets of Regulations under the Mineral Workings (Offshore Installations) Act 1971 and three further sets are in preparation. Their coverage is described in the Appendix. The Government is already sponsoring, through the SMTRB, an extensive programme of projects aimed at further improving the safety of offshore operations and, in particular, our knowledge of the design,
construction and operation of offshore installations. Many of these projects involve co-operation and cost-sharing with the offshore industry.

37. The Department of Trade, in consultation with the lighthouse authorities, takes steps to ensure that installations are adequately marked and lighted for the benefit of shipping and to avoid the risk of collision; marking requirements are kept under review and comply with internationally agreed standards.

38. The Government is continually seeking improved means of combating oil pollution at sea. The Central Unit on Environmental Pollution within the Department of the Environment is, in conjunction with other Departments, undertaking a study of the pollution hazards at sea posed by offshore oil operations and the resources assigned to minimising these risks, and for dealing with any pollution that may occur. In addition, the Secretary of State for Trade, who has responsibilities for oil spills at sea which threaten major pollution of the coast, has established a Standing Committee on Pollution Clearance at Sea, with joint industrial and Government representation. The Committee's remit is to review the present coastal clearance capability and to advise on what improvements might be made.

Certification of Installations

39. The Select Committee recommend that the Government should reach agreement with the Institution of Civil Engineers and the Institution of Structural Engineers on the procedure for certifying concrete structures and the appropriate persons or bodies to carry out the certification (paragraph 122).

40. The Offshore Installations (Construction and Survey) Regulations 1974 cover the safe design, construction and survey of installations. Under their provisions every installation operating on the UK Continental Shelf on or after 31 August 1975 will have to possess a valid Certificate of Fitness issued by one of the five Certifying Authorities. These were appointed by the Secretary of State for Energy after he had satisfied himself as to their competence to deal with all aspects of certification. However, recognising that fixed offshore installations presented particular problems of their own, he said that he would also consider whether a limited number of further appointments should be made for fixed gravity structures and will particularly consider appointing consulting engineers for this type of work. The Government is currently discussing with the Association of Consulting Engineers how best to increase the involvement of the profession.

41. Regulations lay down the broad principles to be followed; the detailed standards are incorporated in a non-statutory document entitled: “Guidance on the design and construction of offshore installations”. This provides a flexible method of updating the standards as our knowledge and experience increase. Of those Regulations to be introduced, one set will relate to matters of operational safety.

42. The Government has set up an Advisory Committee on Fixed Offshore Installations in agreement with the Institutions of Civil and of Structural Engineers. The Chairman of the Committee is Sir Kirby Laing and the member-
ship is drawn from representatives of the consulting engineering profession, the
construction industry, research and development organisations, the oil
companies, the Certifying Authorities and the Petroleum Production Division
and Offshore Supplies Office of the Department of Energy. This Committee
will be advising on specific problems arising from fixed installations, particularly
concrete platforms and their certification, and will also consider the further
involvement of British engineering expertise in the design, construction and
certification of offshore installations.

**Voluntary Safety Code and Inspection**

43. *The Select Committee recommend that, pending legislation, the Government
should endeavour to persuade the oil companies and contractors to accept a
voluntary safety code and voluntary inspection (paragraph 126).*

44. Licensees are required by the terms and conditions of their exploration
and production licences to operate in accordance with good oil field practice
and to follow recommended codes of safe practice, for example, the Institute of
Petroleum Code. Enforcement of these requirements is carried out by the
Department of Energy's Petroleum Production Inspectorate who also enforce
the Safety Regulations made to date under the Mineral Workings (Offshore

45. The UK Offshore Operators Association has recommended to all its
members that the requirements of the Offshore Installations (Diving Operations)
Regulations 1974 and the Merchant Shipping (Diving Operations) Regulations
1975 be adopted by them in all diving operations on the UK Continental Shelf
carried out on their behalf including those from foreign registered ships. Pending
the passing of the Petroleum and Submarine Pipe-lines Bill, the diving con­
tractors engaged on pipe-laying operations are also being encouraged to comply
with these Regulations.

**Diving Safety**

46. *The Select Committee recommend that an Order in Council be made as
soon as possible under the Health and Safety at Work Act 1974 to enable safety
regulations to be made covering all diving on the UK Continental Shelf not subject
to Regulations under the Mineral Workings (Offshore Installations) Act 1971
(paragraph 124).*

47. At present, the Offshore Installations (Diving Operations) Regulations
1974, which came into force on 1 January 1975, require that all plant and equip­
ment associated with diving are of suitable construction and properly main­
tained, that all diving personnel are suitably qualified and medically fit, and that
diving operations are carried out in accordance with safety procedures approved
by the Secretary of State for Energy. The Regulations also place responsibilities
and obligations on specific classes of person to comply with these requirements.
Similar requirements for diving from UK registered ships are contained in the
Merchant Shipping (Diving Operations) Regulations which came into force on
1 March 1975. The Department of Energy is seeking powers in the Petroleum
and Submarine Pipe-lines Bill to enable it to bring diving activities in connection
with submarine pipe-laying operations under statutory control; in the meantime the voluntary arrangements mentioned in paragraph 45 above will continue.

48. An Inter-departmental Diving Committee is urgently examining the feasibility of a common set of regulations covering all such diving safety including diving from all UK registered ships wherever they may be. These could be made under the Health and Safety at Work Act 1974 and a necessary pre-requisite would be an Order-in-Council along the lines of that recommended by the Select Committee. If it proves impracticable to make a common set of regulations the Committee will ensure that the various sets of diving regulations, both existing and proposed, are based on common standards.

49. Proper training is an important feature in diving safety. A £2 million underwater training centre is being set up in Scotland out of public funds and this will help to meet the greatly increased commercial demand for divers in the offshore oil and gas development programme. The centre will be responsible for the development of training standards and methods with particular attention to the health and safety aspects of diving.

A Unified Inspectorate for Diving Safety

50. The Select Committee recommend that a strong and probably unified inspectorate for diving safety should be established and that the Navy can give valuable advice and assistance (paragraph 127).

51. The Department of Energy is currently strengthening its Petroleum Production Inspectorate and is recruiting specialised Diving Inspectors. This Inspectorate also enforces the Department of Trade's Merchant Shipping (Diving Operations) Regulations and thus covers all offshore diving operations. The Department of Energy already receives technical and medical advice and assistance from the Royal Naval Physiological Laboratory, the Admiralty Experimental Diving Unit at Portsmouth, and the Medical Director General (Navy). It also has assistance and advice from the Employment Medical Advisory Service and other specialists in underwater medicine.

HYDROGRAPHY AND THE ROLE OF THE ROYAL NAVY

Hydrographic Surveys of the UK Continental Shelf

52. The Select Committee recommend that provision be made for a substantial increase of ships and equipment for the hydrographic survey of the Continental Shelf and that the "customer/contractor principle" be utilised to fund the Hydrographer of the Navy mainly from civil expenditure (paragraph 119).

53. The formation of a Study Group, led by the Ministry of Defence, to consider the requirements of the shipping and offshore development industries and other civil interests including surveying work on the UK Continental Shelf was announced in Parliament on 17 July 1974. The Group has now completed its work and its report is under consideration. The resources needed for the
future surveying task, both on defence and civil account, are being identified in the light of the Defence Review. The method of funding the Hydrographer of the Navy is also under consideration by the Government.

Notification of Obstacles to Navigation

54. The Select Committee recommend that existing statutory requirements should be enforced to ensure notification of the establishment, movement or abandonment of structures on the sea bed of the UK Continental Shelf and that there should be substantial penalties for non-compliance. Existing legislation should be reviewed and the Royal Navy should be given the responsibility for inspection and enforcement (paragraph 120).

55. The procedures for notification of obstacles to navigation are comprehensive and are of course kept under continuing review. Section 34 of the Coast Protection Act 1949 as applied and extended to the UK Continental Shelf states that the prior written consent of the Secretary of State is required for certain operations below the high water mark of ordinary spring tides if obstruction or danger to navigation is caused or is likely to result. The Section also provides that a consent shall be subject to such conditions as the Secretary of State may think fit having regard to the nature and extent of the obstruction or danger. As the Committee have reported, consents issued for exploration wells include conditions to ensure that the Hydrographer to the Navy is advised of all rig movements and the abandonment (either temporary or permanent) of exploratory well heads. The same requirement applies to production wells although no production site has yet been abandoned. The Secretary of State also has to be satisfied that the sea bed site is left to his satisfaction. Licensees wishing to abandon a well are also required to obtain the consent of the Department of Energy under the terms attached to the exploration and production licences issued under the Continental Shelf Petroleum (Production) Regulations 1966. The provisions of these Regulations are enforced by that Department's Petroleum Production Inspectorate.

56. Administrative arrangements between the Departments of Trade and Energy and the Ministry of Defence are kept under review to ensure that the necessary information about the suspension or abandonment of well heads or the positioning of drilling rigs and platforms is available to all concerned. In particular, measures are being taken to improve notification to the fishing industry.

57. The Government proposes to review Part II of the Coast Protection Act 1949 and noting the Committee's views, to consider the adequacy of existing penalties under this part of the Act and the general question of enforcement. It is unlikely that any formal responsibility will be placed on the Royal Navy to police abandoned exploratory well heads and the Government's current view is that the responsibility of the Royal Navy should be limited to recording and promulgation of information by the Hydrographer.

Protection of Offshore Installations

58. The Select Committee recommend that Ministers should initiate an inquiry
59. The Government shares the Committee's concern over the need to protect offshore installations. The Minister of State for Defence made a statement on this subject in the House of Commons on 11 February 1975. He pointed out that the Government has been considering how best to protect the growing number of offshore oil and gas installations from accidental or malicious damage. As a result, five new vessels will be built for the Royal Navy similar to the offshore fishery protection vessel operated by the Department of Agriculture and Fisheries for Scotland (DAFS). In addition, up to four Royal Air Force aircraft will be provided to carry out the surveillance of offshore waters. These will be existing aircraft which may need some modification for the particular task.

60. The new ships and the aircraft are expected to begin to enter service in 1977. Meanwhile the DAFS vessel *Jura* has been loaned to the Royal Navy and the ocean-going tug *Reward* will be recommissioned in the summer. Both will be lightly armed, given improved communications facilities and manned by the Royal Navy as warships. Other Naval vessels and service aircraft will continue to pass through the area and the RAF have instituted routine air patrols of the installations. The Government also intends to consult closely with neighbouring countries to explore ways of providing increased common support.

**EDUCATION AND TRAINING**

61. The Select Committee recommend that the University Grants Committee should examine whether the effort in education and training in universities is sufficient in the light of the Report of the Inter-departmental Working Party on "Education and Training for Offshore Development" (ETOD); they recommend a similar study for polytechnics (paragraph 64).

62. The University Grants Committee had already examined the ETOD Report and circulated it to all universities. The Committee had prepared a survey of all under-graduate and post-graduate courses in universities relevant to offshore development and these are included in the ETOD Report. It was in the light of this information that the Working Party agreed to recommend the establishment of one or two centres to provide post-graduate, post-entry and post-experience courses in petroleum engineering. After consulting the industry the Committee agreed to support the establishment of such centres at Heriot-Watt University and Imperial College, London University. The necessary recurrent expenditure has been provided by the Committee and the Department of Energy has exceptionally provided a grant of £300,000 for the building at Heriot-Watt University.

63. The Government has also agreed to finance proposals put forward by the Petroleum Institute Training Board for the establishment of a Drilling Technology Training Centre in Scotland. It is hoped that the Centre will provide a
powerful stimulus for British enterprise in the relatively new and difficult area of offshore drilling. A drilling rig is being purchased and delivery is expected in time for the first course at the Centre, beginning in August 1975. As noted in paragraph 49 above, the Government is also supporting an underwater training centre at Loch Linnhe in the Fort William area.

64. The Department of Education and Science and the Scottish Education Department are maintaining close touch with polytechnics and other further education establishments which may have contributions to make to the needs of the offshore industry, and have ensured that they are aware of the ETOD Report. Furthermore, each polytechnic (and central institution in Scotland) is expected to maintain close relations with those parts of industry and commerce needing the skills and knowledge which it is particularly able to impart. There is no reason to doubt that those institutions able to contribute in the case of education of the offshore industry appreciate the strength of this demand and will seek to respond accordingly.
Regulations made under the Mineral Workings (Offshore Installations) Act 1971

(i) The Registration of all installations on the UK Continental Shelf and the notification of their locations

(ii) Notification to the Department of Energy of persons appointed as installation managers

(iii) The keeping of installation log books and procedures for registering a death

(iv) The functions and powers of the Department of Energy's Inspectors and the reporting of accidents

(v) Public inquiries into accidents

(vi) The safety of diving operations carried on in connection with installations

(vii) The certification of installations as safe structures

Regulations are in draft on:

(viii) Employers' liability insurance

(ix) Day-to-day safety, health and welfare matters

(x) Emergency equipment and procedures.
CABINET

THE REPORT OF THE COMMITTEE ON THE PREPARATION OF LEGISLATION

Note by the Lord President of the Council

For the information of my colleagues I am circulating with this note a copy of the Renton Report which will be published at 2.30 pm on Wednesday 7 May.

E S

Privy Council Office

6 May 1975
THE PREPARATION OF LEGISLATION

Report of a Committee Appointed by the Lord President of the Council

CHAIRMAN: THE RT HON SIR DAVID RENTON

Presented to Parliament by the Lord President of the Council by Command of Her Majesty
May 1975

LONDON
HER MAJESTY'S STATIONERY OFFICE

£2.45 net
Cmnd. 6053
The estimated total expenditure of the Committee is £73,187, of which £11,625 represents the cost of printing and publishing this Report.
MINUTE OF APPOINTMENT
BY THE LORD PRESIDENT OF THE COUNCIL

I hereby appoint

His Grace the Duke of Atholl
The Rt Hon Baroness Bacon CBE
The Hon Mr Justice Cooke
Sir Basil Engholm KCB
Mr J A R Finlay QC
Sir John Gibson CB QC
Mr P G Henderson
Sir Noël Hutton GCB QC
Mr K R Mackenzie CB
Sir Patrick Macrory
Mr S J Mosley
The Rt Hon Sir David Renton KBE TD QC MP

*Mr Ivor Richard QC MP
**Mr Ewan Stewart MC QC

to be a Committee on the Preparation of Legislation with the following terms of reference:

"With a view to achieving greater simplicity and clarity in statute law, to review the form in which public Bills are drafted, excluding consideration of matters relating to policy formulation and the legislative programme; to consider any consequential implications for parliamentary procedure; and to make recommendations".

I appoint the Rt Hon Sir David Renton KBE TD QC MP to be the Chairman of the Committee and Mr A M Macpherson of the Cabinet Office to be its Secretary.

(Signed) JAMES PRIOR.


---

* Mr Richard was appointed United Kingdom Representative to the United Nations in March 1974.
** Mr Stewart was elevated to the Bench as the Hon Lord Stewart in January 1975.
CONTENTS

CHAPTER I

INTRODUCTION

| Appointment and Terms of Reference | 1.1 | 1 |
| Method of Working | 1.4 | 2 |
| Evidence | 1.6 | 2 |
| Responsibility for Improvement | 1.10 | 3 |
| Membership | 1.11 | 3 |
| Our Secretariat | 1.12 | 3 |

CHAPTER II

HISTORICAL BACKGROUND

| The Growth of the Statute Book | 2.1 | 4 |
| Early enactments | 2.1 | 4 |
| The present statute book | 2.3 | 4 |
| The Drafting of Statutes | 2.4 | 5 |
| England and Wales | 2.4 | 5 |
| Scotland | 2.7 | 6 |
| Revision and Reform | 2.8 | 6 |
| Early complaints and proposals | 2.8 | 6 |
| Statute Law Commissions | 2.11 | 7 |
| The Statute Law Committee | 2.12 | 7 |
| The Select Committee of 1875 | 2.13 | 7 |
| The Joint Committee on Consolidation Bills | 2.15 | 8 |
| Consolidation: the Parliamentary draftsmen’s contribution | 2.16 | 8 |
| The Law Commissions | 2.17 | 9 |

CHAPTER III

PRESENT DRAFTING ARRANGEMENTS

| The Draftsmen | 3.1 | 10 |
| Parliamentary Counsel | 3.1 | 10 |
| Scottish Parliamentary Draftsmen | 3.3 | 11 |
| Northern Ireland Legislative Draftsmen | 3.5 | 11 |
| Other draftsmen | 3.6 | 11 |
| Methods of Work | 3.8 | 12 |
| The draftsman and his clients | 3.8 | 12 |
| Office organisation | 3.11 | 13 |

CHAPTER IV

OUTLINE OF PRESENT LEGISLATIVE PROCEDURE FOR PUBLIC BILLS

| Government Bills | 4.1 | 14 |
| Introduction into Lords or Commons | 4.1 | 14 |
CHAPTER V

PUBLICATION OF STATUTES

THE STATUTE LAW COMMITTEE

THE STATUTORY PUBLICATIONS OFFICE

OFFICIAL PUBLICATIONS

Single copies of Acts
Annual volumes
Collected editions
Annotations
Indexes and tables
Statutory Instruments
Local and Personal Acts

DEPARTMENTAL COMPILATIONS

COMMERCIAL PUBLICATIONS

EUROPEAN COMMUNITIES

CHAPTER VI

THE CRITICISM

INTRODUCTORY

LANGUAGE

OVER-ELABORATION

STRUCTURE OF ACTS AND SEQUENCE OF CLAUSES

ARRANGEMENT AND AMENDMENT

ANGLO-SCOTTISH LEGISLATION

CONCLUSIONS ON THE CRITICISM

CHAPTER VII

FACTORS TO BE TAKEN INTO ACCOUNT IN SUGGESTING REMEDIES

THE MASS OF LEGISLATION

THE PROBLEM OF EXPRESSING COMPlicated CONCEPTS IN SIMPLE LANGUAGE

THE CONFLICTING NEEDS OF DIFFERENT AUDIENCES

The needs of the user
<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>The needs of the Government</td>
<td>7.7 37</td>
</tr>
<tr>
<td>The needs of Parliament</td>
<td>7.13 39</td>
</tr>
<tr>
<td><strong>DIFFICULTY OF ATTRACTING ENOUGH SUITABLE PARLIAMENTARY DRAFTSMEN</strong></td>
<td>7.17 41</td>
</tr>
<tr>
<td><strong>CONCLUSION</strong></td>
<td>7.18 41</td>
</tr>
</tbody>
</table>

## Chapter VIII

### THE DRAFTSMAN'S PRESENT DIFFICULTIES

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PRESSURE OF TIME</strong></td>
<td>8.3 43</td>
</tr>
<tr>
<td><strong>INSTRUCTIONS TO DRAFT</strong></td>
<td>8.5 44</td>
</tr>
<tr>
<td>The “grey area”</td>
<td>8.6 44</td>
</tr>
<tr>
<td>Departmental expertise</td>
<td>8.7 44</td>
</tr>
<tr>
<td>Stage at which draftsman becomes involved</td>
<td>8.11 45</td>
</tr>
</tbody>
</table>

### THE STATE OF THE STATUTE BOOK

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruitment and training</td>
<td>8.15 47</td>
</tr>
<tr>
<td>Outside help</td>
<td>8.17 47</td>
</tr>
<tr>
<td>Other duties</td>
<td>8.19 49</td>
</tr>
<tr>
<td><strong>Conclusion</strong></td>
<td>8.22 49</td>
</tr>
</tbody>
</table>

### MANPOWER

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruitment and training</td>
<td>8.15 47</td>
</tr>
<tr>
<td>Outside help</td>
<td>8.17 47</td>
</tr>
<tr>
<td>Other duties</td>
<td>8.19 49</td>
</tr>
<tr>
<td><strong>Conclusion</strong></td>
<td>8.22 49</td>
</tr>
</tbody>
</table>

## Chapter IX

### BRITISH AND EUROPEAN APPROACHES TO LEGISLATION

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>THE APPROACH IN EUROPEAN LAW</strong></td>
<td>9.1 51</td>
</tr>
<tr>
<td><strong>THE APPROACH IN ENGLAND AND WALES</strong></td>
<td>9.2 51</td>
</tr>
<tr>
<td><strong>THE APPROACH IN SCOTLAND</strong></td>
<td>9.3 51</td>
</tr>
<tr>
<td><strong>THE APPROACHES EXAMINED</strong></td>
<td>9.4 51</td>
</tr>
</tbody>
</table>

## Chapter X

### CONFLICTS

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONFLICTING NEEDS: THE BILL AND THE ACT</strong></td>
<td>10.1 56</td>
</tr>
<tr>
<td><strong>CONFLICTING OBJECTIVES: SIMPLICITY AND CLARITY V. IMMEDIATE CERTAINTY</strong></td>
<td>10.4 57</td>
</tr>
<tr>
<td>The demand for immediate certainty</td>
<td>10.4 57</td>
</tr>
<tr>
<td>The consequences of aiming for immediate certainty</td>
<td>10.9 58</td>
</tr>
<tr>
<td><strong>Conclusions on conflicting objectives</strong></td>
<td>10.10 59</td>
</tr>
</tbody>
</table>

## Chapter XI

### DRAFTING TECHNIQUES

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SIMPLICITY OF STYLE</strong></td>
<td>11.2 61</td>
</tr>
<tr>
<td><strong>AIDS TO UNDERSTANDING</strong></td>
<td>11.6 62</td>
</tr>
<tr>
<td>Statements of purpose</td>
<td>11.6 62</td>
</tr>
<tr>
<td>Presentation</td>
<td>11.9 64</td>
</tr>
<tr>
<td>Topic</td>
<td>Paragraph</td>
</tr>
<tr>
<td>-------</td>
<td>-----------</td>
</tr>
<tr>
<td>Territorial Extent</td>
<td>18.8</td>
</tr>
<tr>
<td>In the long title of the Bill</td>
<td>18.9</td>
</tr>
<tr>
<td>In the short title of the Bill</td>
<td>18.11</td>
</tr>
<tr>
<td>In the body of the Bill</td>
<td>18.14</td>
</tr>
<tr>
<td>The Position in Bills of Common-Form Clauses</td>
<td>18.15</td>
</tr>
<tr>
<td>Proposals to Limit Debate on Clauses in the Commons</td>
<td>18.18</td>
</tr>
<tr>
<td>Some Minor Proposals</td>
<td>18.21</td>
</tr>
<tr>
<td>Italics to show financial provisions</td>
<td>18.22</td>
</tr>
<tr>
<td>Form of amendments to Bills</td>
<td>18.23</td>
</tr>
<tr>
<td>Numbering of new clauses</td>
<td>18.24</td>
</tr>
<tr>
<td>Abolition of Consolidated Fund and Appropriation Acts</td>
<td>18.25</td>
</tr>
<tr>
<td>Scrutiny of Drafting</td>
<td>18.26</td>
</tr>
<tr>
<td>Scrutiny before presentation</td>
<td>18.27</td>
</tr>
<tr>
<td>Scrutiny during passage through both Houses</td>
<td>18.30</td>
</tr>
<tr>
<td>Intervals between stages of Bills</td>
<td>18.34</td>
</tr>
<tr>
<td>Scrutiny after the Parliamentary process</td>
<td>18.35</td>
</tr>
<tr>
<td>General scrutiny of legislation for drafting</td>
<td>18.39</td>
</tr>
<tr>
<td>Conclusion</td>
<td>18.42</td>
</tr>
</tbody>
</table>

**Chapter XIX**

**Interpretation of Statutes**

<table>
<thead>
<tr>
<th>Topic</th>
<th>Paragraph</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Relationship Between Interpretation and Drafting</td>
<td>19.1</td>
</tr>
<tr>
<td>A New Interpretation Act?</td>
<td>19.4</td>
</tr>
<tr>
<td>The Law Commissions’ Proposals</td>
<td>19.12</td>
</tr>
<tr>
<td>Draft clause 1</td>
<td>19.13</td>
</tr>
<tr>
<td>Draft clause 2</td>
<td>19.27</td>
</tr>
<tr>
<td>Draft clauses 3 and 4</td>
<td>19.29</td>
</tr>
<tr>
<td>General conclusion on Law Commissions’ proposals</td>
<td>19.31</td>
</tr>
<tr>
<td>Other Proposals</td>
<td>19.32</td>
</tr>
<tr>
<td>Retrospective legislation</td>
<td>19.32</td>
</tr>
<tr>
<td>“Controlling” provisions</td>
<td>19.33</td>
</tr>
<tr>
<td>Disregard of prior case law</td>
<td>19.34</td>
</tr>
<tr>
<td>The European Influence</td>
<td>19.35</td>
</tr>
<tr>
<td>General Conclusions</td>
<td>19.40</td>
</tr>
</tbody>
</table>

**Chapter XX**

**Summary of Conclusions and Recommendations** | 20.1 | 149

**Additional Notes**

1. Note by the Duke of Atholl, Sir John Gibson and Lord Stewart | 159
2. Note by Sir Basil Engholm, Mr Peter Henderson, Mr Kenneth Mackenzie and Sir Patrick Macrory | 159
3. Note by Sir Samuel Cooke and Sir Noël Hutton | 160
APPENDICES

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>List of Witnesses</td>
<td>161</td>
</tr>
<tr>
<td>B</td>
<td>Some judicial criticisms of drafting</td>
<td>163</td>
</tr>
<tr>
<td>D</td>
<td>Explanatory aids provided for the Local Government Act 1972</td>
<td>173</td>
</tr>
</tbody>
</table>
INTRODUCTION

1.1 When the House of Commons Select Committee on Procedure inquired in 1970–71 into the process of legislation they received a number of proposals aimed at improving the form and drafting of Public Bills.\(^1\) Most of those proposals were beyond the scope of their inquiry, and they therefore recommended that the Government should appoint a committee, which would include Members and officers of both Houses of Parliament, to review the form, drafting and amendment of legislation. Following the Government's acceptance of that recommendation we were appointed on 7 May 1973 by the then Lord President of the Council and Leader of the House of Commons, the Rt Hon James Prior MP, and given these terms of reference.\(^2\)

"With a view to achieving greater simplicity and clarity in statute law, to review the form in which Public Bills are drafted, excluding consideration of matters relating to policy formulation and the legislative programme; to consider any consequential implications for Parliamentary procedure; and to make recommendations".

No inquiry of this kind has taken place for a hundred years, the last being that held by a Select Committee of the House of Commons in 1875 (see paragraph 2.13).

1.2 We understood why the Government decided to exclude from our review the consideration of policy formulation and the management of the legislative programme since these are issues of the closest importance to the Government's conduct of its own business. We noted, however, that the Select Committee on Procedure, upon whose recommendation we were appointed, proposed that our terms of reference should be

"to review the form, drafting and amendment of legislation and the practice in the preparation of legislation for presentation to Parliament", which would have made it possible for us to study the way in which policy decisions on particular Bills lead to the preparation of instructions to the draftsman. This stage in drafting has a vital influence on the framing of Bills as they are presented to Parliament. The management of the Government's legislative programme also has an important bearing on the form and drafting of Bills. But these topics were excluded from our review. We quickly saw that these restrictions would prevent us from making some recommendations on the preparation of legislation which the Government might find helpful, and through our Chairman we so informed the Lord President of the Council. The Government accepted that in the course of our review we would inevitably touch on questions that might not strictly be within our terms of reference; and they agreed that if there were any matters relating to Ministerial responsibility for the drafting of legislation on which we had observations our Chairman

\(^1\) HC 538, paragraph 68. \(^2\) HC Deb., 656, cc 95–6.
could write privately to the Prime Minister about them. These arrangements originally made with the Government by which we were appointed, were confirmed by the present Government in April 1974.

1.3 In interpreting our terms of reference we have limited ourselves to making recommendations about the form and drafting of legislation of the Parliament of the United Kingdom, but our Report may also be of use to those who in future may be responsible for Bills presented to any assembly upon which legislative powers may be devolved. We were not concerned with subordinate legislation, which has recently been the subject of inquiry by the Joint Select Committee on Delegated Legislation (The Brooke Committee).1 As we were appointed several months after the United Kingdom entered the European Economic Community (EEC) we decided to consider what effect this would have upon the form and drafting of the legislation of the United Kingdom Parliament.

Method of working

1.4 It became clear early in our discussions that there were several topics of a specialised nature which should first be examined in some detail by smaller working groups of members of our Committee. We therefore appointed Sub-Committees to investigate the following aspects:

(i) Scotland.
(ii) Northern Ireland.
(iii) The effect of the United Kingdom entry into the EEC upon the drafting and interpretation of UK legislation.
(iv) The use of computers in relation to legislation.
(v) Parliamentary procedure affecting the drafting of legislation.

The Sub-Committees each prepared reports which were then considered and largely agreed upon by the main Committee. These are not reproduced in this Report since they were primarily intended to be working documents for the main Committee in its review of the whole field.

1.5 The main Committee has met on 47 occasions. All meetings, except for one in the House of Lords and one in the Parliamentary Counsel's Office, were held in the office in Whitehall placed at our disposal by the Government. The Scottish Sub-Committee met in Edinburgh on behalf of the main Committee on three occasions to hear evidence from Scottish witnesses. Our work was interrupted and unavoidably delayed by the two General Elections in 1974.

Evidence

1.6 Shortly after we were appointed we invited a number of representative bodies whose views we felt would be of special importance, to submit written memoranda. We also received written evidence from other organisations and individuals. A list of those who submitted evidence is given in Appendix A.

1.7 We invited some witnesses to supplement their written evidence by giving oral evidence and others to discuss their views informally with us. Those witnesses who gave oral evidence or who had discussions with us are also listed in Appendix A. A verbatim record was made of all the oral evidence we heard.

1 Report from the Joint Committee on Delegated Legislation, 1971–72 (HL 184; HC 475); Second Report from the Joint Committee on Delegated Legislation, 1972–73 (HL 204; HC 468).
1.8 Both the written evidence we received and the transcripts of the oral evidence are voluminous, and although it is of considerable interest, we have decided that we could not justify the cost of printing it for publication. We have therefore preferred when referring to evidence given, to quote the actual words used by our witnesses, whether in their written memoranda or in oral evidence. Complete sets of the written and oral evidence we have received have been deposited in the Public Record Offices in London, Edinburgh and Belfast, and in the National Library of Wales in Aberystwyth.

1.9 We are deeply grateful to the distinguished and busy people who devoted so much of their time to giving us the benefit of their knowledge and experience, especially those who came from far across the sea. Each of them took great trouble in giving us their views on the difficult and often complex problems involved. Although we have paid great attention to all of the evidence and opinions we received, we alone accept responsibility for our conclusions and recommendations.

Responsibility for Improvement

1.10 We must add that little can be done to improve the quality of legislation unless those concerned in the process are willing to modify some of their most cherished habits. We have particularly in mind the tendency of all Governments to rush too much weighty legislation through Parliament in too short a time with or without the connivance of Parliament, and the inclination of Members of Parliament to press for too much detail in Bills. Parliamentarians cannot have it both ways. If they really want legislation to be simple and clear they must accept Bills shorn of unnecessary detail and elaboration. We cannot emphasise too strongly that the Government and Parliament have clear responsibility for the condition of the statute book.

Membership

1.11 There has been no change in the membership of the Committee since we were appointed. However, Mr Ivor Richard QC, who was a Member of Parliament from 1964 to February 1974, was appointed in March 1974 to be United Kingdom Representative at the United Nations in New York, and he has been unable to attend any of our meetings since then. The present Lord President of the Council agreed, however, that Mr Richard should remain a member of the Committee; he has received copies of all our papers and has signed this Report.

Our Secretariat

1.12 We wish to place on record our real admiration of the work done for us by Mr Angus Macpherson, our Secretary, and Mr Robert Cumming, our Assistant Secretary, both of the Cabinet Office. They have displayed outstanding skill and diligence in marshalling and mastering the large amount of evidence we received, coping with a mass of working papers and having everything promptly ready when we needed to consider it. Upon them also fell the main burden of preparing successive drafts of the chapters of our Report. We owe to each of them our heartiest thanks, as we do also to Miss G Bickford, our Clerk and Shorthand Typist, whose industry and patience throughout our work were of great value.
CHAPTER II

HISTORICAL BACKGROUND

THE GROWTH OF THE STATUTE BOOK

Early enactments

2.1 The classic definition of a statute by Sir Edward Coke (1549–1634) requires that it shall have received the “threefold assent” of Monarch, Lords, and Commons; but some of the earliest English legislation (including Magna Carta) did not fall within this definition. It consisted of acts established by royal authority, and there was little distinction in practice between those passed by the King in Council, or in a Parliament of magnates, or in a Parliament of magnates and commons. Something like a common form of enactment appears from the Statute of Westminster II (1285) onwards, and a clear distinction between statutes and legislative acts of less authority emerges towards the end of the 15th century. Even so, when the first official collection, Statutes of the Realm, was published by the Record Commission (1810–1828) the object was to include among the pre-Union English statutes all early English instruments that had been “for a long series of years referred to and accepted as statutes in the courts of law”, and any intention to attribute degrees of authority to them was expressly disclaimed.

2.2 In Scotland a definition similar to Coke’s was enunciated by Craig, who, writing in the 17th century, stated that “the decrees and statutes passed by the three estates of the realm with the royal assent form the proper material of the written law of Scotland”. It is probable that a considerable amount of legislation before 1424 did not fall strictly within that definition, but unfortunately many of the public records relating to that period have been lost and the reliability of apparently relevant documents is sometimes uncertain. However, when in the 19th century, not long after the publication of Statutes of the Realm, a collection—known as the Record Edition—of the recognised post-1424 Scottish Acts was officially prepared, the editors, Thomas Thomson and Cosmo Innes, included in it a scholarly reconstruction of some of the earlier material (not all, strictly speaking, “statutes”) compiled from incomplete and sometimes inaccurate sources.

The present statute book

2.3 The published volumes containing “the statute book”1 are described in Chapter V. Acts of Parliament have been broadly classified in two main categories: Public Acts or “Statutes”, which are applicable to the general community, and Private Acts which concern the particular interest of a private person, public company or corporation, or local authority, and now form a

---

1It will be apparent that there is not in the physical sense a single book containing all the statutes. In this report we use the expression “the statute book” to mean, according to context, the surviving body of enacted public law or the volumes published by authority in which it is for the time being set out.
distinct category as "Local and Personal Acts". During the seven centuries since the enactment of the earliest statute (1235) recorded in Statutes of the Realm, many thousands of statutes (ie, public as distinct from private Acts) have been enacted; despite repeals and consolidation,¹ 3,480 "public general Acts of Parliament" were still in force in whole or in part at the beginning of 1974.²

THE DRAFTING OF STATUTES

England and Wales

Before 1869

2.4 In the earliest times statutes were drafted, in Latin or Norman French,³ by a committee of judges, counsellors and officials, in response to a petition or bill which asked for a remedy but left the terms of the remedial act to the King in Council. In the 15th century the practice began of drafting bills in the form of the act desired. By the end of that century this became the established method and the earlier practice had been discontinued. After 1487, Parliament appears to have handed over the drafting of Bills (in English)⁴ to conveyancers, and "from the laconic and often obscure terseness of our earliest statutes, especially when in Latin, we swung in the sixteenth, seventeenth and eighteenth centuries to a verbosity which succeeded only in concealing the real matter of the law under a welter of superfluous synonyms".⁴ During the first half of the 19th century Government departments continued to farm out Bills to members of the Bar, but in addition various individuals were employed as Parliamentary draftsmen in the Treasury, and later in the Home Office.

1869 Onwards

2.5 The Parliamentary Counsel Office was established by the Treasury in 1869, and was at first staffed with the Home Office draftsman, Henry Thring, and only one assistant. They became the draftsmen of the great bulk of Government legislation. It was only in 1917 that a third Parliamentary Counsel was appointed. A fourth was added in 1930, and two permanent assistants in 1934. The Office has since grown to its present strength of 23 (see Chapter III).

2.6 Since the establishment of the Parliamentary Counsel Office, Government Bills, except those relating exclusively to Scotland or Ireland, have generally been drafted by Parliamentary Counsel. In the case of Bills applying to Scotland as well as to England and Wales there is a process of co-operation between Parliamentary Counsel and the Scottish draftsmen, outlined in Chapters III and XII. There have, however, been some famous major exceptions such as the Sale of Goods Act 1893 (Sir Mackenzie Chalmers, before he joined the Parliamentary Counsel) and the 1925 legislation reforming the law of property in land (Sir Benjamin Cherry and Sir Arthur Underhill). The present drafting arrangements (including those for Northern Ireland) are described in Chapter III.

¹ We were told that in July 1973 nearly 200 of the public general Acts in force were consolidation Acts.
² HL Deb., 349, c 940.
³ The first Commons Bill in English was of 1414.
Scotland

2.7 Scottish legal commentators do not seem to have been very interested in the method of fabrication, as distinct from the content, of the statutes and there is surprisingly little information about the history of this. Sir George Mackenzie (1636-1691), however, tells us that “the laws were drafted by those who administered them”—presumably meaning the Lord Advocate and the judges of the Court of Session. From the Union until the last quarter of the 19th century it is thought that the work was commissioned from various private practitioners on an ad hoc basis. It was not until 1871 (two years after the establishment of the office of the Parliamentary Counsel to the Treasury) that any systematic arrangement was introduced. In that year the Treasury sanctioned the appointment of a Parliamentary Draftsman for Scotland, remunerated by salary, but some work continued to be farmed out to other counsel, including the Legal Secretary to the Lord Advocate, on a fee basis, and the salaried post was at various times either unfilled, or held by the Senior Counsel to the Scottish Office for Private Legislation Procedure. In 1925 the post was formally combined with that of the Legal Secretary, and in 1934 an assistant Legal Secretary and second Parliamentary Draftsman was appointed. There are now eight full-time draftsmen, who combine their drafting duties with work as legal secretaries to the Lord Advocate.

REVISION AND REFORM

Early complaints and proposals

2.8 As long ago as the 16th and 17th centuries there were in England many expressions of dissatisfaction with, and projects for reforming, the drafting of statutes and the shape of the statute book. These early critics included Edward VI (“I would wish that . . . the superfluous and tedious statutes were brought into one sum together, and made more plain and short, to the intent that men might better understand them”), Lord Keeper Sir Nicholas Bacon (“a short plan for reducing, ordering, and printing the Statutes of the Realm”), James I (“divers cross and cuffing statutes . . . [should] be once maturely reviewed and reconciled; and . . . all contrarieties should be scraped out of our books”), and Sir Francis Bacon, when Attorney General (“the reducing of concurrent statutes, heaped one upon another, to one clear and uniform law”).

2.9 In Scotland, too, there have been complaints and attempts at reform from early times onwards. In 1425 a commission was appointed “to see and examine the bukis of law of this realme . . . and mend the laws that needs amendment”; and several other commissions with similar purposes followed over the years, with differing results. In the 19th century and in recent years complaints have centred mainly on the technique of legislating for Scotland by way of a Bill altered, with varying degrees of clumsiness and complexity, to fit, more or less, into the Scottish legal system—a technique which is clearly liable to cause inconvenience (at least) to Scottish practitioners.

2.10 There is a familiar ring, too, in the words of Thomas Jefferson, one of the “revisers” appointed after American Independence to survey the Parliamentary statutes pre-dating Independence and select those which the new state
should re-enact. It was decided, he says, “to reform the style of the later British statutes and of our own acts of Assembly, which, from their verbosity, their endless tautologies, their involutions of case within case and parenthesis within parenthesis, and their multiplied efforts at certainty by saids and aforesaid, by ors and by ands, to make them more plain, do really render them more perplexed and incomprehensible, not only to common readers but to the lawyers themselves.” The incompatibility of certainty with simplicity and clarity (see Chapter X) is no new discovery. Jefferson’s own solution, which rather begs the question, was to aim at “simplicity of style . . . so far as was safe”.

Statute Law Commissions

2.11 In the compilation of the Statutes of the Realm (1810–1828) no attempt was made to discard what was obsolete. From 1834 onwards, however, in a move towards revision, a number of commissions sat. The First Report of the Statute Law Commissioners (1835) contained some severe comment on “the imperfections in the statute law”, but it was not until 1861 that the series of Statute Law Revision Acts began. These have, over the years, got rid of a large quantity of obsolete matter: one Act of 1867 alone repealed 1,300 statutes.

The Statute Law Committee

2.12 This Committee was established in 1868 to prepare an edition of Statutes Revised. Its subsequent history and activities are outlined, and the successive editions of Statutes Revised described, in Chapter V. We recommend in Chapter XVIII that it should assume some fresh responsibilities for scrutiny of legislation.

The Select Committee of 1875

2.13 A Select Committee of the House of Commons was set up in 1875 to consider “Whether any and what means can be adopted to improve the manner and language of current legislation”. This was a resumption of an inquiry which had been referred to another Select Committee in 1857 as a result of a Report from the Statute Law Commissioners. The Commissioners had criticised the confused and unsatisfactory state of the statute book, the verbose and obscure language in which statutes were drafted, uncertainties about the effects of new legislation on existing law, and confusion resulting from ill-considered amendments made in Parliament. They had suggested the appointment of an officer or Board to whom either House might refer Bills for advice on their effects on existing law, their language and structure, and the repeals and amendments to be effected by them. The 1857 Select Committee was overtaken by a dissolution of Parliament before it had made any recommendations. The 1875 Select Committee expressed approval of the institution of the Office of Parliamentary Counsel, and took the view that the evils arising from alleged imperfections of drafting were now comparatively few, though they criticised referential legislation in one of its forms: the method of drafting by which a reference is made to parts of other Acts of Parliament, “some of which are
repealed, some amended and others kept alive subject to the conditions contained in the amending Bill”. They rejected the Commissioners’ suggestion that Bills might be referred by either House to a scrutinising officer or Board. The Select Committee’s own suggestions were that Bills should be accompanied (as they now are) by explanatory memoranda; that model clauses might be prescribed for general use; that an Act dealing with interpretation should be passed (as was done in 1889); and that amendments of substance introduced in Parliament should be tidied up by the Government draftsman in consultation with the department concerned (as is now the practice, subject however to certain limitations).

2.14 A further topic dealt with by the Select Committee was consolidation: the process of repealing a group of statutes or parts of statutes relating to some particular branch of the law and re-enacting them in a single Act. In 1875 this was something of a novelty, and the Committee devoted attention to the question of the proper form of consolidation Bills and the best method of getting them through Parliament. Questions put by members of the Select Committee to various witnesses suggest that they had come to think that the House might refrain from criticising technical amendments to be made by a consolidation Bill if the Bill had been examined by a Committee which had gained the confidence of Parliament.

The Joint Committee on Consolidation Bills

2.15 The practice did in fact grow up towards the end of the nineteenth century of referring specific consolidation Bills to a Joint Committee of both Houses. The Joint Committee was originally set up in 1892 to consider Statute Law Revision Bills only, and the first consolidation Bill was referred to it in 1894. It was appointed ad hoc and not until 1921 did it become the practice for a Joint Committee to be set up every session for all the consolidation and Statute Law Revision Bills of the session. Since the establishment of the Law Commissions in 1965 (see below) the jurisdiction of the Joint Committee has been widened so as to enable it to consider (a) consolidation Bills incorporating amendments of the law recommended by one or both of the Commissions, and (b) Bills recommended by one or both of the Commissions for the repeal of enactments which are no longer of practical utility. In 1971 the Joint Committee was established by Standing Orders of both Houses. Its present functions, and the categories of Bills referred to it, are described in more detail in Chapter IV.

Consolidation: The Parliamentary draftsmen’s contribution

2.16 Until 1966 the planning and execution of programmes of consolidation (and, from 1956 to 1966, of Statute Law Revision) was in the hands of the Government draftsmen, under the supervision of the Statute Law Committee. According to Sir William Graham-Harrison (writing in 1935), 109 consolidation Acts were passed between 1870 and the end of 1934. Between 1947 (when a separate consolidation branch was set up in the Parliamentary Counsel Office) and 1966 (when responsibility was assumed by the Law Commissions) about 100 consolidation Acts were passed, and it was estimated in 1966 that between one-fifth and one-sixth of the total of living statute law was contained in the consolidation Acts passed during this period.
The Law Commissions

2.17 In 1965 the Law Commission and the Scottish Law Commission were established by the Law Commissions Act of that year, "for the purpose of promoting the reform of the law" (section 1(1)). Section 3(1) defines their duties in the following terms:

"It shall be the duty of each of the Commissions to take and keep under review all the law with which they are respectively concerned with a view to its systematic development and reform, including in particular the codification of such law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law".

The subsection then goes on to list various specific activities to be undertaken by the Commissions in pursuance of their duties. These activities include the preparation, at the request of the Lord Chancellor (in the case of the Scottish Law Commission, at the request of the Lord Advocate), of "comprehensive programmes of consolidation and statute law revision", and the preparation of draft Bills to implement such programmes when approved. Programmes were prepared by the Law Commission in 1966 and 1971 and by the Scottish Law Commission in 1966 and 1973, and considerable progress, to which reference is made in Chapter XIV, has been made in implementing them. The general responsibility for consolidation work, and for work on the tidying up of the statute book by statute law revision and statute law repeals, is in the hands of the two Law Commissions.
THE DRAFTSMEN

Parliamentary Counsel

Status and numbers

3.1 The Parliamentary Counsel Office was established by Treasury Minute in 1869. The title of the head of the Office is First Parliamentary Counsel. Counsel are members of the English Bar or solicitors qualified in England, and are civil servants subject to the Official Secrets Act. They number at present 23 (First Parliamentary Counsel, two Second Parliamentary Counsel, six Counsel, one Deputy Counsel, six Senior Assistant Counsel, and seven Assistant Counsel). The Prime Minister, as Minister for the Civil Service, is responsible for the administration of the Parliamentary Counsel Office, but Ministerial responsibility for the drafting of any particular Bill lies with the Minister in charge of the Bill. The Leader of the House of Commons is responsible in general for the Government’s legislative programme, but not for the contents of any Bill unless he is one of its sponsors.

Duties

3.2 The prime duty of Parliamentary Counsel is to draft Bills for the Government’s legislative programme. In addition, under arrangements made when the Law Commissions were established, a minimum of four members of the Office should at any one time be exclusively engaged in drafting Bills (including consolidation Bills) for the Law Commission. The intention was that a fifth member of the Office should in due course be assigned exclusively to Law Commission work. Since that time the normal practice has been for two Parliamentary Counsel and two assistant Counsel to be assigned exclusively to Law Commission work. Unfortunately, at the present time only one Parliamentary Counsel and two assistant Counsel (three in all) are assigned exclusively to Law Commission work and we revert to this matter in paragraph 8.19 below. Some consolidation Bills are drafted in the main Parliamentary Counsel Office. Draftsmen are assigned from the Office to assist, at varying stages, in the preparation and amendment of Private Members’ Bills, in both Houses, that are supported, or at least not opposed, by the Government. Parliamentary Counsel also advise Ministers and officials on questions concerning Parliamentary practice and procedure, constitutional matters, and, on occasion, the interpretation of statutes. Other commitments, which have been reduced in recent years, have included the giving by members of the Office of courses of lectures, wholly or mainly for overseas lawyers, on the techniques of drafting. At one time a considerable amount of subordinate legislation was drafted in the Office, but nearly all of it is now drafted in the legal branches of Government departments, as is the case with the subordinate legislation of Scottish departments.
Scottish Parliamentary Draftsmen

Status and numbers

3.3 The Parliamentary Draftsman for Scotland and his colleagues are all members of the Lord Advocate’s Department. The authorised complement is five senior and six junior draftsmen, and one part-time draftsman. There are at present in post six senior draftsmen (one on special promotion), two juniors, and a part-time draftsman who, with one of the seniors, is seconded to the Scottish Law Commission. All the draftsmen in post are members of the Faculty of Advocates, though solicitors are also eligible. The Lord Advocate has general responsibility for the draftsmen. Responsibility for any given Bill lies with the Minister whose Bill it is.

Duties

3.4 The duties of the draftsmen as such (other than those seconded to the Scottish Law Commission) are to draft Scottish Bills in the Government legislative programme, and the Scottish element of Bills applying to Scotland as well as to England and Wales. All these draftsmen are also legal secretaries to the Lord Advocate, in which capacity their work involves advising and assisting the Scottish Law Officers in the discharge of their functions (other than prosecutions); giving advice on Scots law to United Kingdom departments and some primarily English departments; work in relation to international conventions and European Community matters; and generally the work corresponding to that performed by the legal (as distinct from the administrative) side of the Lord Chancellor’s Office in respect of England.

Northern Ireland Legislative Draftsmen

3.5 The Office of the Legislative Draftsmen in Northern Ireland consists of eight draftsmen and a part-time consultant on matters relating to law reform. They used to draft the Bills of the Parliament of Northern Ireland and now draft the Measures of the Northern Ireland Assembly. In the case of Westminster legislation extending to Northern Ireland they are consulted by Parliamentary Counsel, and if a Bill needs adaptations for Northern Ireland these are settled by British and Northern Ireland draftsmen in co-operation.

Other draftsmen

3.6 The First Parliamentary Counsel has authority to make arrangements for some Government Bills to be drafted by outside draftsmen. Much work has been done by former Parliamentary Counsel after their retirement from Government service, both for the Law Commission and on Bills in the Government’s legislative programme. Some of the drafting work of the Law Commission is done by lawyers who have previously been employed, not in the Parliamentary Counsel Office, but elsewhere in the public service, at home or overseas. Parliamentary Agents (normally engaged by the promoters of Private Bills) have on occasion been employed on the drafting of Government Bills, and it is hoped that they will continue to make a contribution. On the other hand, the prospects of engaging part-time draftsmen from the academic world and the practising Bar are so far not encouraging.
3.7 Private Members' Bills are usually drafted by the Government draftsmen from the outset only if they have been fostered by the Government, though any others that reach the statute book are likely to have received some measure of drafting assistance from a Government draftsman.

METHODS OF WORK

The draftsman and his clients

Government Bills

3.8 Parliamentary Counsel are in most instances instructed by the Government department most closely concerned with the subject matter of a Government Bill, through a member or members of its legal staff. The instructions may in practice be in varying degrees formal or informal, but in principle they are expected to contain a sufficiently detailed statement of what the Bill is to achieve and as much background information as may be necessary. They do not take the form of a draft Bill, and do not as a rule attempt to dictate the form or language of the Bill itself. The instructions are sent to First Parliamentary Counsel and allocated as described in paragraph 3.11 below. A draft Bill is then prepared by the draftsman in consultation with officials of the instructing department, working with the draftsman as an expert team. Sizeable Bills usually go through half a dozen or more prints before introduction into Parliament, and will often be extensively amended in Parliament. There is usually great pressure to get things done quickly, both before and after introduction, and this makes the draftsman's task much more difficult. Such pressure is sometimes unavoidable, especially in the weeks following a change of government. The work of Parliamentary Counsel during the passage of a Bill through Parliament includes the drafting of financial and other motions and amendments moved by the Government; advising the department concerned with the Bill on Opposition and back-bench amendments and on questions of Parliamentary procedure; attending at sittings of both Houses (and Committees of those Houses) when the Bill is under discussion; and co-operation with Officers of both Houses.

3.9 In the case of a Bill applying to Scotland only, what is said in paragraph 3.8 above applies in the same way as to the Bills there mentioned, but with the Scottish Parliamentary Draftsman taking the place of Parliamentary Counsel. In the case of Bills involving Scotland as well as England and Wales the departmental instructions are sent to the Scottish Parliamentary Draftsman as well as to Parliamentary Counsel. The Bill is initially drafted by Parliamentary Counsel, who as soon as practicable sends a copy of his draft to the Scottish draftsman. The Scottish draftsman then considers how much of the draft can be adopted as it stands for Scotland, how much can be adopted with suitable adaptations, and how much must be discarded and replaced with separate, though parallel, Scottish provisions. A process of interchange of drafts and consultation then takes place between the two draftsmen, assisted by the departmental officials and legal advisers, until the Bill is ready for introduction; and thereafter the Scottish draftsman, when necessary, provides the like services in relation to the Scottish aspect of the Bill as does the Parliamentary Counsel in relation to the Bill as a whole.
Private Members' Bills

3.10 When a private Member is given drafting assistance by the Government, minor questions of policy are likely to arise which Parliamentary Counsel (or the Scottish Parliamentary Draftsman as the case may be) may not be able to answer without consulting at least one Government department. In practice he acts largely on instructions from officials of a department conversant with the subject matter. Where assistance is not provided by the Government draftsmen, it is for the Member himself to obtain such professional drafting help as he requires. To help meet the cost of this, a Member who has secured one of the first ten places in the ballot for Private Members’ Bills is entitled to a payment of not more than £200. There is no similar arrangement for the House of Lords.

Office organisation

3.11 Both in the Parliamentary Counsel Office and in the office of the Parliamentary Draftsman for Scotland, the head of the office is regarded as primus inter pares. He drafts some Bills himself, and allocates the others among his senior colleagues. The senior draftsmen are regarded as professional counsel with full individual responsibility for their work; juniors are each attached to and work with a senior draftsman, the ideal being that draftsmen should operate in pairs on a Bill of any magnitude. It is mainly in this way that recruits to the two offices are at present trained, though First Parliamentary Counsel has recently re-examined the possibility of assigning one senior draftsman, for part of his time, to giving more formal instruction to recruits, and hopes to try this as an experiment.

---

1 This was authorised by a resolution of the House of Commons on 29 November 1971 pursuant to a recommendation in the Second Report from the Select Committee on Procedure, 1970–71 (H.C. 538), paragraphs 56 and 70(26).
CHAPTER IV

OUTLINE OF PRESENT LEGISLATIVE PROCEDURE FOR
PUBLIC BILLS

GOVERNMENT BILLS

Introduction into Lords or Commons

4.1 The Government decide whether a Bill is to be introduced first into the House of Lords or into the House of Commons. Finance Bills are always introduced in the Commons, as are most Bills which are regarded as politically controversial.

Procedure in the House of Commons

Introduction and First Reading

4.2 A Government Bill introduced in the House of Commons is presented by a Minister. On presentation the Bill is formally read a first time and ordered to be printed. The Bill is then published and becomes available to the House and to the public. It is usual for a Bill to have attached to it an Explanatory and Financial Memorandum, or an Explanatory Memorandum if the Bill has no financial effect. The Memorandum includes a forecast of any changes in public sector manpower requirements expected to result from the passing of the Bill; it must be framed in non-technical language and contain nothing of an argumentative character. A Government Bill brought from the Lords is deemed to have been read a first time and ordered to be read a second time in the Commons when a Minister informs the Clerks at the Table of his intention to take charge of it.

Second Reading

4.3 When Members and the public have had time to consider the Bill (and, if the Bill is urgently required, in a much shorter time) a day is appointed for the Second Reading. The debate on Second Reading is concerned with the main principles of the Bill as a whole, but reference to alternative methods of achieving the objects of the Bill is permitted. The debate normally takes place on the floor of the House, and at its conclusion the Bill is given a Second Reading (whether unopposed or on a division). It could be rejected, in which case nothing more would be heard of it. Bills relating exclusively to Scotland usually have their Second Reading debate in the Scottish Grand Committee, which includes all the Members representing Scottish constituencies. Similarly a small number of non-controversial Bills are sent for discussion of their principles to a Second Reading Committee, consisting of 16 to 50 Members nominated for each occasion having regard to Members’ qualifications and the party composition of the House. The Committee report to the House whether they recommend that the Bill be read a second time or not, and the House decides without amendment or debate whether or not to accept the Committee’s recommendations.
Committee Stage

4.4 When a Bill has received a Second Reading it will in most cases be sent to a Standing Committee; although for various reasons, especially when a Bill is of a constitutional nature, it can have its Committee Stage on the floor of the House. Standing Committees consist of from 15 to 60 Members who are specially appointed for each Bill so as to reproduce as nearly as possible the party composition of the House. A money resolution providing the necessary funds must have been passed on the floor of the House, after the Second Reading of the Bill, before any clause that makes a charge on public funds can be taken in Committee.

4.5 The Committee Stage is the main opportunity for detailed consideration of a Bill, and the stage at which most amendments are moved. The proceedings are substantially the same whether this stage is taken in a Standing Committee or in Committee of the whole House. The Committee goes through the Bill clause by clause, first considering amendments to the clause (selected by the Chairman in his discretion) and then debating the motion that the clause, or the clause as amended, “stand part of the Bill”; the Chairman may, however, rule that there shall be no debate on “clause stand part” if in his opinion the principle of the clause has been adequately discussed in the course of debate on amendments. After the clauses of the Bill have been disposed of, proposed new clauses are similarly dealt with, followed by the Schedules to the Bill and proposed new Schedules, and finally the preamble, if any, and the long title. Changes in the sequence of consideration may be made if the Committee so decide. Most “Scotland-only” Bills are committed to a Standing Committee composed mainly of Scottish Members.

Report Stage

4.6 When the proceedings of a Committee of the whole House on a Bill are concluded, the Bill is reported to the House at the next sitting. In either case, a later day is usually appointed for its further consideration at what is called the Report Stage. (A Bill reported from a Committee of the whole House without amendment proceeds, however, directly to Third Reading.) At the Report Stage, the entire Bill is open to consideration: new clauses and Schedules may be added and amendments made (the new clauses being taken first), but no question is put on each clause that it stand part of the Bill unless it be a new clause. The Speaker’s selection of amendments and new clauses for debate tends to be stricter than at the Committee Stage. All Government amendments will, however, normally be selected, and any non-Government amendments on subjects to which the Government had at the Committee Stage promised further consideration. When all amendments have been disposed of the Bill goes to Third Reading.

Third Reading

4.7 The motion for the Third Reading of a Bill is normally put immediately on the conclusion of the Report Stage, and the question is put without debate unless notice has been given by not less than six Members of an amendment to the question or of a motion that the question be not put forthwith so that there may be a debate. Debates on Third Reading are becoming rare, but where one does take place it is limited strictly to the contents of the Bill. Only minor verbal amendments can be made to a Bill on Third Reading: if material
amendments are necessary the order for Third Reading must be discharged and the Bill recommitted to allow the amendments to be introduced in a resumed committee proceeding.

Procedure in the House of Lords

4.8 House of Lords procedure is, broadly, similar to that in the House of Commons. When a Bill is brought from the Commons or introduced into the Lords, the First Reading is moved forthwith and the Bill goes through the same stages as in the Commons. The main differences are that any amendment tabled may be moved and there is no selection of amendments. There are no Standing Committees and Bills are normally debated in Committee of the whole House, but sometimes suitable Bills are sent to a Public Bill Committee. There may be a Report Stage even where no amendments have been made in Committee, and amendments may be moved then and on Third Reading. Although all Bills have to be passed by both Houses, in effect financial legislation is not scrutinised in detail by the House of Lords. The Lord Chancellor is available to advise the House on English legal points arising in the course of the consideration of Bills, but normally no Scottish Law Officer is a Member of the House. In 1969, during the Labour Administration of 1964–70, this difficulty was obviated when the then Lord Advocate was created a Life Peer and was then available to advise the House on Scottish legal matters during the remainder of that Administration's term.

Amendments made by second House

4.9 The procedure in either House for the consideration of amendments made to one of its Bills by the other House is essentially the same. If the first House agrees to all the amendments a message is sent to the other House to that effect. If not, a message is sent which may contain either reasons for disagreement or amendments to the amendments made by the second House and consequential amendments to the Bill. The second House may agree with the first House, or disagree and insist on their own amendments, and may in either event make further amendments; a message is sent to the first House accordingly. A single exchange of messages is in practice usually sufficient to secure agreement, but if agreement is not reached before the end of the Session the Bill is lost, unless the Parliament Act is invoked in the next Session.

Royal Assent

4.10 When a Bill has been finally passed by both Houses, Royal Assent is normally notified separately to each House in accordance with the provisions of the Royal Assent Act 1967, though Royal Assent may on occasion still be pronounced by Commission in the presence of both Houses. It is still possible for Royal Assent to be declared by the Sovereign in person in Parliament. The last occasion was in 1854.

PRIVATE MEMBERS’ BILLS

Procedure in the Commons

4.11 A Private Member’s Bill is a public Bill promoted by a back-bench or Opposition Member, or brought from the Lords after being promoted by a private Peer. Its progress depends largely on the extent to which it receives
some of the restricted amount of time allowed for Private Members' business. In recent Sessions 12 Fridays have been allotted to Private Members' Bills in the House of Commons. Priority in debate on these Fridays is determined by a ballot (for Commons Bills) held soon after the beginning of each Session. In addition as soon as the ballot Bills have been presented (and given a formal First Reading) and a date has been named for their Second Reading, Members may seek leave to introduce Bills on Tuesdays and Wednesdays by a motion under the "10-minute rule" procedure which allows one speech of approximately 10 minutes' duration for the proposal and one such speech against it. If the motion is carried the Bill is given a formal First Reading. After the ballot Bills have been presented, Members may also introduce Bills on any day by a simple written notice of presentation. On presentation such Bills are likewise given a formal First Reading. A Private Member's Bill is in practice unlikely to make progress in the Commons if it is opposed by the Government. Subject to that, it follows the stages described above for Government Bills.

Procedure in the Lords

4.12 In the House of Lords it is the privilege of any Peer to present a Bill without notice and without moving for leave to bring it in, and it is most unusual for any objections to be raised at that stage. Though the Government can oppose the Bill in debate, it is for the House to decide what progress the Bill shall make; this is equally true of a Private Member's Bill brought from the Commons. The Lords will always take up a Private Member's Bill that has passed the Commons, but may alter it substantially, or, on occasion, reject it.

THE JOINT COMMITTEE ON CONSOLIDATION BILLS

4.13 There are three categories of public consolidation Bills that are referred to the Joint Committee on Consolidation Bills. They are: (1) pure consolidation; (2) consolidation with corrections and minor improvements under the Consolidation of Enactments (Procedure) Act 1949; and (3) consolidation with amendments to give effect to recommendations of the Law Commissions. (In this and the following paragraphs of this chapter, "Law Commissions" means the Law Commission, the Scottish Law Commission, or both of them). They are invariably introduced in the House of Lords, and are referred to the Joint Committee after Second Reading.

4.14 In the case of a pure consolidation Bill, the Joint Committee make any amendments necessary to bring the Bill into conformity with the existing law or to improve its form, and report to that effect.

4.15 In the case of a Bill presented under the 1949 Act, the Joint Committee may have to consider representations before considering the Bill and its accompanying memorandum and deciding what, if any, corrections and minor improvements they are prepared to approve. Provided the Lord Chancellor and the Speaker concur in the Committee's approval, the Bill is reported as consolidating the existing law with those corrections and improvements, which are then deemed for the purpose of the Bill's remaining stages to be part of the existing law.

4.16 The Law Commissions may in connection with any consolidation Bill submit a report recommending amendments of the existing law, designed to
facilitate its satisfactory consolidation, that would not necessarily fall within the 1949 Act definition of “corrections and minor improvements”. The Bill as presented is drafted so as to give effect to the recommendations, and the Joint Committee may approve or disapprove the recommendations or alter the manner in which the recommendations have been implemented in the Bill, reporting to that effect and that in their opinion the Bill, apart from the recommendations, is pure consolidation and represents the existing law.

4.17 Bills in all three categories are then committed to a Committee of the whole House and go through the remaining stages in both Houses described above under “GOVERNMENT BILLS”. After consideration by the Joint Committee, a pure consolidation Bill may not be amended so as to alter the existing law that it consolidates. In the case of a Bill presented under the 1949 Act, the corrections and improvements approved by the Joint Committee share this immunity from amendment. In the case of a Consolidation Bill with Law Commission amendments, those parts of it that are not pure consolidation, that is to say the parts that reflect the Commissions' recommendations, are amendable.

4.18 Where a Bill re-enacts existing statutes with amendments other than those described in paragraphs 4.15 and 4.16, it is not referred to the Joint Committee and any amendments may be moved to the statutes that are to be consolidated.

4.19 Three further categories of Bills are referred to the Joint Committee. These include Statute Law Revision Bills, which are confined to the repeal of enactments that are “obsolete, spent, unnecessary or superseded”; and Statute Law (Repeals) Bills, prepared by the Law Commissions with the object of repealing enactments that in their opinion are “no longer of practical utility”. The phrase “no longer of practical utility” has been generously interpreted, and the scope of the repeals which have been effected by Statute Law (Repeals) Bills is much wider than the scope of those effected by a traditional Statute Law Revision Bill, so that Statute Law (Repeals) Bills have made an important contribution to the tidying up of the statute book. Bills in both these categories may be amended in either House after being reported by the Joint Committee. The third category comprises Bills to re-enact for Scotland only the provisions of Acts which extend to Scotland as part of the United Kingdom or Great Britain and thus eliminate the need, in the original Act, to “conflate” the adaptations required for its application to Scotland. We refer to this procedure again in paragraph 18.5 of Chapter XVIII.
CHAPTER V

PUBLICATION OF STATUTES

THE STATUTE LAW COMMITTEE

5.1 The Statute Law Committee, which is appointed by the Lord Chancellor, was established by Lord Chancellor Cairns in 1868 "to make the necessary arrangements and to superintend the work of preparing an edition of Statutes Revised". Originally the Committee consisted of about half a dozen officials, but by 1945 it had gradually increased in size to about a dozen members, who included two Members of Parliament, as well as the First Parliamentary Counsel and the Parliamentary Draftsman for Scotland.

5.2 Just after the war the membership was doubled, the Attorney-General, the Lord Advocate, and a number of Law Lords and legal members of both Houses being added, together with three or four of the Permanent Secretaries of Departments most concerned with the preparation of legislation, Counsel to Mr Speaker and the Counsel to the Chairman of Committees, and, a little later, the Treasury Solicitor. The Committee was given the following new terms of reference:

“To consider the steps necessary to bring the Statute Book up to date by consolidation, revision and otherwise, and to superintend the publication and indexing of Statutes, Revised Statutes and Statutory Instruments”.

A new edition of Statutes Revised was started, and published in 1950, and consolidation and Statute Law Revision were speeded up.

5.3 Following the setting up of the Law Commissions in 1965 it was concluded that while their statutory functions covered many (but not all) of the responsibilities previously undertaken by the Committee in the field of consolidation and statute law revision, there were important duties which remained and should remain for the Committee to perform, including the supervision of the work of the Statutory Publications Office, the general supervision of the form of Acts of Parliament, and the production of editions of Statutes Revised. The Chairman of the Law Commission (for England and Wales) became Vice-Chairman of the Statute Law Committee, and the Chairman of the Scottish Law Commission became a member. Liaison between the Committee and the Law Commissions is maintained by this means, and by a discussion, initiated annually in the Committee by the Chairmen of the two Commissions, on the plans and progress of the two Law Commissions in the field of consolidation. The Committee is also kept informed of the progress made by the Commissions in the excision of unwanted matter from the statute book.

5.4 The Statute Law Committee, of which the Lord Chancellor is Chairman, meets once a year, normally about the beginning of December. Sub-Committees have been appointed to investigate and make recommendations on a number of subjects connected with statute law. The new edition Statutes in Force (see below) was authorised by the Statute Law Committee following a proposal by
a sub-committee, as was the recent edition of the pre-Union Scottish Acts, and the numbering of Acts by calendar instead of regnal year. The preparation and publication of *Statutes in Force* is under the control of an Editorial Board set up by the Statute Law Committee.

THE STATUTORY PUBLICATIONS OFFICE

5.5 Despite its name, this Office does not publish anything. It is a compiling and editing organisation: the publishing is done by Her Majesty's Stationery Office. The Statutory Publications Office comprises an Editor and three Assistant Editors, all with English legal qualifications, and supporting staff. The work of the Office is carried out under the general supervision of the Statute Law Committee, and work on *Statutes in Force* is under the control of an Editorial Board set up by that Committee. The work of the Office is carried out under the general supervision of the Statute Law Committee. The work consists mainly of:

(a) preparing *Statutes in Force* under the general direction of the Editorial Board;
(b) preparing the Index and Table of Effects published with the annual volumes of *Public General Acts and Measures*;
(c) preparing *Annotations to Acts* (see below);
(d) preparing the annual Index to the Statutes and the annual Chronological Table of the Statutes;
(e) work connected with Statutory Instruments, including their registration and the preparation of annual volumes for the press.

ORIGINAL TEXTS

5.6 The original texts of all classes of Acts passed by the Westminster Parliaments after 1497, both printed and unprinted, may be inspected in the Record Office of the House of Lords, which can also supply typed or photographic copies of the Acts. Those texts are by tradition the authorised "master copies". Texts of most of the earlier statutes are to be seen in the Public Record Office and elsewhere. Original records of Scottish Acts from 1466 to 1707 are held by the Keeper of the Records of Scotland at HM General Register House, Edinburgh.

OFFICIAL PUBLICATIONS

Single copies of Acts

5.7 Single copies of all Acts (including local and personal Acts) after 1804 can be obtained from Her Majesty's Stationery Office. Copies of Acts printed as originally enacted, and of Acts printed as amended pursuant to a "printing clause",¹ are known as Queen's Printer's copies. Single copies of Acts as published in *Statutes in Force* can also be obtained from HMSO, as can Queen's Printer's copies of Acts of the Parliament of Northern Ireland.

¹ A "printing clause" is a statutory provision for the reprinting of an Act with amendments or additions carried into place and repealed matter omitted. "Printing clauses" have been rare: those still in force occur in the Administration of Justice Act 1928 (section 20(5)), the House of Commons Disqualification Act 1957 (section 5(2), as extended by the Ministers of the Crown Act 1964 (section 5(2)), and the Land Compensation (Scotland) Act 1973 (section 81(2)). In all these instances the terms of the provision require the text of the reprint to be prepared and certified by the Clerk of the Parliaments.
Annual volumes

5.8 The texts of public Acts of the Parliaments of England and Great Britain from 1235 up to the end of the reign of Queen Anne (1713) are to be found in the edition known as *Statutes of the Realm*. All but the earliest of these texts are also to be found in the *Sessional Volumes of Statutes* going back to the year 1483, printed until 1793 in Gothic “black letter” type. These editions do not contain the texts of the pre-Union Scottish Acts, which may be found in the *Record Edition of the Acts of the Parliaments of Scotland*. From 1940 onwards the volumes have been annual instead of sessional and they are now called *Public General Acts and Measures*. Each contains an index and (since 1857) a table showing the effect that the Acts in the volume have on those of earlier years. Since 1926 the volumes have also included the Measures of the General Assembly (now the General Synod) of the Church of England. There are corresponding bound volumes of *Public General Acts, Northern Ireland* from 1921.

Collected editions

*Statutes Revised*

5.9 The first edition of *Statutes Revised*, in eighteen volumes, comprising the public Acts in force at the end of 1878, as amended, was completed in 1885. The second edition, in twenty-four volumes published by instalments between 1888 and 1929, brought the work of revision down to the year 1920. The third edition, comprising thirty-two bound volumes of statutes (and one volume of Church Assembly Measures for the years 1920 to 1948) was published in 1950 and contains in chronological order all public general enactments from 1235 onwards (other than certain enactments relating exclusively to Northern Ireland and the pre-Union Scottish Acts), as they were in force at the end of the year 1948.

5.10 The pre-Union Scottish Acts in force on 1 August 1964 are available in a small volume entitled *The Acts of the Parliaments of Scotland* 1424–1707. An earlier edition had been published in 1908.

5.11 *Statutes Revised, Northern Ireland*, contains the relevant statutory law from 1226 to 1950 (including amendments made up to the end of 1954) and comprises Acts or portions of Acts of the Westminster, and earlier, Parliaments that extend to Northern Ireland, and the Acts of the Northern Ireland Parliament up to 1950.

*Statutes in Force*

5.12 An official revised edition of the extant public general Acts is currently being published in a new form, consisting of a series of booklets, one for each Act, contained in binders which permit the booklets to be replaced. The Acts are printed so as to incorporate textual amendments and repeals, and are arranged in groups and sub-groups according to their subject-matter. Within groups and sub-groups, Acts are arranged in chronological order. The edition is called *Statutes in Force* and is being published in instalments. The first of these, comprising Acts relating to Agriculture and to Compulsory Acquisition, appeared in 1972, together with a Guide to the whole Edition. The second instalment, published in 1974, comprises Acts relating to property in England.
and Wales and Acts relating to land tenure, conveyancing, trusts and liferents in Scotland. The third instalment, to be published in spring 1975, comprises Acts relating to income, corporation and capital gains taxes and the sale of goods. The edition is kept up to date by issuing new Acts within the scope of groups already published, new editions of Acts (within those groups) that have been extensively amended, and an annual cumulative supplement containing, in separate parts, one for each published group, particulars of new legislation affecting Acts in the group.

5.13 *Statutes in Force* includes pre-Union Acts of the Parliaments of Scotland, but does not generally include Acts of the Parliament of Northern Ireland, or—with a few exceptions—Westminster enactments relating exclusively to Northern Ireland that were passed before 3 May 1921 or deal with reserved land purchase matters.

5.14 The edition is being printed by computer-assisted typesetting. We discuss in Chapter XVI the resulting possibility of using the “computer-readable” magnetic tapes produced for this purpose for retrieving information from the text, thus enabling draftsmen and others rapidly to search all current public general statute law through the computer.

**Annotations**

5.15 *Statutes Revised, Third Edition,* and the *Public General Acts and Measures* since 1948, can be brought or kept up to date by means of *Annotations to Acts,* an annual publication containing instructions for striking out repealed matter and noting textual and other amendments. We are told that it is estimated that the annotation, from scratch, of a complete set of volumes would take a trained clerk nearly a year to complete, and that the Parliamentary Counsel Office are therefore having instead to use *Halsbury’s Statutes*—see paragraph 5.27—for the extra sets of statutes they need. The annual cumulative supplements to *Statutes in Force* provide an updating service for users of that publication.

**Indexes and tables**

*Index to the Statutes*

5.16 This is an annual publication in which all the public general statute law (including pre-Union Scottish Acts from 1424) in force at the end of the previous year is collected under some 1,000 main subject headings, with over 20,000 cross-references.

5.17 A corresponding work for the statute law affecting Northern Ireland, called *Index to the Statutes in Force affecting Northern Ireland,* is published triennially.

*Chronological Table of the Statutes*

5.18 This is a cumulative annual publication that lists, in chronological order, all the public general Acts since 1235 (including pre-Union Scottish Acts from 1424, and Measures of the Church of England Assembly and the General Synod since 1920). The Table shows whether an Act is still in force and, if it is, gives details of all partial repeals, amendments, applications and similar matters that affect it.
5.19 There is a corresponding work called the *Chronological Table of the Statutes affecting Northern Ireland*, published triennially.

**Annual Volumes**

5.20 The annual volumes of *Public General Acts and Measures* contain, each year, in addition to the Acts and Measures themselves, an alphabetical Index to the short titles and contents of the year’s public general Acts and Measures, Tables containing alphabetical and chronological lists of short titles (including an alphabetical list of Local and Personal Acts), Tables of Derivations of the year’s consolidation Acts,¹ and a Table showing the effect that the year’s legislation has on that of previous years. The Index and Tables are also published each year in a separate booklet.

**Statutes in Force**

5.21 Each subject group has its own index, except for a few large groups, each sub-group of which may have its own index. When the work is complete, there will be an index to the work as a whole. There are also general alphabetical and chronological lists of the Acts so far published in the work. Revised indexes and general lists of Acts are to be issued as required.

**Statutory Instruments**

5.22 Statutory Instruments sometimes amend statutes, and are used in many instances to appoint dates for their commencement. Both commencement orders and instruments that amend statutes are noted in the Tables of Effect at the end of the annual volumes of *Public General Acts and Measures* and in *Annotations to Acts*.

5.23 It may, therefore, sometimes be necessary, in order to ascertain the statute law in force at a particular date, to refer to Statutory Instruments. These have appeared in a series of indexed annual volumes since 1890, and there is an official collected edition of instruments in force at the end of 1948. A subject index—the *Index to Government Orders*—, including a table of statutory powers to make instruments, is published in alternate years, and there is a cumulative annual table showing amendments and revocations. Annual, monthly, and daily lists of Statutory Instruments are also published. Each subject group of *Statutes in Force* has a companion list of the general Statutory Instruments made under the Acts in the group.

**Local and Personal Acts**

5.24 These do not fall within our terms of reference, though it is to be noted that they may, as respects the locality or body concerned, amend or otherwise affect the provisions of public general Acts. There is an official index for the period 1801–1947, a supplementary index for 1948–1966, and, from 1948 onwards, an annual booklet containing an index and tables. The Law Commissions have now started work on the compilation of a chronological table of all the Private Acts passed since 1539.

¹ Starting with the 1974 volumes, Tables of Destinations are also included.
DEPARTMENTAL COMPILATIONS

5.25 Certain Government departments make available to the public collected editions of statute law administered by the department. One of these editions is *The Taxes Acts*, compiled by the Inland Revenue and published by Her Majesty's Stationery Office. This contains Acts and Statutory Instruments relating to income tax, corporation tax, and capital gains tax, or affecting the application of those taxes. A new edition, in several paperback volumes, is published each year. Each edition is cumulative and replaces the previous year's edition, repealed matter and amendments being indicated typographically and by footnotes. Earlier versions of particular passages are often given. The work is indexed and includes cross-references between consolidating and consolidated enactments, as well as tables of rates of taxes and allowances.

5.26 The Department of Health and Social Security has produced three separate compilations (all published by the Stationery Office). These are *The Law Relating to Family Allowances and National Insurance*, *The Law Relating to Supplementary Benefit and Family Income Supplements*, and *The National Insurance (Industrial Injuries) Acts and Regulations*. Each contains the relevant Acts and Statutory Instruments and is in a loose-leaf format, kept up to date by the issue, as required, of supplements comprising new and replacement sheets for insertion in the binders.

COMMERCIAL PUBLICATIONS

5.27 General collections of annotated statutes include *Halsbury's Statutes* (a bound revised edition arranged by subjects, with an annual supplement) and *Current Law Statutes* (annual bound volumes from 1947 onwards, published also periodically through the year, with a cumulative annual "Citator" showing the effect of repeals and amendments). *Butterworth's Annotated Legislation Service* comprises selected legislation considered to be of general interest to the legal profession; Acts published in the series that have been wholly repealed are noted in a biennial index.

5.28 Collections of annotated statutes on particular subjects include *Lumley's Public Health* (legislation concerning local government generally, arranged chronologically and published in bound volumes with an annual continuation volume and cumulative supplement), and a number of loose-leaf collections each updated about three times yearly. These include *Simon's Taxes* (enactments relating to income tax, corporation tax, and capital gains tax), *De Voil on Value Added Tax*, *Mahaffy and Dodson on Road Traffic*, *Shawcross and Beaumont on Air Law*, and *Harvey on Industrial Relations*; the *British Tax Encyclopaedia*, the *Encyclopaedia of Value Added Tax*, the *Encyclopaedia of Labour Relations Law*, and the *Encyclopaedia of European Community Law*; and the *Local Government Library* comprising Encyclopaedias of Compulsory Purchase and Compensation, Factories Shops and Offices Law and Practice, *Highway Law and Practice*, *Housing Law and Practice*, *Public Health Law and Practice*, *Road Traffic Law and Practice*, and *The Law of Town and Country Planning*. All the collections mentioned in this paragraph also contain relevant Statutory Instruments and departmental Circulars.

1 The 1974 edition is in four volumes.
5.29 It should be noted, however, that whilst Current Law Statutes includes Scotland-only legislation Halsbury’s Statutes (with minor exceptions) does not; neither do the collections mentioned in paragraph 5.28, except the Encyclopaedia of Factories Shops and Offices Law and Practice and the Encyclopaedia of Road Traffic Law and Practice.

5.30 Both branches of the legal profession, chartered accountants, lawyers in central and local government, and others involved in the practical application of statute law, rely heavily on the commercial publications, for (in the absence of a computerised information retrieval system) they provide the quickest means of finding relevant statutory provisions and the cases in which they have been interpreted by the courts.

EUROPEAN COMMUNITIES

5.31 The main treaties governing the three European Communities have been published as Command papers. Other treaties relating to the Communities have been published by HMSO in the ten volumes of European Communities, Treaties and Related Instruments (1972). The basic treaties, brought up to date as at 1 January 1973, are also available in English in a single volume published by the Communities in 1973 (Treaties establishing the European Communities; treaties amending these treaties; documents concerning the Accession).

5.32 Community secondary legislation is published in the “L” (Legislation) series of the Official Journal of the European Communities, which usually appears daily. Although only regulations are required to be so published,1 other instruments the publication of which is not obligatory are in practice included. The “C” (Communications) series of the Official Journal contains draft instruments, notices, and various other items of information. It usually appears about three times a week. A monthly supplement covering both series contains what is called a “methodological table”, in which instruments in the “L” series are listed in numerical order under the headings “Acts whose publication is obligatory” and “Acts whose publication is not obligatory” and the more ephemeral ones are distinguished typographically. Single copies of the Official Journal are sold by HMSO, and subscriptions are arranged by the Office for Official Publications of the European Communities in Luxembourg.

5.33 Community secondary legislation in force on 31 December 1972 is to be found in Secondary Legislation of the European Communities, Subject Edition (HMSO, 1973; 42 volumes). Secondary legislation published in the Official Journal during 1973 is indexed in Secondary Legislation of the European Communities, Subject List and Table of Effects 1973 (HMSO), in which instruments are listed by subject under the volume titles used in the Subject Edition (see above); the Table of Effects lists instruments amended or repealed by instruments published in 1973. The Subject List and Table of Effects for Community instruments published since 1973 follows the same scheme, but publication has been by monthly parts, which will cumulate into a single volume at the end of each year.

5.34 Commercial publishers are also active in this field. In the loose-leaf Encyclopaedia of European Community Law (see paragraph 5.28), Vol. A, published in 1973, contains the European Communities Act 1972 and other

1 EEC Treaty, Article 191; EURATOM Treaty, Article 163.
United Kingdom sources; Vol. B (1973) contains the main treaties; and Vol. C, part of which will be published this year, will contain secondary legislation (excluding regulations on agriculture and customs duties). *Halsbury's Statutes* (see paragraph 5.27) is to be expanded by the publication of *European Continuation Volumes*, the first of which will appear shortly and will contain the texts of the three main treaties and the amending treaties, and the more important secondary legislation from 1952 to 1972. Summaries of some less important instruments will be included, but not of instruments of a purely ephemeral nature. The material will be arranged under the existing *Halsbury's* subject titles. There are to be annual supplements containing lists of all instruments, additional texts, and a noter-up. Further continuation volumes, containing texts and summaries as in the initial volume, will be published for groups of years. The work will be cross-referenced to the main body of *Halsbury's Statutes*. It will also be published as a separate work, under the title *European Legislation*. 
INTRODUCTORY

6.1 Our terms of reference imply a widespread concern that much of our statute law lacks simplicity and clarity. This concern has been expressed to us in evidence by the judiciary, by bodies representing the legal and other professions, by the Statute Law Society\(^1\), by non-professional bodies and by prominent laymen familiar with the problems of preparing legislation. First, let us try to assess the strength and substance of the criticism.

6.2 The complaints we have heard may be broadly grouped as follows:

(a) *Language.* It is said that the language used is obscure and complex, its meaning elusive and its effect uncertain.

(b) *Over-elaboration.* It is said that the desire for "certainty" in the application of legislation leads to over-elaboration.

(c) *Structure.* The internal structure of, and sequence of clauses within, individual statutes is considered to be often illogical and unhelpful to the reader.

(d) *Arrangement and amendment.* The chronological arrangement of the statutes and the lack of clear connection between various Acts bearing on related subjects are said to cause confusion and make it difficult to ascertain the current state of the law on any given matter. This confusion is increased by the practice of amending an existing Act, not by altering its text (and reprinting it as a new Act) but by passing a new Act which the reader has to apply to the existing Act and work out the meaning for himself.

In the following paragraphs we set out some of the criticism we have received under each of these heads.

LANGUAGE

6.3 The Statute Law Society criticise the language of the statutes as:

"legalistic, often obscure and circumlocutious, requiring a certain type of expertise in order to gauge its meaning. Sentences are long and involved, the grammar is obscure, and archaisms, legally meaningless words and phrases, tortuous language, the preference for the double negative over the single positive, abound".

The representatives of the Society who gave oral evidence were unable to support this general condemnation; but we are impressed by other evidence that the legislative output of Parliament is often incomprehensible even to those who are most familiar with the subject matter of the legislation, as the following

\(^1\) An unofficial body of statute users whose aim is to press for improvements in the drafting and publication of statute laws.
quotation illustrates. Referring to section 121 and Schedule 26 of the Finance Act 1972, an expert on tax law has recently written an article which includes the following passage:

“But even if tidied up, Schedule 26 will still be incomprehensible on first reading—and probably on many readings—to anyone who is not thoroughly familiar with estate duty law and practice. The writer, who has worked closely with estate duty statutes for over forty years, has had to devote hours of time to the production of this article, and even now is not sure he has got it right. The ordinary solicitor, to whom estate duty is only one of numerous bodies of law with which he has to deal, must find it extremely difficult to comprehend section 121 and Schedule 26 by simply reading their texts, given the limited time he has available”.

Parliamentary drafting which requires such a high degree of intellectual penetration to construe has been described to us as an “arcane art” by one of our witnesses, Lord Molson; and has called forth the following observation from another of our witnesses, the Chief National Insurance Commissioner, Sir Robert Micklethwait QC:

“A statute should not only be clear and unambiguous, but readable. It ought not to call for the exercise of a cross-word/acrostic mentality which is able to ferret out the meaning from a number of sections, schedules and regulations”.

One example of what the Chief National Insurance Commissioner may have had in mind is the type of enactment which operates by way of hypothesis. This is often the best and sometimes the only method of drafting the enactment correctly, but it puts considerable strain on the general reader, especially if he is left to find his own way to (and through) the specific provisions which govern the hypothetical situation, and not less so if one hypothesis is piled on another as in the footnote to Part II of Schedule 1 of the National Insurance Act 1946 to which we were referred by Lord Simon of Glaisdale:

“For the purpose of this Part of the Schedule a person over pensionable age, not being an insured person, shall be treated as an employed person if he would be an insured person were he under pensionable age and would be an employed person were he an insured person”.

It is of course unfair to parade an enactment such as this out of its context and ask the general reader to guess what it means. The footnote did its work economically and accurately, and it may be presumed at least that Parliament has been satisfied with it, having re-enacted it without alteration over and over again. But it is fair comment that any enactment of this type is liable to be provocative, and the more so the more skilfully it is compressed.

6.4 The complexity and obscurity of much statute law has given rise to numerous pleas in evidence we have received that Acts should be written in plainer language. For example, the Master of the Rolls, Lord Denning, said:

“If you were seeking to see what different principles should be applied, the first would be to recommend simpler language and shorter sentences. The sentence which goes into ten lines is unnecessary. It could be split up into shorter ones anyway, and couched in simpler language. Simplicity and clarity of language are essential”.

Lord Denning's views were echoed by most of the judges who talked to us about the drafting of statutes, and it is not difficult to find in the law reports cases in which interpretation problems caused by obscurity or complexity of language have arisen. In Appendix B we list some examples of cases which have caused the courts problems on this score. Several private individuals have also sent us memoranda which suggest that the language in which the statutes are drafted is an impediment to a better understanding of the law by lay people; and we have had evidence from such non-legal bodies as the Council of the National Citizens' Advice Bureaux and the Trades Union Congress which bear out this conclusion.

OVER-ELABORATION

6.5 Another source of difficulty frequently mentioned is the tendency on the part of Parliament to try to provide for every foreseeable contingency. Because of this tendency statutes are drafted in elaborate detail which makes them difficult to understand. This has called forth criticism from a number of sources. The Lord President of the Court of Session, Lord Emslie, and the Lord Justice Clerk, Lord Wheatley, for example, put this criticism in the following way:

"Most of the problems encountered by the Courts flow directly from the tendency of Parliament to ignore the virtue of enacting broad general rules in which the principal and over-riding intention can be readily seen, and to try to legislate in detail for particular aspects of the mischief which presumably the statute is intended to curb. It is an eternal truth that one can seldom foresee every combination of circumstances which may arise, and the practical consequence of attempting to do so and of drafting a statute so as to concentrate unduly on foreseen examples is more often than not to conceal the general intention and the ambit of that intention in a welter of detached provisions which leave one in doubt as to whether a particular combination of circumstances not expressly provided for was intended to be covered at all. It is probably the case that legislation in detail is resorted to because Parliamentarians harbour the suspicion that judges cannot be trusted to give proper effect to clear statements of principle. This, with respect to them (the Parliamentarians), is wholly unfounded. Indeed, so far as Scots judges are concerned, the strength of their common law system lies in its reliance upon broad statements of principle, and there is no reason to suppose that similar broad statements of principle in statute law would not, in their hands, be applied to the facts of any given case, to achieve the will of Parliament".

These comments are the result of endeavours on the part of the legislature to ensure against the possibility that the legislation will be construed by someone, in some remote circumstances, so as to have a different effect from that envisaged by those preparing the Bill in question. As one Parliamentary draftsman has put it: "The object is to secure that in the ultimate resort the judge is driven to adopt the meaning which the draftsman wants him to adopt. If in so doing he can use plain language, so much the better. But this is often easier said than done".

6.6 The criticism that Acts of Parliament are couched in excessive detail does not come from the judiciary alone. As an example of the same criticism
from other sources we quote the words of the National Farmers’ Union in relation to the restrictive trade practices legislation. They say that this legislation “attempts to set out in great detail the rules governing the question of whether or not an arrangement is registrable and the issue of whether or not any arrangement is against the public interest, to mention two examples. It is a common feature of anti-avoidance legislation to deal with matters in such detail, but it is questionable whether the statutory provisions on restrictive trade practices should be looked upon as coming within this class of legislation. It is concerned with such variable factors as the public interest, the national economy, and fair trading activities. These can vary from time to time and from place to place and they depend, amongst other things, on the subject matter of the arrangement in question and the sizes of the businesses involved. Such matters cannot adequately be covered in detail by statute. There is a need for more flexibility; more scope for administrative discretion”.

6.7 The practice of legislating in too much detail is a main cause of complexity and of some of the obscurity in our statute law. There are three ways of lawmaking in detail:

(a) to set out detailed provisions in sections in the body of the statute;
(b) to set them out in schedules, having stated the principles in the sections: as to this see Chapter X;
(c) to leave it to the Government to make detailed provisions by Statutory Instruments.

Whichever of these three courses is adopted, Parliament cannot apply the law to individual cases in which there may be doubt. That is the function of the courts, and when they are interpreting statutes in cases which come before them, they have to exercise powers and responsibilities in questions of detail, however Parliament may decide to make its intentions plain on such matters.

6.8 If the first of those three methods can be avoided, the body of the statute becomes more readable. If the third method is used, then despite the requirements of the Statutory Instruments procedure, the control of Parliament over the details of legislation is to some extent diminished. Moreover, there is no advantage to the user since he still has to acquaint himself with the detailed provisions of the Statutory Instrument, and may have the additional difficulty of finding it.

STRUCTURE OF ACTS AND SEQUENCE OF CLAUSES

6.9 Each Act has, or should have, an inherent logic, and its provisions should be arranged in an orderly manner according to that underlying logic. But this ideal, it is said, is not always realised. From a logical point of view, the main purpose of a Bill should be made clear early on. This statement of intent, whether it takes the form of the enunciation of general principles or otherwise, is desirable both for the legislators to help them to understand what they are being asked to pass into law, and for the courts to help them to understand the intention of Parliament when they are interpreting the legislation. Statements of intent would also assist those who must obey and advise on the legislation. The intention is now, however, rarely spelt out in the statute itself, although in continental and EEC legislation this is often done in the form of a preamble or in other ways; and we consider this later in Chapters IX, XI and XIX.
6.10 Many of the witnesses have said that more attention should be paid to the logical sequence of the provisions of statutes, and that there should be a consistent approach to such questions as what kind of provision should go in the main body of the Act and what in the Schedules, so that people could more easily find their way about them. There is also the criticism that sentences are sometimes too long, and complicated by too many subordinate phrases, and that there should be greater readiness to break up clauses into separate subsections. We are impressed by the unanimity of opinion that the structure of our statutes is capable of improvement and we deal with this further in Chapter XI.

6.11 Another criticism relates to the geographical extent of statutes or of individual sections of statutes. Sometimes this is not expressed in words but is left to be inferred, as a matter of construction, from the context or by reference to external sources. For example, a provision carrying in itself no indication of its extent may in fact extend only to England and Wales because it consists of an amendment to an existing Act which extends only to England and Wales. It has been represented to us that this is one of the factors which make for obscurity, and that all provisions of this kind should carry express words indicating their extent specifically. It has also been suggested that extent clauses governing Acts as a whole, or Parts of Acts would be more easily found if they were placed at the beginning of the Acts or Parts in question, rather than (as at present) near the end of the main text but before any Schedules, and that this should be the normal place for them. We discuss these questions further in Chapter XVIII.

6.12 Nearly all statutes have “interpretation clauses” in which appear definitions of words and phrases used in those statutes. The present practice is generally to insert such clauses at the end, but it has been suggested to us that these should also be placed earlier as is the general practice in drafting delegated legislation. This too is discussed in Chapter XVIII.

ARRANGEMENT AND AMENDMENT

6.13 The fourth main ground of complaint in the evidence we have received relates to the collective grouping of the statutes and the manner in which they are amended—two matters which, as will appear, are closely related to one another. It is said that among the new statutes which are added to the statute book year by year there are many which are more or less intimately connected with existing statutes and that insufficient assistance is given to the reader in the task of collation which results from the purely chronological arrangement. It becomes increasingly difficult to locate the relevant Acts on any given topic; and, more seriously, once the relevant Acts have been located they may well be found to be distributed among three or four separate volumes, so that reading them together becomes—physically as well as mentally—a formidable task.

6.14 Our attention has been directed by the National Farmers’ Union to the various Acts dealing with trade practices as illustrating defects of arrangement in statute law. In particular, two common defects of arrangement can be illustrated by reference to these Acts:

(1) The Fair Trading Act 1973 is an example of the lumping together of disparate subjects in a single statute. The National Farmers’ Union say:

“"The connecting factor is that the administration of the law on the various subjects concerned will be in the hands of one
official, who will deal with restrictive practices, with monopolies and mergers, and with certain aspects of consumer protection. These various subjects, however, would be much better dealt with by separate measures with one or more statutes dealing with each”.

(2) In section 44(2) of the Agriculture (Miscellaneous Provisions) Act 1968 the expression “co-operative association” is defined by providing that it has the meaning assigned by subsection (9) of section 70 of the Finance Act 1965. The context of subsection (9) (now section 340(9) of the Income and Corporation Taxes Act 1970) is wholly different from the context of section 44(2) of the Act of 1968. Thus, the reader is not only subjected to the inconvenience of having to look at two Acts instead of one, but he is also left with the problem of deciding how the definition of “co-operative association” is to be construed when it is applied in a context different from that for which it was originally devised.

6.15 But there is another problem. New laws frequently amend existing statutes. Such amendment, however, by no means always takes the form of substituting a fresh and amended text in the statute which is being amended. The “non-textual” amendment of legislation has been criticised by many of our witnesses, though some of them conceded that its use may be unavoidable. Amendments drafted non-textually have been described as being:

“Drafted in a narrative or discursive style producing an inter-woven web of allusion, cross-reference and interpretation which effectively prevents the production of a collection of single Acts each relating to a particular subject, otherwise than by the legislative processes of consolidation and repeal. Often Act is heaped upon Act until the result is chaotic and almost completely unintelligible. Indeed much of the confusion existing in the Statute Book today is directly attributable to referential legislation”.¹

The other method of amending previous legislation which several witnesses have commended to us is the system of “textual amendment”. By using this method new statutes which alter the provisions of earlier Acts give effect to such alterations by enacting fresh portions of text which are then added to or substituted for the earlier version.

6.16 Some judges have also been critical of the non-textual amendment system. Lord Denning had this to say on the matter:

“I would like to have the whole [Act] printed out with the complete new amendment written in. I do not like legislation by reference whereby you amend by saying that in such a previous Act you shall have some other thing taken as so-and-so. I think that ought to be avoided as far as possible. It is a far more difficult task to interpret when you have legislation by reference. I do not like incorporation by reference at all. I would rather say ‘in place of such-and-such a section we shall have this’. That is often done”.

Lord Emslie, expressing a strong preference for textual amendment to be used wherever possible, said that this makes it

"so much easier to discover what the law is. Instead of having your fingers in about three different statutes at one and the same time, you get in an ideal textual situation the final form of the live statute which you have to deal with, and when you want to discover the history of the final form you look back to the earlier one. What I think from the point of view of the user is invaluable, is to be able to look at the amended form of the section in a complete state instead of having to look here, there and everywhere at the same time".

The Lord Chief Justice, Lord Widgery, told us that he wholeheartedly supports textual amendment and that when complex legislation was amended textually, it was of enormous help to the judges.

6.17 From the comments we have outlined in the foregoing paragraphs it appears that the users of the statutes are thus in the main critical of Acts which amend existing legislation non-textually. They find these inconvenient and confusing, and they complain that much time is wasted in the attempt to track down what the current law is on a subject on which there has been much legislation. These are serious complaints about the legislative products of Parliament. So far as the form and content of a Bill are concerned, the needs of the legislator are temporary, but the ultimate user may have to put up with an Act that causes him permanent inconvenience and difficulty.

6.18 Some of our witnesses consider that there should be a separate, easily identifiable, principal Act for each subject on which there is legislation and that every time the law on any subject is changed the change ought to be effected by textual amendment of the principal Act for that subject. The up-to-date statute law on each subject could thus be found easily in one place. This would however be difficult to achieve for a variety of reasons. First, there is no agreement about the way in which the multifarious topics on which there is legislation might be grouped together under main headings each of which would be the subject of one of the suggested principal Acts. Such a lack of agreement is not surprising. Different requirements call for different groupings. The boundaries of jurisdiction of different courts of law, the limits of departmental responsibilities, the fields of interest of those who consult the statutes, the market-conscious concern of publishers all suggest particular schemes of grouping, but by no means all of them coincide.

6.19 Secondly, a major programme of consolidation would need to be vigorously pursued before the current statute law could be arranged under principal headings. We have received evidence that there are practical difficulties which prevent much speedier consolidation. There is pressure on the draftsmen, on the Joint Committee on Consolidation Bills, and on the Government departments who play a major part in the preparation of consolidation Bills. We see these problems as presenting a serious obstacle to the achievement of a more intelligible statute book. It has been persuasively brought to our attention that greater progress in consolidation, and other vital improvements which we recommend, depend upon there being many more draftsmen.
6.20 There is considerable criticism among Scottish practitioners of the difficulties they have to face in construing legislation which attempts to combine in a single Act policy intended to have effect in Scotland as well as in England and Wales. We deal with this matter in Chapter XII.

CONCLUSIONS ON THE CRITICISM

6.21 In paragraphs 6.2 to 6.20 we have recited numerous criticisms which have been brought to our attention. In doing so, however, we in no way intend to reflect upon the skill and dedication of the Parliamentary draftsmen, which we greatly admire. They have to work under pressures and constraints which make it very difficult for them, with the best will in the world, to produce simple and clear legislation. They are inadequately staffed and are often given gigantic tasks to perform in a race against time. They are required to resolve conflicting attitudes which cannot always be reconciled. For example, a Bill may have to be made short enough and narrow enough in scope to get through Parliament in the face of strenuous opposition, while at the same time containing as much detail as may be needed to enable the legislators to see what its effect will be in a wide variety of circumstances. Even in the face of such difficulties many statutes are well-drafted and give no grounds for criticism in respect of clarity and simplicity; indeed some of our witnesses have praised the drafting of a number of recent Acts. Not all of the criticism we have heard in relation to particular Acts has turned out, on close examination, to be entirely valid. Nevertheless, after making all due allowance, there remains cause for concern that difficulty is being encountered by the ultimate users of the statutes, and this difficulty increases as the statute book continues to grow.
CHAPTER VII

FACTORS TO BE TAKEN INTO ACCOUNT IN SUGGESTING REMEDIES

7.1 In subsequent chapters of this Report we examine various remedies to deal with such of the criticisms recounted in the previous chapter as we think are valid. Before solutions can be considered however, it is necessary to take account of several factors which have an inescapable effect on the situation.

THE MASS OF LEGISLATION

7.2 A prodigious mass of statute law is enacted each year by Parliament. Some idea of the current flow of new legislation can be obtained from the number of pages added to the statute book in the three decades from 1943 to 1972. The figures are:

<table>
<thead>
<tr>
<th>Period</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1943 to 1952</td>
<td>15,600</td>
</tr>
<tr>
<td>1953 to 1962</td>
<td>11,000</td>
</tr>
<tr>
<td>1963 to 1972</td>
<td>18,000</td>
</tr>
<tr>
<td>The total for 1973 is</td>
<td>2,248</td>
</tr>
</tbody>
</table>

These figures give some measure of the burden on Parliament and on the Government machine over the past thirty years. The accumulation of statute law is formidable, and figures worked out in 1965 showed that the "live" statute book consisted then of some 33,000 pages of current law, parts of it dating back 700 years.

7.3 There is hardly any part of our national life or of our personal lives that is not affected by one statute or another. The affairs of local authorities, nationalised industries, public corporations and private commerce are regulated by legislation. The life of the ordinary citizen is affected by various provisions of the statute book from cradle to grave. His birth is registered, his infant welfare protected, his education provided, his employment governed, his income and capital taxed, much of his conduct controlled and his old age sustained according to the terms of one statute or another. Many might think that as a nation we groan under this overpowering burden of legislation and ardently desire to have fewer rather than more laws. Yet the pressure for ever more legislation on behalf of different interests increases as society becomes more complex and people more demanding of each other. With each change in society there comes a demand for further legislation to overcome the tensions which that change creates, even though the change may itself have been caused by legislation, which thus becomes self-proliferating.

7.4 Although matters of policy and the legislative programme are not within our terms of reference, we feel entitled to comment on the volume and scope of the legislative output of Parliament, because these matters have a direct
influence on the form of Acts of Parliament. The more legislation there is and the more such legislation tries to deal with complex situations, the more likely it is that it will itself be complicated and therefore difficult to understand. It may be said that some degree of complexity and indeed obscurity may be the price we have to pay if society feels it necessary to satisfy the demands for more and yet more statute law. For our part we would point out that the price is a high one and we would urge that it should not be paid too readily. It is of fundamental importance in a free society that the law should be readily ascertainable and reasonably clear. To the extent that the law does not satisfy these conditions, the citizen is deprived of one of his basic rights and the law itself is brought into contempt. Whatever may be the pressures to increase the volume and extend the scope of legislation, it is our firm view that legislation which is complex and obscure may for that very reason be oppressive. Our constitution (unfortunately, as some people think) contains no entrenched provisions for the protection of the citizen against the dangers inherent in such legislation. A reduction in the volume and scope of the legislative output could well lead to an improvement in its simplicity and clarity. We think that there are some measures which can be taken towards greater simplicity and clarity, even if the volume and scope of the legislative output remain undiminished. It is our object in this Report to consider what those measures are. We would only add that if the volume and scope of the legislative output continue to increase, the prospect of improving the situation by these or any other measures is far from encouraging.

THE PROBLEM OF EXPRESSING COMPLICATED CONCEPTS IN SIMPLE LANGUAGE

7.5 Ideally statutes should be written in ordinary straightforward English that can be readily understood by lawyers and laymen. However, although there is a discernible trend towards a more colloquial style in current statutes (which we welcome), it is not possible to deal in simple non-technical terms with subjects which are themselves technical and involved. Ordinary language relies upon the good offices of the reader to fill in omissions and give the sense intended to words or expressions capable of more than one meaning. It can afford to do this. In legal writing, on the other hand, not least in statutory writing, a primary objective is certainty of legal effect, and the United Kingdom legislature tends to prize this objective exceptionally highly. Statutes confer rights and impose obligations on people. If any room is left for argument as to the meaning of an enactment which affects the liberty, the purse, or the comfort of individuals, that argument will be pursued by all available means. In this situation Parliament seeks to leave as little as possible to inference, and to use words which are capable of one meaning only. When therefore it is necessary to express in language bound by these requirements concepts as complicated as those of, say, Schedule 26 of the Finance Act 1972 (referred to in paragraph 6.3 of the previous chapter) it is not surprising that simplicity is hard to achieve. For these reasons statutory phrases often irritate or baffle the reader, either because they state the obvious or because the “punch-line” is delivered with such economy that it is intelligible only to those who have the time and inclination to inform themselves of the whole context on which it operates.
THE CONFLICTING NEEDS OF DIFFERENT AUDIENCES

The needs of the user

7.6 The user of the statute book who turns to it for information about the way in which the law affects his or his clients' interests should be able to find this information without undue trouble. There will of course be certain Acts which are not readily intelligible and it will usually be necessary for the layman to seek the advice of a professional lawyer. It should be possible for a professional adviser to find his way in the statute book without difficulty, and unnecessary obstacles ought not to be placed in his path. He has a right to expect that statutes should be drafted and arranged in a way which makes plain to him the relevance of the law, even of complex provisions, to the problems of his clients. From the evidence we have received however it is clear that the needs of such users of the statutes are not being met. We have paid particular attention to the views of the eminent judges who have discussed these matters with us because they, of all users, might be expected to give a balanced opinion as to how well or badly our legislation may be understood. We have discovered that even they often find it difficult to understand the intention of legislation passed by Parliament. If this is so, it is likely that practising lawyers find that the way in which the law is drafted presents at times an impenetrable barrier to understanding it; and we have indeed had evidence to this effect. If lawyers find the law difficult, how can the layman expect to fare? To the ordinary citizen the provisions in the statute book might sometimes as well be written in a foreign language for all the help he may expect to obtain there as to his rights and duties under the law. And this in an age, as we have pointed out, when the statute law has a growing effect on practically every sphere of daily life.

The needs of the Government

7.7 We are precluded by our terms of reference from considering matters relating to the Government's legislative programme. We take this to mean that we are not prevented from describing generally how the management of this programme may affect the legislative output of Parliament.

(a) Management of the legislative programme

7.8 The average length of a Parliamentary session in recent years has been about 160 working days. Just under half of this time has, on the floor of the House of Commons, been devoted to the consideration of Bills (including Private Members' Bills), the remainder being taken up by general debates, supply and Private Members' non-legislative time. A substantial part of what is available for legislation is taken up by the Finance Bill; and when Private Members' Bills are also taken into account, the time available to the Government for its own programme (excluding the Finance Bill) is reduced to about 60 days. These 60 days allow for the discussion, mostly on second reading and report stages, of about 50 Government Bills of all types, including consolidation Bills. In practice therefore the amount of time at the disposal of the Government is commonly not enough to pass all the legislation for which a reasonable case can be made. This situation has two effects which are inimical to the satisfactory drafting of legislation from the user's point of view.
7.9 First, in the limited time available, it is of great importance to the Government that its Bills shall not be unduly held up by debate about their provisions. From the Government’s point of view, “Bills are made to pass, as razors are made to sell” (to use Lord Thring’s aphorism), and if there are conventions of drafting which are thought to limit discussion and increase the chances of getting Bills passed, they will be used, whatever the final result may be like for the user. Sir John Fiennes, formerly First Parliamentary Counsel, put it to us thus:

“One of the jobs of the draftsmen is to present changes in the law to Parliament in a debatable form. . . . You have to arrange a Bill, be it a new Bill or an amending Bill in a form in which it is capable of rational debate in the House all through its stages; if possible so that the main debates occur at the right places, mopping up the subsidiary debates which will therefore not occur. If you have the subsidiary debates first they will probably blow up into the main debates, and you will then have the main debates again in their proper places afterwards”.

The draftsman must therefore carry out his work with one eye to the drafting of proposals that will commend themselves to the favour of a critical legislature, and the other to the eventual product as it will appear in the hands of the user. Sir Courtenay Ilbert commenting in 1901 on the choice before a Minister when presenting a Bill had this to say:

“The Minister in charge of a Bill will often insist, and wisely insist, on departure from logical arrangement with reference to the exigencies of logical discussion. He will have considered how he intends to present his proposals to Parliament, and to defend them before the public, and will wish to have his Bill so arranged and expressed as to make it a suitable text for his speech. If the measure is at all complicated, he will desire to have its leading principles embodied in the opening clause or clauses, so that when the first fence is cleared the remainder of the course may be comparatively easy. In settling the order of the following clauses, he will consider what kind of opposition, and in what quarter, they are likely to evoke. He will prefer a few long clauses to many short ones, bearing in mind that each clause has, as a rule, to be separately put in Committee. His theoretical objections to legislation by reference will often yield to considerations of brevity. He will eschew technical terms, except where they are clearly necessary, remembering that his proposals will have to be expounded to, and understood by, an assembly of laymen. . . . The draftsman has, of course, to bear in mind all these considerations”.

This is a classical description of the shifts to which a Government is driven by the need to get its legislation passed by Parliament whatever shape the Bill may be in when it receives the Royal Assent. Although the passage was written over 70 years ago it enshrines an attitude which still seems to have much influence, as the criticisms to which we have earlier referred amply bear out.

7.10 We recognise that any Government has a paramount interest in getting its legislation, and much other business, through Parliament; whether the legislation derives directly from a political commitment in a manifesto, or from

---

1 Ilbert, Legislative Methods and Forms (Oxford 1901), pp 241–2.
the pressure of events, or whether it grows naturally out of the ordinary work of Government departments. Indeed, we concede that there is substance in the views advanced so long ago by Sir Courtenay Ilbert in the passage to which we have referred. But if shortage of Parliamentary time tends to lead to the enactment of measures which do not adequately meet the needs of those who have to use it, then one of two courses will have to be adopted. Either the flow of legislation must be staunched so that the draftsmen may have more time in which to make their Bills more intelligible, or, if this is impossible, then in spite of the shortage of time, statutes must be enacted by Parliament in a form that will make it easier for them to be understood by those to whom they are addressed.

7.11 However, some Parliamentarians feel strongly that nothing should be done to hasten the legislative process. If there is now too much legislation, they consider that it would only make matters worse if the Government were to have at its disposal Parliamentary procedures and drafting practices which permitted even more legislation to be produced in a given time. The aim must therefore be to achieve greater clarity without removing from Parliament the power to legislate as it thinks fit, in the hope that such power will be exercised with restraint, responsibility and full regard for the need to achieve greater clarity in the drafting. In Chapter XVIII we have applied our minds to Parliamentary procedure to see whether ways may be found of achieving a better result by changing the existing machinery, as our terms of reference enjoin us to do.

(b) Pressure imposed on the draftsman by lack of time

7.12 Next, the shortage of time available for preparing Bills often puts great pressure on the Parliamentary draftsman; and since draftsmen are human, the corollary is that the quality of their work is often at risk. First Parliamentary Counsel expressed this in the following way:

"All this makes for an undigested text, and a logical structure which is imperfectly worked out. Moreover, the pressure makes it difficult for the drafting team to prepare material to help in understanding the Bill when it first appears. Even drafting an Explanatory Memorandum may be a considerable task for a big Bill. The preparation of the occasional White Paper by way of giving more detailed explanations of the text can be a burden so great that it interferes with the main object of getting the Bill right".

Sir John Fiennes recounted this experience:

"There was one occasion, on a Finance Bill, when I sat down on a Sunday at home and rewrote a whole Part of a Finance Bill. It went to the printer on Monday night, and the text was handed in at tea-time on Tuesday. The Revenue never saw the final version of that until the Bill was published".

The needs of Parliament

7.13 Members of Parliament in both Houses are busy people who have many exacting demands on their time. Although some are highly skilled in the law, most Members are not familiar with legal concepts. It is therefore in their interests that Bills presented to them for enactment should be in a form which is conducive to easy understanding of their effect. Mr Ian Percival QC MP who gave evidence to us stated:
"The more simple and clear a Bill is when presented to Parliament, (a) the better it will be understood, and therefore the better it may be considered and discussed; (b) the less time it will take, and (c) the more simple and clear it will be at the end".

We take this to indicate that Members of Parliament are just as keen to have a comprehensible Bill to consider as the users are to receive a comprehensible statute. It should not be supposed that, in considering draft legislation, Members are principally interested in scoring political points off their opponents with little regard for the final shape of a Bill as it leaves their House. On the contrary, Members often help to improve a Bill even when they are opposed to it. Nevertheless, "simplicity" from the point of view of a legislator is not necessarily the same thing as it is from the point of view of a practising lawyer or a judge.

7.14 When a Member of Parliament is faced with a new Bill he wants to know two things about it fairly quickly. First, what the Bill is intended to do, and secondly how it affects the interests of the constituents he represents. It has until recently been assumed that it should be possible to gather this information from a study of the Bill itself, and that it should be the aim of the sponsor, whether this is the Government or a Private Member, to ensure that all the important information required is to be found within the pages of the Bill without the need to read existing legislation on the same subject. Ever since their Office was established in 1869, the Parliamentary Counsel, and their Scottish colleagues, have worked on the principle that, in the words of Lord Thring:

"It is not fair to a legislative assembly that they should, as a general rule, have to look beyond the four corners of a Bill in order to comprehend its meaning".

7.15 How far Members of Parliament are able to understand the general purpose of many Bills without reference to other documents we could not discover, but one of our witnesses, Mr Francis Bennion, has expressed the view that:

"if Members were asked whether as a contribution to clarity they would be prepared to give up the four corners doctrine, provided adequate alternative means of providing information were designed, my own feeling is that they would readily accept".

If this is so, it would make it easier to amend existing enactments by the textual amendment method. The effect of the amending Bill would be shown either in a Keeling Schedule or in an accompanying memorandum (a "textual memorandum") which would reprint passages of the earlier Act showing in a different type the amendments proposed to be made to those passages. Keeling Schedules have been used occasionally since 1938 and a textual memorandum has been used once. We do not believe either device has given rise to complaints by Members of Parliament that they were not being given adequate information about the new measures they were enacting.

7.16 Members of Parliament have a duty to criticise Bills presented to them and to amend them as they consider necessary. Sometimes their objections may be on grounds that the legislation adversely affects the interests of those they represent; sometimes they have personal experience which is relevant to the
subject matter of the Bill. Frequently amendments are designed to ensure that the Bill will have a particular effect in certain circumstances. Few Bills pass through Parliament unaltered. When amending them Parliament’s paramount interest is with the substance rather than the form. But, even when agreed amendments are drafted by the draftsman in charge of the Bill, the final product may still not be satisfactory to the user. Several witnesses have suggested to us that there should be a stage at which Parliament scrutinises the drafting of a Bill after it has been considered and amended, but before it is enacted. We examine this possibility further in Chapter XVIII.

DIFFICULTY OF ATTRACTING ENOUGH SUITABLE PARLIAMENTARY DRAFTSMEN

7.17 The drafting of legislation is an exacting vocation which demands a high degree of intellectual ability, a sound knowledge of the law, the ability to write good English and an unlimited capacity for sustained hard work. These qualities do not often come together in the same individual, and lawyers with such gifts will have other attractive opportunities for advancement in their profession. Though we believe that there can be few more worthwhile careers for able lawyers on both sides of the Border than the work of constructing the statutory law, we are bound to recognise that the attractions of private practice at present make it more difficult to interest good candidates in taking up appointments as draftsmen. Our terms of reference do not permit us to consider how this situation might be altered, but it is obvious that the quality of our legislation depends largely on the quality of our draftsmen. Also, if there are not enough good draftsmen to cope with the regular flow of new legislation, this will make it more difficult to release some of them to carry out consolidation which is so urgently necessary if the statute book is to be brought into orderly shape within a reasonable period of time. We deal with the recruitment and training of the draftsmen in Chapter VIII.

CONCLUSION

7.18 As we have surveyed the criticism we have received and the factors which have to be taken into account in suggesting remedies, we have become conscious that no great improvement in the preparation of legislation is likely to come about solely as a result of changes in Parliamentary procedure or drafting conventions, useful though some such changes might be. The words of Sir Granville Ram, formerly First Parliamentary Counsel, writing in 1946, sound a note of warning:

“The chaotic condition of the statute book has been the subject of complaint for at least four hundred years, and it must be acknowledged that the long history of the intermittent attempts to improve its form and arrangement is, in the main, a story of failure”.

However, nearly all those who have given evidence to us agree that something must be done to improve matters, and according to their different responsibilities have made suggestions as to what this might be.

7.19 We have found a great willingness on the part of some of those who have different tasks to perform in relation to statute law to accommodate each other’s difficulties. Thus the judges would be glad to face the problems of
interpretation if statutes gave less detailed guidance but were more simply drafted and more fully expressed the general intentions of Parliament; and the team engaged in preparing the legislation would be more ready to draft by expressing general principles appropriate to the subject matter if Government and Parliament were less demanding in their desire to have every foreseeable circumstance met by detailed drafting which confuses the outline of the draftsman's scheme.

7.20 But much more than good will and self-restraint are needed to make the statute book an orderly repository of reasonably intelligible law: Governments must give the state of our legislation a much higher priority in their responsibilities. The legislative process is the main instrument of political change in our rapidly changing democracy, but it has for many years been incapable of efficiently meeting the demands made upon it. Serious defects of the process are the shortage of Parliamentary draftsmen and the resulting pressure imposed upon them. Until that shortage is overcome and the pressure reduced, the instrument will become even more inadequate and ineffective, and political change will continue to be made under stress, in some confusion, and with unwelcome results.

7.21 The ideal solution of the problems we have described might be to have all statutes drafted in clear and simple language which the layman could understand and which at the same time achieved the certainty of effect in law which Parliament expressly intended, however conflicting these two praiseworthy objects may be. There are also those who advocate a "crash programme" of consolidation with a view to rearranging the statute book. The argument is that such a rearrangement would facilitate the amendment of Acts by the textual amendment method and would make it easier for the user to find the enactments in which he is interested. We deal with this suggestion more fully in Chapter XIV, and at this stage we merely point out that such a programme of consolidation could only be achieved by recruiting and training many more draftsmen. Even if this were done, and even if enough lawyers achieved enough drafting skill, Parliament would have to stop legislating for a good many years in some areas of law so as not to confuse the consolidation programme by interim amendments of existing legislation. Such an exercise is therefore in the realm of fantasy, and meanwhile we have to approach our task by making realistic assumptions in the search for remedies which take account of the factors we have mentioned above.
CHAPTER VIII

THE DRAFTSMAN’S PRESENT DIFFICULTIES

8.1 In the previous chapter we referred in passing to the Parliamentary draftsmen and the crucial part they play in the preparation of legislation. We now turn to consider certain factors which govern and in some cases inhibit the effective application of their skill.

8.2 The draftsman of a Bill requires (i) adequate instructions; (ii) adequate consultation at all stages with the departmental team working on the Bill, and (iii) above all, adequate time to study the legislative background to the Bill, to consider the best structure for it, and to prepare the draft, which if the Bill is long or complex or both may involve weeks of sustained concentration. The first and second of those requirements are generally met. As regards the second requirement, we would emphasise that the Minister who presents a Bill to Parliament is finally responsible for its drafting, and that while the draftsmen welcome the opportunity of discussion with the Minister the amount of such discussion that takes place depends on him. The third requirement is often lacking, and drafting suffers as a result.

PRESSURE OF TIME

8.3 Nearly all Bills in the Government’s legislative programme are prepared under pressure, generated either by the need to keep to a predetermined Parliamentary timetable for the Session as a whole or by the urgency of the particular Bill. Consequently the draftsman’s life is an arduous one, and his hours of work are often long and unpredictable. Although we have had no complaints on that score from any of those draftsmen who gave evidence to us, the draftsmen are the first to recognise that the pressures under which they work may affect the quality of their output. As First Parliamentary Counsel put it: “By the time instructions are received, there may not be much room for the draftsman to take decisions which will make for simplicity or clarity. I find it frequently comes as a surprise to a member of the public, and even to members of the legal profession, to hear how little elbow room the draftsman has . . . The pressure to get things done quickly is usually great”.

8.4 Political exigencies will continue to demand immediate legislation, and some system of programming will continue to be necessary for all legislation. Given that programming is necessary the date of introduction into Parliament becomes important. Indeed it can become more important than the initial content of the Bill, so that (probably to the detriment of the structure and expression of the Bill) the process of drafting will have to be continued after introduction by means of Government amendments moved in Parliament. Our terms of reference do not permit discussion of the legislative programme as such, but we feel free to take note that sheer pressure of time constitutes a formidable obstacle in the way of any significant improvement in the readability
of Acts of Parliament. Accordingly we would urge that by forward planning and early starting of legislative projects everything possible should be done to see that the unavoidable pressure is not increased by avoidable factors.

INSTRUCTIONS TO DRAFT

The "grey area"

8.5 Our terms of reference also exclude "consideration of matters relating to policy formulation", but between the taking of policy decisions and the start of the drafting process, and shading into that process, is what First Parliamentary Counsel has called "the grey area". This is the area in which policy decisions are translated into instructions to the draftsman, and instructions may be modified, more or less substantially, in the course of conferences and exchanges of letters between the draftsman and the instructing department or departments. It seems to us that what happens in the grey area is relevant to the attainment of clarity and simplicity in the legislation emerging from it and should therefore be among the things considered by us.

Departmental expertise

8.6 Of the grey area First Parliamentary Counsel has said:

"If there is more than one way of carrying out some feature of the policy, those responsible for the instructions must be able to assess well in advance how the choice will be reflected in the Bill. If some policy decisions seem likely to lead to some complexity, and that can be foreseen, there may be room for a review of the position and a request to Ministers to reconsider the policy. Some minor change may make things simpler".

If this be right (as we think it is) those concerned in this area should be given adequate time for their work and should possess a high degree of skill and legal experience. The draftsman should have some part in it, even if only by way of suggesting modifications of his instructions in order to obtain greater simplicity and clarity. Clearly, the more expert the departmental lawyers and administrators in the official team instructing him, the easier the draftsman's task will be; and this is likely to be reflected in the quality of the Bill.

Stage at which draftsman becomes involved

8.7 Several witnesses, among them the experienced draftsmen mentioned below, have suggested to us that the draftsman should always become involved at an early stage. Professor Driedger described the practice in Canada, where "the person who ultimately will be the draftsman is frequently brought into discussions with officials and ministers when the policy is being developed, and he then has a chance to say what can be done, what cannot be clearly expressed, what will work and what will not work", and where "there is perhaps a closer and less formal relationship between draftsmen, officials and ministers at all stages of a drafting process"; he thought that this did "contribute something to the form and clarity of the statute". Professor Dickerson believes that "if brought in early enough, a draftsman, as a legal architect and engineer, can . . . help the policy makers formulate a better and more workable idea . . . If the draftsmen are not brought in until the end, they cannot be as helpful as
they might be . . . When the matter begins to crystallise in its general architecture, the draftsman should be on hand to help formulate this, because the mechanics of formulating general structure . . . floats to the surface many overlaps, gaps and discrepancies that it is valuable to discover at the outset”.

8.8 We understand that in principle participation by the draftsman in Westminster legislation does not begin until he has received written instructions in which the policy to be given effect to by a Bill (or part of a Bill) has been more or less fully worked out. First Parliamentary Counsel told us that the question of earlier involvement was at present governed by considerations of manpower; it might be looked at again if the manpower position became easier, though he thought that even then there was a strong case for not bringing in the draftsman at an earlier stage. Although in cases where pressure was great the draftsman was in fact coming in long before the legislative scheme was fully settled, as a matter of policy the question did not arise at the moment. On the other hand, bearing in mind the pressure already referred to, it is important that time should not be lost in departmental and interdepartmental discussion of draft instructions to the point where all except the draftsman have agreed upon matters on which his advice would have been useful or even decisive. There is a dilemma here. Premature instructions may be worse than useless: but time spent on revising and polishing draft instructions reduces both the time available to draft the Bill itself and the utility of the draftsman’s contribution.

8.9 It is not for us to suggest any general rule governing the precise stage at which the draftsman should begin to take part in the preparation of legislation. To the extent that an answer is not dictated by circumstances, it seems to us that the question is one for the First Parliamentary Counsel and the First Parliamentary Draftsman for Scotland to consider in making the best use of their colleagues’ time.

8.10 At present a special problem exists for the Scottish draftsman who has to adapt an English Bill to Scotland, for in such a case, under the existing practice, the Scottish draftsman enters the scene somewhat later than the English. If, however, our recommendations in Chapter XII for Bills affecting both jurisdictions are adopted there would be a complete abandonment of the present method of preparation whereby legislation designed only for England and Wales is adapted for application to Scotland. The new method we propose would mean that such a Bill would involve both draftsmen from the start, and the question of the stage at which the Scottish draftsman should become involved would in that even cease to be a special problem.

THE STATE OF THE STATUTE BOOK

8.11 Each draftsman has to have a complete set of the statutes, fully amended. No draftsman can do his work properly without being thus equipped: the statute book is his workbench. The draftsmen need a clean edition of the statute book if they are to do their work properly, and they have not now got it. The official editions of the statutes have been described in Chapter V. Until a large part of Statutes in Force has been published, the official editions on which the draftsmen must mainly rely are the third edition of Statutes Revised, containing in chronological order all English public general enactments from 1235
to 1707 and public general enactments of the United Kingdom Parliament from 1707 (all as they were in force at the end of 1948) other than certain enactments relating exclusively to Northern Ireland; the second revised edition of *The Acts of the Parliaments of Scotland 1424–1707*, containing all Scottish public general enactments in force in 1966; the annual volumes of *Public General Acts and Measures* for 1949 and subsequent years; and Queen’s Printer’s copies of recent enactments not yet incorporated in the latest annual volume. First Parliamentary Counsel estimates that “the draftsmen, and all others in the Government service, will still be using the third chronological edition [of *Statutes Revised*] at least 30 years after its publication”, in other words that although it “is on its last legs . . . it will probably have to remain in use for at least five or six years”.

8.12 The drafting offices thus have to contend with two major difficulties: the first is the clerical burden of maintaining completely annotated sets of this material for the draftsmen’s use (21,000 entries per set over the last five years), and the near impossibility of annotating additional sets from scratch if the number of draftsmen increases. (As we have said in paragraph 5.15 above, it is estimated that the annotation of a complete set would take a trained clerk nearly a year). The second is the intellectual (and to some extent, no doubt, physical) difficulty of operating on this mass of unintegrated material in drafting both new and consolidating Bills.

8.13 The physical untidiness of the statute book can be, and is being, tackled by the production of the new collected edition, *Statutes in Force*. Completion is hoped for by 1980. First Parliamentary Counsel accepts, with some hesitation, that this edition will serve the draftsmen’s purpose when complete. He tells us that the Statutory Publications Office will be offering an updating service of a different kind from that available for the third edition of *Statutes Revised*; the annual supplement to the whole edition will be on the lines of the supplement to *Halsbury’s Statutes*.

8.14 The production of any form of collected edition, however, can do no more than tidy the statute book in a physical sense. Repealed matter would be omitted, and textual amendments incorporated in reprinted versions of the Acts amended. Other amendments, applications, and the like, would continue to be found separately from the provisions to which they refer. The intellectual burden of conflating separate enactments to discover their combined effect would, in a large measure, remain. First Parliamentary Counsel says: “A tidy statute book is very necessary as a background for satisfactory legislation. If a Bill must operate on an untidy code, it slows up the team handling the Bill, and makes it more difficult for the legislator and the public to understand the Bill”. In assessing the degree of untidiness of the present statute book he arrived at an estimate, for the years from 1921 to 1960 alone, of between 350 and 400 Acts so heavily amended and fragmented (and consequently so heavily annotated) that they could properly be described as being in an unsatisfactory state and in need of consolidation. We agree with most of our witnesses in attaching importance to consolidation, the repeal of spent enactments, the use of textual amendment wherever practicable. We consider textual amendment and consolidation in more detail in Chapters XIII and XIV. We discuss in Chapter XVI the potential advantages of a computerised statute book.
MANPOWER

Recruitment and training

8.15 The staffs of the Parliamentary Counsel Office and the office of the Parliamentary Draftsman for Scotland (the Lord Advocate's Department) are small (details of their composition are given in Chapter III). There is an acknowledged shortage of draftsmen in the public service and the aim is to achieve an increase in the strength of the Parliamentary Counsel Office if possible. The Parliamentary Draftsman for Scotland also has difficulty in securing enough recruits of the required calibre.

8.16 Reasons suggested for these recruiting difficulties include a lack of interest in statute law in the universities. We understand that the whole question of closer contacts between universities and the legal civil service is under consideration at the moment. The encouragement of an interest in statute law as part of the academic training of lawyers would be regarded by the drafting offices and by us as helpful to recruiting. We have also given thought to the possibility of setting up in this country a post-graduate course of training in legislative drafting such as the one-year course for seven or eight graduates provided by Professor Driedger at the University of Ottawa. Training has up to now, in both the English and the Scottish offices, been mainly a matter of working with a senior colleague in order to develop the necessary specialised skills on the job. We agree that pupillage of this kind is indispensable to the training of a draftsman to the stage at which he could draft a big Bill under pressure; but we consider that a course such as Professor Driedger's could be helpful in providing preliminary training so as to reduce the period of apprenticeship and to ease the burden of the senior draftsmen in training new recruits from scratch, and that serious consideration should be given to the possibility of setting one up. It might help to attract more young lawyers into the drafting offices and to promote a better understanding of drafting problems. Experience shows that only a trained draftsman can provide such a course, and this presents a difficulty which must not be underestimated.

Outside help

8.17 The suggestion has come to us from a number of quarters that the Government draftsmen could be relieved of some of their burden by entrusting the drafting of some Government Bills to lawyers outside the public service, including practising members of both branches of the legal profession (including Parliamentary Agents) and academics. As we mentioned in Chapter III, First Parliamentary Counsel now has authority to make arrangements for some Government Bills to be drafted by outside draftsmen. An experimental scheme

---

1 The course, which can lead to a Master's degree in law, is divided into lectures (on aspects of legislation other than drafting) and seminars (devoted to theoretical and practical instruction in legislative expression). The weekly exercises set for the seminars are progressively more difficult, moving from the analysis and re-casting of existing legislative provisions to original drafting on instructions, and students' drafts are all discussed and criticised by Professor Driedgar at the seminars. Towards the end of the course students are required to re-write some of their earlier drafts in the light of experience gained during the course, and these re-drafts are discussed by the Professor with each student individually. There are written examinations on the material covered by the lectures, but students are graded on their seminar work according to the Professor's judgement of the quality of their work throughout the year and the progress they have made. In each year the course comprises from 4 to 6 Canadian students, the balance coming from other Commonwealth countries.
has recently been evolved under which the drafting of some Government or Government-supported Bills, and the subsequent responsibility for them, can be "farmed out" to a member of a panel of Parliamentary Agents. First Parliamentary Counsel thinks there is a prospect of some success in this field; although it is not easy to fit the Parliamentary Agents in for a number of reasons they have, he says, been most co-operative and helpful and he hopes to go on getting a contribution from them. For a number of reasons it has not proved possible to get work done by practising members of the Bar. First Parliamentary Counsel told us that he thought that on the whole the experience of the practitioner at the Bar could no longer be said to be of much value in the general field of legislative drafting; although we feel that specialists in particular branches of the law would often be able to give advice on draft Bills which would give warning of pitfalls or loopholes, and that the practice of consulting them should be encouraged.

8.18 We think that the scope for the employment of draftsmen outside the public service on Bills in the Government legislative programme must remain limited by such factors as the need for the draftsman to be in a position to nurse his Bill through Parliament. The scope for their employment on consolidation Bills may be somewhat greater, though even there the difficulties which would be experienced by a practitioner should not be underestimated: they include the obtaining of ready access to an up-to-date set of the official volumes of statutes (see paragraph 8.11 above) and to the draftsman's papers on the Acts to be consolidated. We should in any case deprecate any large-scale transfer of drafting work away from the Government draftsmen, as being liable to result in a return to the pre-1869 situation (the legislation of the eighteenth and early nineteenth centuries has been described by one of the present draftsmen as "a jungle . . . drafted by different people who neither knew nor cared how the other performers were framing their legislation"). The centralisation of English drafting in the Parliamentary Counsel Office, staffed by full-time professionals, has been favourably contrasted by Professor Reed Dickerson with the situation in Washington:

"Whereas in London the typical bill is drafted by a full-time professional, in Washington it is drafted by an inexperienced lawyer . . . or a partly experienced lawyer whose drafting duties are a mere incident to his other duties . . . . Certainly the most fertile single source of confused, difficult-to-read, overlapping and conflicting statutes is the lack of uniformity in approach, terminology and style. The ravages of heterogeneous authorship appear to be large in Washington and small in London".¹

Professor Dickerson also developed this theme in the evidence he gave to us:

"Most legislation in the United States is drafted by people who, however good they may be in their substantive specialities, have only fleeting acquaintance with the expertise required for good drafting. This is perhaps the main reason why so much of American legislation is inadequate . . . You are light years ahead of us in this respect".

It therefore seems to us that it would be better to increase the strength of the draftsmen's offices than to rely to any great extent upon outside help.

Other duties

8.19 Whilst Parliamentary Counsel, and in particular the First Parliamentary Counsel, have certain other duties as well as their primary drafting function (see Chapter III), we are told that these are not particularly burdensome. Drafting work for the Law Commission ought not to be in direct competition with work on the current legislative programme, and on the establishment of the Commission arrangements, described in paragraph 3.2 above, were made with that end in view. However, we have been informed that the exigencies of the Government's current legislative programme, coupled with other factors which have affected the balance between drafting resources and the demands made upon them, have led to the temporary withdrawal from the service of the Law Commission of one senior draftsman who had previously been assigned exclusively to Law Commission work. This is a misfortune for the causes of law reform and of consolidation, and we recommend that the Law Commission's drafting strength should be restored and, indeed, further increased at the earliest possible moment.

8.20 The position of the Scottish Parliamentary Draftsmen is rather different. In addition to a commitment to provide draftsmen for the Scottish Law Commission, the draftsmen have very substantial non-drafting duties as legal secretaries to the Lord Advocate, as described in Chapter III. We have been told by the Parliamentary Draftsman for Scotland that although this work is shared by his staff, the main burden of the more confidential and sensitive work falls on him as Legal Secretary, and that for more than a decade it has tended to absorb the greater part of his and his predecessors' time; a similar process (especially in relation to European Community matters) is now happening to the Deputy Legal Secretary (the second Draftsman), with the result that the two most experienced draftsmen are having less and less time to devote to legislation. Whilst the Parliamentary Draftsman for Scotland saw some advantage in close contact with the Law Officers, he could see no other reason why the two offices of Parliamentary Draftsman and Legal Secretary—which had become combined as the result of the historical development outlined in Chapter II—should remain combined. We feel considerable sympathy with that point of view.

8.21 The giving of drafting assistance for Private Members' Bills is a call on the resources of the two offices which we think should be confined at present to Bills which enjoy Government support or which the Government do not overtly support but which they consider may reach the statute book. With the larger work force which we recommend, the Government could and should then give more generous departmental and drafting support in future to Private Members' Bills which the Government do not actively oppose.

Conclusion

8.22 The shortage of draftsmen is one of the main obstacles to the improvement of the form and clarity of legislation, and we recommend that all available methods should be used to recruit and train more draftsmen as a matter of high priority.
8.23 There are certain other factors which may present the draftsman with difficulties but which we deal with in later chapters. These are the demand for certainty both from the Government and from Parliament (Chapter X), the requirements of Parliamentary procedure and tactics (Chapter XVIII), and the interpretation of statutes by the courts (Chapter XIX).
BRITISH AND EUROPEAN APPROACHES TO LEGISLATION

THE APPROACH IN EUROPEAN LAW

9.1 European law is basically very different from English law, founded as it is on another legal tradition deriving largely from Roman law, later developed to suit modern needs by, for example, the Code Napoleon. The style of the Code is illustrated by many of the codifications of the nineteenth century. The deliberate aim in these codes was to confine the statement of terms to principles of wide application, and to practise a deliberate restraint in the proliferation of detailed rules. An extreme example of this is to be found in Article 1382 of the French Civil Code which states “Any act whatsoever by a man that causes damage to another obliges the person at fault to repair the damage”.

THE APPROACH IN ENGLAND AND WALES

9.2 In England and Wales there has grown up over the centuries what may be described as the “detailed” approach to legislation. For a variety of reasons Governments tend to propose, and Parliament to elaborate further, legislation which spells out how a principle of law which is being enacted should apply in a great variety of circumstances. The rationale of this approach is that it is only fair to those whom the law will affect that they should be able to see how Parliament requires the law to be applied in differing circumstances, and that it creates uncertainty if the detailed application of a general principle is left to be interpreted by the judiciary, or to be worked out by the Executive in regulations embodied in subordinate legislation. Sometimes the statutes contain a mass of detail without clearly expressing the purpose or the principles which have prompted it.

THE APPROACH IN SCOTLAND

9.3 The law of Scotland has enough in common with European tradition for the substantive as distinct from the procedural law still to be recognisably within the family of the civil law. A very considerable part of the present law of Scotland, however, comprises statutes of the United Kingdom Parliament, which in general follow the English approach, and it is this part of the law with which we are concerned. The fact that the common law of Scotland has stronger affinities with civil law systems of Europe than that of England does not affect the validity in this context of discussing English and Scottish statute law together.

THE APPROACHES EXAMINED

9.4 In the following paragraphs we examine these differences in tradition more closely and assess how far they are reflected in the present practice of Western European countries and of the European Communities.
9.5 It has been put to us by Sir Charles Davis\(^1\) that it is still true to say that whilst in English statute law more emphasis is placed on certainty, in the legislation of Continental countries and of the European Communities the emphasis is on clarity in the expression of broad intention and principles. Sir Charles said:

"English law, being for historical reasons so firmly based on the doctrine of *stare decisis* has an inherent tendency, in my view, towards achieving certainty—sometimes indeed at the expense of logic—and this is reflected not only in our Common Law but also in our legislation, both original and delegated. This is customarily drafted with almost mathematical precision, the object (not always attained) being in effect to provide a complete answer to virtually every question that can arise. Community law on the other hand, being based on the legal systems of the original six member states, and being thus derived from the Code Napoleon and indirectly from Roman law, adopts an entirely different approach. With the Community law, certainty—in other words the ability to answer almost every question that can arise by textual analysis—is much less important, and the main desideratum appears to be the logical formulation of an idea so that the general objective of the legislation is never lost sight of. . . . Both systems have their advantages and disadvantages. Under our own system the goal of certainty is sometimes achieved at the expense of a complexity which it is hard (and sometimes virtually impossible) for the layman to master. On the other hand Community secondary legislation which is fully reasoned in recitals (as indeed it is required to be under Article 190 of the Treaty of Rome), and with its much more generalised legislative provisions, is easier to understand at first reading, but suffers from the corresponding disadvantage that it is often impossible by reference to the text alone to say exactly what is the answer to a particular problem. This makes for doubts and uncertainties which can in the last resort only be resolved by the European Court—whose guiding principle it seems to be to look to the intent rather than to the form. . . . Essentially, the dilemma seems to me to be a choice between two eminently desirable but mutually exclusive objectives namely clarity and certainty".

9.6 The difference between the English and Continental traditions is also recognised in a memorandum we received from the Foreign and Commonwealth Office:

"The drafting of Community legislation is largely influenced by traditions of legislative drafting which have for long prevailed in other European countries but which do not prevail in the United Kingdom. The tradition in many other European countries is to draft in more general terms than is customary in this country, and consequently to leave more scope for the interpretation of the law by the courts; the continental judge is accustomed to interpret legislation in the light of official or academic commentaries. Because of this difference of approach, the form and language of Community legislation does not readily lend itself to emulation in the United Kingdom where the courts and legal professions are accustomed to more precise drafting, and interpretation or construction keeps more strictly to the statutory text".

\(^1\)Legal Adviser to the House of Commons Select Committee on European Secondary Legislation.
9.7 Of European Community legislation Sir Charles Sopwith\(^1\) says:

"Given the circumstances in which that legislation has been adopted, the Community legal order corresponds to expectation. The Treaties were arrived at by negotiation and compromise; in the result they are ample on aims but tend to lack precision. The draftsmen of the secondary legislation have no doubt been accustomed to a less precise system of drafting than that aimed at in this country; and much of this secondary legislation is also the subject of debate by and negotiation between the representatives of the Member States and to eventual compromise so that again great precision can not always be expected".

And Professor D Lasok\(^2\) confirmed in a letter to us that:

"It can be said, generally, that the Community legislation follows the continental pattern, ie translating policies into rules of general application and proceeding from the general to the particular. The legislation is not as tightly drafted as our own statutes, allowing those who apply the laws a certain "margin of appreciation" in the interpretation of the rules of law".

9.8 A feature of Community secondary legislation (though not of examples of European national legislation that we have examined) is the invariable use of a preamble, now rare in British statutes. It is, as Sir Charles Davis points out, obligatory under Article 190 of the Treaty of Rome. Sir Charles Sopwith suggests that

"It seems probable that the original purpose of requiring the 'reasoning' to be stated was not so much to assist interpretation as to enable Member States and persons affected by Community instruments to ascertain that the Council or Commission was acting properly within its powers . . . . These preambles have, however, no doubt come to have an important effect on interpretation . . . against the background of the (European) Court's method of interpretation which seeks to give effect to the purposes of the legislation, on which a preamble may well be expected to furnish valuable help. But while the preambles in Community legislation are not so likely to furnish help on particular verbal difficulties, they do undoubtedly give a good deal of help towards the general intelligibility of a Community instrument".

9.9 The difference between the two drafting traditions is clear. In practice, however, when British legislation is compared with both Community legislation and the national legislation of Continental countries, the differences between the products of the two traditions are seen to be sometimes blurred. Whilst British legislation for the most part aims at precision or certainty, and consequently tends to be elaborate and detailed, one can in certain fields find Westminster legislation that is expressed in statements of general principles. An example of this is the Occupiers Liability Act 1957, mentioned by the distinguished comparative lawyer Professor Otto Kahn-Freund in the passage quoted in the next paragraph.

\(^1\) Legal Adviser to the Select Committee of the House of Lords on the European Communities.
\(^2\) Director of the Centre for European Legal Studies, University of Exeter.
9.10 Of national legislation on the Continent, Professor Kahn-Freund said to us in oral evidence:

"If I take the two countries I know best, France and Germany, I would agree that there is this type of legislation which is designed to lay down general principles and to do what the courts are supposed to do in this country. I pointed out that there are statutes in this country such as the Occupier's Liability Act, which is a totally different style of legislation, but on the other hand you find in the continental countries the type of detailed minute legislation, not terribly different from what you find in this country. If you take France and if you take what the French call public law, which means administrative law, you will not find the general principles in the statutes—you will find them in the case law of the Conseil d'Etat and the statutes are a chaotic mass of detail not all that different from what we have here. The same could be said about Germany. This is not so much a question of something else being substituted for what we have here but rather one could say there are two different kinds of legislation—there is legislation designed to establish the broad principles, and there is legislation for example tax law, which goes into the greatest possible details."

For example, the Federal German Added Value Tax Law of 1967 runs to some 57 pages of print, despite a deliberate effort to keep it short by incorporating the provisions of other laws by reference in more than 50 instances (and according to the editors of an English translation it "can hardly be understood without professional advice").

9.11 On the content of European Community secondary legislation, the Foreign and Commonwealth Office memorandum quoted in paragraph 9.6 has this to say:

"Community Regulations often contain matters normally found in both primary and secondary legislation, with the result that in addition to the very general provisions already referred to there will frequently be minutely detailed provisions, sometimes of a purely administrative character, in the same instrument".

And clarity is sometimes sacrificed to expediency:

"Like the Treaties themselves, this so-called secondary Community law is sometimes ambiguously or incompletely drafted. Political compromises are often attained by the use of ambiguous words".¹

9.12 Although much European legislation is also detailed and complex it does tend, in contrast with our own, to set out the objectives to be achieved, leaving the detailed methods of application to the courts or to detailed rules laid down by the Executive within the powers conferred upon it. This difference in traditional approach between Europe and this country in the formulation of law has also led to a difference in the rules of interpretation applied by the courts. In Europe since the tendency is to rely more on general principles, it is perhaps natural that the rules of interpretation permit the courts to look beyond the statute to ascertain the intention of the legislature, and doing this they may

¹ Brinkhorst and Schermers, Judicial Remedies in the European Communities, p 22 (quoted by Sir Charles Sopwith).
use various documents other than the statute, classified under the general heading of *travaux préparatoires*. The judge in European countries has for his support a number of interpretative guides. When interpreting the provisions of codified legislation he is by training and experience imbued with the spirit of that legislation, its intention and its historical setting. He can reason by analogy from other articles. He can look at *travaux préparatoires*, where they exist. He has the persuasive, but not binding, assistance of whatever jurisprudence (ie case-law) has been built up upon the matter in point. He can interpret in changed social conditions in the way that best corresponds with the contemporary view of social justice, provided that he does not do too much violence to the literal meaning of the words being interpreted. It is also to be borne in mind that the European judge (unlike the United Kingdom judge) need not take account of what the law was before the passing of the particular enactment with which he is concerned. Legislation is, on the matters to which it extends, for him the unique source of law: it is not an intruder into an area of common law.

9.13 In this country on the other hand, since the tendency is to spell out the law in great detail, the rules of interpretation are narrower and —though perhaps less so in the case of the Scottish courts—the courts look at the meaning of the words of the statute and do not tend to go behind those words in order to establish the intention of the legislature. In other words the courts presume that the legislature knew exactly what it wished to do and has done it, and no filling in is required.

9.14 In the light of this explanation it can be seen that the traditional approach in Europe has been to express the law in general principles, relying upon the courts and the Executive to fill in the details necessary for the application of the statutory propositions to particular cases, in the light of the general intention of the legislature expressed in preambles, recitals and other documents. This approach appears to result in simpler and clearer primary legislation where detail is omitted, but equally it lacks the greater certainty which a detailed legislative application of the principles would provide. Here on the other hand the traditional approach has been to spell out in the statutes themselves the precise way in which the law is to apply in differing circumstances. This gives greater certainty in respect of the circumstances provided for, and it is not necessary to wait for rulings by the courts on particular applications; but it leads to more complex legislation which is less clear to the ordinary reader.
CHAPTER X

CONFLICTS

CONFLICTING NEEDS: THE BILL AND THE ACT

10.1 As we have said in Chapter VII, there is often a conflict between the needs of legislators when they have to carry a Bill into law and those of the ultimate users of the Act which the Bill then becomes. One aspect of this conflict was described some years ago by a member of our Committee:

"The same document has to be designed to satisfy two distinct legislative audiences: first (in point of time) the Parliamentary audience, mainly composed of laymen, whose primary need is to ascertain, with the minimum of labour and preferably no reference to any document other than the Bill itself, what is the general purpose and effect of each clause or section which they are asked to pass; and secondly, the expert lawyers and other professionals who will seek to find in the Act as passed a specific answer to each specific question upon which they have to advise or decide. One customer wants a picture and the other wants a Bradshaw".1

We would qualify this by adding that in most spheres the ultimate users of the Act will include not only the professionals, but also the ordinary citizen who is bound by, and presumed to know about, the provisions of the Act of Parliament; and that the professional and other users of the Act need the picture for some purposes and the Bradshaw for others. In other words the conflict is not only between the needs of the legislators and those of consumers: it is also between differing needs of consumers on different occasions.

10.2 The conflict between the needs of the Minister or Member in charge of the Bill and those of the ultimate users was described by Sir Courtenay Ilbert, in a passage from which we have already quoted at greater length, as follows: "A Bill... may be regarded from two points of view. From one point of view it is a future law. From another point of view it is a proposal submitted for the favourable consideration of a popular assembly. And the two points of view are not always consistent". The second of these points of view has hitherto been the dominant one.

10.3 We recommend that in principle the interests of the ultimate users should always have priority over those of the legislators: a Bill, which serves a merely temporary purpose, should always be regarded primarily as a future Act, and should be drafted and arranged with this object in view. We discuss in Chapters XIII, XV, and XVIII some possible ways of reconciling the conflict, where it occurs, in accordance with this general principle.

CONFLICTING OBJECTIVES: SIMPLICITY AND CLARITY V. IMMEDIATE CERTAINTY

The demand for immediate certainty

10.4 The prime duty of the draftsman of a Government Bill, and of the officials instructing him, is to make sure (i) that the Bill accurately achieves the legal effects which the Government wants, and (ii) that as far as possible those effects can be recognised immediately, without confirmation by decisions in the courts. These two desiderata, taken together, we refer to as “immediate certainty”.

10.5 Instructions normally go into considerable detail, and where they do not the draftsman will usually feel obliged to ask for them to be amplified. The instructing department may in turn question whether a clause as drafted achieves the desired result in particular cases and with sufficient certainty, and may draw attention to possible ambiguities and methods of avoidance. All the doubts and criticisms that emerge in “the grey area” — and during the passage of the Bill through Parliament — have to be taken seriously, and may be found to call for more detail in the Bill. All this makes for complexity: there are few occasions, says First Parliamentary Counsel, when the draftsman and the instructing department “can confidently assure the Government that something relatively brief will do what they want”.

10.6 The demand for elaboration comes not only from the Government and the instructing department but also from Parliament itself. First Parliamentary Counsel put the position to us in these words—

“For good reason, Parliament is rarely ready to accept a simplification if it means potential injustice in any class of case, however small. In particular, this is true of everything in a Bill which intervenes in private life, or in business. Powers of entry, and powers of obtaining information, will be looked at jealously. And much detail will often be needed before the Government is likely to be able to persuade Parliament that in this field no more than essential powers are being taken by the proposed legislation... In many of the fields in which legislation is frequent, broad propositions may be, or may appear to be, oppressive. Parliament may insist that the rights of the citizen should be spelt out precisely and may well refuse to accept the argument that the way the legislation is to be worked out can be left to the courts”.

On the other hand we have not failed to notice that individual Parliamentarians are often vehement in their condemnation of detail and elaboration. As we said in paragraph 1.10, they cannot have it both ways.

10.7 The draftsman is at present often constrained by this approach to include a good deal of detail, in order to provide expressly for different combinations of circumstances, and so to express himself as to eliminate or reduce to the minimum the need for clarification by the courts and the risk of judicial interpretation in a sense contrary to that intended. Of course, judges endeavour in the interpretation of Acts of Parliament to give effect to the intentions of the legislature as expressed in the Act, but in modern times when the State...
intervenes to regulate the life of the individual with very great minuteness those intentions will not necessarily be clear unless spelt out in very great detail. At any rate that feeling is undoubtedly held in some quarters, and has influenced the style of much contemporary legislation. In a recent case Lord Simon of Glaisdale, supported by Lord Kilbrandon, repeated a suggestion he had made in evidence to us that—

"Where the promoter of a Bill, or a Minister supporting it, is asked whether the statute has a specified operation in particular circumstances, and expresses an opinion, it might well be made a constitutional convention that such a contingency should ordinarily be the subject matter of specific statutory enactment—unless, indeed, it were too obvious to need expression".

If, as we recommend (paragraph 19.26), there is to be no change in the rule about the non-admissibility of Parliamentary proceedings for interpretation, such a convention might seem to be helpful to the courts; but it would at the same time tend to add a further element of undesirable elaboration to the statutes. This effect could perhaps be mitigated, and the number of occasions on which the convention would operate be kept to the minimum, if more use were made of examples showing how a Bill was intended to work in particular situations, and if such examples were ordinarily set out in Schedules as we recommend, for matters of detail generally, in paragraph 10.13.

10.8 These pressures for immediate certainty through detailed drafting are reinforced by the tradition of English law, which attaches relatively great importance to the common law as against statute law. It is a presumption that nothing but a precise and explicit statutory enactment can modify a common-law concept. In Scotland the tradition is different and it may well be that the approach of the Scottish courts to the task of applying a broadly drafted statutory provision would not be so strict. In their evidence to us Lord Emslie and Lord Wheatley concurred in saying: "So far as Scots judges are concerned the strength of their common-law system lies in its reliance upon broad statements of principle, and there is no reason to suppose that similar broad statements of principle in statute law would not, in their hands, be applied to the facts of any given case [so as] to achieve the will of Parliament". But the modern statutory law of Scotland emanates from the same legislature as does that of England and notwithstanding the difference of tradition the style is at present the same for both countries. In Chapter XIX we discuss further the effect on drafting style of the courts' approach to the interpretation of statutes.

The consequences of aiming for immediate certainty

10.9 The striving after certainty often results in legislation which is complex and not readily intelligible, and obviously the objective of achieving immediate certainty may conflict with the objectives of "simplicity and clarity" mentioned in our terms of reference. As we have indicated above, there are two features of the pursuit of immediate certainty, either of which may result in a lack of simplicity and clarity. One is the avoidance of ambiguity in what is stated: "being unambiguous . . . is by no means the same as being readily intelligible;
on the contrary, the nearer you get to the one, the further you are likely to get from the other".¹ The second feature is the attempt to ensure that what is stated is exhaustive. These two features can lead to statutes, and individual provisions, of indigestible length and elaboration. If a less exacting standard of immediate certainty were accepted the draftsman would be free to draft in a more readable style.

Conclusions on conflicting objectives

10.10 The enactment of law in the form of general principles, however clearly expressed and apparently easy to comprehend, may prove deceptive when it comes to applying the statute to particular circumstances. Compare, for example, the Bankruptcy legislation of England with that of Germany. In England, we have an exhaustive list of acts of bankruptcy. German law merely states that if the debtor is insolvent or if the debts or liabilities exceed the assets certain things can be done; insolvency is left to be defined by the courts. The German statute law looks much simpler, but the lawyer who has to apply it must consult the case-law (although it is of persuasive but not binding force) in order to see how the courts have interpreted “insolvent”. Where a statute has been in force for some time, any gain in apparent clarity and simplicity in the statute itself may be found merely to have shifted the complex task of ascertaining its precise effect, in a particular case, further into the area of case-law. Where the statute is a new one, there may be a period of greater uncertainty while the lines on which the principles stated in the statute should be applied are being settled by the courts, often at considerable personal expense to individual litigants. As long ago as 1875 it was estimated that it had cost the country at least £100,000 to ascertain the meaning of the Statute of Frauds.

10.11 At the same time, too much weight should not be given to possible uncertainty about the application of general principles to particular factual situations: even where legislation is framed so as to deal with specific instances, as it generally is in this country at present, some situations are almost sure to be overlooked, thus leaving an area of uncertainty, and it may be more difficult for the courts to decide how those situations should be dealt with than it would have been if the legislation in question had been framed in broad terms with clear statements of the principles intended to apply. Also, we have no doubt that British courts would have little difficulty with legislation framed in the latter way, even if some modification of the traditional approach to interpretation were necessary. However, it could well be that any substantial alteration of the balance between the function of law-making on the one hand and that of working out the application of the laws on the other hand would be unacceptable to Parliament and possibly to public opinion.

10.12 As we have pointed out in paragraphs 10.4 to 10.6, there are demands for immediate certainty in legislation from the Government, who want to be sure that the Bill gives complete and predictable effect to policy; also from Parliament, particularly where the Bill intervenes in private life or in business, and broad propositions may be seen as oppressive. We think these demands have often been more insistent than was necessary. Legislating by statement of general principle may however be more acceptable for private law governing

the dealings of individuals and non-State corporations one with another, than for public law sanctioning fiscal or other intervention by the State in those dealings or governing relations between the State and its individual or corporate subjects. Law Reform Bills offer scope for the method of drafting which relies on simple statements of principle, and this is apparent in the draft Bills which the Law Commissions produce.

10.13 The adoption of the ‘general principle’ approach in the drafting of our statutes would lead to greater simplicity and clarity. We would, therefore, like to see it adopted wherever possible. We accept, however, that this approach to a large extent sacrifices immediate—though not eventual—certainty and places upon the courts a heavier responsibility in identifying the intention of the legislature when applying legislation to particular circumstances. We recognise that this is unlikely to be acceptable to the executive and the legislature in certain types of legislation, particularly fiscal and other public law which defines the rights and obligations of individuals in relation to the State, and we consider that it would in any event be unreasonable to draft in principles so broad that the effect of the statute could not be assessed without incurring the expense of litigation to determine an issue. But we recommend that encouragement should be given to the use of statements of principle, that is to say, the formulation of broad general rules, whether or not the subject matter of the Bill is considered by the Government to call in addition for detailed legislative guidance, through one method or another (see paragraphs 6.7, 6.8). Where such detailed guidance is required in the Bill it should be contained in Schedules, and the main body of the statute should be confined to statements of its principles. This would enable those concerned primarily with principle to find it set out uncluttered by the details of its application and qualifications.

1The implications of both methods of drafting in fiscal legislation are discussed in Chapter XVII.
CHAPTER XI

DRAFTING TECHNIQUES

11.1 Sir Arthur Quiller-Couch, in the preface to his lectures On the Art of Writing, said: "Literature is not a mere Science, to be studied; but an Art, to be practised". This is true also of legislative drafting. Each draftsman is a skilled professional lawyer with a style of his own, and once he is beyond the apprentice stage he must act on his own responsibility. That does not mean, however, that he should ignore either the traditions and practice of the office or suggestions made by the consumers of his products. It is in that spirit that we consider in this chapter various techniques which we think can often, in suitable contexts, make for improved readability.

SIMPLICITY OF STYLE

11.2 The most important technique, if the least tangible, is simplicity of vocabulary and syntax. Varying degrees of emphasis have been placed by witnesses on the need for this. Lord Simon of Glaisdale formulated the ideal in the following terms: "Desirably the language of legislation should be as near to ordinary speech as precision permits". But he recognised that "most ordinary terminology contains ambiguity". Another formulation (by Mr Ian Percival QC MP) is that "wherever possible, what is intended should be set out in the simplest terms, in the language nearest to that which would be used by those affected by it". The Statute Law Society suggest that "clarity of expression, of grammar and construction should be a primary consideration". According to the Faculty of Advocates "The solution here must . . . lie in a compromise between the precision of technical language and the ready comprehensibility of the ordinary use of words . . . The words used should be reasonably simple . . . the sentences should be reasonably short". A number of other witnesses have expressed a preference for simpler language than is to be found in most statutes at present. Many witnesses recognise, however, that it may be difficult or even impracticable to achieve it in some kinds of legislation, notably in fiscal statutes.

11.3 In paragraphs 6.3 and 6.4 we quoted criticisms of current drafting style by the Statute Law Society and other witnesses, and referred to the examples in Appendix B of particular statutory provisions that had caused difficulties of interpretation in the courts. On the other side of the scales should be placed the following tribute by Professor Driedger:

"With a new British statute, where I understand the subject matter and the social background, I really have no problems and no difficulty in reading and understanding the statute. Of course, if it is a statute dealing with your building societies, or your rent regulations, I would not understand it because I do not understand your practices, but an ordinary

1 Cambridge University Press, 1916.
statute that deals with a familiar subject, or with a legal subject, I really have no difficulty in understanding. I think on the whole they are well written and well organised, and can be understood by anyone who is familiar with the subject matter of the statute and the circumstances that gave rise to it”.

We would, moreover, mention here that Parliament does not always take kindly to the homely phrase. In a recent Bill the expression “the owner has tried his best to let the building” was not well received in the House of Commons, which preferred the more orotund “used his best endeavours”.

11.4 In the 1940s and 1950s, when those who are now senior draftsmen were learning the craft, there was still a general belief that the language, or rather the style, must be formalised, on mere grounds of decorum; and that the precision needed to attain immediate certainty overrode every other consideration. In both respects the belief has since weakened. Language is increasingly informal. As to certainty, the need for it remains amply recognised (as it must be); but certainty is obtainable at two different levels. One is where the draftsman deliberately words his clause so that at no point can it possibly be challenged for ambiguity, even by a reader (or legal practitioner) so perverse, or having such a professional interest in finding a way round the law, that he is resolved to find an ambiguity which to any ordinary reader is invisible. At this level of certainty, language becomes by gradations more and more convoluted, and the legislative proposition obscured. At the other level, sufficient certainty is obtained for a fair-minded and reasonable reader to be in no doubt what is intended, it being assumed that no one would take entirely perverse points against the draft, or that such points would be brushed aside by the court. Most of us are satisfied that there has been a substantial and desirable retreat from the first level, with resultant simplification and abbreviation of language.

11.5 On the other hand, the draftsman must never be forced to sacrifice certainty for simplicity, since the result may be to frustrate the legislative intention. An unfortunate subject may be driven to litigation because the meaning of an Act was obscure which could, by the use of a few extra words, have been made plain. The courts may hold, or a Government department be driven to conclude, that the Act which was intended to mean one thing does not mean that thing, but something else. Where this occurs, the draftsman’s discomfort is considerable, and he will instinctively guard against its happening to him a second time.

AIDS TO UNDERSTANDING

Statements of purpose

11.6 A number of witnesses have suggested to us that express statements of purpose would help to explain and clarify both complex legislative provisions which provide in detail for specific instances and legislation framed in terms of general principles. Statements of this kind can take various forms, such as

1 HC Deb, 867, cc 1545, 1551, 1573.
a general preamble to an Act, a general statement of its purpose in one of the
opening sections of an Act, or specific statements of purpose and preambles
prefacing particular sections or groups of sections or Parts of an Act.

11.7 Among the advocates of statements of purpose are those whose task
it is to pronounce or advise on the effects of legislation: members of the
judiciary, practising lawyers, and teachers of law. The draftsmen themselves
are less enthusiastic. First Parliamentary Counsel takes the view that “in
many cases the aims in the legislation cannot usefully or safely be summarised
or condensed”, and that “there may be a temptation to call for something
which is no more than a manifesto, and which may obscure what is otherwise
precise and exact”. He also points out that “detailed amendments to a Bill
after introduction may not merely falsify the accompanying proposition but
may even make it impracticable to retain any broad proposition”. The
Parliamentary Draftsman for Scotland adopts the same view: apart from
certain special circumstances, he says “the Act should in general explain
itself”. New Zealand’s Chief Parliamentary Counsel told us that preambles
were rare in public Acts in New Zealand; purpose clauses, forming part of
the text of the Act, were sometimes used, but were not thought to aid compre-
hension. Professor Reed Dickerson thinks that “most purpose clauses are
quite unnecessary”; that general purpose clauses tend to “degenerate into
pious incantations . . . such as . . . the one in a recent ecology Bill, which in
substance said ‘Hurray for Nature!’”; but that “in prefatory language in
individual sentences such as ‘For the purpose of this’, or ‘For the purpose of
that’, or ‘In order to do this’, you may have an economic, focussed purpose
statement that is of some use”.

11.8 We agree that statements of purpose can be useful, both at the Parlia-
mentary stage and thereafter, for the better understanding of the legislative
intention and for the resolution of doubts and ambiguities. A distinction
should, however, be drawn between a statement of purpose which is designed
to delimit and illuminate the legal effects of the Bill and a statement of purpose
which is a mere manifesto. Statements of purpose of the latter kind should in
our view be firmly discouraged. We think that statements of purpose in preambles
are particularly vulnerable to the “manifesto” type of drafting, and we should
not like to see a reversion to the archaic use of preambles as a means of declaring
or justifying the objectives of public Bills. The preamble can be valuable as a
means of reciting facts, such as the terms of a relevant treaty. But when a general
statement of purpose is appropriate, we think it should be contained in a
clause in the Bill. This has advantages at the Parliamentary stage, since a
purpose clause can be amended (or omitted) exactly like any other clause.
Preambles are subject to special rules. For the reasons we have given, we think
that purpose clauses can be helpful, but that they should be used selectively and
with caution. We refer in paragraph 19.39 below to one particular class of
legislation in which we recommend that statements of purpose should be
generally used. Apart from that, we recommend:

(a) that statements of purpose should be used when they are the most
convenient method of delimiting or otherwise clarifying the scope and
effect of legislation;

(b) that when a statement of purpose is so used, it should be contained
in a clause in the Bill and not in a preamble.
Presentation

**Length of sentences**

11.9 Several of our witnesses have suggested that a legislative statement in the form of a long sentence with a number of subordinate clauses is more difficult to understand than the same thought expressed in a number of short sentences. First Parliamentary Counsel tells us that the draftsmen in his office aim at keeping sentences short and avoiding dense blocks of type. He points out, however, that there is bound to be some price to pay: there may have to be more cross-references, and sections may come out longer, or with more subsections. He regards it as too soon to say whether the experiment will be a success. Sir John Fiennes, his predecessor, also sounds a note of caution: “Shorter sentences are easier in themselves, and it would probably help overall to have them shorter, but of course you are then faced with having to find the relationship between that sentence and another sentence two sentences away, which, if you have it all in one sentence, is really done for you by the draftsman”.

11.10 We think it would be unwise to lay down any general rule about drafting in short sentences, or to suggest that draftsmen should impose limits of length on themselves. We would, however, emphasise the desirability of reducing to a minimum the number of subordinate phrases having to be read before the grammatical subject of a sentence is reached or intervening between the subject and its attendant verb, at any rate where the sentence is not “paragraphed” (see paragraph 11.12).

11.11 In current drafting practice a subsection, or a section that does not contain subsections, is usually punctuated as a single sentence; or, to put it in another way, every time a full stop is reached a new numbered provision is begun.\(^1\) We think this is generally sound: where a thought has come to an end—as is normally the case at the end of a sentence—it is better to emphasise the break in this way. There may however be instances where the thoughts in two or more grammatical sentences are so closely linked that it would be wrong to arrange the sentences as separate numbered provisions. Where that is so it may often be better to join the sentences by a co-ordinating conjunction (preceded by a semicolon), thus emphasising the link (and in some cases avoiding repetition), than to separate them by a full stop. We recognise nevertheless that there are cases where it is natural for a full stop to occur in the middle of a numbered provision, and we do not think there should be any rule or convention precluding this.

“Paragraphing” of sentences

11.12 We agree with the general consensus among our witnesses that dense blocks of type are extremely indigestible and should be avoided. Whilst we see no fundamental objection to longish sentences as such, we think that where one occurs it should be visually broken up into inset “paragraphs” and (if necessary) “sub-paragraphs”, each labelled with its own letter or number, so as to bring out the grammatical structure of the sentence. The technique (termed

---

\(^1\)Although there was a period when the internal full stop was fairly common (there are, for instance, a number of occurrences in the Sale of Goods Act 1893), it now hardly occurs except where (as in section 236(9) of the Local Government Act 1972) it precedes a new but unnumbered paragraph.
"paragraphing" by Professor Driedger and "tabulation" by Professor Reed Dickerson) may be illustrated by an example. The following (section 38(2) of the Finance Act 1974) was criticised in a London evening paper as "one example of the grotesque language used by the Treasury draughtsmen":

"Where a gain accrues to a person on a disposal of an interest in land to which this section applies, so much (if any) of the gain as by virtue of this Chapter is a development gain shall be treated for all the purposes of the Tax Acts as income arising at the time of the disposal and as constituting profits or gains chargeable to tax under Case VI of Schedule D for the chargeable period in which the disposal is made, and (except for the purpose of computing the development gain, if any, accruing in respect of the disposal) shall not be a chargeable gain".

We think this sentence is easier to grasp if set out (with no alteration in wording, but one slight alteration in word order) in the following way:

"Where a gain accrues to a person on a disposal of an interest in land to which this section applies, so much (if any) of the gain as by virtue of this Chapter is a development gain:

(a) shall be treated for all the purposes of the Tax Acts as income arising at the time of the disposal and as constituting profits or gains chargeable to tax under Case VI of Schedule D for the chargeable period in which the disposal is made; and

(b) shall not (except for the purpose of computing the development gain, if any, accruing in respect of the disposal) be a chargeable gain".

Not surprisingly, it is still not possible to appreciate the effect of this provision without some knowledge of the previous income tax and capital gains tax legislation on which the section operates, and it is possible that some of the language used could have been simplified (though much of it may have been dictated by the previous legislation). But the gain in clarity from "paragraphing" alone seems to us to be considerable. This device is already used extensively by British Parliamentary draftsmen, and long blocks of unbroken type are now unusual. Unusual though they are, however, they do occur occasionally and we think it worth emphasising that they should be avoided.

Arrangement generally

11.13 As Professor Driedger said to us, "A draftsman can contribute a great deal to comprehensibility by arranging the provisions of a statute logically and orderly, dividing it into parts in some cases and inserting headings, sub­headings and marginal notes . . . as guide-posts. If a statute is carefully arranged and if these visual aids are supplied, then a reader, by scanning the statute, can at first glance get a fairly good idea of what the subject matter is, and what the scope of the Act is". This seems to us unexceptionable as a general proposition; we would only emphasise that in deciding on the arrangement the draftsman ought to have the convenience of the ultimate users constantly in mind. The logical arrangement of Acts is sometimes impeded by Parliamentary considerations, which we discuss in Chapter XVIII. In the following paragraphs (11.14 to 11.25) we look at some particular aspects of arrangement and presentation.
Position of extent, interpretation, and similar provisions

11.14 Lord Thring regarded the logical place for these formal and recurring provisions (known as “common-form clauses”) as being together, and at the beginning of the Act “as the reader cannot understand the Act till he is master of the definitions or explanations of the terms used in the Act”.¹ Later writers broadly agree.² Parliamentary requirements, however, are said to dictate that these provisions should come at the end of the Bill “as a definition frequently narrows or widens the whole scope of an Act, and Parliament cannot possibly judge whether such narrowing or widening is expedient till they are acquainted with the Act itself”.³ We consider this question in Chapter XVIII.

Definitions

11.15 Conflicting views have been expressed to us about the use of definitions. Some witnesses have complained that there are not enough definitions, and there have been objections to definitions that are not exhaustive but merely “include” specified things in the defined expression. Others, including Professor Reed Dickerson, think that definitions should be used sparingly, and that the “includes” form is often preferable: “Occasionally you need a full-blown definition, but most of the time definitions need only to stipulate meaning in the area of marginal uncertainty”. Professor Driedger advocates the use of definitions not only for extending or fixing the boundaries of meaning but also as a drafting technique to remove descriptive material from the body of a sentence, and thus leave the main sentence in a simpler form. We agree with him, but think that these matters must be left to the judgement of the draftsman.

11.16 A common complaint is that expressions are often defined by reference to other statutes. Professor Reed Dickerson recommends “either saying nothing or repeating the specific language you need”. Both these alternatives should be considered by the draftsman, but there are occasions when the need for certainty weighs against the first and the need for brevity weighs against the second. In such cases the definition of an expression by reference to another statute will often be justifiable, especially when the other statute enacts a general code or is otherwise well-known. On the other hand, the definition of an expression by reference to another statute which is obscure or obsolescent should so far as possible be avoided.

11.17 Although it is usual to gather the definitions used in a statute into one section which appears at the end with the other common-form provisions, some definitions occur in closer proximity to the provisions to which they primarily refer. It may be inconvenient to users that all definitions used in a statute are not to be found in one place; but we accept that occasions arise in large and complex Bills where it is for the convenience of the user if definitions are placed in those Parts of a Bill to which they relate. It would not always be helpful to the user to suggest that there should be a firm rule which laid down that all definitions should be gathered into one section; and the draftsman must be allowed the discretion of deciding where particular definitions are to be

¹Practical Legislation (1902), pp 96–97.
²Driedger, Composition of Legislation, p 106; Dickerson, Legislative Drafting, p 56; Thornton, Legislative Drafting, pp 130–133.
placed. In current practice, if all the definitions are not set out in one interpretation section at the end of the Act the outlying ones are usually indexed in the interpretation section. In a lengthy Act the practice is the same except that each Part may be treated like a separate Act. In the exceptional case of the Reservoirs Bill of 1974, where all the definitions are outlying ones, tabulated indexing in a Schedule was adopted as the most convenient arrangement for the reader. *We recommend* that, except in very short Acts, definitions occurring in the body of the Act should always be indexed in one or another of these ways.

11.18 It has been suggested to us by a number of witnesses that expressions defined in an Act should be printed in italics or some other distinctive type wherever they occur in the text of the Act. First Parliamentary Counsel has reservations about this: he thinks that special type might merely be a distraction, particularly if several kinds of type were used for this and other purposes. We agree, but consider that the possibility of signalling a definition by some other means (such as a marginal reference to the defining provision) should be explored. We revert to this in paragraph 11.21 below.

**Internal cross-references**

11.19 We agree with a number of witnesses that these should take the form of precise references to numbered provisions, as they normally now do, and that it is often helpful if, in big Acts, they include a short parenthetical description of the subject-matter of the provision referred to, as is done when making external references to other legislation.

**Mathematical formulae**

11.20 We welcome the increased use of fractions and other formulae where this enables the draftsman to avoid a verbal description—necessarily complicated—of a mathematical process, provided the formulae are simple ones that can be readily understood by people who are not expert mathematicians. The attractions of the technique ought not to be allowed to lead to the use of elaborate mathematical forms of expression, which might do more harm than good.

**Typography**

11.21 We have already discussed (in paragraph 11.18) one suggestion for the use of special type. It has also been suggested to us that a distinctive type should be used to indicate amendments where amended provisions are recapitulated in an amending Act, and (by the House of Lords Select Committee on Procedures for Scrutiny of Proposals for European Instruments, in their Second Report\(^1\)) that those portions of ordinary departmental Bills that propose to translate Community law into United Kingdom law, and the corresponding portions of the resulting Acts, should be printed in such a way that they are easily recognisable. Without having made a careful technical analysis, we agree with First Parliamentary Counsel that the cumulative effect of a number of different types used for different distinguishing purposes could be distracting and confusing. We agree with the Select Committee’s suggestions about European Community provisions, but we think that some other convention (possibly footnotes or marginal symbols) may be preferable for distinguishing passages of other

\(^1\) HL 194, 1972–73, paragraph 116.
kinds. We recommend that the Statute Law Committee should consider what visual aids and pointers could be helpful in the light of available type faces, page space and technology generally.

11.22 First Parliamentary Counsel has drawn our attention to the sizes of type in which Acts and their Schedules are printed and we have considered whether any change would contribute to the convenience of users. We consider that the type at present used in the Schedules is inconveniently small and recommend the use of a larger one.

Amendment Schedules

11.23 A Schedule of amendments is normally set out as a series of paragraphs. The advantages claimed for this form, as compared to a Schedule in the tabular form used for repeals, are that it takes up less space, and is more flexible and lends itself more readily to special cases such as amendments that insert whole new sections into existing Acts. We think that amendment Schedules in tabular form would, nevertheless, often be clearer from the user’s point of view and would make the mechanical job of noting-up the amendments easier. Whilst we do not suggest that there should be any inflexible rule, we recommend that the practice should be to set out amendment Schedules in tabular form unless there were strong reasons for not doing so in a particular case.

Shoulder notes

11.24 Where an Act is divided into Parts, each page of a Queen’s Printer’s copy of the Act, and of the Act as printed in Public General Acts and Measures, at present carries a shoulder note showing the number of the Part in which the text on that page is contained. Where Parts are subdivided into Chapters, the shoulder note also gives the Chapter number. In neither case, however, do the shoulder notes include section numbers; and where the Act is not divided into Parts there are no shoulder notes at all. We think it would be a small but valuable aid to users if Queen’s Printer’s copies of all Acts, and Public General Acts and Measures, were to carry on each page a shoulder note showing section and, where applicable, Part and Chapter numbers, on the lines of those to be found in Statutes in Force and The Taxes Acts; and we recommend accordingly.

Detail

11.25 We have concluded in paragraph 10.13 that encouragement should be given to the use of broad statements of principle wherever possible. We recognise, however, that much legislation will continue to include a good deal of detail. It is already the practice for much of this to be relegated to Schedules and to subordinate legislation, thus simplifying the substantive sections of the Act. There is a wide range of opinion among our witnesses about the ways in which such material should be distributed between sections, Schedules, and subordinate legislation. We agree with the view expressed by the Law Society to the Select Committee on Procedure,¹ and repeated to us, that:

“it is desirable to cut down the amount of detail at present contained in Bills . . . But where a considerable volume of detail is essential to the

legislation we think that so far as possible this should be contained in Schedules to the Bill rather than in separate statutory instruments, as this makes the statutory provisions more easily accessible as a whole . . . the body of the Bill itself should contain the general principles set out as clearly and simply as possible; detailed provisions of a permanent kind should be contained in Schedules to the Bill; and only details which may require comparatively frequent modification should be delegated to statutory instruments”.

MODEL PROVISIONS

11.26 We mentioned in Chapter II (paragraph 2.13) the suggestion by a Select Committee in 1875 that model clauses might be prescribed for general use. Our attention has also been drawn to the Second Report from the Joint Committee on Delegated Legislation (Session 1972–73),¹ which recommends (paragraph 26) that standard formulae should be enacted for the two most common types of statutory provision conferring power to act by way of affirmative instrument. Paragraph 23 of the Joint Committee’s Report states that “There is a particularly strong case for a standard provision to be attracted by a specific short formulae in parent Acts, in respect of” Statutory Instruments which expire after a certain period unless approved within that period. We think it right to draw attention in this chapter to the Joint Committee’s recommendation.

LEGISLATION BY REFERENCE

11.27 Our witnesses have been almost unanimous in condemning “legislation by reference”, or “referential legislation”, as a source of confusion and irritation both to legislators and to other users. They have not always, however, been very clear about what they mean by those terms.

11.28 Sir William Graham-Harrison, in an address delivered in 1935 to the Society of Public Teachers of Law,² quoted Sir Courtenay Ilbert as saying:

“Legislation is obviously referential in the widest sense. No statute is completely intelligible as an isolated enactment. Every statute is a chapter, or fragment of a chapter, of a body of law. It involves reference, express or implied, to the rules of common law, or to the provisions of other statutes on the same subject”.

Sir William went on to classify legislation by reference as follows:

“(1) Enactments which

(a) apply to a new set of circumstances law originally passed for dealing with another set of circumstances, or

(b) apply to some matter a code originally passed for the purpose of being applied from time to time to that kind of matter.

(2) Enactments which affect an existing enactment in any way, whether by modifying it or continuing it in force, or by getting rid of it altogether.

¹ HL 204, HC 468.
² Printed in the Journal of that Society for 1935 at pages 9 to 45.
(3) Enactments containing descriptive references, such as 'a company within the meaning of the Companies Acts' ".

11.29 Of these, we regard class 1(b) as entirely unobjectionable, at any rate where the code is applied without modification. Where there are modifications of the code as applied to the particular matter, the clarity of the result may depend on the technique by which they are effected.

11.30 We have already touched on class (3) in paragraph 11.16, but it covers more than mere definitions (eg "act of bankruptcy" has the same meaning as in the Bankruptcy Act 1914 ")). It covers every case where the situation to be dealt with by a new enactment is created or circumscribed by an earlier one (eg "A purchaser shall not be prejudicially affected by notice of any instrument or matter capable of registration under the provisions of the Land Charges Act 1925 "). We do not think that this class of legislation by reference can be dispensed with. We recommend, however, that it should not be used when the matter which is being referred to can simply and shortly be incorporated in the later Act.

11.31 Section 6(1) of the Agriculture (Miscellaneous Provisions) Act 1944 is an example of class 1(a). It reads as follows:

"The improvement of Live Stock (Licensing of Bulls) Act 1931 shall . . . apply to pigs as it applies to cattle, and for that purpose references therein [to various matters shall be construed as references to other matters]".

The broad distinction between class (1)(a) and class (2) is obvious, though there is an area where the two classes overlap. Legislation in class (1)(a) is often objectionable, particularly where the previous Act or Acts applied are not specified (as in section 8(1) of the Finance Act 1894). Most of the controversy about class (2) concerns the methods (textual and non-textual) by which amendments are made to existing enactments. To this topic we devote a separate chapter (Chapter XIII).

---

1 Law of Property Act 1925, section 110(2).
2 Law of Property Act 1925, section 199(1).
CHAPTER XII

ANGLO-SCOTTISH LEGISLATION

INTRODUCTION

12.1 Parliament frequently legislates in a single Act for the whole of Great Britain. In such a case, the initial draft of the Bill is prepared by Parliamentary Counsel (who is of course not a Scottish lawyer)\(^1\) to fit into the framework of English law, and then passed to a Scottish draftsman who adapts it to Scottish law. England and Scotland have separate legal systems with different backgrounds, and so this way of producing legislation may cause difficulties of presentation that interfere with its clarity and simplicity, particularly for the Scottish practitioner. The technique has been tersely described by the late Lord Cooper of Culross (Lord President of the Court of Session from 1947 to 1954) as:

"... the legislative practice adopted at Westminster through pressure of work whereby statutes are normally drafted by English lawyers for England, and then applied with the minimum of "adaptation" to Scotland, the tacit assumption being that whatever England wants must be good enough for Scotland, and that statutes should also conform as closely as possible to a uniform pattern, capable of being understood and applied from London by one set of officials".

Lord Cooper continued:

"In the purely administrative and governmental sphere this legislative technique is an intelligible consequence of the political Union between the two countries, and often does no harm. But in the last fifty years the statute book will reveal not a few instances of the forcible compression of Scottish legal principles into English moulds without much regard for the resulting strains and distortions. Every translator knows that there are many terms in one language which have no exact equivalent in another; and what is true of language is also true of law".\(^2\)

The Law Society of Scotland have drawn our attention to the evidence they submitted to the Kilbrandon Commission on the Constitution\(^3\) in which, referring to the conflation required to construe a passage along with its related Scottish application clause, they said:

"Whereas an English practitioner has a clear run-through of the legislation, the Scottish practitioner has to engage in a most time-consuming and frustrating process of elimination and amendment before he can make sense of the new legislation".

Evidence to like effect was given to the Kilbrandon Commission by the Faculty of Advocates, and from our own general knowledge we are aware that these

\(^1\)At present one of the Parliamentary Counsel happens to be a member of the Scottish Bar as well as of the English Bar; but this is not a required qualification.

\(^2\)The Scottish Legal Tradition (1949).

criticisms reflect complaints which have been voiced from time to time by most users of the Scottish statutes. The Chairman of the Scottish Law Commission, Lord Hunter, has recently\(^1\) stressed that the Scottish content of United Kingdom legislation is just as much the law of Scotland as any other statutory constituent of Scots law, and has pointed out that some large Whitehall departments are not sufficiently equipped to ensure that legislation affecting Scotland for which they are responsible takes account of this. We have therefore considered the system of drafting this type of legislation and we suggest a number of changes which, in our view, would lessen the incidence of resulting difficulty for the Scottish user. The objective should be a technique of preparation of those Bills which will secure for Scotland as well as for England and Wales observance of the fundamental principle that legislation ought to be so framed as to fit harmoniously into the legal background into which it is to be incorporated.

THE PRESENT SYSTEM OF DRAFTING OF ANGLO-SCOTTISH BILLS

12.2 The instructions for the drafting of a Bill which is to apply to Scotland as well as to England and Wales are prepared by the department promoting the Bill, or if the Bill deals with a subject, for example agriculture, for which there are separate English and Scottish departments, by these two departments in co-operation. Sometimes a Great Britain department has no Scottish legal adviser to assist in the preparation of instructions to draft. In such cases it is unlikely that the instructions will take account of any difficulties peculiar to the Scottish legal system, so that the framework of the draft Bill based on these instructions may be inappropriate in a Scottish context and may make a Scottish adaptation more awkward than it need be. It is much more difficult to alter the framework of a Bill at a later stage than to produce a satisfactory draft in the first place, especially when there is great pressure on time. Great Britain departments contemplating the preparation of an Anglo-Scottish Bill should therefore have available a Scottish legal adviser, specialising in the department’s field, to work closely with his English counterpart in the preparation of instructions for the draftsman and at all subsequent stages.

12.3 Whatever the source of the instructions, it is important that the Scottish draftsman, even though he will not be producing the first draft of the Bill, should see them as soon as they are ready, so that he can study the proposals and background material and identify at an early stage any points of particular relevance to Scotland. A copy of the instructions is therefore sent to the First Parliamentary Draftsman for Scotland as well as to First Parliamentary Counsel. On receipt of the instructions the Parliamentary Counsel proceeds, usually without previous discussion with the Scottish draftsman, to get out a first draft of the Bill as a measure suitable to apply in England and Wales. When he has completed this first draft, he sends copies to his Scottish counterpart, and there then begins a process of consultation and interchange of drafts between the two with the object of adapting the original draft to make it workable for Scotland without creating difficulties for England and Wales.

12.4 Apart from studying the instructions and drafting any provisions for purposes peculiar to Scotland, there is nothing the Scottish draftsman can do under this system until he receives a copy of the English draft. He often in

---

\(^1\)The Scotsman, 3 March 1975, p 5.
practice has to work within restraints imposed not only by shortage of time but also by the English framework in which the Bill has taken shape, and sometimes also by politically imposed limitations upon the number of clauses allowed. The First Parliamentary Draftsman for Scotland has described the situation as follows:

“The Scottish draftsman . . . must work as it were within an English framework. He has to wait for Parliamentary Counsel to issue a draft of the Bill before he can start to function, and there is naturally correspondingly less time to sort out the necessary Scottish provisions. There is a further difficulty that when the draft Bill comes to the Scottish draftsman he is in a sense tied by the English draftsman’s approach though it may not altogether suit the Scots”.

12.5 Where it is shown from the outset that a Bill is to extend to Scotland, the first draft will be prepared with that in mind. But this is not always the case. First Parliamentary Counsel, when discussing with us the consultation that takes place between the Scottish and English draftsmen on a Bill, said:

“Sometimes the question has been put by a draftsman—‘Will this apply to Scotland?’—and the answer is ‘We shall not know for another three weeks’. In such circumstances you cannot be scrupulous to take account of the Scottish interests”.

This seems to us to pin-point one of the underlying causes of the difficulties complained about.

12.6 Even if it is arranged that the English and Scottish provisions will be enacted in parallel in separate parts of the Bill, the Scottish draftsman may still run into difficulty. If he adopts a different approach in passages where this is not necessary for strictly technical reasons, he may encounter problems arising from the rule of interpretation that where Parliament, in one and the same Act and in pari materia, uses different language it must generally be presumed to intend a different result.1 In the result he may be obliged to follow a text which in his own view could well be improved upon regardless of any difference between the two legal systems. To some extent the same applies when the whole Bill is to be enacted separately for Scotland.

PROPOSED CHANGES

12.7 We believe that there should be a change in the system whereby Anglo-Scottish legislation, where it is required to be contained in a combined Bill, is first designed for use in England and Wales and only then adapted for Scotland. There is no constitutional reason for this arrangement, whatever may be the day-to-day pressures imposed by the requirements of the legislative programme. A bicycle intended to be ridden by two people ought to be designed as a tandem from the outset, and not as a solo to which a second seat will

1This rule is, however, by no means universally applicable and is perhaps irrelevant when comparing a Scottish provision with a corresponding English provision. Cf. dicta of Lord Reid in Watson v. Fram and Winget, 1960 SC(HL) 92 at 107, and of Denning and Parker L.JJ. in R. v. Minister of Agriculture and Fisheries (ex parte Graham), [1955] 2 QB 140 at 162 and 168, and of Lord Reid in Central Asbestos Co. v. Dodd [1973] AC 518 at p 532C.
later be attached. As a first step towards an improvement, we recommend that Great Britain departments sponsoring Anglo-Scottish Bills should issue instructions to both English and Scottish draftsmen in time to allow adequate consultation between them to take place, and that as soon as they receive their instructions they should both begin to plan the Bill from the start in consultation with each other. In this process neither draftsman should feel inhibited, either by fear of lengthening the Bill with apparent duplication or by giving undue weight to the presumption above mentioned, from discarding a provision suggested by the other if it cannot be accommodated harmoniously to the legal system with which he is primarily concerned. We recommend therefore that each should be free to produce corresponding but separate provisions. A recent example of an Act in which this method has been followed with successful results is the Domicile and Matrimonial Proceedings Act 1973. Where a minor variant as between England and Scotland occurs within a clause we recommend that the technique of using a Scottish substitution or other adaptation should be avoided; and instead the English and Scottish versions should be set out separately, as has been done for example in section 42(2) of the Fair Trading Act 1973.

DECISIONS BETWEEN “COMBINED” FORM AND “SEPARATE” FORM OF ANGLO-SCOTTISH LEGISLATION

12.8 The criticisms which we have mentioned in paragraph 12.1 do not apply to all Anglo-Scottish Acts, some of which involve little or no difference either in approach or technicalities between the two legal systems. Moreover, legislation intended for both England and Scotland is sometimes enacted in the form of two parallel but separate Acts, and the choice of this method eliminates most of the drafting difficulty inherent in combined legislation. This is the form which in our view should be preferred whenever a combined Bill cannot be drafted for both countries without complicated adaptation, and we recommend that it should be regarded as the standard choice in such circumstances. No doubt the choice is often in fact determined by factors arising from the management in Parliament of the Government’s legislative programme; and indeed we were informed by First Parliamentary Counsel that often enough advice offered by him against a combined Bill is rejected for political reasons. In our view the choice should never be made in favour of a single combined Bill without the advice of the English and Scottish draftsmen having been sought; nor, if such advice is against the use of the combined method, without proper weight having been given to the probable result in terms of complexity and obscurity. We were told that at present advice on this question is not sought systematically, and we recommend that it should be.

12.9 The enactment of separate Acts applying equally to England and Wales and to Scotland need not take up as much Parliamentary time as would be required under existing procedures. In paragraph 18.4 we outline a procedure for the enactment of separate parallel Acts which would in our view save Parliamentary time and make it easier for the Government not to legislate in the form of combined Anglo-Scottish Acts with the difficulties that these sometimes cause. We recommend that the adoption of that procedure should be considered.
12.10 There may on occasion be such urgency to enact a particular piece of legislation, and such shortage of Parliamentary time, that it is necessary, in spite of the considerations which we have urged in the foregoing paragraphs, to instruct the draftsmen to prepare an Anglo-Scottish Bill which turns out to require an unacceptable degree of alteration to make it suitable for Scotland. For such Bills, and we hope that they would be few, we recommend that a procedure should be adopted such as we describe in paragraph 18.5 which would permit the speedy re-enactment of a Scottish version.
AMENDING EXISTING LEGISLATION

13.1 Few Bills are enacted which do not in some way refer to earlier legislation, and a great many of them amend existing Acts. The way in which such amendments are made has a bearing upon the ease with which the combined effect of the original and the amending legislation can be grasped. In this chapter we examine the methods by which Acts are or could be amended and their possible effect on the resulting state of the law.

13.2 In the United Kingdom, a common method of amending an Act has been to enact in the amending Bill the substance of the change proposed to be made without altering the text of the Act being amended. The amending law does not become part of the previous statute, nor does it lose its separate identity in the statute book. This method of legislative amendment we describe as “non-textual amendment”. It is less usual in English speaking countries outside the United Kingdom. Commonwealth countries and the United States prefer to amend their legislation by expressing amendments in the same way as corrigenda or addenda in books, that is in the form of directions to strike out particular words or sentences from an enactment, and to add others. This method we describe as “textual amendment”. The expression “legislation by reference” is often used as if it meant exactly the same as non-textual amendment, but strictly speaking it includes both non-textual and textual amendment. Whichever method of amendment is chosen by the draftsman, some inconvenience for the reader of the statute is inevitable.

13.3 A fairly simple example of an identical amendment drafted both non-textually and textually may be found in the Town and Country Planning Act 1968. Section 149 of the principal Act, the Town and Country Planning Act 1962, is amended non-textually by section 37(3) of the 1968 Act which reads as follows:

“For a person to be treated under section 149(1) or (3) of the principal Act (definitions for purposes of blight notice provisions) as owner-occupier or resident owner-occupier of a hereditament, his occupation thereof at a relevant time or during a relevant period, if not occupation of the whole of the hereditament, must be, or, as the case may be, have been occupation of a substantial part of it”.

A corresponding textual amendment of section 149 of the principal Act is effected by section 38 of the 1968 Act (with Schedule 4):

“Section 149

In subsections (1)(a), (1)(b), (3)(a) and (3)(b), for the words ‘the whole or part’ (wherever occurring) there shall be substituted the words ‘the whole or a substantial part’”.

76
13.4 Whether an Act is amended non-textually or textually, the reader must acquaint himself with the provisions both of the original Act and the amending Act until he is provided with a consolidation of the statute law on the subject in question. We use the word “conflation” to describe this process of reading related enactments together. The conflation of several enactments by the user of the statutes may be inconvenient, indeed difficult, for him. The draftsman and Parliament must therefore have regard to the way that the statute law on any subject will appear once the amending legislation they are preparing and passing has been added to the statute book. It may be that a provision operating upon an earlier Act is reasonably clear as it stands, but the mere fact that the existing Act has to be read in conjunction with a later measure is at the least bothersome, and may at times cause great difficulty. There must however inevitably be a certain amount of cross-reference between Acts. When the draftsman gets down to the actual wording of new legislation he is faced with the problem of how to handle this cross-reference, bearing in mind the more immediate but transient needs of the legislator and others concerned with the Bill during its passage through Parliament, and the long-term permanent needs of the ultimate user.

13.5 So far as the legislator is concerned, the draftsman will want to give him, in brief compass, an accurate account of how the proposed legislation will affect existing Acts. He can do this by providing a succinct summary, or by writing out in precise terms the changes in existing legislation that are proposed. Clearly the choice will depend to some degree on the subject matter. The ultimate user, on the other hand, may be less concerned to be given a descriptive summary of the effect of the proposed legislation on existing enactments. His purpose may frequently be better served by an Act which spells out exactly the changes to be made in the text of the existing legislation so that he can continue to use the existing Acts, thus amended, as authoritative expressions of the statute law on their particular subjects. In the following paragraphs we consider in more detail how far the differing needs of those concerned with the Bill, and the ultimate user of the Act are respectively met by the two main methods of amendment.

NON-TEXTUAL AMENDMENT

Non-textual amendment and the needs of the legislator

13.6 The Westminster tradition has been to draft measures that are as far as possible self-explanatory, so that Members of Parliament coming to a Bill for the first time can fairly quickly grasp the purpose of any new law they are being asked to enact and any changes in the existing law that require their consent. The argument is that Members of Parliament and others concerned with Bills are busy people, and it would be a misuse of their time to send them searching to find out how a Bill before them affects existing legislation if this can be indicated in the Bill itself. A distinguished Parliamentary draftsman, Sir Courtenay Ilbert, expressed this point as follows:

"The ordinary method of amending an Act is to state in the amending Bill the effects of the amendment proposed to be made. This is the commonest
mode, and for Parliamentary purposes the most convenient, because under it every Member of Parliament who knows anything of the subject, learns at once the nature of the amendment proposed”.

13.7 From the point of view of the legislator, an amending clause in a Bill drafted in a narrative, non-textual style can often be better understood on its own, and it is not difficult for Parliament to engage in a logical and orderly debate about the issues raised by the proposal, whether this debate takes the form of a general discussion of the broad policy, as in a second reading debate, or a detailed scrutiny of particular points in committee. Another advantage is the ease with which alterations to the clause can be proposed while it is passing through Parliament. An amendment to a Bill must take the form of a proposal either to insert certain words, or to leave out certain words, or to leave out certain words and substitute others. Proposed alterations to Bills in effect take the form of textual amendments of those Bills, and it is a comparatively straightforward matter to draft and move such amendments when the text of the Bill is reasonably self-contained.

13.8 Mr Ian Percival QC MP was of the opinion that the present bias is too much in favour of non-textual amendment, though he was not prepared to go so far as to say that it should never be used. He was speaking not only as a legislator but also as a practising lawyer and a frequent user of the statutes. Lord Molson, who has wide experience of legislating, also expressed the opinion that when amending existing legislation a statute should state its meaning clearly and not produce its intended effect by reference. It is our understanding that Lord Molson would favour a greater use of the method of textual amendment of existing legislation.

Non-textual amendment and the needs of the user

13.9 Many users of the statutes have made it clear to us that the non-textual amendment of legislation gives rise to practical difficulties for them. Criticism has come not only from the judiciary and some members of the legal profession, but from non-legal bodies as well. The Institute of Taxation, submitting evidence to us on the preparation of revenue legislation, pointed out that “legislation by reference places a great and obvious burden on the practitioner”, and went on to suggest that the draftsman of a Bill should as far as possible try to reproduce the relevant passages from earlier statutes that have to be referred to in the Bill itself.

13.10 We have already mentioned in paragraphs 6.15 and 6.16 the complaints we have received about the excessive use of non-textual amendment and the inconvenience this causes to users of the statutes. On the other hand, we have received evidence from the General Council of the Bar in England and Wales to the effect that:

“There is a substantial section of the Bar which would feel itself in sympathy with the criticisms made of the Statute Law Society’s proposal that all the alterations to the law contained in an existing statute, particularly if it is a consolidation statute, should be effected by textual amendment of the existing statute and not by direct enactment of the intended

---

1Ilbert, Legislative Methods and Forms (Oxford 1901), p 259.
change. Certainly, if it is not possible to provide the textual memorandum proposed by the Society, direct enactment of the intended change is more readily assimilated by a lawyer with some knowledge of the existing law”.

The Law Society, representing the solicitors’ branch of the legal profession in England and Wales, in discussing the respective merits of the non-textual and textual systems of amending previous legislation said that:

“Our impression is that the textual system is now generally used where possible, but we think that there are clearly cases where it is not suitable. We would certainly not regard it as a panacea, as we think many of the difficulties experienced by the ‘consumers’ of legislation have nothing whatever to do with the question whether amendments are referential or textual”.

The two corresponding Scottish bodies, the Faculty of Advocates and the Law Society of Scotland, expressed objections to the non-textual amendment of previous legislation and supported the Statute Law Society.

TEXTUAL AMENDMENT

13.11 Legislation which amends earlier enactments by the textual method does so by enacting the words that are to be inserted into or substituted for the text of the earlier Act. The example of a textual amendment we gave in paragraph 13.3 demonstrates that neither the legislator nor the eventual user can form a very clear idea of the purpose of the provision at first sight. Before the reader can grasp this, he must go back to the original Act and dovetail into it the new provisions now to become part of the law. This labour can of course be done for him by an editor. The legislator can be provided with a “textual memorandum” accompanying the Bill, or a Schedule, showing how the original Act would read as amended, with the textual amendments indicated in a distinguishing type; and the user can be given a reprinted copy of the previous Act as amended.

Textual amendment and the needs of the legislator

13.12 Assuming that it is agreed that the textual method should be preferred for the amendment of existing legislation, let us consider how far the practice would meet the needs of the legislator. An amending Bill, or part of such a Bill, drafted entirely as a collection of textual amendments to a parent Act would, on its own, be largely unintelligible. It might therefore be necessary to present the Bill to Parliament with an accompanying memorandum (a “textual memorandum”) which would indicate the passages in the existing Act to be repealed and the additions and substitutions to be inserted, and thus show how the amended legislation would look if the proposals being considered by Parliament were to be enacted. (An alternative to such a memorandum would be the incorporation into the Bill of a “Keeling Schedule”, a device which we discuss in paragraphs 13.21 and 13.22). A complicated and lengthy Bill drafted entirely on the textual amendment system would need to be accompanied by a textual memorandum. The legislator would therefore be presented with two documents, the Bill itself and a textual memorandum probably even longer than the Bill demonstrating the precise effect of the Bill on the existing legislation.
13.13 First Parliamentary Counsel has said that the work of producing such a textual memorandum could represent a further burden on the team of officials handling a Government Bill, and in particular on the Parliamentary draftsman. There are already heavy demands on the draftsman and we do not believe that he should spend too much of his time preparing collateral explanatory material. The drafting of the Bill itself is of much greater importance and a draftsman will rarely have enough time to spend on that. With a large and complicated amending Bill the draftsman would need to cope with the additional burden of preparing and amending a textual memorandum, and this should be an important consideration in deciding how far the use of textual amendment is practicable. Whatever assistance might be available to the draftsman, the final responsibility for the contents of the textual memorandum would have to remain with him. Private Members would also need to have assistance in the preparation of textual memoranda to their Bills.

13.14 Another matter of concern to Parliament is the ease with which amendments to Bills can be drafted and moved. It may be more difficult to draft an amendment to a proposal which is itself drawn in the form of a textual amendment than it is to draft an amendment to a provision whose purpose is reasonably self-evident. Moreover, a Member of Parliament seeking to amend a Bill will want to see, and to let others see, what the precise effect of his amendments will be on the text both of the Bill and of the legislation to be amended. Where a Bill drafted in the textual amendment style was accompanied by a textual memorandum this could be done by re-writing the accompanying textual memorandum, or part of it. But that would be a laborious matter if many amendments were tabled, especially since only a small proportion of these amendments might be carried.

Textual amendment and the needs of the user

13.15 Does the textual amendment system help the user of the statutes by providing him with clearly stated, easily understood legislation? The amending Act, drafted textually, is by itself just as incomprehensible to the user as the Bill originally was to the legislator. Certainly a diligent user with time available can make “scissors and paste” amendments of the parent Act using the textual directions in the amending measure. But until he has done so (and the task would in some cases be laborious), or until the original Act has been reprinted as amended (either in Statutes in Force or otherwise), the user is faced with precisely the same difficulty and inconvenience of constantly having to refer from one Act to another about which there is presently so much complaint. The usefulness of the textual amendment system relies heavily on the systematic and prompt reproduction of edited versions of amended statutes. An important test therefore of the value to the user of textual amendment is whether it will be possible to give him, fairly soon after the new provisions have become law, an edition of the amended code which will reflect the amendment in a handy form.

13.16 Fortunately, an answer is provided in the new official revised edition of the statutes called Statutes in Force which is compiled on a loose-booklet system that not only allows newly enacted Acts to be inserted and repealed Acts removed, but also enables an Act that has been amended to be replaced by a new booklet incorporating the amendments. The Edition is being published
by instalments, and editorial resources are at present concentrated upon the
task of getting the whole work out, but even now it is possible to bring out new
revised booklets where necessary. When the whole of the work has been
published, it is hoped in about five years' time, there will be ample resources to
produce revised booklets in all cases where it is thought desirable. To supplement
the issue of revised booklets, there is an annual cumulative supplement for those
Acts that have been published in the Edition, giving details of all amendments
that have been made to those Acts since they were last published in the Edition.
The amending Acts themselves are reprinted in skeleton form (the textual
amendments having been carried into the parent Acts or into the annual
supplement), but any savings, transitional provisions and other matter that is
still in force are printed in full. With the publication of each new instalment
the number of Acts reprinted increases, and it is thought that within two, or
at the most three years from now, at least one-half of the total number of Acts
will have been published in Statutes in Force.

NON-TEXTUAL OR TEXTUAL AMENDMENT?

13.17 In so far as there is a conflict between the respective needs of the legislator
and of the eventual user of the statutes, we have concluded that the needs
of the user must be given priority when proposals for amending previous
legislation are being framed. Many statutes are already difficult enough to
understand in themselves without making their sense even more abstruse
by amending them in a manner which further perplexes the user. There is no
doubt that the non-textual amendment of existing legislation often adds to the
burdens of the user, particularly when the consolidation of heavily amended
Acts is held up for one reason or another. However, it is also clear that in
present circumstances the adoption of a rule that amendments to existing
legislation should always be made textually would create difficulties. Apart
from the fact that there are many cases where the amendment of existing law can
be achieved more compendiously by non-textual amendment, the present
state of the statute book is far from conducive to the exclusive practice of
textual amendment. An inflexible rule requiring this system always to be
adopted would not be in the interests of the user, nor would it be workable for
the reasons we give in the following paragraph.

13.18 One suggestion put to us was that there should be a new Standing Order
in both Houses of Parliament in the following terms:

   "A Bill amending any enactment shall do so by directly altering its
text, unless this is impracticable".

The point of such a Standing Order would be that a Bill containing unnecessary
non-textual amendments would be out of order, as would be any attempt
to move an amendment to a Bill in a non-textual form, unless textual amendment
were impracticable. A formidable difficulty in this proposal is that it offers
no workable criterion of what is to be regarded as "impracticable". Apart
from that, we do not think that it would in practice be helpful. A rigid rule
might not be suitable for a number of reasons. It might be impossible to enforce
because a Bill had to be prepared at great speed, or had to be kept short, or
because urgency or other considerations made it impossible to provide the
necessary aids outside the text. A rigid practice might prevent the Government
from making a concession, perhaps at a late stage in a Bill, because an amend­
ment to effect that concession would take that much longer to draft or to handle
in the House. Moreover, there are cases where textual amendment would be
useless or worse than useless; for example, transitional provisions and temporary
laws might not be readily susceptible of textual amendment. There will also be
cases where the same result could be achieved more compendiously by non-
textual amendment. For example, an amendment operating in the same way
in several different contexts may be much longer if it has to spell out the changes
to be made in each context. We do not believe that a Standing Order which
could have these results would commend itself, least of all to a Govern­
ment committed to a heavy legislative programme. The risk that a Bill might
be delayed or even lost would be unacceptable. Such an Order might also be
unacceptable to the Members of each House, depending on how it was applied
to amendments to Bills and in particular unofficial amendments. At the least,
much time and effort would be required to make the Order work, thus imposing
an extra burden on Members, House officials and civil servants. For these
reasons, we are unable to recommend that Parliament should consider making
a Standing Order on the lines proposed to us.

13.19 Another problem, which has been mentioned in paragraph 13.14,
is the difficulty of framing and moving amendments to Bills employing textual
amendment; but Parliament as a whole is now more familiar with handling
amending legislation than it was, for example, when the 1875 Select Committee
reported, and we believe that Members of both Houses would be prepared
to grapple with the possible difficulty of proposing amendments to Bills drafted
on the textual amendment system, particularly when it is made clear to them
that such Bills are drafted in this way for the convenience of the ultimate
user.

13.20 Having considered the problems on both sides of this question, we have
concluded that the practice of using the textual method should be applied as
generously as possible, and we so recommend. We are encouraged and pleased
to hear that in fact the Parliamentary draftsmen, having regard to the needs
of the user of the statutes, already make it a practice to amend legislation
textually wherever convenience permits. (The adoption of this practice was,
we are told, partly prompted by the decision to publish Statutes in Force
and by the Law Commissions’ suggestion that the draftsmen should take
account of the requirements of the new edition). We further recommend that
the Editorial Board of Statutes in Force should be encouraged to reprint
without delay loose copies of Acts as amended where this would be for the
convenience of the users.

THE KEELING SCHEDULE

13.21 In paragraph 13.12 we mentioned, as a possible alternative to a textual
memorandum, the device known as the Keeling Schedule. This device is of
comparatively recent origin. It was adopted as a trial in 1938 to meet a complaint
by several Members of the House of Commons headed by Mr E H Keeling
(later Sir Edward Keeling) and Mr R P Croom-Johnson (later Mr Justice
Croom-Johnson, father of the present judge) that there was far too much
legislation by reference which Members could not understand without the
texts of the principal Acts referred to as they would appear if amended. Among
their proposals for improving the situation was a suggestion that in every
Bill which amended previous enactments, those enactments should be re-enacted,
with the amendments made by the Bill, in a Schedule which would be preserved
against amendment or debate by new Standing Orders. In effect the Schedule
would serve the same purpose as a textual memorandum to an amending
Bill drafted exclusively on the textual amendment principle. By direction
of the Prime Minister these and other proposals were discussed at a meeting
between Mr Keeling and Mr Croom-Johnson and Sir Granville Ram, then
First Parliamentary Counsel. The outcome was a Question and Answer in the
House of Commons on 26 July 1938. In practice it was not found necessary
to amend Standing Orders since the form of the clause by which the Keeling
Schedule was introduced ensured that no amendments could be moved to that
Schedule except those which were strictly consequential upon amendments
to the substantive provisions of the Bill.

13.22 The Keeling Schedule has never been considered to be capable of
universal or even wide application. It is only used where the changes made by
the Bill in the previous enactments are exclusively textual amendments or
repeals; and even then it is not used if the previous enactments have been
amended non-textually by any intervening Act. Again, it would be quite
impracticable, and generally quite useless, to reproduce in a Keeling Schedule
all the previous enactments in which merely consequential amendments and
repeals are made. This would add enormously to the length of Bills and Acts,
for very little purpose, since consequential amendments and repeals are generally
taken pretty well on trust. Accordingly, the occasions when it has been both
useful and practicable to include a Keeling Schedule have been relatively few,
but there has been a fairly steady flow over the past 35 years averaging about
1½ per Session. The Keeling technique not only shows, in the Schedule, how
the law will look once it is amended, but also makes clear, in the text of the Bill
itself, how the law is being amended. Material proposed to be omitted from
an existing Act is indicated in the Schedule by a series of dots. Lord Gardiner
in his evidence to us complained of the inconvenience of not being able to see
at a glance from the Schedule what was to be left out, and suggested that material
to be omitted should be printed in distinguishing type. We agree with this
suggestion, and we recommend that it should be followed in future.

CONSOLIDATION AND ITS EFFECT ON AMENDMENT

13.23 The value of textual amendment to the user of the statutes in helping
him to a clearer understanding of the law depends, as we have already said, on
the availability of good editions which will accurately reflect the changes being
brought about. This in turn depends on the state of the statute law being amended.
There is less scope for textual amendment if the draftsman is operating on a
code which is in need of consolidation; and thus in the case of certain amend­
ments it would not at present be possible to use the textual method because the
amendments would need to be written into texts which are unconsolidated. The
adoption of textual amendment as the general practice whenever convenient will
not therefore have its full effect until the programme of consolidation has been
speeded up. We are told that the prospects for this are not good. Over the past
25 years the average number of pages of consolidation Acts passed in one year
has been 400, and this has probably not kept pace with the rate at which legisla-
tion is being amended. First Parliamentary Counsel estimates that in the whole
Statute Book there may be not less than 8,000 pages of legislation needing to be
consolidated. We deal in Chapter XIV with the problems confronting those
responsible for the consolidation programme. We would stress here that there
is a close link between the pace of consolidation and the rate at which textual
amendment can have a beneficial effect on the clarity and simplicity of our
legislation; and we consider that speedier consolidation is an objective to which
the highest importance ought to be attached. In paragraph 14.36 we recommend
that the pace of consolidation should be accelerated.

CONCLUSION

13.24 During the past few years there has been a change of emphasis in the
method of drafting Bills to amend existing legislation. Before that change, the
commonest method of amending an Act was to state in the amending Bill the
substance of the amendment proposed to be made without altering the text
of the Act to be amended. Since that change, it has been the practice to amend
legislation textually whenever convenience permits. We welcome the new
practice and recommend that it should be applied as generously as possible.
Where a Keeling Schedule or a textual memorandum can assist members of
Parliament or others in understanding amendments made by the textual method,
such a Schedule or memorandum should be provided whenever it is reasonably
practicable to do so.
CHAPTER XIV

CONSOLIDATION

THE NEED FOR CONSOLIDATION

14.1 We have received from many sources evidence to the effect that much of the difficulty encountered by users of the statute law arises from the fact that the provisions relating to a given matter are to be found not in one self-contained Act but in a series of Acts piled one upon another at different dates, so that the investigation of a particular problem requires simultaneous reference to a number of separate Acts, probably scattered among a number of separate annual volumes. Often some of these Acts deal primarily with matters other than the one in question.

14.2 These difficulties have not been by any means ignored and for many years efforts have been made to tackle the problem by "consolidation"—that is, by rewriting the scattered provisions on a given matter in the form of a single Act. Unfortunately however legislation does not stand still and it inevitably happens that sooner or later after a consolidated Act on a particular matter has been produced further enactments on that matter make their appearance, thus eventually producing a state of affairs which again calls for consolidation. So the need for consolidation is perpetual.

14.3 Unfortunately, too, the resources of manpower needed to produce consolidation Acts are limited and the output has never overtaken the backlog of work requiring to be done, and indeed does not keep pace with the amount of work called for by the continuing flow of new legislation. First Parliamentary Counsel has given us "a very rough estimate" that there are about eight thousand pages of Acts which are in need of consolidation. If the output of consolidation does not keep pace with the additional need for consolidation which is being created by the continuing flow of new legislation, then the backlog must inevitably increase. We regard it as self-evident that the backlog ought to be eliminated as soon as possible. First Parliamentary Counsel has said that, on a very rough estimate, to work off the backlog would call for a trebling of the current rate of consolidation for not less than ten years.

14.4 One of the arguments in favour of the textual method of amendment (discussed in Chapter XIII) is that, if it is accompanied by the swift production of edited prints of the amended Acts, it will to some extent diminish the need for consolidation. However, we do not believe that it will ever eliminate the need—if only because (as we have concluded in Chapter XIII) there can be no rigid rule that amendment must always be effected textually and so there is bound to continue to be some flow of legislation having non-textual effects on earlier legislation on the same matter.

14.5 Opportunities for using the textual method of amendment are greater, in relation to any given matter, if the existing provisions relating to the matter
are contained in a consolidated Act than if they are scattered through a number of separate Acts. We have concluded that the use of the textual method of amendment is desirable; it follows that consolidation is also desirable to provide a base for the use of that method of amendment, as well as for the direct benefits which it brings on its own account.

A CRASH PROGRAMME?

14.6 In these circumstances everyone is agreed that the work of consolidation is extremely important and should be pressed on with. Opinions, however, differ as to the scale on which efforts for this purpose should be based. On the one hand some, notably the Statute Law Society, urge that the entire corpus of the statute law should be rewritten in the form of a small number of "principal" Acts or codes, each dealing with a single branch of the law, or "subject". The Statute Law Society's evidence to us included a statement that:

"The user's basic requirements are that all legislation on a particular subject be contained in its latest form in one place comprehensively, and that there should be one subject for each Act and one Act for each subject. This is, however, not the case."

The Society went on to urge that there should be:

"a large programme of consolidation whereby all the statute law relating to each subject, wherever it is to be found, shall be collected together, integrated and harmonised in a single Act which will deal exclusively with that subject . . . Our aim also involved the preservation of the integrity of this consolidation so that, once it had been achieved, new legislation relating to a particular subject would not be found in any statute relating to another subject."

They further urge that this programme of consolidation should be what they call a "crash programme", planned to cover the whole work within a limited number of years. On the other hand others regard this as impracticable and feel that if an unrealistic target were set the prospect of achieving anything useful would be jeopardised.

14.7 We do not think that the consolidation of the statute book on a "one Act, one subject" principle is feasible. The proposal is, in our view, based on the erroneous assumption that every statute can be completely intelligible as an isolated enactment without reference to the provisions of any other statute. It is not reasonable to expect the law on a given subject to be set forth completely in a self-contained Act of Parliament; and even if it could be, a major problem would be to settle a generally acceptable division of the corpus of the statute law into the broad "subjects" which the suggestion envisages. This last point is not so simple as it may sound. The problem is to determine the breadth of the "subjects". At first sight it might seem that, for example, "Customs and Excise" is a branch of the law which might form a "subject". But the person who is interested in duties on hydro-carbon oil will not want to pay for, and wade through, an enormous Act containing the whole of the customs and excise legislation; he will be much happier with a slim volume consolidating the enactments relating to the duties on hydro-carbon oil and like substances—which under the present system he can find in the Hydro-carbon Oil (Customs and
Excise) Act 1971. What such a person wants is the needle without the haystack. Examples can be multiplied. The breeder of dachshunds will want an Act about dogs but will not want one which covers also cock-fighting and the export of ponies, under the omnibus “subject” of “Animals”. There are many Acts on the statute book dealing with films. At first sight “films” might appear to be an attractive subject for a principal Act. But further study would show that the Acts fall into two distinct classes: (a) those dealing with the financing of the production of films, and (b) those dealing with their exhibition. Some users of the statute book would be interested in both these subjects, but many would be interested in one of them only. In those circumstances a principal Act dealing with films generally is not the ideal solution. What is required is two separate Acts consolidating (a) and (b) respectively.

14.8 Moreover it would be a prerequisite of such a rearrangement of the statute book that there should be a system of perpetual consolidation envisaged by the Statute Law Society in their evidence to us. It is of the essence of the suggested scheme that each “principal” Act, once it has reached the statute book, should be maintained perpetually as a self-contained unit—ie that any future legislation touching on the “subject” concerned should be effected by a textual amendment of the “principal” Act. This system would also require the insertion into the parent Act of self-contained passages which were not amending it but which might suitably be consigned to the Act if it were being consolidated. Drafting of this kind is sometimes called “slotting in”. It is rarely found in legislation at Westminster; but in some Commonwealth countries the method is employed to rewrite large portions of an Act. For example, in the Canadian Income Tax Act of 1971 no less than 600 pages, or 237 sections, are drafted as a single insertion to be made in the main Income Tax Act. But we believe that, however well the original framework of a “principal” Act is designed, there will inevitably be occasions when new provisions on the subject are required but cannot easily be cast in the form of textual amendment or addition; and that even if all such provisions are cast in that form there will sooner or later arrive a stage at which they will distort the original to an unacceptable extent. We therefore do not believe that a system of perpetual consolidation as proposed by the Statute Law Society would be practicable. But even if it were possible to attempt such a perpetual consolidation, we do not accept that Acts framed in this way would necessarily be clearer or simpler for the user.

14.9 Finally, it is clear that a crash programme of the kind suggested would require the recruitment and training of a large number of draftsmen; and while we have recommended that the number of draftsmen should be increased (see paragraphs 8.22 above and 14.18 below) we do not think that an increase on the scale required for a programme of this nature could in practice be achieved in the foreseeable future.

14.10 Agreeing as we do, therefore, with those who think that while a faster rate of consolidation is highly desirable the suggestion made by the Statute Law Society, interesting though it is, is neither practicable nor desirable, we turn now to consider whether the present system is adequate as it stands or is susceptible of realistic improvement. First we outline briefly what the present system is.
14.11 As we have mentioned in Chapter II the direction of consolidation work has since 1965 been in the hands of the two Law Commissions. Under the Law Commissions Act 1965 the Commissions have a general duty to review the law with which they are respectively concerned with a view (among other things) to the reduction of the number of separate enactments; and in particular they are required to prepare from time to time at the request of the appropriate Minister (or Ministers) comprehensive programmes of consolidation and to undertake the preparation of draft Bills pursuant to programmes approved by him or them. In practice some of the projects contained in approved programmes have for a variety of reasons had to be dropped; but on the other hand a considerable number of Bills outside these programmes have been undertaken and completed. In preparing programmes and in initiating projects outside the programmes the Commissions consult with the Government departments concerned, whose co-operation in the preparation of the Bills is of course an essential element and is generously given so far as possible.

14.12 The necessary drafting work is undertaken partly by the Parliamentary draftsmen attached to the Commissions; and partly by those in the office of the Parliamentary Counsel and in the Lord Advocate's Department, who in the course of their other work have opportunities of seeing and suggesting possible subjects for consolidation, and sometimes for effecting in ordinary Bills changes which will eventually facilitate future consolidation. Of the draftsmen currently attached to the English Law Commission two devote their time wholly or mainly to consolidation projects, but this arrangement is liable to be upset by the demands of law reform at a time like the present when the Law Commission's complement of draftsmen is below full strength. In the case of the Scottish Commission all this work has to be fitted in, as and when possible, with work on draft clauses for law reform Bills.

14.13 When a consolidation Bill has been prepared it has to be submitted to Parliament for enactment. For this purpose there are special procedures, designed to ensure either that no change in the law is being made or that only changes of a minor nature, required to produce a satisfactory and coherent result, are introduced. The Joint Committee on Consolidation Bills, the procedure provided by the Consolidation of Enactments (Procedure) Act 1949, and the procedure for consolidation with amendments to give effect to recommendations of the Law Commissions have been described in Chapters II and IV (paragraphs 2.15, 4.13 to 4.17). Under this system and the broadly similar procedure which preceded it a considerable amount of consolidation has been achieved since 1965. We give in Appendix C a list of the consolidation Acts from 1966 to 1974, amounting to 61.

14.14 This list represents a considerable achievement and in our view it demonstrates that within the limitations imposed by the available resources great efforts have been made to forward the work of consolidation as fast as possible. For this we pay tribute to all concerned. Nevertheless the work in our opinion is so important for the attainment of clarity and simplicity in the statute law as it develops that we have endeavoured to identify and evaluate the obstacles which prevent the system from reaching an even higher rate of output.
THE MAIN OBSTACLES

Shortage of draftsmen

14.15 It is wide of the mark to suppose that consolidation can be carried out by any competent lawyer with the aid of scissors and paste. It is highly skilled work. One of the objects of consolidation is to produce clear and unambiguous drafting, sometimes from very unpromising material. What Lord Thring said to a Select Committee in 1875 is still true today:

"consolidation . . . is really a matter very often of extreme difficulty, more than the Committee would imagine . . . There is very great difficulty in getting it done; it is a task requiring exceedingly skilled and rare labour, and the labour of months . . . skilled labour of a character which I cannot always get; it is not altogether a question of money".¹

14.16 The Law Commission's requirement for draftsmen is basically met by the Parliamentary Counsel Office, who normally supply at least four draftsmen on secondment to do a two-year tour of duty at the Law Commission. We have already adverted in paragraphs 3.2 and 8.19 to the fact that the number of draftsmen supplied to the Law Commission in this way is at the moment below what is normal and below what is desirable. The Law Commission have, with the help and support of the First Parliamentary Counsel, sought to supplement the supply of draftsmen in several ways. To reinforce the regular draftsmen they have recruited, to the limits of what is possible, retired members of the Parliamentary Counsel Office. In addition, they have a departmental lawyer of great experience who is engaged (with the assistance of a former Commonwealth public servant with special skill in these matters) on the highly important work of statute law repeal. The "farming out" of consolidation work has already achieved one consolidation, and further experiments with "farming out" are now being made.

14.17 As mentioned in paragraph 14.12 above, the Scottish Law Commission have no draftsmen specifically for consolidation work. This work, so far as Scotland-only projects are concerned, is undertaken as and when possible by the one whole-time and one part-time draftsmen who are at the Commission's disposal primarily for drafting clauses for proposed law reform Bills. The Scottish aspect of Anglo-Scottish consolidation projects is attended to, along with their other work, by the Scottish Parliamentary Draftsmen in co-operation with the English counsel attached to the English Commission. These resources, limited as they are by the general difficulty of recruiting draftsmen, are not, in our opinion, sufficient for a proper attack on the consolidation work needing to be done.

14.18 Although it does indeed require skill, there seems to be agreement among those best qualified to know that the drafting of consolidations is not quite so exacting as the drafting of major current Bills, for which additional skills and experience are needed. We recommend, therefore, that the Law Commissions and the Parliamentary draftsmen should continue to explore

¹Report from the Select Committee on Acts of Parliament, Minutes of Evidence, Q 1648, Q 1759, Q 1762.
the possibility of recruiting and training for consolidation work lawyers with the necessary aptitudes who have not had the full training of Parliamentary draftsmen.

Pressure on departmental officials
14.19 Without the assistance of departmental lawyers and administrators consolidation cannot be carried out. For instance, in the consolidation of social security legislation recently undertaken, many administrators have to be consulted as part of the process of ensuring that the consolidation accurately reflects the existing law. This requires at the departmental end the direction of a senior official. It is not uncommon for a consolidation project to be held up because the administrators concerned are engaged on other matters.

14.20 We understand, however, that both Commissions press with vigour and success the interest of the public in the rapid advance of consolidation work and the strong claim which that work has, even when weighed with other claims, on departmental resources.

Pressure on the joint committee on consolidation Bills
14.21 The functions of the Joint Select Committee on Consolidation Bills have already been described (paragraphs 4.13 to 4.19). These functions require from the members of the Committee, and especially from its Chairman (at present Lord Simon of Glaisdale), a tremendous amount of work, for which the public is deeply indebted to them. But there is of course a limit to the number of Bills which the Committee, with the best will in the world, can consider in a Session and we believe that (after the shortage of draftsmen) this constitutes the second most significant impediment to speedier progress. Anything which might ease the Committee's workload should therefore be considered.

14.22 An important contribution towards easing the load on the Joint Committee is the close liaison between the Law Commissions and the Chairman of the Committee, to ensure that the work is spaced as well as possible to suit the Committee's convenience. All concerned have taken great care over liaison arrangements, and we believe that they work well.

14.23 We accept that the Joint Committee as it normally operates could not undertake a much greater volume of work. We understand, however, that the Committee have on occasion, when faced with an unusually heavy volume of work, made arrangements whereby, in effect, they sit in two divisions. The Chairman takes the chair in one and a Deputy Chairman is appointed to take the chair in the other. We recommend that this practice should be adopted whenever the flow of consolidation measures exceeds the capacity of the Joint Committee for dealing with them under their ordinary mode of operation. We recognise, however, that if the flow of consolidation measures increases to the extent that we hope it will, some further means of providing for the necessary expansion in the Parliamentary machinery may have to be found.

Need for prior amendment of the law
14.24 In many cases there is a need for amendment of the law before consolidation can be proceeded with. This is an old problem. The Law Commissions
have made a major contribution towards solving it, by devising the technique of consolidation with amendments to give effect to recommendations of the Commissions (outlined in paragraphs 4.13 to 4.17). This technique has proved of great value, and has been used in at least nine consolidation Bills, including such important measures as the Town and Country Planning Act 1971, the Town and Country Planning (Scotland) Act 1972 and the Road Traffic Act 1972.

14.25 A further technique recently invented and as yet untried is to confer power on Her Majesty to make by Order in Council amendments of Acts of Parliament required to facilitate consolidation. At present there are two enactments conferring such powers: section 57(6) of the National Health Service Reorganisation Act 1973 and section 7 of the Pensioners' Payments and National Insurance Act 1973. In both these cases orders made in the exercise of the powers are subject only to negative resolution. We think this device might be more acceptable with stronger safeguards, and therefore we recommend that if other powers of this nature are to be conferred their exercise should be made subject to affirmative resolution, and that no such resolution should be taken in the House of Commons until the relevant order had been reported by the Joint Committee on Statutory Instruments.

Need to repeal obsolescent law

14.26 The process of consolidation can be slowed down by the presence on the statute book of obsolescent law which clearly relates to the subject matter to be consolidated but is of dubious meaning and uncertain practical utility. This has in the past been a significant obstacle to consolidation. It was not dealt with satisfactorily by the old type of Statute Law Revision Bill, the purpose of which was merely to facilitate the production of a revised edition of the statutes by striking out unrepealed provisions which had become inoperative.

14.27 Here again, the Law Commissions have initiated a change of major importance. They now regularly prepare for presentation to Parliament Statute Law (Repeals) Bills which repeal not only matter which is inoperative, but also matter which is no longer of practical utility. These Bills are accompanied by a very full report of the Law Commissions and are referred to the Joint Committee on Consolidation Bills.

New and prospective legislation

14.28 It frequently happens that a major consolidation, once embarked on, has to be postponed because of current Government programme legislation in the same field. This has been experienced in several important fields, including local government (now happily dealt with in a comprehensive Act), the National Health Acts, and, very recently, the Housing Acts. At the end of June 1972 a draftsman was engaged by the Law Commission to undertake the consolidation of housing legislation in England and Wales. The work was well advanced on the consolidation Bill, which would have included over 350 clauses and over twenty schedules, when the Government decided to introduce substantial new housing legislation. Work on the consolidation Bill has in consequence had to be suspended. The Housing Acts were listed as a priority topic for consolidation in the Law Commission's second programme. This experience
illustrates the ease with which a programme of consolidation can be upset by policy decisions involving major amendments of the existing law. Such decisions can upset the programme not only by interfering with programmed consolidations which are already under way, but also with programmed consolidations which are immediately in prospect. And the instability of a programme of consolidation, of course, increases with every increase in the number of subjects it covers.

14.29 The Law Commissions have compensated for this inherent weakness of the “programme” approach to consolidation by an alert seizure of opportunities as they present themselves. That the compensation is not negligible is shown not only by the quantity of consolidation achieved, but also by the fact that it includes such major topics as town and country planning (Town and Country Planning Act 1971) (which had not been included in the programme) and the current Criminal Procedure (Scotland) Bill (which was not included until the preparation of the Bill was far advanced).

14.30 It is not only a decision to introduce new legislation which may hold up consolidation projects. Once reform of a particular part of our statute law is under consideration by a Minister, or is even “in the air” as a result of the report of a Royal Commission or departmental committee, or as a result of departmental cerebration, the Minister and the department may, we are told, show a marked and, indeed, pertinacious reluctance to consolidate the law as it stands. Such reluctance can have the same effect on the programme of consolidation as an actual decision to introduce major amending legislation.

14.31 We regard these two factors, together with the need for amending legislation, as most inimical to the orderly and expeditious carrying out of any programme of consolidation. Even here, however, the Law Commissions have demonstrated their resource and flexibility by the speed with which they have been able to turn from a consolidation which has become temporarily impossible to one or more consolidations which can be carried out at once. In this way they have been able to maintain a strong momentum for consolidation.

14.32 It is evident that the risk that a consolidation may need to be postponed for the reasons discussed in paragraphs 14.28 to 14.31 is greater where a wide field of legislation is chosen for consolidation, and we think that it might therefore be prudent in many cases to select a relatively narrow field provided this was consistent, in the particular instance, with users’ needs (see paragraph 14.7).

CONCLUSIONS

14.33 We agree that the more consolidation there is the better will our legislation become, but as we have pointed out there are real difficulties about increasing the present speed of consolidation within present resources, which we consider should be increased as soon as possible. We accept that responsibility for consolidation should continue to rest with the Law Commissions who, as well as commanding great expertise, approach this task with dedicated enthusiasm as law reformers. Even if it were within our terms of reference to do so, we would not recommend that responsibility should, as has been suggested to us, be transferred to a new body.
14.34 While we do not consider that “a crash programme” to consolidate the entire statute book would be feasible, we nevertheless emphasise that as and when opportunities arise for increasing the amount of consolidation, such opportunities should not be missed. The size of the programmes of consolidation has to be governed by the realities of the situation and a pragmatic approach seems to be inevitable, but every effort should be made to overcome the various difficulties to which we have referred so that a real advance can be made in the speed of consolidation.

14.35 In view of our recommendations that textual amendment should, so far as possible, come to be regarded as the normal method of amending statutes, we feel bound to point out that this process would be facilitated by more rapid consolidation; but we do not consider that the present pace of consolidation need hamper the further introduction of textual amendment.

14.36 In short we recommend that the pace of consolidation should be accelerated. There are no instant ways of overcoming all the various impediments we have discussed, but given time and willpower these difficulties could be largely overcome.
CHAPTER XV

EXPLANATORY MATERIAL

15.1 Explanatory material, external to the text of an Act (either at the Bill stage or later) is often provided by the Government to assist both the legislator and the eventual user. This material is not part of the Act and may not necessarily influence the form in which the Act is drafted. It is thus strictly speaking beyond our terms of reference. But it does contribute indirectly to the ease with which the Act can be understood.

15.2 The degree of complexity in legislation and the specialisation of its subject matter vary greatly. So too (as we showed in Chapter X) does the nature of the audience to whom aids to its understanding have to be addressed. Whereas in all cases due weight must be given to the needs of Parliament, the range of other persons whose needs require to be taken into account may extend from members of the public who want a broad, general picture of what is involved, to specialised, professional or trade interests which require a highly technical and precise explanation to enable them to assess the detailed legal effect of the legislation. The question whether any, and if so, what kind of external explanatory material should be provided is best considered separately for each statute, and we are told by the Lord President of the Council that this is the Government’s practice.

15.3 Material of this kind is provided by the Government at three stages of the process of legislation: at the pre-Parliamentary consultative stage; during the passage of the Bill through Parliament; and after Royal Assent. We deal with each of these stages in turn.

BEFORE THE INTRODUCTION OF THE BILL

15.4 We referred in paragraph 8.5 to the “grey area”, using this expression to describe the formative stage at which policy decisions are translated into instructions to the draftsman. The decisions that are taken then will have a vital bearing on the form of the legislation as it is presented to Parliament. At this stage, in the case of important legislative proposals, the main features are normally foreshadowed by a Government statement or policy document, for example, a White or a Green Paper. Such a document is intended to serve as a basis for informed discussion, in Parliament and elsewhere, of the general aims of the proposed legislation. In the case of law reform Bills proposed by the Law Commissions, the reports of these Commissions are also available to Parliament and the general public.

15.5 We warmly approve of the increasing readiness of Governments to produce Green or White Papers in advance of legislation. In many non-contentious fields the Government’s proposals could be published in some detail. We believe that this practice should greatly help those who will eventually be using the legislation to a better understanding of its purpose. The discussion which this generates should also help the drafting team to anticipate difficulties
that might not otherwise have been foreseen. We accordingly recommend that this practice should be still further extended. (The first part of Appendix D lists the documents published by the Government before the Local Government Bill 1972 was presented to Parliament.)

DURING THE PASSAGE OF THE BILL

Explanatory and financial memoranda

15.6 A further aid to the understanding of legislation, primarily directed towards Parliament, but also available for wider circulation, is the practice of printing a memorandum attached to a Bill explaining its contents and objects. This is prepared, in the case of Government Bills, by the department whose Minister is introducing the Bill. It must be drafted in non-technical language and contain nothing of an argumentative character. All Government Bills involving expenditure must be accompanied by a financial memorandum setting out briefly the financial effect of the Bill and containing an estimate, where possible, of the amount of money to be spent and of any increase in manpower resulting from it. The nature and extent of the information provided in such memoranda depends upon the subject matter of the legislation concerned.

15.7 The Select Committee on Procedure of the House of Commons in its Second Report for 1970-71 recommended that explanatory memoranda should be drafted to give a description of the purposes and effect of a Bill and, where appropriate, of the White Paper or Report from which it originated; and that in the case of long or complicated Bills, detailed explanations should be provided in a separate White Paper. The Government of the day undertook to implement this recommendation as far as practicable. The impression we have received from First Parliamentary Counsel is that explanatory memoranda are perhaps rather longer now than they were before. Evidence we have had from other witnesses clearly indicates that an expansion of the information provided in explanatory memoranda to Bills would be welcomed by many organisations outside Parliament who wish to understand the effect of the proposals of the Bill. The National Farmer’s Union, for example, have suggested that—

"explanatory memoranda set out at the front of new Bills could with general advantage be considerably expanded and made much more explanatory".

The National Citizens’ Advice Bureaux Council have told us that—

"explanatory notes at the front of Bills are very helpful. They do give some indication of the purpose of the legislation and what changes will be effected. We wonder if this could not be expanded a little so that it is easier for the layman to establish the current position and how it is proposed to change it".

The Accountancy Bodies have submitted to us that there is, in relation to revenue law,

"a great need for the publication with each Finance Bill of an explanatory memorandum which goes into much greater detail than anything hitherto

---

1Erskine May, 18th Edition, p 481.
2HC 538 paragraph 22.
3HC Deb, 825, c 650.
available... Our ability to make helpful representations to the Inland Revenue during the early stages of a Finance Bill would be much enhanced if we had access to a document which explained in detail, clause by clause, and with appropriate examples, the reasons for and the effect of the proposed legislation”.

While we consider that the concluding part of this last suggestion may go too far to be practicable, what the accountants have said about the need for more detailed information on the provisions of Finance Bills reinforces the views expressed by the two bodies mentioned previously, and by other witnesses, that explanatory memoranda could be amplified. We therefore endorse the recommendation of the Select Committee that such memorandum should provide more information about the Bill. We deal with the Committee’s recommendation about the publication of explanatory White Papers in paragraph 15.11 below.

15.8 The Joint Committee on Delegated Legislation in its Second Report to Parliament in Session 1972/731 (paragraphs 53 and 54) recommended that “in order to assist Parliament to check that the instruments proposed are made subject to the appropriate procedure... there should be included in the explanatory memorandum which is normally attached to every Public Bill a section headed ‘Delegated Legislation’ containing a list of all delegated powers to be conferred by the Bill, with an indication of the category into which each power falls. This section would... follow the normal form of explanatory memorandum in being purely factual”. They added (paragraph 54) that the Committee “trust that this matter will be brought to the attention of the Committee on the Preparation of Legislation as a recommendation of Your Committee, rather than as a tentative proposal”. In their memorandum to that Committee, the Leaders of both Houses suggested that this proposal “might appropriately be considered” by us. We cannot see how such a requirement would help to achieve greater simplicity or clarity in the Bill, but we realise that it could be a convenience to Members of Parliament, and accordingly we raise no objection.

Other explanatory material provided during the Bill stage
15.9 A variant of the practice of printing explanatory memoranda at the beginning of the Bill proposed by several witnesses is that explanatory notes on individual clauses should be printed on the pages of the Bill opposite the clauses to which they refer. We have had evidence of how such an arrangement is operated in Canada. On several recent occasions, notably when the Local Government Bill 1972 was going through Parliament, the Minister in charge of the Bill has made available to Members of both Houses the notes on clauses prepared for his own use by his department to assist him in dealing with questions raised in debate. A suggestion was in fact made in the Commons debate on the Second Reading of the Nullity of Marriage Bill2 by Mr A W Lyon that it would have been helpful to the House if the Bill had been published in the form in which the Law Commission’s draft Bill had been published in the Appendix of their Report,3 that is to say, with the explanatory notes printed

1HL 204, HC 468.
2HC Deb, 810, cc 1165-6.
opposite the clauses to which they related. This proposal was considered by the House of Commons Select Committee on Procedure in 1970-71. They thought that explanatory notes on clauses, even in technical and non-controversial Bills, would almost certainly be argumentative, as their purpose would be to give reasons for the adoption of the clauses. On a controversial Bill it would be even more difficult to exclude argument. (As we have explained in paragraph 15.6, the rule stated in Erskine May is that an explanatory memorandum should be framed in non-technical language and should contain nothing of an argumentative character.) For these reasons the Select Committee stated in their Second Report for 1970-71 that they did not consider any change was desirable in the practice of the House on this matter.¹

15.10 Nevertheless, the provisions of the Local Government Bill 1972 to which we refer in paragraph 15.9 were extremely complex, they affected a great many other enactments, and they were of great significance to all English and Welsh constituencies. The Minister felt that Parliament would find it more than ordinarily difficult to understand the effects of the Bill, and so additional explanatory material in the form of notes on clauses, maps and explanations of major amendments was made available to Members of the Commons Standing Committee and to Peers generally for Committee stage debates. (These are listed in the second part of Appendix D.) This has been done on one or two other occasions. We think that this is a very helpful practice, and we recommend that it should be developed. If this can be done with complex and even controversial Bills, we find it hard to believe that in the case of uncontroversial Bills the rule against argument would be difficult to observe. We also recommend that a trial should be made, initially with uncontroversial Bills, of printing explanatory notes opposite the clauses to which they refer.

15.11 The recommendation of the Select Committee on Procedure to which we refer in paragraph 15.7 also urged² that in the case of long or complicated Bills, detailed explanations should be provided in a separate White Paper, and we have enquired about the number of occasions on which White Papers have been published for this purpose since the Government, in November 1971, agreed to implement this recommendation wherever possible. Between that date and March 1974, only four White Papers were published (all in 1972) with the express purpose of explaining Bills that they accompanied. These were memoranda on:

(a) The provisions of the Electricity Bill 1972 (Cmd 4877, January 1972)
(b) The value added tax provisions of the Finance Bill 1972 (Cmd 4929, March 1972)
(c) The corporation tax provisions of the Finance Bill 1972 (Cmd 4955, April 1972)
(d) The provisions of the Furnished Lettings (Rent Allowances) Bill 1972 (Cmd 5183, December 1972)

The last of these is a textual memorandum containing nothing but the text of the relevant provisions of the Housing Finance Act 1972 and the corresponding Scottish Act as proposed to be amended by the Bill. It is thus in a somewhat

¹HC 538, paragraph 63.
²Ibid, paragraph 22.
different category of explanatory material, with which we deal elsewhere. In only two Bills, therefore, has the Select Committee's recommendation been adopted; and only one of them, the Finance Bill 1972 was long and complicated. We consider that detailed explanations of the provisions of lengthy and complex Bills are useful, that the practice adopted with the Finance Act 1972 of issuing separate publications dealing with separable subjects covered by one Bill is commendable where appropriate, and we recommend that such explanatory material should be provided more frequently in the form of White Papers.

15.12 Throughout the several stages of legislation there is a constant exchange of information between the sponsoring department and the various interests affected by the Bill about its purpose and the detailed implications of the text. In Parliament itself the intention of the legislation will be explained by Ministers in broad terms at Second Reading, and in detail during the committee stages. Frequently there is also correspondence between Ministers and Members. If the Parliamentary timetable allows, ample opportunity is thus given to Members of either House and to individuals and interests affected by the Bill not only to suggest amendments on points of substance but also to raise questions about any textual obscurity or doubt.

15.13 It may sometimes be useful, in the case of amending Bills drafted on the textual amendment principle, to present the Bill to Parliament with a White Paper showing how the existing legislation would look if the proposals being considered by Parliament were enacted. We deal with textual memoranda in paragraphs 13.12 and 13.13.

AFTER ROYAL ASSENT

15.14 The explanatory material we have been describing from paragraph 15.6 onwards is primarily for the benefit of the legislators to assist them in their understanding of Bills submitted to them for enactment. Although such material is also of help to members of the public and organisations who have an interest in a particular Bill, its main value is that it helps Parliament to focus on the substantive issues that should be debated, and thus to ensure that the text of the statute gives effect as accurately as possible to the legislative intention of Parliament. This purpose is fulfilled once the Bill has been enacted. Accordingly explanatory, financial and manpower memoranda are not printed with the Act after Royal Assent.

15.15 As soon as a Bill has finally passed through its Parliamentary stages Government departments can turn their attention to publicising and administering its provisions. In may cases, it is essential to the enforcement of a new law on a particular date that those affected should be given prior information and advice about its effect. Generally however any action taken by departments to publicise and explain the effects of a new law is taken after enactment. This may take a variety of forms. In the case of new taxes, for example, leaflets and public notices are prepared and distributed to business firms and made available to members of the public. Public advertisements may also be used; and visits may be made by officials to traders who are likely to be affected.

15.16 Such material does not purport to give authoritative advice on the legal interpretation of the provisions referred to, or about the legislative intent of Parliament. Those to whom departmental circulars and other similar
documents on new Acts are addressed are well aware of the limitations of such papers. But they are nevertheless widely relied upon as practical guides to what may be highly complicated and technical Acts; and they are of considerable value to those who must understand and administer the provisions of new legislation. (The third part of Appendix D lists the documents prepared by Government departments after the Local Government Act 1972 received the Royal Assent).

15.17 The practice of Government departments with regard to post-legislative explanatory material is well established and appears to serve its purpose adequately.
16.1 We have received written evidence on the application of computer technology to the legislative process from the Society for Computers and Law Ltd; and oral evidence from Mr S J Skelly, Director of Jurimetrics in the Department of Justice of Canada, where such application has reached an advanced stage, and from Professor Reed Dickerson. In addition, much material on the subject, published and unpublished, has been studied by a working group of four members of our Committee.

16.2 Since we were appointed the Statute Law Committee has set up a Subcommittee with the following terms of reference:

"To investigate and advise the Statute Law Committee from time to time about ways in which computer technology can be used to assist the process of drafting and publishing Acts and statutory instruments and indices and other aids to their use, and (so far as lies within the province of the Statute Law Committee) the system of handling Bills in their passage through Parliament".

We welcome the decision to set up such a body, and indeed we regard it as urgently necessary.

16.3 Having regard to our terms of reference, our main concern has naturally been with the use of computer technology as an aid to the draftsman, especially when engaged upon consolidation or upon any other Bill which requires the study of a mass of previous legislation. It has, however, proved impossible for us to consider this aspect in isolation since (as will appear) the effective use of the computer as a drafting aid inevitably raises questions as to:

(a) its cost-effectiveness, whether used by the draftsman only or by others as well;
(b) its use in the printing process; and
(c) the material that should be stored in the computer, and the arrangements for getting it there in the first instance and for its subsequent updating.

Whilst such questions will clearly be the subject of detailed study by the Statute Law Committee, the evidence we have received suggests certain conclusions about them which we record.

CONCEPTS AND TERMINOLOGY

16.4 A simple conceptual picture of the computer, and an explanation of some possibly unfamiliar terms, may be helpful as an introduction to this chapter.

16.5

[Diagram of computer input and output with 'Input Medium', 'Processing Unit', and 'Output Medium']
The computer may be compared to the human mind. In the diagram above, the box on the left represents the *input medium* or source of information. In relation to the human mind, this could be a book, a picture, a television screen, or any source of information detectable by one of the senses. In the case of the computer, it could be information stored in a punched card, a magnetic tape, or any other *machine readable* form—that is to say, any form the computer can work with. While a computer can “read” a magnetic tape of information, it cannot strictly speaking read a book containing the same information. *Optical character recognition systems*, which scan the printed page and produce a machine-readable version, have been developed, but at present the conversion of printed matter into a machine-readable form normally involves its being typed manually, through a typewriter terminal, into the computer, which records it on the magnetic tape or other input medium. Either method calls for careful proof-reading in order to ensure the accuracy of the transcription.

16.6 The centre box in the diagram represents the *processing unit*—the human mind or the central processing unit of the computer. The major difference between the human mind and the computer central processing unit is that the computer can only do what it is told to do: it has no ability to think or reason or learn from experience, but can only follow a predetermined set of rules known as *computer programs* or *software*. This is the vital element that turns the computer machinery—known as *hardware*—into something that can perform a task. Since the computer cannot think, computer programs have to anticipate every possible situation that may arise, and are therefore complicated.

16.7 The right-hand box represents the *output medium*. In human terms, the output may be, for instance, written, spoken or drawn. In the case of a computer the output may be displayed on a *visual display unit* resembling a television screen, printed, or delivered in a machine-readable form.

**APPLICATIONS**

16.8 Once the texts of Acts of Parliament have been recorded in machine-readable form, they can be put to use through the computer in one or more of several ways.

**Information retrieval**

*General description*

16.9 The computer’s capacity for locating information by recognising words is of prime importance to the draftsman. To enable to it do this, it is necessary to set up, using computer programs, a *concordance*, or list of all the words found in the text, linked to a *master file* containing the location references (statute, section number, sentence number, position of word in the sentence) for each word, except very common words such as “and”, “but”, “the”. There are existing computer programs providing a concordance and linked master file which can be used on simple instructions given by an operator. Given suitable instructions (typically, through a keyboard resembling that of a typewriter), the computer can then almost instantaneously locate and print out, or display on a visual display unit, all the places at which particular words or phrases occur in the text. The instructions can be quite detailed: the searcher can specify that he wants one particular word within so many words of another
word, that these must be in a particular order, or that various alternative 
words are acceptable; that all words with a particular root are required; and 
so on. Such a rapid and accurate means of searching existing statute law has 
advantages particularly in connection with the drafting of repeals, amendments, 
and consolidations.

16.10 An example, from Canada, arose out of the replacement of the Exchequer 
Court of Canada by the Federal Court. By feeding the words “Exchequer 
Court” into the computer it was possible to find, almost instantaneously, all the 
places where those words appeared in the Statutes and where amendments 
were therefore required. The alternative would have been for the draftsman 
to read all the Statutes or rely on his memory.

Updating

16.11 It is clear that for the computer to be entirely effective as a tool for 
searching statute law, at least all the statute law currently in force must be 
available to it in a form that it can “read”. To achieve this it is necessary not only 
for the texts of existing Acts to be stored in machine-readable form but also 
for the text of each new enactment to be added, as soon as may be, to the 
computer store and, where the new enactment has any effects on existing Acts, 
for the computer records of those Acts to be updated accordingly. For the 
last part of this operation two basic alternatives were considered by the Canadians. 
The first was a fully-automated system “where the computer takes the old Act, 
reads the amending Act, and merges them together in the appropriate way”. It 
was concluded that the computer programming involved would be very com­ 
plicated, and that it would still be necessary, as a separate, semi-automated, 
operation, to alter source references and add notes on sections indirectly affected 
by amendments. For the present, the second alternative was therefore chosen: 
this is a semi-automated system in which “the information is fed in by an operator 
who tells the computer where the amendment is to go”. There are, no doubt, 
other possible systems: we understand, for instance, that the updating of the 
computer record of Statutes in Force for printing purposes (see paragraph 16.20) 
is to be brought about by giving the computer specific instructions, but fed 
into it in the form of a “correcting tape” and not manually by an operator.

16.12 It is important to appreciate that in Canada the Federal Statutes are 
normally amended textually by the re-enactment of whole sections or other 
units of text. It appears that with present technology and experience it would 
be very difficult to set up a fully-automated system to handle textual amendment 
by the deletion and replacement of individual words or phrases, and virtually 
impossible for a fully-automated system to handle amendments effected other­ 
wise than textually.

Current and historical files

16.13 The updating of the texts of statutes in computer store also involves a 
choice between maintaining a current file and maintaining a historical file. A 
current file reflects the state of the law at the date of the latest enactment; 
repealed provisions, and textually amended provisions in their previous form, 
are discarded. A historical file retains the old law as well as the new, but takes 
account of the effects and dates of repeals and amendments and enables the 
law to be searched as at any date, after the commencement of the file, selected
by the searcher. To maintain a historical file would be rather more complex in terms of legal analysis, systems analysis and design, and computer programming (though we understand that there would now be no great technical difficulty), and it would require more computer storage than a current file. It would therefore be more expensive, and has been rejected for the present in Canada, on the ground of cost and limited utility.

The initial text
16.14 The choice between a current and a historical file also has a bearing on the selection of the text to be recorded in the first instance. In Canada, the original computer data base was the text of the 1970 revised edition of the Federal Statutes (which was concurrently printed, from the same magnetic tapes, by computer-assisted photocomposition: see paragraph 16.19). This would, of course, have precluded the maintenance of a historical file from any date earlier than 1970. Here, we recommend that the text of Statutes in Force should be used (see paragraph 16.26(5)).

A drafting tool
16.15 The methods of information retrieval we have described require the user to possess a terminal—at present either a typewriter terminal or a visual display unit. While in time we may expect draftsmen to have their own terminals, this would not happen quickly and will involve considerable expense. It is worth pointing out therefore that draftsmen can and should in any event be equipped with an essential drafting tool in the form of fully-updated printed material. Obviously the most important printed material for a draftsman is the text of the statutes, followed perhaps by the text of statutory instruments and local and private Acts. We return to this theme below (paragraph 16.21).

16.16 To the draftsman (especially one who is prepared to acquire, even imperfectly, the skills of a typist) the computer can offer a number of aids. Where a suitable system has been set up, he can by using a keyboard:

- put new material on to an input medium, for use by the computer (this can be done by a copy typist);
- call up for inspection any material already stored in the computer;
- take material out of store, so that it can be worked on without affecting what is in the permanent store;
- alter the material to be worked while it is displayed on a screen;
- when the text has been finally got right, instruct the computer to take the revised version into its store;
- print out any desired passages from the store, and alter the positions of words, sentences, and paragraphs.

One draftsman said, after experimenting with keyboard and visual display facilities, "this seems an extremely effective way of doing what I myself have always done with pencil and rubber".

16.17 The same draftsman was impressed by the possibilities such a system offered for consolidation. He has described the process as follows—

"The draftsman would first decide the enactments to be included in the consolidation, using the search and retrieval facilities. . . He would then
bring all the enactments into working store. This enables him to play about with them without affecting what is in the permanent store. He could then study the enactments using the visual display unit, and very simply delete the parts that were obviously unnecessary. He would be left with the bare bones of a consolidation Bill. Having devised a structure for the Bill, he would then get the material into the right order (a simple process). Where, as is usual in the United Kingdom, amending Acts had been drafted referentially rather than textually, the consolidator’s most difficult task would then begin. This is the conflation into one text of each original enactment together with enactments amending it. When ready, he could get a printout of the whole Bill, and of Tables of Derivation and Destination. Obviously, the more the enactments to be consolidated have been amended textually rather than referentially, the easier the task of consolidation will be”.

It needs to be emphasised, however, that while the computer can help in assembling and physically manipulating the material to be consolidated it cannot solve any of the basic intellectual problems inherent in the process of consolidation. Whether the Acts to be consolidated have been amended textually or referentially, there may be difficult decisions to be made as to the scope and arrangement of the consolidation Act, as to the extent to which comparable provisions can be united into a single provision, as to how obscurities are to be resolved, as to whether the Acts to be consolidated contain ambiguities which must be incorporated in the consolidation Act, and as to what amendments, if any, are necessary to pave the way for consolidation: the list may well not be complete. These difficulties require reasoned analysis and decision by the intellectual effort of the draftsman. The computer cannot solve them. In Canada, where (as mentioned in paragraph 16.12) Federal Statutes are normally amended textually by the re-enactment of whole sections or other units of text, pure “consolidation” appears to involve little more than the re-printing of statutes as amended. Even so, the computer programming required for a fully-automated process of “consolidation” would be very complicated, and therefore at this stage a partly-automated system, involving the intervention of an operator, has been adopted.

An analytical aid

16.18 We would mention, as an interesting idea but one of which any practical application may still be a long way off, the LEGOL project being pursued by Mr R Stamper at the London School of Economics with support from the Science Research Council. The aim is to develop a formal “language”, expressed in mathematical and other symbols, into which legislation could be translated (or in which it could be formulated in the first instance), that would enable a computer both to test the logic of the legislative rules and to apply it directly to the facts of a case. The legal department of the Commission of the European Communities is understood to be interested in this project because the use of a linguistically neutral formalism might be valuable in expressing law that affects several nations, and in checking that the logic of the law is the same in each “natural” language. This would facilitate harmonisation. It seems possible that LEGOL might also be valuable in finding, for Anglo-Scottish legislation, neutral terms which would do equally well for both the English legal systems and the Scottish.
Printing

16.19 As well as providing "print-outs", of low typographical quality, for the purposes discussed in paragraphs 16.9 onwards, the computer can be used to assist in the production of printed matter of a quality comparable to that achieved by conventional "hot-metal" typesetting. The process carried out in Canada was described to us by Mr Skelly in the following terms:

"The first stage is that the computer takes the tape, reads it through and locates certain basic codes which it expands into printing codes. This material is then passed to the second stage where the computer builds full page width lines . . . The next step is for it to prepare a page. It takes the material in the lines, puts them together, works out where the page has to end and builds its pages. Finally it is fed to the photocomposition device which reads the magnetic tape, generates character images, and flashes them onto photographic paper or film, in the form of made-up pages (camera reading copy). Plates are then made and run on an offset printing press".

16.20 In this country the new revised edition *Statutes in Force* is in fact being printed by a computer-assisted process. If the same process were also used for printing Bills, and if the draftsmen’s offices and HMSO were equipped with the necessary computer terminals, we understand that the draftsmen could hand in the computer-typeset Bill to the appropriate Public Bill Office. As the Bill went through its Parliamentary stages it would be reprinted with amendments by computer typesetting. When it had received Royal Assent, HMSO would add it to the data base, or computer store, of statutes, and it would be printed for publication. (We have discussed in paragraphs 16.11 to 16.13 the question of updating existing enactments in the computer store that are affected by new legislation.)

16.21 It is important that on the passing of an Act not only should its text be added to the data base of statutes but that any amendments made by it in existing legislation should also be entered in the data base. This would ensure that users with terminals, when using them to search for and retrieve information, would have the necessary updated text. It is also important however that users of the statute book (whether with or without terminals) should be able to receive the printed text of the new Act, and updated printed versions of other enactments amended by the new Act, as early as possible.

THE PRESENT SITUATION

16.22 The public general Acts in force were estimated in 1968 to contain 20 million words or 100 million characters. The annual gross increase has been variously estimated at between 500,000 and 800,000 words; we have found no estimate of the annual loss through repeals. In terms of computer storage these are not enormous quantities. Existing disc packs can each store 100 million characters, and later versions will hold 200 million characters. The Greater London Council is planning a computer system which will be able to retrieve information from 14 of these disc units, holding a total of 2,800 million characters. The statute book if stored in a current file (see paragraph 16.13) would therefore use only a fraction of the capacity of the GLC system, and
could be comfortably housed in a single one of the new disc packs with plenty of room for expansion.

16.23 The proportion of legislation in computer storage is at present relatively small, but it is steadily growing. Statutes in Force is, as mentioned in paragraph 16.20, being computer typeset. This can easily provide as a by-product the text of the statutes included in that publication in a machine-readable form suitable for information retrieval. The text of the first instalment of Statutes in Force has in fact been stored by IBM in a data base the retrieval of information from which was demonstrated to Members and Officers of both Houses at the House of Commons during December 1973. The Acts relating to atomic energy (from the Atomic Energy Act 1946 onwards) have also been stored in a data base by the Research Group of the United Kingdom Atomic Energy Authority ("The Status Project"). Apart from these initiatives nothing has been done to provide an information retrieval system for statutory material.

16.24 No regular use has so far been made of computers in the preparation of public Bills, or in the Parliamentary processes leading to their enactment. A computer is, however, at present being used by the Parliamentary Counsel Office in the preparation of three public Bills. The apparatus employed creates machine-readable text, prints it out and duplicates it, and allows manipulation of the text, monitored by a visual display unit. The experiment has not yet been completed, and with no assessment of its results available to us our conclusions in paragraph 16.26 about the usefulness of computer systems to the draftsman can only be tentative.

16.25 HMSO, conscious that their present printing capacity is not large enough to meet the expected continuing growth of Parliamentary printing beyond the next three years, have plans for the substitution of computerised composition for hot-metal typesetting throughout the whole range of Parliamentary printing. They have already developed computer composition programs which would be adapted to a wide range of Parliamentary requirements. Moreover, they have appointed a team of four technical staff with computer experience to prepare a systems analysis of the problems. There is as yet no commitment to a computer-based system of printing, but there is a firm, if general, agreement between HMSO and Parliamentary officials on the desirability of its introduction, subject to the approval by the two Houses of any necessary alteration in format or procedure. We are satisfied that HMSO have the willingness and expertise to convert their printing to such a system (which will need to be fully discussed with their industrial staff) and are aware of the immense advantages of such a system both for the processing of Bills throughout Parliament and for the retrieval of information (statutory and non-statutory).

CONCLUSIONS

16.26 In the light of the evidence we have received and the material studied by our working group, we have reached the following conclusions, and we recommend accordingly.

(1) Computer typesetting would speed up the printing of public Bills at all stages, i.e. while they are being drafted, during their passage through
Parliament, and at their final enactment. In particular it would make it easier and quicker for the printer to produce marshalled lists of amendments, and to incorporate those which were accepted in successive reprints. It would also lead to greater accuracy. Finally, it would make for the ready incorporation of the enacted texts into a comprehensive data base of statute law.

(2) We think that the recording of the complete text of the statute book by computer and the institution of a system of information retrieval would provide a valuable tool for all those who are responsible for the making of laws. Such a system of retrieval would help Parliamentary draftsmen:

(a) to search areas of existing relevant legislation;
(b) to find all occurrences of one word, eg “felony”;
(c) to achieve completeness in eg repeals;
(d) to achieve consistency of drafting language both within a Bill and between a Bill and previous legislation.

Further, if the computerised typesetting of Bills were adopted at the drafting stage the draftsmen might make use of the computer as a mechanical aid to drafting as well as for research (see paragraphs 16.16 and 16.17). In these ways the computer might contribute to accuracy and speed, remove some of the drudgery from the draftsman’s task, and leave him with more time to concentrate upon the central intellectual problems of good drafting.

(3) Such a system of retrieval would also be useful to Members and Officers of both Houses of Parliament concerned with the preparation and the amendment of Bills.

(4) A system of retrieval would (especially if the data base included subordinate legislation) be valuable to all those whose duties may require them to search the statute book: Government departments, local and statutory authorities and the legal professions generally. In particular, we would mention the duty of the Government to inform Parliament of the impact of European Community legislation upon the statute book, which on occasion may be a heavy task and require as a preliminary the utmost speed and accuracy in searching the statute book.

(5) To provide a system of information retrieval for these purposes it would of course be necessary for a text of the statutes in a machine-readable form to be prepared, and a concordance and master file set up as described in paragraph 16.9. There would also have to be arrangements for updating this material (paragraph 16.11). We have considered various alternatives based on the text of the third edition of *Statutes Revised* and subsequent annual volumes, but have rejected them as unrealistic. In practical terms, the text used would need to be that of *Statutes in Force*, which is already being prepared in a machine-readable form for printing purposes and is expected to be completed within five years and to achieve a high degree of accuracy.
We think that much of the value of an information retrieval system would be lost if updating did not take place very quickly after new legislation had been enacted. If it did not, the results of a computer search would normally need to be confirmed by conventional research in order to establish that there had been no relevant repeals, amendments, or new provisions since the last updating. The annual cumulative supplement to *Statutes in Force* sets out all the amendments affecting each Act as at the end of the year, but cannot in the nature of things be published until more than a year has elapsed since the date of the earliest amendment it contains. Moreover the supplement is at present typeset by the conventional hot-metal process and therefore could not become part of the data base for an electronic information retrieval system. The searcher relying solely on such a system would thus have at his disposal only the latest revised edition of each statute, and subsequent amendments would not be brought to his notice. That would not be well suited to the needs of the Parliamentary draftsmen. It might therefore be helpful to introduce a system of continual computer-assisted editing: each time anything occurred that affected the text of an Act published in *Statutes in Force*, the editors would record the appropriate corrections through a computer terminal, thus updating the data base so that the information retrieval system would provide searchers with completely up-to-date answers. This constant updating should also make it possible for a new revised edition of any Act to be produced for *Statutes in Force* with less expense and effort.

The system adopted for *Statutes in Force* requires that every newly-enacted Act shall be reprinted as soon as possible in the format of *Statutes in Force*. If computer type-setting were used for printing Queen’s Printer’s copies of Acts, so that they were already on magnetic tape, a great deal of work, cost and time should be saved. If in addition the format of *Statutes in Force* could be adopted for Queen’s Printer’s copies, there should be still further savings.

A historical file (see paragraph 16.13) appears to us to have significant advantages over a current file, and we suggest that the system should include one (possibly commencing at 1 June 1972, the effective date of the first instalment of *Statutes in Force*) unless this proved to be prohibitively difficult and costly. We understand that the methods hitherto contemplated for the production of *Statutes in Force* might not allow the compilation of a historical file, and that any decision to include one in the system should therefore be taken before any of the material in *Statutes in Force* is revised. A compromise that might be worth considering is the “freezing” of the computer text at intervals as a permanent historical record of what it had been at a particular time or on a particular occasion. We understand that such a “frozen” text could be stored compendiously and at little expense, though it would be of limited value as it would serve only those persons who were concerned with the text as at the dates at which it was frozen, and intervening periods would have to be searched by traditional methods.
(9) We hope in any event that the production of Statutes in Force may be completed by 1980 so as to provide an up-to-date computer-linked system. Such a system would we think benefit the draftsmen in the ways we have described above.

(10) The inclusion in the data base of subordinate legislation and, eventually, of case-law would seem to make a retrieval system more valuable not only to the draftsman, Government departments, and some legislators but also to the legal profession and other non-Government users. Optical character recognition devices (see paragraph 16.5) may have a part to play in converting these materials into machine-readable form without manual transcription.

(11) More extensive use of the textual amendment system of amending Acts of Parliament should reduce the amount of editorial work required in the production of Statutes in Force, and assist in ensuring accuracy, avoiding delay, and reducing costs.
17.1 We devote a separate chapter to this subject because it has some peculiar features and some of the heaviest criticism has been directed to it. There is fiscal legislation every year, much of it prepared in great secrecy and under severe pressure of time, and it directly affects most people. This legislation is complicated and elaborate, because of the often intricate propositions it has to express, and the variety of circumstances and conditions in which it falls to be applied and the refined distinctions that it embodies in order to attempt to cater expressly for them. Consequently, despite some fairly recent consolidations, the body of tax statutes as a whole is voluminous, and complex in structure as well as in concept and expression.

17.2 The problems we discuss in this chapter are not new. They have been considered in the past by other bodies, notably in the reports of the Royal Commission on the Taxation of Profits and Income (1952–1955)\(^1\) and of the Departmental Committee on Income Tax Codification (1927–1936).\(^2\) We refer to these two bodies—to whose reports, as will be seen, we are indebted for much of our own analysis—as the Royal Commission and the Codification Committee respectively.

THE LEGISLATIVE SCHEME

Perfect fiscal equity

17.3 One reason for the complexity of the ideas and rules to which our tax statutes have to give expression is the tradition of seeking "perfect fiscal equity"—scrupulously fair tax treatment involving minute differentiation between individual situations. As the Royal Commission put it:

"The social and industrial structure of the United Kingdom is intricate. It comprehends a great variety of forms. A master tax, such as income tax has come to be, which has to be applied with fairness to all that variety of forms, must reflect to a large extent the intricacy and complication of the underlying structure . . . Secondly, the high rate of tax brings certain consequences . . . There is pressure for allowances, alleviations and qualifications wherever a special case can be asserted or a distinction claimed . . . Moreover, the methods and process of Parliamentary legislation, particularly, perhaps, as applied to the annual Finance Act, themselves assist in the multiplication of special provisions . . . Perhaps the most formidable single obstacle [to simplification] is the fact that hitherto the tendency both of Parliament and of the Inland Revenue Department has been in the opposite direction. Scrupulous regard has been paid to even small differences in individual situation: and, while it is comparatively easy to advance from a simple system to a more refined one by introducing qualifications and differentials, it is very much more difficult to retire from a refined system to a simpler one and, by so doing, to ignore distinctions which hitherto have been recognised and allowed for".\(^3\)

\(^1\)Cmd 8761, 9105, 9474.
\(^2\)Cmd 5131, 5132.
\(^3\)Cmd 9474, paragraphs 1085, 1086, 1088.
Having started their inquiry "with an ardent desire to leave the structure and the conceptions of the tax simpler than we found them", the Royal Commission confessed to having had "only small success in the result" and to having been "led . . . on occasions to reject a seemingly attractive simplification".

17.4 The Codification Committee had earlier reached a similar conclusion: "The impossibility of producing a simple code of income tax law must be obvious . . . The countless complications of modern life must inevitably be reflected in the complexity of the code which has to cope with them".

Anti-avoidance measures

17.5 The other main reason for the need to give legislative expression to complex ideas and rules is the treatment of tax avoidance. This expression was defined by the Royal Commission as follows:

"By tax avoidance . . . is understood some act by which a person so arranges his affairs that he is liable to pay less tax than he would have paid but for the arrangement. Thus the situation which he brings about is one in which he is legally in the right, except so far as some special rule may be introduced that puts him in the wrong".

The Royal Commission denied the existence of, and the desirability of introducing, a "general principle that a man owes a duty not to alter the disposition of his affairs so as to reduce his existing liability to tax or, alternatively, for the purpose of or for the main purpose or partly for the purpose of bringing this about". They concluded that the proper principle was that "the tax avoidance that should be struck at is to be found in those situations in which a man, without being in law the owner of income, yet has in substance the power to enjoy it or to control the disposition of it in his own interest".

17.6 In considering "the kind of measures that the tax system should adopt to correct avoidance", the Royal Commission found that

"The choice seems to lie between the enactment of some general provision which nullifies or controls the effect of transactions that violate the suggested principle, and the enactment of specific provisions which identify with precision the kind of transaction that is to be struck at and prescribe with corresponding precision the consequences that are to follow for the purposes of tax assessment".

They noted that United Kingdom legislation had in the main followed the second course, whilst in other countries "the usual course is to approach the problem on the lines of some general declaration of principle governing tax avoidance . . . and to leave the application of the principle and the consequential tax adjustments to the decision of a special tribunal, subject in most cases to some appeal to a Court of Law". They also noted, however, a tendency in recent years to frame anti-avoidance provisions in United Kingdom legislation

\[\text{\textsuperscript{1}}\text{Cmd 9474, paragraph 1088.}\]
\[\text{\textsuperscript{2}}\text{Cmd 5131, paragraph 23.}\]
\[\text{\textsuperscript{3}}\text{Cmd 9474, paragraph 1016.}\]
\[\text{\textsuperscript{4}}\text{Cmd 9474, paragraph 1017.}\]
\[\text{\textsuperscript{5}}\text{Cmd 9474, paragraph 1019.}\]
\[\text{\textsuperscript{6}}\text{Cmd 9474, paragraph 1020.}\]
\[\text{\textsuperscript{7}}\text{Cmd 9474, paragraphs 1021–1025.}\]
“in very general terms, so that they were capable of being applied to a much wider range of transactions than those against which the legislation was really directed”. This tendency they found disturbing: their basic recommendation was that there should be no departure “from the present system of detailed legislative control of the various forms of tax avoidance that are thought to be obnoxious”.

A matter of policy

17.7 It has often been urged that there should be a system of “general fiscal equity” (in which it would be accepted that a few people might be overcharged to tax, balanced by a few people undercharged) rather than “perfect fiscal equity”, with or without the enactment of a general anti-avoidance provision whereby any transaction the paramount object of which was the avoidance of tax should have no fiscal advantages. We think, however, that decisions of this nature lie in the field of policy, and that our terms of reference confine us to examining what might be done, assuming that fiscal legislation will continue to have to express complex ideas and rules, to achieve greater clarity and simplicity in its expression and structure.

EXPRESSION

17.8 The Codification Committee declared that “to expect from us a codification of the law of income tax which the layman could easily read and understand was a vain hope, which only the uninstructed could cherish . . . Income tax legislation must, by its very nature, be abstract and technical, and can never be easy reading. It is concerned with principles and methods of calculation which it is difficult to express in words without an appearance of complication”.

17.9 The Royal Commission, who considered that “without the assistance offered by judicial interpretation, the meaning and effect of the Income Tax Acts would have remained obscure indeed”, similarly concluded that the expression of the law on the subject of income tax in statutory form was never likely to be intelligible to the ordinary taxpayer, but thought that an effort should nevertheless be made to produce some greater simplicity of expression. They were not satisfied that it was impossible to introduce greater clarity and concision into the drafting of income tax legislation: “we remain under the impression that the possibilities of an improved technique are not exhausted and some advance could still be made in the way of clarity”.

17.10 We do not dissent from the Codification Committee’s and the Royal Commission’s view that the layman is never likely to be able easily to read and understand all fiscal legislation. We accept that over much of this field the legislative audience after enactment is to be regarded as consisting mainly

---

2 Cmd 9474, paragraph 1028.
3 Cmd 9474, paragraph 1029(4).
4 Cmd 9474, paragraph 1029(1).
5 Cmd 5131, paragraph 26.
6 Cmd 9474, paragraph 1087.
7 Cmd 9474, paragraph 1080.
8 Cmd 9474, paragraph 1089(5).
of those—businessmen, lawyers, accountants, and members of the judiciary—who are professionally concerned with the subject, and that to a large extent the objective can only be the limited one of making fiscal legislation more readily intelligible to that audience, from members of which has come most of the evidence we have received on the subject (we examine below a number of specific suggestions that they have made). On the other hand many of the more complicated situations dealt with in the legislation are unlikely to occur in the affairs of the great majority of taxpayers, and we think it should be possible for the basic provisions affecting that majority to be framed in relatively simple terms, so as to be capable of being understood by them at any rate with the help of the explanatory material prepared for their guidance by the Inland Revenue.

Statements of principle
17.11 In a paragraph dealing with “the problem of expression” the Royal Commission recorded “a preference for clear statements of principle in a brief enactment over detailed attempts to cover by anticipation all imaginable evasions of it” as a line of advance towards greater clarity that had been suggested to them as worth exploring. They did not, however, explicitly comment on the suggestion, nor indicate how it could be adopted without a policy decision (which they recommended against) to simplify the ideas and rules to which legislative expression must be given and to abandon the present system of detailed legislative control of tax avoidance. In the circumstances we record our view that in this field, as in others, the attempt to provide in legislation for every foreseeable circumstance can result in very complex provisions that are not easy for even an expert legislative audience to comprehend. Furthermore we consider that if Parliament were to state in broad terms in the Act what its intention was, any detailed provisions necessary for giving effect to that intention would be easier to understand, and we endorse the suggestion that the scope of a charge or relief should be stated clearly in general terms at the beginning of the section or group of sections dealing with it; we recommend accordingly.

Mathematical formulae
17.12 The Royal Commission accepted as one valid reason why income tax legislation was difficult and obscure the fact that “not infrequently its conceptions represent an attempt to dress what are really mathematical formulae in the vesture of English prose”. Several witnesses have suggested to us that obscurities arising from this source might be reduced if mathematical formulae were more often expressed as such. This is now an accepted drafting technique, and one of which, with certain reservations, we approve (see paragraph 11.20).

Meaning of words and phrases
17.13 Witnesses have complained to us about the lack of consistency in the use and definition of words and phrases in fiscal legislation. Of the examples cited to us, some appear to have been dictated by policy: if for instance, it is decided that “relatives” shall for the purpose of claiming reliefs from tax

---

1 Cmd 9474, paragraph 1089(5).
2 Cmd 9474, paragraph 1089(5).
comprise a wider category of persons than the “relatives” who are to be treated as a single person in the context of certain company reconstructions, then, unless two different words can be used, different definitions of “relative” for the two purposes seem to be practically unavoidable (see Income and Corporation Taxes Act 1970, sections 23 and 253(4)). We have been presented with an analysis of provisions concerning groups of companies which demonstrates the wide variety of criteria that determine, for different tax purposes, whether a company is a member of a “group”: these distinctions also appear to be ones of substance resulting from policy decisions.

On the other hand, there are instances where the differences between definitions of the same expression appear to be purely verbal: the definition of “relative” in section 253(4) of the Act of 1970, cited above (“husband, wife, ancestor, lineal descendant, brother or sister”), seems to be no different in substance from the definition of “relative” in section 303(4) of that Act (“husband or wife, parent or remoter forbear, child or remoter issue or brother or sister”), and we see no obvious reason for their being differently expressed. The two definitions are derived from different annual Finance Acts (1954 and 1965) and occur in provisions dealing with different subjects (company reconstructions and close companies). The most likely explanation seems to be that the draftsman’s instructions for the 1965 Act did not draw attention to the existing definition in the 1954 Act. We understand that on consolidation in 1970 a deliberate decision was taken not to engage in such tidying-up operations as standardising definitions, because of the risk of unintentionally changing the law and the particularly serious practical consequences any unintended change might have in the tax field. Though it seems unlikely that the difference would cause any inconvenience to users in the instance quoted above, there may well be cases where a purely verbal difference could be confusing. The possibility cannot be entirely discounted that to change the wording of established definitions, on consolidation, might arouse doubts on the part of practitioners whether a change in meaning was not intended; nor can the risk of an unintended change in meaning. But we think the balance of advantage is in favour of standardisation.

It has also been represented to us that expressions used in fiscal legislation the precise meanings of which are important are not always, but ought to be, defined; examples given were “management” and “error or mistake”. Another criticism made to us concerns the artificiality of requiring references to one expression to be read as including references to other expressions where the latter embody concepts that are alien to it in commercial and accountancy terminology and even in the ordinary meaning of our language. The example given was section 467(2)(a) of the Income and Corporation Taxes Act 1970: “References [in section 461] to profits include references to income, reserves or other assets”. We do not accept the witness’s suggestion that this example demonstrates the draftsman’s ignorance of commercial and accountancy terms. The device seems to us to be a legitimate one, adopted in this instance in order to avoid further complicating the wording of section 461, though it may be that some other expression, more apt than “profits” to carry all four meanings without artificiality, could have been used.

It has been suggested to us that it would be helpful, both to the draftsman as an aid to consistency and to the legislative audience, if definitions of expressions used in fiscal legislation were standardised (and collected together either
in a new Interpretation Act\(^1\) or in a separate part of a new Taxes Act). Whilst in general we think that the use of definitions is a matter for the draftsman's judgment (paragraph 11.15), it does seem to us that there is room for some rationalisation in the fiscal field. Where no difference in meaning is intended, we think every effort should be made to avoid variations in wording when drafting definitions in new fiscal legislation,\(^2\) and to standardise the wording of existing definitions when consolidation provides an opportunity for this to be done. Where different meanings are intended, and an expression is accordingly defined in substantially different terms, for different tax purposes, any degree of standardisation would involve considerations of policy. We consider, however, that even where no standardisation of the underlying concepts would be acceptable greater clarity might be achieved by purely drafting means, such as the use, where practicable, of different expressions (rather than the same expression differently defined) or the addition of qualifying adjectives or phrases, or other distinguishing words; and we so recommend.

**Precision**

17.17 We have mentioned in paragraph 17.6 above that the Royal Commission were "disturbed by the criticism that much of the anti-avoidance legislation is obscurely worded and drawn more widely than its purpose requires".\(^3\) Complaints to the same effect have been made to us. Without conducting an investigation of the substance of current fiscal statutes and the proclaimed or presumed intentions underlying particular provisions, which we consider to be outside the scope of our inquiry, we cannot comment on the justice of these complaints.

**Brevity**

17.18 We note with some sympathy the view put forward to us that "skillfully compressed wording" in fiscal legislation could be difficult to understand, and that it would generally be preferable to sacrifice such elegant economy of expression in order to achieve greater clarity, even at the cost of increased length. This was coupled with a plea that there should be no increase, but rather a reduction, in the length of sentences, and that if there was any existing convention that each sentence should be numbered as a section or subsection it should be abandoned. We do not think that fiscal legislation is in a special category in these respects. We discuss these topics in general terms in Chapter XI.

**Consultation**

17.19 Various suggestions, differing in detail, have been made to us to the effect that drafts of fiscal Bills, or at least of those parts of them that were not of necessity subject to Budget secrecy, should be published before introduction into Parliament, so as to enable the professional accountancy bodies, and others, to draw attention to drafting points and to situations and circumstances that might have been overlooked. Such publication might, it was suggested, either be general or take the form of a reference to some advisory body, or both. We think that some such procedure (the possibility of which we discuss more

---

\(^1\)See Chapter XIX, paragraphs 19.4 to 19.11.

\(^2\)A computerised statute book might help; see Chapter XVI, paragraph 16.26(2).

\(^3\)Cmd 9474, paragraph 1029(4).
generally in Chapter XVIII) might well be particularly useful if applied to fiscal legislation, though particularly difficult because of the intense pressure on the time and resources available and the requirements of Budget secrecy.

17.20 It has been suggested to us that the more detailed provisions of a Finance Bill might be detached from the main budgetary provisions and given more leisured scrutiny at another point in the Parliamentary year, possibly by a Select Committee empowered to hear expert evidence. In recent years parts of Finance Bills have been taken in Standing Committee. The Select Committee on Procedure, in their Second Report for 1970–71, recommended that Standing Order No. 40 of the House of Commons should be amended to enable a Bill to be committed in part to a Standing Committee and in part to a Select Committee. It was, however, envisaged that the two committees would meet simultaneously and that the Bill would be considered as a whole on report. The recommendation was not confined to Finance Bills, but the view was expressed, in support of the recommendation, that the necessary distinction between questions of principle and questions of detail had been successfully drawn in proceedings on the Finance Bill in three sessions. The Government accepted in principle that “suitable” Bills or parts of Bills might in future be committed to Select Committees, but “in view of the additional time that would be required under such a procedure, such Bills would perhaps need to be exclusively of the less urgent kind”. We do not think that a further new procedure involving reference of parts of the annual Finance Bill to a Select Committee is either practicable or desirable. It would not be right to deprive an adequate representation of Members of the chance to vote on the detailed provisions.

Correction

17.21 It has been suggested to us that there is a need for some procedure that would enable defects of expression to be rectified, and other uncontroversial amendments of fiscal statutes to be made, without making demands on Parliamentary time. The kind of machinery proposed was a statutory committee of revenue law experts, which would consider what amendments of this nature were desirable and formulate them in consultation with the Inland Revenue and Parliamentary Counsel; the amendments would be scheduled to the annual Finance Bill and should not be subject to debate. We find this suggestion attractive. The Joint Committee procedure we recommend in paragraph 18.38, for the rectification of defective statutes in general might not be constitutionally appropriate for fiscal statutes, but we think that it might be practicable to secure immunity from debate for the statutory committee’s proposed amendments if they were certified by the Chairman of Ways and Means as not substantially altering the effect of the statutes to be amended. We recommend accordingly.

STRUCTURE

17.22 The Codification Committee held that “the fact that this branch of legislation cannot avoid being technical and complicated is no excuse for perpetuating its present confused and illogical shape. Rather the contrary.

1HC 538, paragraphs 29, 70(12).
2HC Deb, 825, c 650.
For the more difficult and elaborate the subject, the more important are precision and orderliness in its presentation".\(^1\) Two major consolidations of fiscal legislation have taken place since that Committee reported, but a high degree of structural complexity remains.

**Schedules**

17.23 Witnesses have complained to us that too great a proportion of fiscal legislation is contained in Schedules, and have suggested that all provisions affecting taxes payable and reliefs granted should be contained in sections, and only ancillary and supplementary matter in Schedules. A similar view was taken by the Codification Committee. In describing the plan of their draft Bill,\(^2\) they said that “it will be observed that the whole untidy apparatus of schedules and rules has been swept away and all the provisions on each topic have been gathered together . . . and embodied in articulate clauses in the Bill . . . Eight Schedules deal with a variety of special matters (. . . mostly of an administrative character) with which it was thought better not to encumber the main text of the Bill”.\(^3\) As we have indicated in Chapters X and XI, we believe that, in general, the inclusion in Schedules of detailed provisions of a permanent kind (provided that their existence is adequately signalled in an enacting section or sections) can be a valuable means of shortening and simplifying the body of an Act. We do not think that fiscal legislation is a special case in this respect.

**Amendments**

17.24 We have already recommended (paragraph 13.20) that where amendment of existing legislation is required the system of textual amendment should be applied as generously as possible. It has been proposed to us in evidence that in the sphere of fiscal legislation that system of amendment should be employed to the exclusion of all other systems. A necessary prerequisite of putting such a proposal into effect would be a comprehensive and up-to-date consolidation of the various branches of revenue law. All changes of the law, whether by way of addition, omission or modification, would then take the form of textual amendment. The law would thus be in a state of “perpetual consolidation”. As to the proposal itself, we were informed by First Parliamentary Counsel that it “involves decisions which the draftsman, left to himself, cannot take” and that the present practice is to employ textual amendment in amending the Income Tax Acts “wherever it produces a convenient result”.

17.25 We recognise that there will be many circumstances in which the amendment of fiscal legislation by the textual amendment method will not be practicable. For instance, it may not be practicable to find a suitable place in the text of any existing enactment for the insertion of a quantity of new matter. But the volume, frequency and intricacy of fiscal legislation make it, in our view, particularly desirable that changes in this body of statute law should, wherever practicable, be affected by textual amendment rather than by enacting new provisions that the reader must conflate with those of existing enactments in order to ascertain their combined effect.

\(^1\)Cmd 5131, paragraph 26.
\(^2\)Cmd 5132.
\(^3\)Cmd 5131, paragraphs 27–28.
17.26 We think that too restrictive a view tends to be taken at present of the extent to which it is practicable to amend fiscal legislation by the textual amendment method. Here is a particular instance of non-textual amendment to which our attention has been drawn. Section 188(1)(d) of the Taxes Act of 1970 reads as follows:

"188.—(1) Tax shall not be charged by virtue of section 187 above in respect of the following payments, that is to say:—

(d) a benefit paid in pursuance of any such scheme or fund as is described in subsections (1) and (2) of section 221 of this Act (exemptions from charge to tax under the said section 220) or in section 24(1) of the Finance Act 1970".

The effect of this provision was altered by section 73 of the Finance Act 1972 as follows:

"73.  The exclusion, by virtue of section 188(l)(c?) of the Taxes Act, of certain benefits from the charge to tax under section 187 of that Act (payments on retirement or removal from office or employment) shall not apply to any compensation paid for loss of office or employment or for loss or diminution of emoluments unless the loss or diminution is due to ill-health; but this section shall not be taken to apply to any payment properly regarded as a benefit earned by past service".

17.27 It was represented to us on the one hand that this was inconvenient for the user, who is obliged to conflate the Acts of 1970 and 1972, and on the other that the draftsman was right to use this method because a textual amendment would probably have been "cumbersome and difficult to understand". We suggest that the alteration could have been fairly satisfactorily made by textual amendment in either of two ways. The first would have been to alter the text of section 188(1)(d) of the 1970 Act, the amending section 73 (of the 1972 Act) taking some such form as this:

"73.  Section 188(l)(d) of the Taxes Act is amended by adding at the end the words ‘, except a benefit consisting of compensation paid for loss of office or employment, or for loss or diminution of emoluments, where the loss or diminution is not due to ill-health and the payment is not properly regarded as a benefit earned by past service’ ”.

It may be that the words in section 73 after the semicolon are almost declaratory, and we would accept that that possible flavour of the proposition is not carried over into this textual version.

17.28 The second textual method would have been to draw the amendment in substantially the same form as that in which it was in fact enacted, but insert it into the text of section 188 of the 1970 Act as a new subsection. Section 73 of the 1972 Act would then have read like this:

"73.  Section 188 of the Taxes Act is amended by inserting after subsection (1) the following subsection:

‘(1A) The exclusion, by virtue of subsection (1)(d) of this section, of certain benefits from the charge to tax under section 187 above shall not apply to any compensation paid for loss of office or employment or for loss or diminution of emoluments unless the
loss or diminution is due to ill-health; but this subsection shall not be taken to apply to any payment properly regarded as a benefit earned by past service.”

We believe this amendment has precisely the same effect as section 73 of the Finance Act 1972, though in practice it would probably be supplemented by a textual amendment of section 188(1)(d) of the 1970 Act, inserting a forward reference to the new subsection (1A). However, the proposition in section 188(1)(d) as actually amended, or as textually amended in either of the two ways we have suggested, remains a chain of no less than four negatives each qualifying what has gone before.

17.29 A third theoretically possible method of textual amendment, which might have produced a more satisfactory result than either of those so far suggested, would have been to re-cast the whole of section 188(1)(d) in a form which both effected the amendment and got rid of the negatives; but Parliamentary considerations no doubt inhibited the draftsman from considering extensive recapitulation of this kind.

17.30 We recognise that textual amendments may not be particularly helpful to the user of the statutes if he is left to note them up for himself, and that if they were more liberally used a frequent reprint service would become even more of a practical necessity. Such a service is in fact already provided, for the Acts concerning income tax, corporation tax, and capital gains tax, by the Inland Revenue’s annual compilation *The Taxes Acts*. The whole of this compilation is re-issued each year, and we think that in the tax field at any rate this method may be preferable to any loose-leaf or similar system, as the retention of earlier issues by the user can provide him with a convenient means of ascertaining the law in force in past years, which in practice often has to be applied.

**Consolidation**

17.31 A large body of fiscal legislation was consolidated a few years ago broadly as follows: the principal administrative provisions for income tax, corporation tax, and capital gains tax in the Taxes Management Act 1970; the principal provisions relating to capital allowances in the Capital Allowances Act 1968; other provisions relating to income tax and corporation tax (including income tax and corporation tax exemptions as extended to the capital gains tax but excluding other capital gains tax provisions which extend to the computation of corporation tax on chargeable gains) in the Income and Corporation Taxes Act 1970. It will be observed that the consolidation of provisions relating to the three taxes was not complete: provisions relating to liability to capital gains tax (and to corporation tax on chargeable gains) were not consolidated, and are still to be found in Part III of the Finance Act 1965 as amended. Various transitional provisions also require reference to be made to the earlier legislation (some of which is not reproduced in *The Taxes Acts*).  

17.32 We do not subscribe to the view that fiscal statutes could be kept in a state of “perpetual consolidation” by the use of textual amendment. As we have said in paragraph 17.25, we recognise that there will be many circumstances in which the amendment of fiscal legislation by the textual amendment

---

1See paragraph 17.30.
method will not be practicable. Even where amendments of the law are effected by textual amendment of a consolidation Act, a point must inevitably be reached when the original structure of the Act cannot conveniently accommodate new matter. It is therefore clear that fresh consolidations must from time to time become a necessity. We note that the Royal Commission recommended that there should be a regular consolidation every 10 years, and we do not consider that a more liberal use of textual amendment would necessarily enable that interval to be lengthened. Nevertheless, it remains in our view a matter for regret that the integrity of the consolidations mentioned in paragraph 17.31 has not been preserved, as far as possible, by casting subsequent legislation on the subjects with which they deal in the form of textual amendments to them wherever it would have been practicable to do so.

Codification

17.33 The Codification Committee produced, as Volume 2 of their report, a draft Bill to codify income tax law as it stood at 31 January 1936; that is to say, to re-state in statutory form not only the relevant statutory provisions but also the judicial decisions by which they had been interpreted. The Bill was never introduced into Parliament and the outbreak of war in 1939 put an end to further consideration of it. In 1955 the Royal Commission concluded that the task of codification had by then become even more formidable; they were not satisfied that a full codification of income tax law was either feasible or, if feasible, valuable enough to justify the labour involved, for no codifying statute would be short or easy to read or to understand. Codification of fiscal law is not a subject on which any evidence has been submitted to us or on which we feel able to offer any informed opinion. We make no recommendation, and merely record that we see no reason to dissent from the Royal Commission’s views.

1Cmd 9474, paragraph 1089(3).
2Cmd 5132.
3Cmd 9474, paragraph 1089(1).
CHAPTER XVIII

PARLIAMENTARY PROCEDURE AND SCRUTINY OF DRAFTING

18.1 Our terms of reference require us to consider any consequential implications for Parliamentary procedure that may arise from our recommendations for achieving greater simplicity and clarity in our statute law. In looking at consequential changes in procedure we have also reached some other conclusions, not necessarily consequential on our earlier recommendations, which would in our view facilitate the enactment of simpler and clearer statutes.

BILLS AMENDING EXISTING ENACTMENTS

Short titles

18.2 Several proposals for changes in procedure have been put to us by witnesses on the ground that they would assist in the preparation of more intelligible legislation when amendments to existing Acts are being considered. For example, the Statute Law Society suggested that there should be changes in the practice relating to the choice of short titles for amending Bills which would assist in

"steering the Bill into its appropriate niche in the existing body of statute law and supplement the work of the draftsman in implementing the one Act, one subject principle".

The Society have particularly in mind the case of composite Bills amending several principal Acts, the short titles of which are usually not very helpful in this respect. They contend that titles should not be chosen

"at random, inconsistently or unsystematically but should be selected by a designated person or body charged with this task and according to prescribed rules".

At present the short title of an amending Bill is chosen by the promoter, having regard to the general terms and purposes of the Bill. Although we think that in some cases the short title of a Bill can be misleading, we do not feel that it is practicable for such titles to be chosen by another body as envisaged by the Statute Law Society, and we have already (in paragraph 14.7) expressed our view that the idea of consolidating the statute book on a "one Act, one subject" principle is fallacious in theory and incapable of being put into practice.

Separate amending Bills

18.3 Another suggestion put to us by the Statute Law Society to facilitate the arrangement of the statute book on a "one Act, one subject" basis is that where several principal Acts are to be amended together, there should be a separate amending Bill for each principal Act and a suspension of Standing Orders (as happens in the Australian Federal Parliament) to permit the related Bills to be dealt with together. We believe that this practice would involve complications which would not be justified, even supposing Parliament were to agree to the procedure. Furthermore, as we have already said, we do not support the proposal to re-arrange the statute book on a one Act one subject basis. We do accept that the practice of introducing amendments to several different codes in one amending measure (such as a Miscellaneous Provisions Bill) does cause difficulties for practitioners. These difficulties should however largely disappear with the new edition of Statutes in Force.
BILLS AFFECTING SCOTLAND

Procedure to save time on separate parallel Bills

18.4 As we have urged in paragraph 12.8, there should be a separate parallel Bill for Scotland in all cases where legislation in common with England and Wales is required but a combined Bill cannot be drafted in straightforward terms for both countries. We pointed out in paragraph 12.9 that the enactment of separate Acts applying equally to England and Wales and to Scotland need not take up as much Parliamentary time as would be required under existing procedures. The adoption of a procedure on the following lines would, we think, help to save time. In both Houses the debate on second reading and third reading, if any, would be taken on the English Bill, and the Scottish Bill would be given formal readings. For the committee stages in the Commons, each Bill would be taken in its appropriate committee. In the Lords the English Bill would be referred to a committee of the whole House, and the Scottish Bill would be taken by the committee whose appointment we recommend in paragraph 18.7. The advantages of this system would be that both English and Scottish legislators would be considering "clean" Bills and that the Scottish Bill would be committed to a Scottish committee. From the Government's point of view this procedure would use very little more Parliamentary time than a single Anglo-Scottish Bill. Although the second and third readings would theoretically be of the English Bill, speakers who wished could refer to the Scottish Bill. If the Bills were altered in their separate committees in such a way that they could no longer be regarded as parallel Bills, then they would have to go through the existing procedures for the rest of their stages. We recommend that further consideration should be given to this proposal.

Separate re-enactment of provisions applying only to Scotland

18.5 We mentioned in paragraph 12.10 the possibility that there may on occasion be such urgency and shortage of Parliamentary time that it is necessary to instruct the draftsmen to prepare an Anglo-Scottish Bill which turns out to require an unacceptable degree of alteration to make it suitable for Scotland. For such Acts there is a procedure which provides for the re-enactment in Scotland-only form of those provisions which apply to Scotland. This is done as if the re-enactment were a consolidation, so that the shortened procedure applicable to consolidation is available. This produces an Act which is acceptable to Scottish practitioners having to consider the legislation after the re-enactment is published. It does not, however, assist practitioners who need to consider the Scottish aspect before re-enactment; nor does it assist Parliament during the Bill stage of the original Act. A recent example of the use of this procedure is the Land Compensation (Scotland) Act 1973, re-enacted from the Land Compensation Act 1973. We recommend that this procedure should be adopted whenever a United Kingdom Act requires substantial adaptation to make it workable in Scotland, subject to our preference for the speedier procedure described in the following paragraph.

18.6 We would prefer, instead of the procedure outlined in the previous paragraph, one that would not have the disadvantage of a delay between the enactment of the Anglo-Scottish Act and the re-enactment of its Scottish provisions. We have noted a suggestion made to the Kilbrandon Commission
on the Constitution by the Scottish Law Commission\(^1\) for a procedure which would reduce the time-lag before the appearance of a Scottish re-enactment. Briefly, this would permit the appropriate Minister, after Royal Assent, to lay before both Houses of Parliament a provisional measure setting forth the effect of the United Kingdom Act in Scotland. The measure would be referred to a Joint Committee of both Houses, consisting of five Members of the House of Lords, including at least one Scottish Lord of Appeal, and five Members of the House of Commons representing Scottish constituencies, with a quorum of four. The Joint Committee would examine each provisional measure with the assistance of the Scottish Parliamentary Draftsman, and if satisfied that it accurately reproduced the Scottish contents of the original United Kingdom Act would report that fact to both Houses. Unless either House, within, say, ten Parliamentary days of receiving such a report, otherwise resolved, the measure would be presented for Royal Assent as if it were a Bill passed by both Houses. On receiving the Royal Assent, the measure would become an Act of Parliament and those parts of the original United Kingdom Act superseded by the provisional measure when enacted would automatically expire.

We prefer this as a speedier alternative to the arrangement described in paragraph 18.5, and we recommend that this proposal, or something similar, should be adopted.

Scottish legislation in the House of Lords

18.7 We recommend that the House of Lords should appoint a committee to which Scotland-only Bills could be committed at the committee stage. We think that this would make for better and more detailed discussion of these Bills than is practicable on the floor of the House, and this in turn would help to achieve greater simplicity and clarity in Scottish Bills. The House of Lords, which is widely regarded as a revising chamber, would also benefit from having amongst its members a minister who is a Scottish lawyer, as was the case in 1969 when the Lord Advocate was created a Life Peer. Scottish Peers felt that this enabled them to improve the content and clarity of amendments dealt with in the House of Lords. We recommend that as a standard constitutional practice there should be a Scottish lawyer, whether or not a Law Officer, included in the ministerial team in the House of Lords.

TERRITORIAL EXTENT

18.8 Shortly after we were appointed, the Lord President of the Council drew our attention to a Question he was asked in the House of Commons on 21 May 1973 by Mr Donald Stewart, Member of Parliament for the Western Isles, about the indication given in the titles of Government Bills as to their territorial extent. Mr Stewart asked if the Lord President would make it a general drafting practice to make clear in the titles of Government Bills to what country they referred. We have considerable sympathy with Mr Stewart and with others in Scotland, and in Northern Ireland, who wish to know fairly quickly when looking at an Act whether any of it applies to the law with which they happen to be concerned. There are two distinct problems here, one relating to the long title and one to the short title.

In the long title of the Bill
18.9 So far as the long title is concerned, the rule of the House of Commons is that the scope of a Bill is limited to a particular part of the United Kingdom if, but only if, such a limitation is written into the long title. The rule applies even if the limitation is only implicit, as when the title is framed by reference to an Act which does not extend to the whole of the United Kingdom. Because of this rule, the committee on the Bill cannot entertain an amendment to extend the Bill beyond the part of the United Kingdom to which it is limited. The rule can however be abrogated if the House agrees to an instruction to the committee, and the House will usually not object to such an instruction. The implications of references in the long title to particular legislation may however easily be overlooked.

18.10 The rule may sometimes work in favour of the Government in that it may prevent the moving of amendments to extend the Bill; but it is just as likely to inconvenience Ministers if they find that they wish to extend the Bill by amendments in committee. The draftsman will naturally be careful not to expose the Government to the risk of this inconvenience, even though it would be easy to get the House to agree to the necessary instruction. If therefore he suspects that the Bill may need to be extended by amendments in committee, he will avoid importing into the long title any territorial limits which might necessitate an instruction. We do not think that any discouragement should be placed in the way of the draftsman from expressing the territorial limits of Bills clearly in their long titles, and we therefore recommend that this rule of the House of Commons be abolished.

In the short title of the Bill
18.11 The problem of identifying the territorial extent of statutes in their short titles, which we think it is more probable Mr Stewart had in mind when he asked his Question, though not a procedural point, might also be dealt with here. There is no difficulty of course about identifying Acts which apply solely to Scotland. With a few exceptions these are already plainly distinguished by the use of the expression “Scotland” in their short titles, as in the Crofters (Scotland) Act 1955. The same practice applies with Acts relating only to Northern Ireland. The trouble arises with Acts applying only to England and Wales, which carry no distinguishing expression in their short titles. We do not think there is any practical reason why they should not do so, and just as it is helpful for English readers to see at a glance from the short title of a “Scotland only” Act that they need read no further (nor indeed get a copy of the Act), so Scottish and Northern Irish readers would be helped by corresponding guidance in the short titles of Acts affecting only the law of England and Wales. We therefore recommend accordingly.

18.12 Where the law of only one law district is excluded from the application of an Act it is more difficult to show the extent in the short title without clumsiness, but no one has suggested that this should be attempted, and we make no recommendation on this point.

18.13 To some extent the Editorial Board of Statutes in Force have met this problem by printing the initial letters “UK”, “EW”, “S” and “NI” at the bottom right hand corner of the title page of each Act printed in that edition.
The letters are intended to be primarily a guide for purchasers, but they are no doubt of assistance to users. A similar practice might be found useful if applied to Bills in Parliament and to Acts as printed by the Queen's Printer, and we recommend that an experiment be made on those lines.

In the body of the Bill

18.14 Finally, there is the question of territorial extent clauses within the Bill itself. An extent clause is needed only in order to negative the normal presumption that an Act of the Parliament of the United Kingdom (or a particular provision of such an Act) extends to the whole of the United Kingdom. It is not needed, and with one exception is not used, in order to indicate that an Act does extend to a particular part of the United Kingdom. The exception is that for some years it has been usual to include in a Bill which is to extend to Northern Ireland an express provision declaring that it does so extend. The reason for this was the existence of the separate legislature in Northern Ireland. It has been suggested to us that a similar practice should be adopted with regard to Scotland, so that the practitioners and the public there can find in each Act an express statement that the Act, or any particular provision of the Act, does or does not extend to Scotland. We think this proposal could usefully be considered, though we doubt if it could or should be adopted as an invariable rule. There is much to be said for including a clearly-stated extent clause whatever the present rule may be and we recommend that such a clause should ordinarily be included in Bills. Where in any Act the extent of a particular section is different from the extent of the Act as a whole, this should be indicated in a side note to the section. The effect of these proposals would be to assist users of the legislation in England, Wales and Scotland. No procedural questions would be involved unless it were decided to promote the extent clause from the end of the Bill to the beginning, and this proposition we now consider.

THE POSITION IN BILLS OF COMMON-FORM CLAUSES

18.15 We have received evidence from a number of users of the statutes that it would be convenient to have certain general provisions placed at the beginning of the Act rather than at the end where they are at present usually to be found. These common-form provisions deal with extent and commencement, short title and citation and interpretation. It is argued that logically the proper place for them in an Act is at the beginning, because the reader cannot fully understand it until he has learned which expressions have special definitions. In a Bill they are rightly placed at the end, since it is wrong to consider how particular expressions are to be defined, which clauses should or should not extend to Scotland, or when different provisions of the Bill should come into force before deciding what expressions are to be used, what clauses are to stand part of the Bill, and what those clauses are to say. This antagonism between the logical and the procedural arrangement might be reconciled if these clauses were placed at the beginning of a Bill but postponed until the Bill had been gone through in committee. The postponement would have to be formally moved and there would be a risk of a division at the very beginning of a controversial Bill on a minor point of procedure before the principles of the Bill had been expounded to Parliament. The Parliamentary draftsmen have therefore
normally adhered to the practice of placing common-form clauses at the end of Bills, and this is where most regular users of the statutes have long been accustomed to look for them.

18.16 There are disadvantages in changing the present practice of placing common-form sections at the end of the statute. From the point of view of the user it is a switch from one convention to another which cannot affect existing Acts. The user would therefore be faced with two different modes of arrangement, and we do not suppose that he would welcome this or that it would make it easier for him to understand the Acts he needed to consult. It might also tend to discourage the valuable drafting practice by which the main provisions of the legislation are formulated early in the Act. Although the reader certainly needs to grasp the meaning of the definitions and terms used in the statute before he can fully understand it, he is more likely first to require a general statement of the policy which the statute is putting into effect. The process of understanding is then refined by reference to the detailed provisions contained in later sections, in the common-form sections and in the Schedules.

18.17 Recent experience in Northern Ireland has helped us to reach a view on the question whether common-form sections should be promoted to the beginning of Acts. During the period of Direct Rule, when Orders in Council replaced Acts of the Stormont Parliament, the Northern Ireland draftsmen adopted the practice of inserting the short title and interpretation provisions at the beginning of the Order. This is the usual practice with Statutory Instruments, and the draftsmen considered that this was a more logical arrangement. The change-over from Orders in Council to Measures of the Northern Ireland Assembly which took place in 1974 gave the draftsmen an opportunity of reviewing the practice. They concluded that although there was a great deal to be said in favour of promoting the common-form clauses to the beginning of Measures, any benefits which might result would be outweighed by the disadvantage that the practice would be out of step with Westminster legislation. Current Northern Ireland law would have included Measures where common-form provisions appeared at the beginning and Westminster statutes where they appeared at the end. This would not have been a satisfactory arrangement, and so they went back to the practice of placing the extent, commencement and other common-form provisions at the end of their Measures.

In considering the same point in relation to Westminster legislation we too have reached the conclusion that the existing practice should not be disturbed. We do not believe it makes very much difference to the ease with which Acts can be read whether the common-form provisions are placed at the beginning or the end of the statute; but since the latter practice is so well established a change now might cause more confusion than would be justified by the possible advantages of a more logical arrangement.

PROPOSALS TO LIMIT DEBATE ON CLAUSES IN THE COMMONS

18.18 Many of our witnesses have expressed a preference in favour of shorter sections, and we have therefore considered whether the present rule that in committee each clause can be debated on a motion that it shall stand part of a Bill has an adverse effect on the intelligibility of our legislation by disposing
the draftsman to frame clauses which are longer than they should be, thereby helping to reduce the opportunities for debate and the time taken on the Bill. The present rule is subject to the qualification that the chairman of the committee has a discretion to prevent discussion on clause stand part if the principle of the clause and any matters arising thereon have already been adequately discussed during debate on amendments to the clause. If the rule were to be altered so that a clause automatically stood in the Bill unless a specific amendment had been put down to remove it, would this lead to an improvement in drafting?

18.19 One of the objectives in the drafting of a Government Bill is to limit the opportunities for lengthy debate when there is intense political opposition to a measure, euphemistically described as “close scrutiny of Government legislation”. If the present rule were to be altered in the manner suggested in paragraph 18.18, it is to be expected that in a situation of “close scrutiny” amendments would be put down to leave out nearly every clause. It would therefore be necessary for the chairman to have a discretion not to call such amendments if the principle of the clause had already been sufficiently debated or if the content of the clause did not warrant discussion. The selection of amendments to leave out a clause could not be decided on in advance of the debate on the amendments to the clause itself, and one would be back to the present situation with the difference that there would be no debate unless the amendment was selected. We doubt therefore whether the suggested amendment of the rule would make any practical difference. Whichever form the rule takes, a decision to chop up a long Bill into a given number of clauses will have precisely the same effect.

18.20 We do not believe that the present rule is so harmful to good drafting practice as it might appear to be, or that a change in the rule would of itself make it easier to draft shorter clauses. It is clear to us from a review of recently enacted legislation that there is in any event now a tendency in favour of shorter clauses, and it has presumably been possible to draft Bills in this way within the constraints imposed by the existing rules and procedure. We do not therefore consider that any change is required in the present rules and practice relating to debates on “clause stand part”. We have noted that the Select Committee on Procedure of the House of Commons have considered proposals to limit debate on clauses when Bills are in committee and have rejected them.

SOME MINOR PROPOSALS

18.21 First Parliamentary Counsel has drawn our attention to certain constraints imposed by Parliamentary practice which may be a hindrance to the draftsman in the preparation of legislation, and has proposed a number of changes. His proposals are only indirectly relevant to the subject of our inquiry; but, to the extent that any changes in practice would reduce the load on the draftsman after a Bill is introduced and give him more time to concentrate on essentials, we are glad to give them our support.

1Leg Sixth Report from the Select Committee on Procedure 1966-67 (HC 539), paragraph 24.
Italics to show financial provisions

18.22 The first suggestion is that the practice, with Bills introduced in the Commons, of printing in italics provisions relating to financial expenditure should be discontinued. When these Bills are reprinted, the italics are dropped and the text has to be rechecked, with consequent slight risk of introducing printing errors. The practice serves little or no purpose since there is already an account of the financial effects of such Bills in the Financial Memorandum. Moreover, the italics are not a reliable guide to passages which need to be confirmed by a money resolution before they are debated in committee. First Parliamentary Counsel has suggested that there should be no italics in Government Bills as introduced in the Commons. We agree with this proposal and we so recommend.

Form of amendments to Bills

18.23 The form of amendments to Bills differs in the House of Commons for committee and report stages. The form in the House of Lords differs from both. It would save time and trouble for those concerned with legislation if practice were made uniform in both Houses. We agree that there is a strong case for harmonising the lay-out of amendments for both Houses and consider that the method used in the House of Lords has advantages over that used in the House of Commons. We recommend that there should be consultation between the two Houses with a view to submitting agreed proposals on this subject.

Numbering of new clauses

18.24 When a Bill has new clauses added to it the resultant renumbering of clauses and internal cross-references can be time-consuming and is a possible source of error. First Parliamentary Counsel has suggested that new clauses should be given temporary numbers (for example 7A, 7B, Schedule 2A) which would make it unnecessary to renumber and would allow everyone to continue to refer, throughout the passage of the Bill, to the original clauses by their original numbers. The Bill could be renumbered in correct sequence when the proof Royal Assent copy was being prepared. This is an attractive suggestion, but it would not be practicable in present circumstances because of the further risk of error which a complete renumbering of clauses would entail at the Royal Assent proof stage, and the delay that would occur before the general publication of an Act to allow renumbering to take place. However, as progress is made with the use of computers in the processing of Bills through both Houses, no doubt ways will be found of speeding up the task of renumbering so that it will be possible to do this much more quickly and accurately before Royal Assent. We recommend that the possibility of carrying out the entire renumbering process at this stage should be looked at again when the application of computer techniques to the preparation of legislation has been developed to a greater extent.

Abolition of Consolidated Fund and Appropriation Acts

18.25 Annual Consolidated Fund and Appropriation Acts are at present needed to give effect to Supply Resolutions of the House of Commons. First Parliamentary Counsel has suggested to us that there would be a significant reduction in the annual flow of legislation reaching the statute book if these constantly recurring enactments were to be abolished. In recent years there have
been three short Consolidated Fund Acts and one 50-page Appropriation Act annually. We agree that it is undesirable to place the ephemeral details of the Government’s annual expenditure on the statute book if this can be avoided, and we recommend that some other method should be devised to give effect to Supply Resolutions. We have noted that the Select Committee on Procedure of the House of Commons did not favour a proposal to dispense with these Acts when they reported on financial procedure in 1965–66.¹ We hope that the Select Committee might be prepared to review their decision in the light of the considerations which have led us to make the recommendation in this paragraph. It would of course be necessary to provide the Commons with an alternative means of seeking redress of grievances before the granting of supply.

SCRUTINY OF DRAFTING

18.26 There is at present no formal machinery for the scrutiny of Bills during their passage through Parliament to examine their form and drafting rather than the substance of the policy to which they are to give effect. Various suggestions have been put to us that there should be some such scrutiny. In approaching these proposals we have kept in mind that they could involve extra work for the Parliamentary draftsmen, whose resources are already fully extended, and that scrutiny would take up time which would not be recovered at other stages. Nevertheless, we have come to the conclusion that it should be possible to devise means which would permit the scrutiny of Bills for drafting to take place without imposing undue strain on the existing legislative process, and we make certain recommendations to this end in subsequent paragraphs.

Scrutiny before presentation

18.27 Several witnesses have suggested that the scrutiny of the drafting of Bills should take place before they are presented to Parliament. Proposals we have considered are that this scrutiny should be carried out by standing or ad hoc committees of experts qualified to make a contribution, by the Law Commissions and by the Cabinet itself. (Such pre-presentation scrutiny is to be distinguished from the proposals to make use of pre-legislation committees recommended by the Select Committee on Procedure of the House of Commons in their Second Report for 1970–71 and accepted in principle by the then Government in November 1971). We find it difficult to reach a firm view on these suggestions, partly because our terms of reference do not permit us to examine the processes of Government that take place before a Bill is presented to Parliament. We assume that any Government wishing to make its proposed legislation as intelligible as the subject permits will have regard to the importance of good drafting. The Government have a collective responsibility for this, and Ministers in charge of particular Bills are personally responsible for the drafting of their Bills and answerable to Parliament if they do not reach acceptable standards.

18.28 It has been suggested that the Law Commissions should be asked to advise on the drafting of Bills before they are presented to Parliament (and indeed after presentation). Although the Commissions assist in some of the pre-Parliamentary preparation of legislation by producing reports and draft law

¹HC 122, p ix, paragraph 14.
²HC 538, paragraph 9.
reform Bills, by drafting consolidation, statute law revision and statute law repeals Bills, and by advising Ministers on particular legal points arising in connection with departmental Bills, they are independent bodies and should not be expected to take any general responsibility for advising on the drafting of departmental Bills before they are presented to Parliament.

18.29 In his evidence to us, the Chief National Insurance Commissioner suggested that a standing conference should be appointed to keep social security law (which is entirely statutory) continuously under review in order to identify provisions which did not work well and to propose possible improvements. One of the functions of this standing conference would be to assist in the preparation of social security legislation with the object of ensuring that Bills were arranged in a clear, logical order. This suggestion led us to consider whether similar standing committees might have a contribution to make to the drafting of complex legislation in other fields. We have concluded that it must be left to Government departments themselves to decide what advice they should seek before presentation from advisory bodies on the drafting, as distinct from the substance of Bills.

Scrubtny during passage through both Houses
18.30 Some witnesses have suggested to us that each Bill should pass through a stage in the Parliamentary process during which it would be scrutinised by a committee concerned solely or primarily with the form in which the Bill is drafted. Lord Simon of Glaisdale expressed the following view on the subject:

"With regard to Parliamentary review of drafting, it seems to me to be only intermittently performed. There is a natural concentration on policy, even at committee stage. Moreover, Parliamentary time tends to be exhausted and Parliamentary energies to flag before Schedules are considered; and these often contain provisions of considerable importance couched in a particularly baffling form. Such a function is best performed by a Select Committee or a Joint Select Committee".

A similar suggestion is also made by the Statute Law Society and by the accountancy bodies who were

"strongly of the opinion that discussion of proposed legislation by Select Committees was likely to improve not only the substance of legislation but also its technical quality".

A variant on the proposal for scrutiny by a Parliamentary Select Committee favoured by some other witnesses would be scrutiny by the Law Commissions, possibly working in association with experts on the subjects from outside the Government service. The Society of Public Teachers of Law considered that:

"a carefully integrated contemporaneous or parallel vetting process need not delay or obstruct parliamentary progress on a Bill".

18.31 Our witnesses recognised that the proposal for a separate stage in Parliament to scrutinise the drafting of Bills would create additional work for the officials and draftsmen. Indeed, Lord Simon of Glaisdale recommended that his proposed Select Committee should:

"where appropriate, work in parallel with a committee of officials, and should in any event have a standing counsel".
Not only would there be extra work for the officials, and the Ministers, handling the Bill, there would be an additional burden on Parliament itself. Lord Simon of Glaisdale suggested that one way of mitigating the load on Parliament and at the same time speeding the passage of legislation would be to substitute a "scrutiny of drafting" stage for one of the existing stages. His proposal was that the scrutiny of drafting stage should replace the report stage in the second House. In his view this would postpone the consideration of drafting points until the latest possible stage before the third reading of the Bill in the second House. Lord Simon argued that one of the functions of the report stage is in any event to allow drafting improvements to be introduced. The other functions could be provided for by permitting amendments on third reading in the House of Commons (as is already permissible in the Lords) to give effect to undertakings given in committee.

18.32 Not all witnesses agreed with the view that there should be a separate stage during the passage of a Bill through Parliament devoted to the scrutiny of drafting, however desirable this might be. The Society of Parliamentary Agents pointed out that:

"Any public Bill which does not complete all its stages by the end of the Session must fail. While this continues to be the practice of Parliament, it is doubted whether the time could be spared to enable a panel or a committee of experts to consider the drafting of a Bill, particularly if it were a contentious one. Furthermore, it is a common-place that drafting in committee nearly always produces disastrous consequences. It is submitted, with all respect, that a panel or committee of experts, be they never so distinguished, would not in the circumstances be more likely to produce a workmanlike result than the original draftsman".

First Parliamentary Counsel in his evidence to us was naturally very much concerned with the burden of additional work which a scrutiny committee would impose upon the draftsman, to the possible detriment of other necessary work. He cautioned that when ideas were put forward:

"which in themselves are no doubt well worth consideration but make assumptions as to resources and time available . . . there may be something else better that you could do with the resources".

18.33 Having weighed the arguments on both sides, we do not think that there is any practical scope for introducing a new scrutiny stage during the Parliamentary process. This would in our opinion impose undue strain on a Parliamentary machine which is already under great pressure, and would also add to the labours of the draftsmen who have more than enough to do as it is to keep pace with the legislative programme.

**Intervals between stages of Bills**

18.34 On some occasions there is too little time between the various stages of a Bill to permit Members of Parliament, Peers and those whom they consult to give adequate consideration to the drafting of the proposed legislation and the framing of amendments. This problem is especially acute between the end of the committee stage and the start of the report stage, especially on Bills of substantial length and complexity. No doubt the Parliamentary draftsmen also
find themselves at a disadvantage when there is insufficient time between stages. *We therefore recommend* that, unless there is a need for special urgency, there should always be at least—

(a) two week-ends between the first publication of a Bill and the debate on second reading in the first House;

(b) fourteen days between second reading and the start of the committee stage;

(c) on all Bills of considerable length or complexity, fourteen days between the publication of the Bill as amended in committee or standing committee and the start of the report stage.

**Scrutiny after the Parliamentary process**

18.35 Some Acts reach the statute book in defective form, and it would often be a simple matter to remove blemishes if expeditious procedures were available for doing so. There are two situations to consider. First, there are occasions when obvious examples of inaccurate drafting come to light just before a Bill receives the Royal Assent. Secondly, there are Bills which could well be rearranged and tidied up after Parliament has finished with them so that they are more fit to go out into the world and be of help to those who must use them. We have the following proposals for dealing with these two situations.

18.36 There is usually very little time to spare for the correction of inaccuracies after a Bill has passed through both Houses and before Royal Assent, so any correcting action would need to be most expeditious. *We recommend* that a procedure should be available by which the Speaker and the Lord Chancellor would certify, on application by the sponsor of a Bill, that amendments which came within a narrowly defined category (of which obvious inaccuracies in drafting would be one) would, if incorporated in the Bill, constitute improvements of a drafting nature. The proposed amendments would be printed on the Order Paper with the requisite certificate, and Parliament would be given the opportunity to accept or reject them, taken together and not individually, without debate.

18.37 The scrutiny of Bills which had passed through the Parliamentary process with a view to improving arrangement and drafting could be undertaken in less haste, though the need for expedition here also would be paramount. Where there was some lapse of time between the passage of the Bill and Royal Assent this type of scrutiny could well take place before Royal Assent. In most cases, however, it would take place after Royal Assent, and the procedure would then be similar to the consideration of Consolidation Bills by the Joint Select Committee on such Bills. The task of rearrangement and redrafting would of course need to be undertaken by the draftsman of the Bill and we realise that this would impose a burden on the Parliamentary draftsmen. We put the proposal to First Parliamentary Counsel and his estimate was that the time it would take a draftsman to deal with a medium-sized Bill of about 50 pages would be three weeks. A Bill of 150 pages would take six weeks to knock into shape. Even though it would not be necessary to subject all Bills to this revision, there would be a tendency at the end of each Session, when many Bills are ready for Royal Assent, for them to be bunched together, and this would further delay the despatch of the work.
18.38 Despite these difficulties, which we have not underestimated, we recommend that a procedure should be available whereby Bills, or Acts as the case may be, which are found to be obscure or otherwise defective in point of form could be rewritten (in whole or in part) in clearer language and re-enacted without using much Parliamentary time. We think that a procedure on the lines of that applicable to Consolidation Bills would be appropriate. Thus a Bill "to re-enact with formal improvements [section . . . of] the [. . .] Act" would be introduced in the House of Lords and automatically be referred to a Joint Committee, who would report, either that they were satisfied that the Bill contained only formal improvements or that they were not so satisfied. If the Joint Committee reported favourably, the Bill would then enjoy the expedited procedure which is now available to Consolidation Bills. It might even be possible for the Joint Select Committee on Consolidation Bills to take on this task in addition to their other work if their order of reference were extended.

General scrutiny of legislation for drafting
18.39 Even if the two procedures which we recommend above were made available, we believe that there should also be a general and continuing oversight of legislation with the aim of achieving long-term improvement in standards of drafting, and in the arrangement of the statute book. We considered whether responsibility for this should be given to a Joint Select Committee of both Houses, but decided that it would hardly be possible for such a committee to undertake the detailed and continuing supervision which would be required. In any case, some of the tasks which we should like to see carried out are presently being performed by the Statute Law Committee (see paragraphs 5.1 to 5.4), which exercises a very healthy, expert and well-informed (though little publicised) oversight of public and private Bill legislation generally.

18.40 We recommend that the Lord Chancellor should arrange for the Statute Law Committee to keep the structure and language of the statutes under continuous review. We further recommend that the Committee should review the carrying into effect of those recommendations in our Report, which are accepted, in particular our recommendation in paragraph 13.20 with respect to the use of textual amendment.

18.41 We believe that Parliament should be kept regularly informed of the Statute Law Committee's progress. That Committee does not publish reports on the activities for which it is responsible. We think that it should now do so, but that the intervals between such reports should be sufficient to enable it to review trends and tendencies in drafting practice over a fairly broad space of time. We therefore recommend that the Committee should publish reports from time to time, but not less often than every three years, and that these reports should be laid before Parliament. The publication of such reports would give Parliament the opportunity and the incentive to question the Government about the technical quality of their legislation.

CONCLUSION
18.42 Parliamentary procedure and practice do have a bearing on the form and style of our legislation, and it is right that this should be so in view of the part which Parliament plays in the making of laws. When we
approached our task we were pre-disposed to recommend any changes which might conduce to the simplicity and clarity of the statute law as it reaches the user; and we would not have hesitated to recommend that alterations should be made had we thought they were needed. As will be evident, however, we have not tracked down many procedures which require to be changed. There are sound reasons for the procedures of Parliament and our view is that these should not be altered unless it can clearly be demonstrated that it would be beneficial to do so. Apart from the recommendations we have made for the Parliamentary scrutiny of drafting to which we attach great importance, and some minor recommendations, we have come to the conclusion that no other changes of substance in procedure would improve the clarity and simplicity of legislation. The way in which procedures may be used can however sometimes cause trouble, and when the drafting of Bills becomes defective because of the application of a procedural rule, however innocently this may have happened, the Government (and indeed Parliament itself) have a clear responsibility to set matters right.
INTERPRETATION OF STATUTES

THE RELATIONSHIP BETWEEN INTERPRETATION AND DRAFTING

19.1 In 1969 the Law Commissions published a joint study of the rules applied by the courts when dealing with the interpretation of statutory provisions. In paragraph 5 of this study the Commissions stated that "there is an interaction between the form of a communication and the rules by which it is to be interpreted. If defects in drafting complicate the rules of interpretation, it is also true that unsatisfactory rules of interpretation may lead the draftsman to an over-refinement in drafting at the cost of the general intelligibility of the law". We fully agree with this statement; and the same theme was touched on by certain of our witnesses in discussion with us. Lord Simon of Glaisdale suggested that "a robust and not too technical an approach to construction" was necessary if statutes were to be drafted in popular language. Lord Denning roundly said: "It is because the judges have not felt it right to fill in the gaps and have been giving a literal interpretation for many years that the draftsman has felt he has to try and think of every conceivable thing and put it in as far as he can so that even the person unwilling to understand will follow it. I think the rules of interpretation which the judges have applied have been one of the primary causes why draftsmen have felt that they must have a system of over-detail, over-long sentences, and obscurity". But he also thought that if Parliament initiated the change, the judges might follow it up: "if the draftsman could make Acts simpler, the judges would alter their approach to them... It could be done by breaking up the form of the statutes, by making them simpler, sticking more to the principles, and not going into so much detail".

19.2 If the draftsmen are to be encouraged to cut down upon detail and elaboration and to use simple formulae in the operative words of Bills, they must have some confidence that when the Bills become Acts they will receive from the courts a beneficial construction (see Maxwell on Interpretation of Statutes, 12th edition, page 92). We see no reason why the courts should not respond in the way indicated by Lord Denning. The courts should, in our view, approach legislation determined, above all, to give effect to the intention of Parliament. We see promising signs that this consideration is already uppermost in the minds of the members of the highest tribunal of this country. "If I thought that Parliament's intention... could not be carried out, or even would be less effectively implemented, unless a particular (even though unnatural) construction were placed on the words it has used, I would endeavour to adopt that construction". So said Lord Wilberforce in a recent appeal (Nimmo v Alexander Cowan & Sons Ltd. [1968] A.C. 107 at 130). While there might not be complete agreement with the proposition that an unnatural construction may be placed upon words simply to secure a higher degree of effectiveness in the implementing of Parliament's intention, yet the passage well illustrates the modern attitude towards construction of a remedial statute. In the same case, Lord Guest (at p. 122) indicated that, where there was doubt, the construction to be preferred was that which would best achieve the result to be attained.

1The Interpretation of Statutes (Law Com No 21) (Scot Law Com No 11).
If this is to be the judicial approach it follows that the Parliamentary intention must be made sufficiently clear and this can, in our view, best be done by the adoption of the "general principle" approach in the drafting of statutes as we have recommended in Chapter X (paragraph 10.13).

19.3 Because of this interaction between drafting and interpretation (and in particular the influence the latter has on the former) we think it right to consider in the context of our own terms of reference the proposals which the Law Commissions put forward for the enactment of certain statutory rules of interpretation. This we do in paragraphs 19.12 to 19.31 of this chapter. Also in this chapter we consider whether the interests of clarity and simplicity might be furthered by—

(a) a modernisation of the Interpretation Act 1889, which enacts certain general conventions for the interpretation of statutes (paragraphs 19.4 to 19.11);

(b) the enactment of a presumption against retrospective effect (paragraph 19.32);

(c) the more frequent use in individual statutes of preambles or other provisions declaring the main purpose of the statute in question or particular provisions of it, and the giving of "controlling" force to such provisions (paragraph 19.33); and

(d) the enactment of special rules for the interpretation of European Community Treaty provisions and instruments which have legal effect in this country without further enactment, and of United Kingdom legislation implementing Community Treaty provisions and instruments which do not have such effect (paragraphs 19.35 to 19.39).

A NEW INTERPRETATION ACT?

19.4 A general Interpretation Act can help to shorten and simplify particular Acts of Parliament, to clarify their effects by enacting rules of construction, and to standardise common-form provisions. The Interpretation Act at present in force is of 1889, and we consider in the following paragraphs whether it now needs to be replaced, bearing in mind that, although it has stood the test of time, it is a long time since it was enacted. The Act has been amended and supplemented by subsequent enactments, some of which were retrospective.

19.5 Leaving aside for the moment the question of enacting the new provisions proposed by the Law Commissions in 1969 and the new provision about retrospection that we recommend in paragraph 19.32, there is a strong case for the re-enactment of the Act of 1889 in up to date terms.

19.6 The case for doing so is substantially the case for any consolidation. Various provisions of the Act have been amended or superseded by subsequent enactments, and others have become obsolete with the passage of time. In the address to which we have already referred Sir William Graham-Harrison said in 1935 that the time had undoubtedly arrived for a new Interpretation Act. Some 40 years later, it might be thought to be overdue. Out of 20 institutions

\[1\] See paragraph 11.28.
comprised in the “Official definitions” (section 12) something over half have disappeared as such. Almost all the “Judicial definitions” (section 13) are obsolete or irrelevant. The Poor Law (section 16) is no longer with us. Most of the “Geographical and colonial definitions” (sections 18 and 18A) should have been blown away by the wind of change. On the other hand a fair number of expressions have been defined generally by enactments passed since 1889. A list of such enactments (which may, however, not be comprehensive) is given in the Index to the Statutes under “ACT OF PARLIAMENT 2(b)”.  

19.7 A former First Parliamentary Counsel, Sir John Rowlatt,¹ thought that there should only be one Interpretation Act: the public should not have to look in more than one place (outside the enactment which they are considering) for general provisions affecting the construction of that enactment. This was an argument against any new Interpretation Act; but, by now, with so many general definitions outside the Act of 1889, it almost turns into an argument at least for consolidation. The problem of applying the provisions of a new Interpretation Act to existing enactments is complex but not insuperable. The choice would be between a new Interpretation Act which applied both to existing and to future enactments and a new Interpretation Act which applied to future Acts only, leaving the Act of 1889 and other statutory definitions in force in relation to previous enactments. Whichever alternative were chosen, if all subsequent definitions of general application were fed into the new Interpretation Act by way of amendment, preferably textual, and if a suitable system of annotating and reprinting the new Act were adopted, the user of the statute book would find his task considerably simplified.  

19.8 So much for the definitions in the Act of 1889 (and elsewhere). The remaining provisions of the Act, mainly designed to shorten subsequent legislation, are as good as new. Those mainly relied on are section 1 (masculine includes feminine; singular includes plural and vice-versa); section 11(1) (non-reviver of repealed enactments by repeal of the repealing enactment); section 19 (person); section 20 (writing); section 26 (service by post); section 32 (statutory powers and duties); section 36 (commencement) and section 38 (general savings on repeals). This is not to say that all these provisions are perfect. In particular section 32(3) (power to revoke and amend subordinate legislation) does not apply to all subordinate legislation and has to be regularly supplemented by special provision in Acts conferring power to make orders: and section 38(1) is ambiguous and possibly defective. There are other provisions which are repeated from Act to Act and might usefully be eliminated by inclusion in a new Interpretation Act—notably the incantation that “References in this Act to any other enactment are references to that enactment as amended by any subsequent enactment”, which is probably unnecessary but cannot safely be omitted because it has been said so often.  

19.9 The Interpretation Act (Northern Ireland) 1954 is more comprehensive than the Act of 1889. It runs to 51 sections compared with 43. Some of the additional material is peculiar to the context of legislation by the Parliament of Northern Ireland (for example section 11(3)). Some of it states expressly rules of construction or presumptions which apply to Acts of the Parliament

¹First Parliamentary Counsel 1953–56.
of the United Kingdom but rest on the common law and are not enacted as such (eg non-application to the Crown,\(^1\) enactments to be construed as always speaking). Such provisions do not shorten or simplify the language of the Acts to which they apply—they merely clarify their effects. However, the Northern Ireland Act also contains a number of common-form provisions not included in the Act of 1889, eg section 18, tenure of holders of offices; section 21, power to make rules of court; section 22, powers of appellate courts; and section 23, inquiries and investigations. These enactments have no doubt done much to shorten particular Acts of the Parliament of Northern Ireland—at the cost, as Mr. William Leitch observed in 1965,\(^2\) of concealing some of the substance from the reader of individual Acts. He claimed that without the Act of 1954 “the annual volumes of the Northern Ireland Statutes would, upon a conservative estimate, be approximately one-third larger than they are”. We should not expect any such spectacular results from similar extensions of the Act of 1889 in the field of United Kingdom legislation, but the possibility of enacting some such common-form provisions in a new Act could usefully be considered.

19.10 Finally, the Northern Ireland Act also contains some general provisions which would have useful, though not dramatic, effects on the statutes of the Parliament of the United Kingdom if enacted here. One of these replaces the incantation described at the end of paragraph 19.8. Another eliminates the repetition of words such as “of this Act”, “of this section”, and “of this Schedule”. A third deals with the computation of periods of time, and so eliminates such ponderous expressions as “the period of 30 days beginning with [the passing of this Act]” which are necessary but no doubt contribute something to the general dislike of statutory language. The enactment of general provisions of all these kinds in an Interpretation Act would have three advantages. They reduce (however little) the volume of subsequent enactments. They eliminate some mystery. And not least they reduce inconsistencies between different Acts. As matters stand the incantations described in paragraph 19.8 vary from Act to Act. The reasons for this may be valid, but are not apparent to the public. Different techniques of internal references abound—eg “section 4 of this Act”, “section 4 below”, “the next following (or succeeding) section”. Different methods are used to make it clear whether a period includes or excludes the first or last day, and the need to do so is sometimes overlooked. Every provision which is standardised in an Interpretation Act plays a valuable part in facilitating the task of the draftsman and easing the burden on the reader.

19.11 In the light of all these considerations we believe that the case for a new Interpretation Act is extremely strong. The initiative for the preparation of such an Act lies with the Law Commissions, though as they have pointed out “The revision of the Act [of 1889] is a task which of its nature closely involves the Parliamentary draftsmen and is dependent on their available manpower”.\(^3\) Subject to that, \textit{we recommend} that the preparation of a new Interpretation Act should be put in hand.

---

\(^1\)This presumption is not universal: in Scotland, at least in relation to some categories of legislation, there is no inherent unlikelihood that it is Parliament’s intention to bind the Crown.

\(^2\)16 \textit{Northern Ireland Legal Quarterly}, p 236. Mr Leitch was until recently First Parliamentary Draftsman at Stormont.

\(^3\)\textit{The Interpretation of Statutes}, paragraph 82.
THE LAW COMMISSIONS' PROPOSALS

19.12 We readily accept the Law Commissions' statement of the constitutional position of the judiciary:

"Under our constitutional arrangements it is the function of an independent judiciary to interpret the law and no proposals which we make can or should undermine the freedom which this function requires".\(^1\)

The Commissions nevertheless concluded that a limited degree of statutory intervention was required in this field,\(^2\) and formulated a set of draft clauses, printed as Appendix A to their report. We consider these below, subject to a similar caveat.

**Draft clause 1**

19.13 Draft clause 1(i) would provide as follows:

"In ascertaining the meaning of any provision of an Act, the matters which may be considered shall, in addition to those which may be considered for that purpose apart from this section, include the following, that is to say—”

and there follow five paragraphs which we now consider separately.

19.14 "(a) all indications provided by the Act as printed by authority, including punctuation and side-notes, and the short title of the Act”.

Judges have told us that they agree with this, and that to some extent it represents current practice (except as regards side-notes). First Parliamentary Counsel, supported by officials of Government departments concerned with the preparation of legislation and, independently, by the Law Society, takes the opposite view, at any rate as regards punctuation and side-notes. They fear that paragraph (a) might lead to punctuation being regarded as part of the text and so alterable only by amendment; that the words “the Act as printed by authority” would include successive revised editions where side-notes may have been changed as a matter of editing; that it would be dangerous to alter the degree of significance to be attached to side-notes originally drafted on the assumption that they would not carry much interpretive weight; and that for the future draftsmen might be induced by this paragraph to produce longer and generally less helpful side-notes. Nevertheless we agree with the Law Commissions' proposal: see paragraph 19.21 below.

19.15 "(b) any relevant report of a Royal Commission, Committee or other body which had been presented or made to or laid before Parliament or either House before the time when the Act was passed”.

The main objection advanced against this paragraph is that it cannot be assumed that a report or other travaux preparatoires will tell you what Parliament had in mind when discussing and passing the Act (if paragraph (b) were enacted, the issue before a court might well be the extent to which the Act was intended to depart from the report); it could also be difficult to decide in every case what was a “relevant report”, since the paragraph would seem to admit references

---

\(^1\)The Interpretation of Statutes, paragraph 79.

\(^2\)Ibid, paragraph 81.
to any report that could be shown to be relevant, no matter how long before the passing of the Act concerned it was made. Judicial witnesses, however, were generally in favour of this paragraph, and regarded the present law as to the status of these reports as unsatisfactory. We do not agree with this proposal: see paragraph 19.23 below.

19.16 “(c) any relevant treaty or other international agreement which is referred to in the Act or of which copies had been presented to Parliament by command of Her Majesty before that time, whether or not the United Kingdom were bound by it at that time”.

Objections by witnesses to this paragraph include the lack of any time limit for “relevant” material; the frequent inclusion in treaties, in order to resolve international differences of policy, of deliberate ambiguities which the draftsman of the Act may have been instructed to resolve in a certain way; and the difficulty in which litigants and their advisers would be placed by the words “whether or not the United Kingdom were bound by it at that time”. Lord Denning, however, approved of paragraph (c), regarding it as consistent with the present practice of the Court of Appeal and indeed as “inescapable”. We accordingly agree with the Law Commissions’ proposal: see paragraph 19.22 below.

19.17 “(d) any other document bearing upon the subject-matter of the legislation which had been presented to Parliament by command of Her Majesty before that time”.

This has been objected to on the grounds that an Act resulting from a White Paper often diverges from it both in outline and in detail, for the aims of the White Paper may have been different from the aims of Parliament in passing the legislation; that there would in any event be a temptation to couch White Papers in terms designed to provide the courts with overriding principles by reference to which ensuing legislation was to be interpreted; that if a document such as a White Paper was to be published shortly before or at the same time as the introduction of a Bill, the need to ensure that the one was as precise as the other in legal (as distinct from political) effect would increase the burden on the draftsman and the Government department concerned; and that since paragraph (d) would be retrospective, it again raised the question whether documents, such as White Papers, written under one set of rules should in future be looked at under different rules. The judicial views put forward to us on paragraph (d) range from an unqualified welcome to the conclusion—expressed with “regret” —that from a practical and professional point of view it is too wide. We do not agree with this proposal: see paragraph 19.23 below.

19.18 “(e) any document (whether falling within the foregoing paragraphs or not) which is declared by the Act to be a relevant document for the purposes of this section”.

It has been suggested to us that paragraph (e) is unnecessary, since it goes without saying that any Act can declare a particular document to be relevant for the purpose of interpreting the Act, and undesirable because by serving as a reminder of that fact it might encourage the moving of amendments writing documents—including even Hansard—into the Act. It was right suggested that clause 1(3), to which we refer below, could not override a specific provision in a particular Act which declared a report of proceedings in
Parliament to be relevant to the construction of the Act. A further difficulty to which our attention has been drawn is that if an Act declared under paragraph (e) that one document falling within paragraphs (b) to (d) was relevant the relevance of other documents falling within those paragraphs might by implication be called in question. We think paragraph (e) may be superfluous, but that Parliament should exercise its existing power with restraint: see paragraphs 19.23, 19.24 and 19.26 below.

19.19 Draft clause 1(2) would provide that:

"The weight to be given for the purposes of this section to any such matter as is mentioned in subsection (1) shall be no more than is appropriate in the circumstances".

Witnesses who are critical of the draft clauses have commented that clause 1(2) is an acknowledgement that much of the material admitted by clause 1(1) would be of doubtful value, or little weight: "much research and labour may have been spent to little purpose". We agree, however, with this proposal: see paragraph 19.25 below.

19.20 Draft clause 1(3) seeks to exclude Hansard, in the following terms:

"Nothing in this section shall be construed as authorising the consideration of reports of proceedings in Parliament for any purpose for which they could not be considered apart from this section".

We have already (in paragraph 19.18) noted that this provision would not override the kind of provision contemplated by draft clause 1(1)(e) (documents declared by the Act to be relevant). Our witnesses have been almost unanimous in saying that reports of Parliamentary debates should not be admissible, though Lord Simon of Glaisdale's view on this was a qualified one, which he has since expressed in the following terms in his speech in Dockers' Labour Club and Institute Ltd. v. Race Relations Board [1974] 3 W.L.R. 533:

"It would be one thing to cite debates in Parliament to help to ascertain the general objective of an Act and the general limitations on such objective —this would be using the debates to identify the 'mischief' which the Act seeks to remedy . . . It would be quite another thing to have recourse to reports of debates to see whether any understanding was expressed as to the meaning of the statutory language as related to particular situations not statutorily identified. It might be yet a third thing if any such understanding so expressed contradicted the meaning of the statutory language".

We have discussed in Chapter X (paragraph 10.7) Lord Simon's suggestion for mitigating the effect of the exclusion of Parliamentary debates for the second of the purposes he mentions in this passage. We agree in principle with the Law Commissions' draft clause 1(3): see paragraph 19.26 below.

Conclusions on draft clause 1

19.21 We recognise the force of the objections mentioned in paragraph 19.14, but consider that the balance is nevertheless in favour of admitting the "indications" mentioned in draft clause 1(1)(a). We do not recommend any departure from the existing practice whereby punctuation and side-notes are not amendable in Parliament, and we assume that in applying the new principle judges would have regard to that practice.
19.22 “There is a prima facie presumption that Parliament does not intend to act in breach of international law, including therein specific treaty obligations; and if one of the meanings which can reasonably be ascribed to the legislation is consonant with the treaty obligations and another or others are not, the meaning which is consonant is to be preferred.”¹

Moreover, where there is cogent extrinsic evidence of a connection between an international treaty and an Act under interpretation, a court may look at the treaty in elucidating the Act, even though the Act does not mention the treaty.¹ On the other hand, where it is the clear intention of Parliament to enact a law which is in any respect inconsistent with the provisions of a treaty to which Her Majesty’s Government in the United Kingdom is a party, the courts will give effect to that intention.² We agree with the current judicial attitudes, which attach high importance, in the construction of legislation, to the terms of treaties which may be relevant to that legislation. In spite of the objections noted in paragraph 19.16, we think that clause 1(1)(c), with clause 2(b), provides a useful restatement of those judicial attitudes. See, however, paragraph 19.39 below.

19.23 We appreciate that there is a difference of judicial opinion as to the extent to which such materials as are referred to in clause 1(1)(b) and (d) are at present admissible as aids to interpretation.³ We think, however, that the unrestricted admission of such materials would place too great a burden on litigants and their advisers, and indeed on the courts, and would create even greater difficulties for lawyers trying to advise their clients before a specific controversy had arisen. It would certainly do nothing to make statutes more immediately intelligible to the lay public, and it might greatly lengthen court proceedings. From the draftsman’s point of view it seems at least possible that the desire for greater precision in order to avoid any possible ambiguity arising from comparison with these extensive materials would produce more rather than less complicated provisions. We consider, therefore, that it would be preferable to leave it to Parliament, if it saw fit, to declare in the Act that specified material outside the Act (and not admitted by clause 1(1)(c)) should be admissible for the purpose of interpreting it. But since it is in any case possible for Parliament to do this, we doubt the value of clause 1(1)(e).

19.24 Although in Chapter XV we make certain recommendations about the publication of specially prepared explanatory materials, we think that in general such materials should not be declared to be admissible for the purpose of judicial interpretation. To do so would be to create what Professor Reed Dickerson has called a “split-level statute”, of which only the primary level would have been fully debated in Parliament, and would, as a distinguished member of the judiciary put it, be asking the courts “to ride two horses, to construe technical draftsman’s language and layman’s language”.

19.25 We think that draft clause 1(2) is a helpful clarification and should be included.

³See Black-Clawson International Ltd v. Papierwerke Waldhof-Aschaffenburg AG as reported in The Times, 7 March 1975.
19.26 We strongly support the principle of draft clause 1(3), and favour its enactment if the rest of the clause is to include anything whatever which could put that principle in the slightest doubt. Our misgivings about the unrestricted admission of pre-legislative materials (paragraph 19.23) apply a fortiori to the admission of the records of Parliamentary proceedings on the Bill; though we recognise that it would be possible for Parliament to declare these to be admissible (whether or not draft clause 1(1)(e) were enacted), we would strongly urge that this should never be done.

Draft clause 2

19.27 Draft clause 2 turns from aids to interpretation to principles of interpretation, and would provide as follows:

"The following shall be included among the principles to be applied in the interpretation of Acts, namely

(a) that a construction which would promote the general legislative purpose underlying the provision in question is to be preferred to a construction which would not; and

(b) that a construction which is consistent with the international obligations of Her Majesty's Government in the United Kingdom is to be preferred to a construction which is not”.

Clause 2(a) has been criticised on the ground that the rule expressed may not be the right one, in that it might be the general legislative purpose of the Act that should be favoured rather than the purpose “underlying the provision in question”. Doubt has been expressed as to whether this principle should in any event be elevated at the expense of others such as the liberty of the subject (in the context of criminal proceedings) and the need for clear words to make a man part with his money (in taxing statutes). On the other hand it has been suggested that clause 2(a) “is little more than a re-phrasing of the old “mischief rule”, which is probably . . . evolving in the desired direction without the need for statutory intervention”. Clause 2(a) was, however, welcomed, at any rate in principle, by more than one of our judicial witnesses. Clause 2(b) has not attracted explicit comment from witnesses, although there were several passing references to it.

Conclusions on draft clause 2

19.28 Clause 2(a) is, as we understand it, in part a codification of modern practice in the application by the courts of the so-called “mischief rule” of statutory interpretation. We agree with the emphasis placed on the positive “general legislative purpose”, which is an expression well chosen to apply to all types of legislation. Clause 2(b), in combination with clause 1(1)(c), provides a useful restatement of the substance of recent judicial pronouncements (see paragraph 19.22). We are in favour of enacting draft clause 2 as a whole.

Draft clauses 3 and 4

19.29 Draft clause 3 would apply clauses 1 and 2 to subordinate legislation and so is outside our terms of reference. We therefore express no opinion on it.
19.30 *Draft clause 4* would raise a presumption that breaches of statutory duties imposed by future Acts were intended to be actionable. This we think involves considerations of substantive law which are outside our terms of reference, and so on this too we express no opinion.

**General conclusion on Law Commissions’ proposals**

19.31 We believe that acceptance of the Law Commissions’ proposals to the extent indicated in paragraphs 19.21 to 19.28, and subject to a further point we make in paragraph 19.39 about European Community instruments, would enable statutes to be drafted more clearly and simply. We accordingly *recommend* the early enactment of a suitably modified version of the Commissions’ draft clauses. These might usefully form part of the comprehensive revised Interpretation Act we recommend in paragraph 19.11.

**OTHER PROPOSALS**

**Retrospective legislation**

19.32 The difficulties that may be encountered by the courts in determining whether legislation has retrospective effect lead us to *recommend* that the following principle should be given statutory effect:

> "In the absence of any express indication to the contrary, a construction that would exclude retrospective effect is to be preferred to one that would not".

As with the Law Commissions’ proposals (see paragraph 19.31), this could usefully form part of a comprehensively revised Interpretation Act.

**“Controlling” provisions**

19.33 We have discussed in paragraphs 11.6 to 11.8 the use of statements of purpose as an aid to the understanding of statutes. It has been suggested to us not only that Acts should contain preambles or other provisions declaring the main purpose of the Act, or its “guiding principles”, but that these should govern the construction of the more specific and detailed provisions of the Act in all cases (and not only where there is doubt about the meaning of the latter), and should prevail over them where there is a conflict. In particular, it has been suggested that preambles could with advantage be used for this purpose. The present rules as to the use of preambles in the interpretation of statutes are, as we understand the matter, these:

1. In cases where the effect of a substantive provision in an Act is clear from the terms of the Act itself, then recourse may not be had to the preamble for the purpose of interpreting the provision.

2. Where the effect of a provision is not clear from the terms of the Act itself, recourse may be had to the preamble to ascertain the intentions of Parliament.

We are not convinced that an alteration of these rules so as to enable a preamble to control an enactment which is in itself clear and precise would be productive of any advantage. On the contrary, it might lead to confusion.
Disregard of prior case law

19.34 At present the draftsman has to bear in mind the common law and the interpretation placed by the courts on earlier statutes. It was suggested to us that in appropriate cases there should be put in the statute an indication that former case law was no longer to have any authoritative effect, thus giving the draftsman a freer hand and leaving the courts free to approach interpretation in a new way having regard only to the spirit of the Act. Whilst this had a favourable reception from one judicial witness, another expressed doubts about its practicality. We think the suggestion is an interesting one but that it has such far-reaching implications for the doctrine of precedent as to be outside the proper scope of our inquiry.

THE EUROPEAN INFLUENCE

19.35 Part of the law applicable in the United Kingdom now comes, directly or indirectly, from the European Communities, through the Treaties themselves and subordinate instruments made under the Treaties by the Community institutions. A Community regulation is “directly applicable in all Member States”\(^1\) without any intervention by any national law-making agency (though it does not necessarily have direct effect for individuals in the sense of creating rights and obligations enforceable within the national legal system, as for instance where it is merely a regulation enabling further regulations to be made). A directive (which is “binding, as to the result achieved, upon each Member State to which it is directed, while leaving to national authorities the choice of form and methods”\(^1\)), and a decision (“binding in its entirety upon those to whom it is addressed”\(^1\)), may call for the enactment of national implementing legislation, but may, it seems, have direct effect for individuals even without such legislation, as may articles of the Treaties themselves.\(^2\)

19.36 Section 2(1) of the European Communities Act 1972 provides as follows:

“All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties, and all such remedies and procedures from time to time provided for by or under the Treaties, as in accordance with the Treaties are without further enactment to be given legal effect or used in the United Kingdom shall be recognised and available in law, and be enforced, allowed and followed accordingly; and the expression “enforceable Community right” and similar expressions shall be read as referring to one to which this subsection applies”.

Section 2(4) of the Act of 1972 provides inter alia that:

“any enactment passed or to be passed, other than one contained in this Part of this Act, shall be construed and have effect subject to the foregoing provisions of this section”.

\(^1\)EEC Treaty, Article 189; EURATOM Treaty, Article 161. The terminology of the ECSC Treaty is not identical, but there are similar distinctions between the effects of different categories of instruments.

Section 3(1) of the Act of 1972 provides as follows:

“For the purposes of all legal proceedings any question as to the meaning or effect of any of the Treaties, or as to the validity, meaning or effect of any Community instrument, shall be treated as a question of law (and, if not referred to the European Court, be for determination as such in accordance with the principles laid down by and any relevant decisions of the European Court)”.

Where a Treaty provision or a Community instrument has legal effect in the United Kingdom without further enactment, we believe that the effect of the provisions we have quoted will be to secure that it is interpreted in accordance with the principles of interpretation which would be followed by the European Court. As Lord Denning said in *HP Bulmer Ltd v J Bollinger SA*:

> “it is apparent that in very many cases the English courts will interpret the Treaty themselves. They will not refer the question to the European court at Luxembourg. What then are the principles of interpretation to be applied? Beyond doubt the English courts must follow the same principles as the European court. Otherwise there would be differences between the countries of the Nine. That would never do. All the courts of all nine countries should interpret the Treaty in the same way. They should all apply the same principles. It is enjoined on the English courts by section 3 of the European Community Act 1972, which I have read.

What a task is thus set before us! The Treaty is quite unlike any of the enactments to which we have become accustomed. The draftsmen of our statutes have striven to express themselves with the utmost exactness. They have tried to foresee all possible circumstances that may arise and to provide for them. They have sacrificed style and simplicity. They have foregone brevity. They have become long and involved. In consequence, the judges have followed suit. They interpret a statute as applying only to the circumstances covered by the very words. They give them a literal interpretation. If the words of the statute do not cover a new situation—which was not foreseen—the judges hold that they have no power to fill the gap. To do so would be a ‘naked usurpation of the legislative function’: see *Magor and St. Mellons Rural District Council v Newport Borough Council* [1952] AC 189, 191. The gap must remain open until Parliament finds time to fill it.

How different is this Treaty? It lays down general principles. It expresses its aims and purposes. All in sentences of moderate length and commendable style. But it lacks precision. It uses words and phrases without defining what they mean. An English lawyer would look for an interpretation clause, but he would look in vain. There is none. All the way through the Treaty there are gaps and lacunae. These have to be filled in by the judges, or by Regulations or directives. It is the European way. That appears from the decision of the Hamburg court in *In re Tax on Imported Lemons* [1968] CMLR 1.

---

1 The Court of Justice of the European Communities has jurisdiction to give preliminary rulings concerning the interpretation of the Treaties and the validity and interpretation of acts of Community institutions; national courts are enabled, and a final national court is required, to refer any such question to the Court of Justice in any case where the national court considers a decision on the question to be necessary to enable that court to give judgement: EEC Treaty, Article 177; *HP Bulmer Ltd. v J Bollinger SA* [1974] 3 WLR 202, [1974] 2 CMLR 91.

Likewise the Regulations and directives. They are enacted by the Council sitting in Brussels for everyone to obey. They are quite unlike our statutory instruments. They have to give the reasons on which they are based: article 190. So they start off with pages of preambles, “whereas” and “whereas” and “whereas”. These show the purpose and intent of the Regulations and directives. Then follow the provisions which are to be obeyed. Here again words and phrases are used without defining their import. Such as “personal conduct” in the Directive 64/221, article 3 (EEC) which was considered by PennycuickV-C in Van Duyn v Home Office [1974] 1 WLR 1107. In case of difficulty, recourse is had to the preambles. These are useful to show the purpose and intent behind it all. But much is left to the judges. The enactments give only an outline plan. The details are to be filled in by the judges.

Seeing these differences, what are the English courts to do when they are faced with a problem of interpretation? They must follow the European pattern. No longer must they examine the words in meticulous detail. No longer must they argue about the precise grammatical sense. They must look to the purpose or intent. To quote the words of the European court in the Da Costa case [1963] CMLR 224, 237, they must deduce “from the wording and the spirit of the Treaty the meaning of the community rules”. They must not confine themselves to the English text. They must consider, if need be, all the authentic texts, of which there are now eight: see Sociale Verzekeringsbank v Van der Vecht [1968] CMLR 151. They must divine the spirit of the Treaty and gain inspiration from it. If they find a gap, they must fill it as best they can. They must do what the framers of the instrument would have done if they had thought about it. So we must do the same. Those are the principles, as I understand it, on which the European court acts”.

19.39 Where, however, a Treaty provision or a Community instrument does not have legal effect in the United Kingdom without further enactment but requires to be implemented by United Kingdom legislation, questions may arise as to the manner in which that legislation is to be interpreted. To assist the courts in resolving such questions we make two recommendations. First, we recommend that any United Kingdom legislation intended to implement a Treaty provision or a Community instrument should contain a clear statement that it is so intended. Secondly, we recommend that it should be made clear that in such a case the courts may, in construing the United Kingdom legislation, take into account the relevant provisions of the Treaty or other instrument to which that legislation is intended to give effect. This would involve enacting the Law Commissions’ draft clause 1(1)(c) in a somewhat wider form than that in which it is at present cast.

GENERAL CONCLUSIONS

19.40 We do not consider that any question of using the courts to fill in gaps should logically arise from the simpler drafting which we are recommending. The problems will be those of limiting and defining the application of the broad general rules stated in the Act. We do not for a moment suppose that the courts of the United Kingdom would approach legislation drafted in the way we recommend in the spirit of attempting “to pull the language to pieces
and make nonsense of it". On the contrary we are sure that they would apply the principle contained in draft clause 2(a) of the Law Commissions' clauses (to which we have already referred in paragraph 19.27) that a construction which would promote the general legislative purpose is to be preferred to one which would not.

19.41 We conclude that interpretation of Acts drafted in a simpler, less detailed and less elaborate style than at present would present no great problems provided that the underlying purpose and the general principles of the legislation were adequately and concisely formulated. The real problem is one of confidence. Would Parliament be prepared to trust the courts? We refer again to the evidence given to us by Lord Emslie and Lord Wheatley:

"It is probably the case that legislation in detail is resorted to because Parliamentarians harbour the suspicion that judges cannot be trusted to give proper effect to clear statements of principle. This, with respect to them (the Parliamentarians), is wholly unfounded".

1See the judgement of Denning L J (as he then was) in Magor and St Mellons Rural District Council v Newport Borough Council [1950] 2 All ER 1226, at p 1236.
SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

20.1 In Chapter I of the Report we discuss the scope of our task and the way we set about it. In Chapters II to V, as a background to our enquiry, we give a brief account of the present machinery for the preparation and publication of legislation, and of its historical development; and in Chapters VI and VII we analyse the problems as we see them and discuss the factors to be taken into account in suggesting remedies. We now summarise briefly the main conclusions reached in the remainder of the Report. Recommendations involving some change in the existing system, whether of law or practice or only of emphasis, are indicated by an asterisk.

20.2 The Government promotes and drafts virtually all the legislation that Parliament enacts. There is therefore a joint responsibility for the condition of our statute law as well as for the volume and scope of the annual output. We stress this because it has an important bearing on our principal conclusions and recommendations, which are as follows:

Chapter VIII—The draftsman’s present difficulties
*(1) Consideration should be given to the setting up of a training course in legislative drafting (para 8.16).
*(2) Advice on draft Bills should be sought from specialists in the relevant branches of law (para 8.17).
(3) There should be no large-scale transfer of drafting work away from the Government draftsmen (para 8.18).
*(4) The Law Commission’s drafting strength should be restored and indeed further increased at the earliest possible moment (para 8.19).
*(5) At present, the Government draftsmen should assist with only such Private Members’ Bills as are likely to reach the statute book; when there are more draftsmen, support should become more generous (para 8.21).
*(6) All available methods should be used to recruit and train more draftsmen as a matter of high priority (para 8.22).

Chapter IX—British and European approaches to legislation
(7) The European legislative tradition has been to express the law in general principles; in this country the tradition has been to specify in detail the application of the law in particular circumstances (para 9.14).

Chapter X—Conflicts
*(8) In principle the interests of the ultimate users should always have priority over those of the legislators: a Bill should be regarded primarily as a future Act (para 10.3).
*(9) More use might be made of examples (in Schedules) showing how a Bill is intended to work in particular situations (para 10.7).
(10) Demands for immediate certainty of legal effect encourage elaboration (para 10.9).
(11) To enact law in the form of general principles alone may, but does not necessarily, simplify its application to particular cases (paras 10.10, 10.11).

(12) Where a Bill has a substantial political or administrative content the demand for immediate certainty of legal effect must be expected to continue: there may however be more scope in private law for legislating by statement of general principle alone (para 10.12).

*(13) The use of statements of principle should be encouraged; where detailed guidance is called for in addition, it should be given in Schedules (para 10.13).

Chapter XI—Drafting techniques

(14) The draftsman should not be forced to sacrifice certainty for simplicity (para 11.5).

*(15) Statements of purpose:
   (a) should be used when they are the most convenient method of clarifying the scope and effect of legislation;
   (b) when so used, should be contained in clauses and not in preambles (para 11.8).

*(16) There should be no general rule about drafting in short sentences, but there should be as few subordinate phrases as possible before the subject of a legislative sentence or between the subject and its verb (para 11.10).

*(17) There should be no rule or convention precluding the use of a full stop in the middle of a subsection (or of a section without subsections) (para 11.11).

*(18) Long un-"paragraphed" sentences should be avoided (para 11.12).

*(19) A statute should be arranged to suit the convenience of its ultimate users (para 11.13).

*(20) The number and kind of definitions included in a statute must in general be left to the draftsman’s judgment, but the definition of an expression by reference to another statute which is obscure or obsolescent should be avoided (paras 11.15–11.16).

*(21) Except in very short Acts, definitions occurring in the body of the Act should always be indexed (para 11.17).

*(22) Ways should be explored of indicating that an expression used in an Act is defined in the Act (para 11.18).

*(23) Internal cross-references should take the form of precise references to numbered provisions, and in big Acts may with advantage include a parenthetical description of the subject matter of the provision referred to (para 11.19).

(24) The increased use of fractions and other simple mathematical formulae is welcomed (para 11.20).

*(25) Provisions implementing European Community obligations should be so printed as to be easily recognisable (para 11.21).

*(26) Other conventions may be preferable for distinguishing passages of other kinds, and the Statute Law Committee should consider what visual aids could be helpful for these purposes (para 11.21).
*(27) The type in which Schedules are printed is inconveniently small and a larger one should be used (para 11.22).

*(28) Schedules of amendments should normally be in tabular form (para 11.23).

*(29) Queen’s Printer’s copies and Public General Acts and Measures should be printed with shoulder notes on each page showing section and, where applicable, Part and Chapter numbers (para 11.24).

*(30) General principles should be set out in the body of a statute, detailed provisions of a permanent kind in Schedules, and details liable to frequent modification in statutory instruments (para 11.25).

*(31) Legislation by reference:
(a) is unobjectionable when it is used to apply to some matter a code originally passed for the purpose of being applied from time to time to that kind of matter;
(b) should not be used where the situation to be dealt with is created or circumscribed by an earlier enactment the relevant provisions of which can simply and shortly be incorporated in the new Act;
(c) is often objectionable when it is used to apply to a new set of circumstances law originally passed for dealing with another set of circumstances;
(d) raises special considerations (discussed in Chapter XIII) when it modifies an existing enactment (paras 11.28-11.31).

Chapter XII—Anglo-Scottish legislation

*(32) Great Britain departments sponsoring Anglo-Scottish Bills should issue instructions to both English and Scottish draftsmen in time to allow adequate consultation between them; the draftsmen should plan the Bill from the start in consultation with each other (para 12.7).

*(33) The draftsmen should be free to produce corresponding but separate provisions (para 12.7).

*(34) Where a minor variant as between England and Scotland occurs within a clause, the technique of using a Scottish substitution or other adaptation should be avoided and the English and Scottish versions should be set out separately (para 12.7).

*(35) Wherever a combined Bill cannot be drafted for both countries without complicated adaptation, legislation enacted in the form of two parallel but separate Acts should be the standard choice (para 12.8).

*(36) Advice should be sought systematically from the English and Scottish draftsmen before any choice is made in favour of a combined Bill, and proper weight should be given to their advice where it is against that choice (para 12.8).

*(37) Consideration should be given to adopting a new procedure (described in para 18.4) for the enactment of separate parallel Acts (para 12.9).

*(38) Where urgency and shortage of Parliamentary time have precluded the introduction of parallel Bills but the combined Act requires an unacceptable degree of alteration to make it suitable for Scotland,
a procedure such as is described in paragraph 18.5 should be adopted to permit the speedy re-enactment of a Scottish version (para 12.10).

Chapter XIII—Amending existing legislation

*(39) The needs of the eventual user of the statutes must be given priority over those of the legislator when proposals for amending existing legislation are being framed (para 13.17).

(40) Whilst non-textual amendment often adds to the burdens of the user, a Standing Order requiring all amendments to be drafted textually would not be in his interests, would not be workable, and is not recommended (paras 13.17–13.18).

*(41) The present practice of amending legislation textually wherever convenience permits should be applied as generously as possible (paras 13.20, 13.24).

*(42) Encouragement should be given to the quick reprinting of loose copies of Acts as amended (para 13.20).

*(43) The Keeling Schedule is not capable of wide application, but where one is included in a Bill material proposed to be omitted from an existing enactment should be printed in distinguishing type in the Schedule (para 13.22).

(44) There is a close link between the pace of consolidation and the rate at which textual amendment can have a beneficial effect on the clarity and simplicity of legislation (para 13.23).

*(45) Where a Keeling Schedule or a textual memorandum can assist Members of Parliament or others in understanding textual amendments, such a Schedule or memorandum should be provided whenever it is reasonably practicable to do so (para 13.24).

Chapter XIV—Consolidation

(46) Consolidation is desirable both for the direct benefits it brings and to provide a base for the use of the textual method of amendment (para 14.5).

(47) It would not be practicable to consolidate the whole statute book within a limited number of years, nor to do so on the principle of "one Act, one subject", nor to maintain each such "principal" Act in a state of perpetual consolidation by the exclusive use of textual amendment; moreover Acts framed in this way would not necessarily be clearer or simpler for the user (paras 14.7–14.10).

*(48) The possibility should continue to be explored of recruiting and training for consolidation work lawyers with the necessary aptitudes even though they have not had the full training of Parliamentary draftsmen (para 14.18).

*(49) The Joint Committee on Consolidation Bills should sit in two divisions whenever the flow of such Bills exceeds the Committee’s capacity for dealing with them in the usual way (para 14.23).

*(50) Where powers are conferred to amend Acts by Order in Council in order to facilitate consolidation, the exercise of the powers should be made subject to affirmative resolution, and no such resolution should
be taken in the Commons until the relevant order had been reported by the Joint Committee on Statutory Instruments (para 14.25).

*(51) Consolidation can easily be upset by policy decisions involving major amendments of the existing law, or even by the prospect of such decisions: in order to lessen this risk, it may be prudent in many cases to select a relatively narrow field of legislation for any one consolidating measure (paras 14.28–14.32).

(52) Responsibility for consolidation should remain with the Law Commissions (para 14.33).

*(53) Whilst a pragmatic approach seems inevitable, and the present pace need not hamper the further introduction of textual amendment, the pace of consolidation should be accelerated (paras 14.34–14.36).

Chapter XV—Explanatory material

(54) The question whether any, and if so what kind of external explanatory material should be provided is best considered separately for each statute, as at present (para 15.2).

*(55) The practice of publishing Green or White Papers in advance of legislation should be extended (para 15.5).

*(56) Explanatory memoranda should, as recommended by the Select Committee on Procedure, provide more information about the Bill (para 15.7).

*(57) The practice should be developed of making available for Committee stage debates in both Houses notes on clauses and similar additional explanatory material (para 15.10).

*(58) A trial should be made, initially with uncontroversial Bills, of printing the explanatory notes opposite the clauses to which they relate (para 15.10).

*(59) White Papers giving detailed explanations of lengthy and complex Bills should be provided more frequently (para 15.11).

(60) The practice of Government departments with regard to post-legislative explanatory material is well developed and appears to serve its purpose adequately (para 15.17).

Chapter XVI—How computers would help

*(61) Computer assisted typesetting would produce greater speed and accuracy in the printing of public Bills at all stages; if adopted at the drafting stage, would enable draftsmen to make use of the computer as a mechanical aid to drafting; and would facilitate the incorporation of the enacted texts into a comprehensive data base of statute law (para 16.26(1) and (2)).

*(62) An information retrieval system giving access to such a data base would be useful to draftsmen and others involved in the preparation of legislation (para 16.26(2) and (3)).

*(63) It would also be useful to others whose duties may require them to search the statute book, particularly in connection with the impact upon it of European Community legislation (para 16.26(4)).
The text initially recorded in the data base should be that of Statutes in Force (para 16.26(5)).

It should be updated immediately upon the enactment of any new legislation; a system of continued computer-assisted editing of Statutes in Force would both facilitate this and make it possible for a new revised edition of any Act to be produced for Statutes in Force with less expense and effort, particularly if computer typesetting were used for Queen’s Printer’s copies of Acts and if these were produced in the same format as Statutes in Force (para 16.26(6) and (7)).

The information retrieval system should include a historical file unless this proved to be prohibitively difficult and costly (para 16.26(8)).

The completion of Statutes in Force by 1980 would enable a computer-linked system, of benefit to the draftsmen, to be set up by the same date (para 16.26(9)).

The eventual inclusion of subordinate legislation and case law would increase the value of the system to both Government and other users (para 16.26(10)).

More extensive use of textual amendment should reduce the amount of editorial work required in the production of Statutes in Force, and assist in ensuring accuracy, avoiding delay, and reducing costs (para 16.26(11)).

Chapter XVII—Fiscal legislation

The principal reasons for the complexity of fiscal legislation are the tradition of careful differentiation between individual situations and the enactment of specific anti-avoidance provisions aimed at particular kinds of transactions (paras 17.3–17.6).

A change to broader taxing and anti-avoidance rules would involve policy decisions which are outside our terms of reference (para 17.7).

Given the complexity of the underlying legislative scheme the scope for simplifying its statutory expression is limited (para 17.10).

The basic provisions affecting the majority of taxpayers should nevertheless be framed in relatively simple terms (para 17.10).

Detailed provisions should be made easier to understand by broad statements of intention (para 17.11).

The scope of a charge or relief should be stated clearly in general terms at the beginning of the section or group of sections dealing with it (para 17.11).

Mathematical formulae should continue to be used (but should not become elaborate) (para 17.12).

Definitions should be standardised where no difference in meaning is intended (paras 17.14, 17.16).

Expressions should not be artificially defined to include alien concepts (para 17.15).

Where a difference in meaning is intended, different expressions should where practicable be used rather than the same expression differently defined (para 17.16).
*(80) Subject to the requirements of Budget secrecy and the availability of
time and resources, consideration should be given to some form of
pre-legislative outside consultation on fiscal legislation (para 17.19).

(81) Finance Bills should not be committed in part to a Select Committee
(para 17.20).

*(82) Consideration should be given to a procedure enabling corrections
and uncontroversial amendments, certified by the Chairman of Ways
and Means, to be made to fiscal statutes without debate (para 17.21).

(83) As with legislation on other subjects, the relegation of detailed provisions
of a permanent kind to Schedules can help to shorten and simplify the
body of an Act (para 17.23).

*(84) Changes in fiscal legislation should wherever practicable be made by
directly altering the text of existing enactments, and a less restrictive
view should be taken of what amendments it is practicable to effect
textually (paras 17.25-17.29).

(85) The necessary system of frequent reprints is already available in The Taxes Acts (para 17.30).

(86) A more liberal use of textual amendment would not necessarily enable
consolidation to take place less frequently than at the ten-year intervals
recommended by the Royal Commission (para 17.32).

Chapter XVIII—Parliamentary procedure and scrutiny of drafting

(87) No change is called for in the practice relating to the choice of short
titles for Bills so far as their subject matter is concerned (para 18.2).

(88) The time and effort involved in introducing a separate amending Bill
for each Act, where several Acts are to be amended at once, would
not be justified. Any difficulties caused to practitioners by combining
such amendments in a single Bill should disappear with the completion
of Statutes in Force (para 18.3).

*(89) There should be a separate, parallel Bill for Scotland wherever a com­
bined Bill cannot be drafted in straightforward terms for both countries. Consideration should be given to adopting a new procedure (which
we describe) for the passage of such parallel Bills through both Houses
(para 18.4).

*(90) Where urgency and shortage of Parliamentary time have precluded
the introduction of parallel Bills but the United Kingdom Act resulting
from a combined Bill requires substantial adaptation to make it
workable in Scotland, the provisions which apply to Scotland should
be re-enacted, in Scotland-only form, by the shortened procedure
applicable to consolidation or preferably by a new procedure enabling
the re-enactment to be presented for Royal Assent, as if passed by both
Houses, after being reported by a special Joint Committee and not
resolved against by either House (paras 18.5-18.6).

*(91) The House of Lords should appoint a committee to which Scotland-only
Bills could be committed at the Committee stage (para 18.7).

*(92) As a standard constitutional practice there should be a Scottish lawyer,
whether or not a Law Officer, in the ministerial team in the House
of Lords (para 18.7).
(93) The rule of the House of Commons that the scope of a Bill is limited to a particular part of the United Kingdom if, but only if, such a limitation is written into the long title should be abolished (para 18.10).

(94) Where an Act affects only the law of England and Wales this should be indicated in the short title (para 18.11).

(95) As an experiment, the practice adopted by the editors of Statutes in Force of printing on the title page of each Act the initial letters of the parts of the United Kingdom to which it applies should be extended to Bills and to Queen’s Printer’s copies of Acts (para 18.13).

(96) A clearly stated extent clause should ordinarily be included in Bills, and where the extent of a particular clause is different from that of the Bill as a whole this should be indicated in a side note to that clause (para 18.14).

(97) Common form provisions should continue to be grouped together at the end of the statute (para 18.17).

(98) No change is required in the present rules and practice relating to debates on “clause stand part” (para 18.20).

(99) Provisions relating to financial expenditure should not be printed in italics in Government Bills as introduced in the Commons (para 18.22).

(100) There should be consultation between the two Houses with a view to submitting agreed proposals for harmonising the form of amendments to Bills (para 18.23).

(101) The possibility of deferring the re-numbering of clauses until the Royal Assent proof stage should be looked at again when the application of computer techniques to the preparation of legislation has been developed to a greater extent (para 18.24).

(102) Appropriation and Consolidated Fund Acts which give effect to Supply Resolutions should be abolished, and the Resolutions themselves should be regarded as sufficient authority for the appropriation and spending of grants; but some other means must be found to allow the Commons to pursue the redress of grievances before the granting of the supply (para 18.25).

(103) It should be left to Government departments to decide what advice on the drafting of their Bills they should seek from advisory bodies before presentation (para 18.29).

(104) There is no practical scope for a new stage of scrutiny of drafting during the Parliamentary process (para 18.33).

(105) Unless there is special urgency there should always be at least:
(a) two week-ends between the first publication of a Bill and the debate on second reading in the first House;
(b) fourteen days between second reading and the start of the committee stage;
(c) on all Bills of considerable length or complexity, 14 days between publication of the Bill as amended in committee and the start of the report stage (para 18.34).
There should be a procedure for incorporating improvements (including the correction of obvious inaccuracies), certified by the Speaker and the Lord Chancellor to be of a drafting nature, after the passing of a Bill by both Houses and before Royal Assent (para 18.36).

There should be a procedure, similar to that for consolidation Bills, for the re-enactment of statutes, in whole or in part, with drafting improvements (para 18.38).

The Lord Chancellor should arrange for the Statute Law Committee to keep the structure and language of the statutes under continuous review (para 18.40).

The Statute Law Committee should also:
(a) review the carrying into effect of those of our recommendations that are accepted, in particular our recommendation with respect to textual amendment;
(b) publish reports (to be laid before Parliament) from time to time, but not less often than every three years (paras 18.40, 18.41).

In the main the procedures of Parliament do not in themselves have a detrimental effect on the clarity and simplicity of legislation, but where the drafting of Bills becomes defective because of the application of a procedural rule the Government (and Parliament) have a clear responsibility to set matters right (para 18.42).

Chapter XIX—Interpretation of Statutes

Interpretation influences drafting (paras 19.1–19.2).

The preparation of a comprehensive new Interpretation Act should be put in hand (para 19.11).

The following matters should be made generally admissible by statute for the interpretation of Acts of Parliament, as recommended by the Law Commissions:
(a) all indications provided by the Act as printed by authority (para 19.21); and
(b) relevant international agreements and European Community instruments (paras 19.22, 19.39).
They should be given no more weight than is appropriate in the circumstances (para 19.25).

The following should not be made so admissible:
(a) reports of Royal Commissions and similar bodies; and
(b) White Papers and similar documents (para 19.23).

Although Parliament may in any Act declare specified material outside the Act to be admissible for interpreting it, specially prepared explanatory materials should not in general be so declared (para 19.24).

It should be enacted that those constructions are to be preferred which:
(a) would promote the general legislative purpose (para 19.28);
(b) are consistent with international obligations (para 19.28);
(c) exclude retrospective effect (para 19.32).
The provisions recommended in sub-paragraphs (113) and (116) above might usefully form part of the comprehensive new Interpretation Act recommended in sub-paragraph (112) (paras 19.31, 19.32).

The rules as to the use of preambles in the interpretation of statutes should not be altered (so as to enable a preamble to control an enactment which is in itself clear and precise) (para 19.33).

The European Communities Act 1972 secures the interpretation in accordance with European Court principles of European Community Treaty provisions and Community instruments that have legal effect in the United Kingdom without further enactment (para 19.38).

To assist our courts in interpreting United Kingdom legislation intended to implement other European Community Treaty provisions and Community instruments:

(a) such legislation should contain a clear statement that it is so intended; and

(b) relevant Community instruments should be made generally admissible by statute for the interpretation of such legislation;

(para 19.39; see also sub-paragraph (113) above).

Interpretation of Acts drafted in a less elaborate style need present no great problems: the real problem is whether Parliament would have sufficient confidence in the courts (para 19.41).

David Renton (Chairman)
Atholl
Bacon
Samuel Cooke
Basil Engholm
J A R Finlay
John Gibson
Peter Henderson
Noël Hutton
Kenneth Mackenzie
Patrick Macrory
S J Mosley
Ivor Richard
Ewan Stewart

A M Macpherson (Secretary)
Robert Cumming (Assistant Secretary)

19 March 1975

1Subject to Note 1 below.
2Subject to Note 2 below.
3Subject to Note 3 below.
1. Note by the Duke of Atholl, Sir John Gibson and Lord Stewart

1. We are in complete agreement with what has been said in Chapter XII of the Report about legislating for two different legal systems in one Act. We think it necessary, however, that we should make an additional point which is highly relevant to ensuring that Scottish statute law is kept free of the strains and distortions referred to by the late Lord Cooper, and recently by Lord Hunter, and generally to maintaining the objectives of clarity and simplicity in that law.

2. It seems likely that some part of the Westminster Parliament’s legislative function may eventually be devolved to a Scottish legislature, and we are concerned lest it be thought, if this happens, that the points made by the Committee in Chapter XII will then be less relevant to Westminster law-making than they are at present. This, however, would not be the right view. In the fields of the “retained” subjects departments in Whitehall will continue to promote legislation applying to Scotland as well as to England; and the Scottish element of such legislation, whether it be in a separate Scottish Act or combined with the English element in a single Act, will, as now be part of the law of Scotland. The need in the Westminster machine to have adequate Scottish legal advice at all levels and the participation of Scottish Parliamentary draftsmen (in both cases with the improvements suggested in Chapter XII) will therefore remain. If there is a failure in any new organisation to meet that need and take full account of the Scottish dimension, Westminster additions to the Scottish statute book will continue to give dissatisfaction to judges and practitioners from time to time; and if less than the present standard of legal service is provided, it is all too likely that the quality of such additions will revert to the low level exhibited in the period prior to 1871.

Atholl,
John Gibson,
Ewan Stewart.

2. Note by Sir Basil Engholm, Mr Peter Henderson, Mr Kenneth Mackenzie and Sir Patrick Macrory

1. There is one matter on which some of us wish to make a recommendation additional to those embodied in the Report which we have signed with our colleagues.

2. In paragraph 15.10 of Chapter XV the Committee have recommended that, as an experiment, explanatory notes should be printed on the pages of a Bill opposite the clauses to which they refer, and have suggested that this experiment should be tried with a number of non-controversial Bills, with the purpose of helping users of the Bill to a better understanding of it. These explanatory notes, like explanatory memoranda, would disappear when the Bill became law. In the opinion of those who have signed this Additional Note, users of the Act should also have the opportunity of seeing whether such explanatory notes would be of assistance to them.
3. The main argument against such a step is that this would create, in Professor Reed Dickerson's words, "a split-level statute" and that the lay explanation of the legal language would be less reliable, and could be argumentative. Notes on the clauses of a Bill are always prepared for the assistance of Ministers, and, as the Report points out, these have, on occasion, been made available to Parliament. Such notes need to be, and are, accurate. Moreover, such explanatory notes could, if it were thought desirable, be certified by the Lord Chancellor as being non-argumentative explanations of the sections to which they refer. For these reasons the undersigned do not consider this argument to be conclusive against trying such an experiment.

4. We therefore recommend that the experiment with the Bills should be extended to the Acts which they become. This would mean that where, during the trial period, Bills include explanatory notes, these should, suitably amended to reflect any changes as a result of the Bill becoming an Act, be printed on the pages of the Act opposite the sections to which they refer. We emphasise that we have in mind an experiment only; that we suggest that the notes should be included only in the Queen's Printer's copy of the Act, not in the bound volumes of the statutes (which are already big enough); and that they should be introduced by a statement, similar to the statement printed at the beginning of explanatory notes to statutory instruments, to the effect that the notes do not form part of the Act.

Basil Engholm,
Peter Henderson,
Kenneth Mackenzie,
Patrick Macrory.

3. Note by Sir Samuel Cooke and Sir Noel Hutton

In paragraph 15.10 the Committee recommend that a trial should be made, initially with uncontroversial Bills, of printing explanatory notes opposite to the clauses to which they refer. A similar suggestion was considered but not commended by the Select Committee on Procedure in paragraph 63 of their Second Report for 1970–71. The Select Committee's reason for advising against the suggestion was that it would be difficult to exclude argumentative matter from the explanatory notes. We, the undersigned, are in agreement with the Select Committee's conclusion for the reason which they gave. We are therefore not in agreement with the final recommendation in paragraph 15.10 of the Report of our own Committee. As for the further suggestion, favoured by some of our number, that explanatory notes be printed with an Act opposite the sections to which they refer, we think it would open the way to much uncertainty in the construction of Acts of Parliament. It could also give rise to serious editing and publishing problems.

Samuel Cooke,
Noël Hutton.
## APPENDIX A

### LIST OF WITNESSES

<table>
<thead>
<tr>
<th>Written Evidence</th>
<th>Oral Evidence</th>
</tr>
</thead>
</table>

#### The Judiciary
- The Rt Hon Viscount Dilhorne
- The Rt Hon Lord Gardiner
- The Rt Hon Lord Widgery, OBE TD, Lord Chief Justice of England
- The Rt Hon Lord Simon of Glaisdale
- The Rt Hon Lord Kilbrandon
- The Rt Hon Lord Edmund-Davies
- The Rt Hon Lord Emslie, Lord President of the Court of Session
- The Rt Hon Lord Denning, Master of the Rolls
- The Rt Hon Sir Robert Lowry, Lord Chief Justice, Northern Ireland
- The Rt Hon Sir George Baker OBE, President of the Family Division
- The Rt Hon Lord Wheatley, Lord Justice Clerk
- The Rt Hon Lord Justice Russell
- The Rt Hon Lord Justice Orr
- The Rt Hon Lord Justice Scarman OBE
- The Hon Mr Justice Megarry
- Sir Robert Micklethwait QC, Chief National Insurance Commissioner

#### Government
- Council on Tribunals
- Sir Charles Davis CB
- Sir John Fiennes KCB QC
- Foreign and Commonwealth Office
- Joint Committee on Consolidation Bills
- Sir Stanley Krusin CB
- Lord President of the Council
- Mr W A Leitch CB
- Mr S F Martin CBE
- Mr G I Mitchell CB QC
- Sir Charles Sopwith
- Sir Anthony Stainton KCB

#### Legal Bodies
- Faculty of Advocates
- General Council of the Bar
- Holborn Law Society
- Law Commission
- Law Society
- Law Society of Scotland
- Scottish Law Commission
- Society for Computers and Law
- Society of Parliamentary Agents
- Society of Public Teachers of Law
- Statute Law Society
OTHER REPRESENTATIVE BODIES

Written Evidence

Accountants' Joint Parliamentary Committee
Confederation of British Industry
Food Manufacturers Federation
Institute of Taxation
National Citizens' Advice Bureaux Council
National Farmers' Union
Police Superintendents' Association of England and Wales
Trades Union Congress

Oral Evidence

†

INDIVIDUALS

† Mr F C S Bayliss
Mr F A R Bennion
Mr R J Brien
Professor Otto Kahn-Freund QC
Professor D Lasok
The Rt Hon Lord Merthyr KBE TD
Professor J D B Mitchell CBE
The Rt Hon Lord Molson
Mr R W Perceval TD
Mr Ian Percival QC MP
Mr Peter Rees QC MP
Mr C R Seaton, Secretary of the Industrial Relations Court
Mr Paul Sieghart
Mr Robert H F Smyth
Professor B A Wortley OBE QC

OVERSEAS

Mr Felix R D Bandaranaike, Minister of Justice, Sri Lanka
Professor Reed Dickerson, Indiana University
Professor Elmer A Driedger QC, University of Ottawa
† Mr J P McVeagh CMG, Chief Parliamentary Counsel, Wellington
Parliamentary Counsel, Canberra
Mr S J Skelly, Director of Jurimetrics, Department of Justice, Ottawa

† Informal discussion.
## APPENDIX B

### SOME JUDICIAL CRITICISMS OF DRAFTING

(Chapter VI, paragraph 6.4)

<table>
<thead>
<tr>
<th>Statute</th>
<th>Text</th>
<th>Cases</th>
<th>Nature of criticism</th>
</tr>
</thead>
</table>

(a) in any such circumstances as are mentioned in the next following subsection, and

(b) in consequence of a transaction in securities or of the combined effect of two or more such transactions,

a person is in a position to obtain, or has obtained, a tax advantage, then unless he shows that the transaction or transactions were carried out either for bona fide commercial reasons or in the ordinary course of making or managing investments, and that none of them had as their main object, or one of their main objects, to enable tax advantages to be obtained, this section shall apply to him in respect of that transaction or those transactions:

Provided that this section shall not apply to him if—

(i) the transaction or transactions in securities were carried out, and

(ii) any change in the nature of any activities carried on by a person, being a change necessary in order that the tax advantage should be obtainable, was effected, before the fifth day of April, nineteen hundred and sixty." | Greenberg v IRC [1972] AC 109, 145 | "The meaning of 'carried out' in the body of this subsection must be 'effected' because the purpose of a transaction, bona fide or otherwise, could only be ascertained at its inception and could not await the conclusion of the transaction. But...the ordinary and natural meaning of 'carried out' is 'implemented'. Moreover, the interpretation of 'carried out' must be considered in the context of the whole of section 28. The operation of 'dividend stripping' necessarily consists of a number of transactions, all leading to achieve the result of tax avoidance. This is shown by the reference to 'combined effect of two or more' transactions in the body of section 28(1). In these circumstances I am driven to the conclusion that the words 'carried out' have a different meaning in the body of section 28(1) from that which they have in the proviso. This, of course, is an unhappy conclusion to reach but draftsmen, like Homer, sometimes 'nod' and perhaps in the unnecessary complexity of section 28 this is not surprising. It appears to me that 'carried out' in the proviso must have the wider meaning of 'implemented'... If it did not have this wider meaning the purpose of the section would be very largely defeated. A transaction which had only entered its initial stage of an agreement prior to April 5, 1960, would be protected by the proviso although the tax advantage might not be obtained until some time after April 5, 1960." (per Lord Guest). |
<table>
<thead>
<tr>
<th>Statute</th>
<th>Text</th>
<th>Cases</th>
<th>Nature of criticism</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Limitation Act 1963, section 7(3)</td>
<td>&quot;(3) In this Part of this Act any reference to the material facts relating to a cause of action is a reference to any one or more of the following, that is to say— (a) the fact that personal injuries resulted from the negligence, nuisance or breach of duty constituting that cause of action; (b) the nature or extent of the personal injuries resulting from that negligence, nuisance or breach of duty; (c) the fact that the personal injuries so resulting were attributable to that negligence, nuisance or breach of duty, or the extent to which any of those personal injuries were so attributable.&quot;</td>
<td>Central Asbestos Co Ltd v Dodd [1973] AC518, 529, 531–534, 553</td>
<td>&quot;Normally one expects to be able to find at least some clue to the general purpose and policy of an Act by reading it as a whole in light of the circumstances which existed when it was passed or of the mischief which it must have been intended to remedy. But here I can find none. The obscurity of the Act has been frequently and severely criticised . . . [As to section 7(3)] I find it impossible, even after the able arguments which were submitted to us, to discover or even surmise what the draftsman can have had in mind when he drafted this subsection in this way. I have already pointed out that before a plaintiff can reasonably bring his action he must know four things: (1) the nature and extent of his injuries; (2) what the defendant did; (3) causation of the former by the latter; and (4) that what the defendant did was wrongful. These four elements are inextricably confused in (a), (b) and (c) in this subsection . . . Normally one assumes that when the same word ['negligence'] is used twice or more in the same section it has the same meaning. But in such a welter of bad drafting as one finds here that would be a very unsafe assumption. * * * * * On the whole matter the Act is so obscure that I do not think it possible to form a confident opinion.&quot; (per Lord Reid).</td>
</tr>
</tbody>
</table>

"This Act has been before the courts on many occasions during its comparatively short life. I do not think there are many judges who have had, to consider it who have not criticised the wholly unnecessary complexity and deplorable obscurity of its language. It seems as if it was formulated to disguise rather than reveal the meaning which it was intended to bear." (per Lord Salmon).

“(9) Nothing in this section shall be taken as precluding the deduction of expenses incurred in, or any claim for capital allowances in respect of the use of an asset for, the provision by any person of anything which it is his trade to provide, and which is provided by him in the ordinary course of that trade for payment or, with the object of advertising to the public generally, gratuitously.”

4. Immigration Act 1971, Sections 1(2), 2(3)(rf), section 33(1), (2)

Section 1 “(2) . . . indefinite leave to enter or remain in the United Kingdom shall, by virtue of this provision, be treated as having been given under this Act to those in the United Kingdom at its coming into force, if they are then settled there (and not exempt under the provisions of this Act from the provisions relating to leave to enter or remain).”

Section 2(3) “(d) . . . references to a person being settled in the United Kingdom . . . are references to his being ordinarily resident there without being subject under the immigration laws to any restriction on the period for which he may remain.”

Section 33 “(1) For purposes of this Act, except in so far as the context otherwise requires—

* * * * *

‘immigration laws’ means this Act and any law for purposes similar to this Act which is for the time being or has (before or after the passing of this Act) been in force in any part of the United Kingdom . . .

‘settled’ shall be construed in accordance with section 2(3)(d) above . . .

Associated Newspapers Group Ltd v Fleming [1973] AC 628, 639, 642

“The applicants admit that but for subsection (9) they would have no case . . . On reading . . . my first impression was that it is obscure to the point of unintelligibility and that impression has been confirmed by the able and prolonged arguments which were submitted to us . . . I have suggested what may be a possible meaning, but if I am wrong about that I would not shrink from holding that the subsection is so obscure that no meaning can be given to it.” (per Lord Reid).

“. . . justly described by Lord Denning MR as being ‘very obscure’ . . .” (per Lord Morris of Borth-y-Gest).

R v Governor of Pentonville Prison ex p Azam [1974] AC 18, 59, 71, 72

“The machinery which has been used in order to effect the detention of the appellants is set out in a complicated series of provisions in the Act of 1971. I regret that in a matter which affects directly so many individuals so labyrinthine a path requires to be followed. I shall not attempt to trace its windings, for to do so would obscure the relatively compact points on which the appeals depend.” (per Lord Wilberforce).

“Whether or not an Act should be retrospective in its effect is a matter for the decision of Parliament alone . . . I feel bound, however, to express concern that the draftsman of this Act should have chosen to achieve its retrospective effect through a labyrinth of verbiage which may well have been as perplexing to many of those who had to consider it in Parliament as it undoubtedly was to those whom it may have deprived of their constitutional rights . . . It would surely have been easier, far more satisfactory and fairer to have made this plain by express language in one of the main sections of the Act. It is impossible to ignore the danger that the unnecessarily circuitous and complicated fashion in which the power to act retrospectively was conferred (if it was conferred by the Act) may have concealed the very existence of that power.” (per Lord Salmon).
It is hereby declared that, except as otherwise provided in this Act, a person is not to be treated for the purposes of any provision of this Act as ordinarily resident in the United Kingdom . . . at a time when he is there in breach of the immigration laws.

“(3) Where an agreement to which this section applies is for the time being subsisting and the parties thereto are for the time being either both domiciled or both resident in England, and on an application by either party the High Court or, subject to the next following subsection, a magistrates' court is satisfied either—

(a) that by reason of a change in the circumstances in the light of which any financial arrangements contained in the agreement were made or, as the case may be, financial arrangements were omitted therefrom, the agreement should be altered so as to make different, or, as the case may be, so as to contain, financial arrangements; or

(b) that the agreement does not contain proper financial arrangements with respect to any child of the marriage, the court may by order make such alterations in the agreement by varying or revoking any financial arrangements contained therein or by inserting therein financial arrangements for the benefit of one of the parties to the agreement or of a child of the marriage as may appear to the court to be just having regard to all the circumstances or, as the case may be, as may appear to the court to be just in all the circumstances in order to secure that the agreement contains proper financial arrangements with respect to any child of the marriage; and the agreement shall have effect thereafter as if any alteration made by the order had been made by agreement between the parties and for valuable considera-
6. Land Compensation Act 1961, section 6(1)

"6.—(1) Subject to section 8 of this Act, no account shall be taken of any increase or diminution in the value of the relevant interest which, in the circumstances described in any of the paragraphs in the first column of Part I of the First Schedule to this Act, is attributable to the carrying out or the prospect of so much of the development mentioned in relation thereto in the second column of that Part as would not have been likely to be carried out if—

(a) (where the acquisition is for purposes involving development of any of the land authorised to be acquired) the acquiring authority had not acquired and did not propose to acquire any of that land; and

(b) (where the circumstances are those described in one or more of paragraphs 2 to 4 in the said first column) the area or areas referred to in that paragraph or those paragraphs had not been defined or designated as therein mentioned."

7. Road Safety Act 1967, section 2(1)

"2.—(1) A constable in uniform may require any person driving or attempting to drive a motor vehicle on a road or other public place to provide a specimen of breath for a breath test there or nearby, if the constable has reasonable cause—

(a) to suspect him of having alcohol in his body; or

(b) to suspect him of having committed a traffic offence while the vehicle was in motion:

Provided that no requirement may be made by virtue of paragraph (b) of this subsection unless it is made as soon as reasonably practicable after the commission of the traffic offence."

Camrose (Viscount) v Basingstoke Corporation [1966] 1 WLR 1100, 1110 (CA)


"The drafting of this section appears to me calculated to postpone as long as possible comprehension of its purport." (per Russell LJ).

"Notwithstanding its really remarkably loose draftsmanship, it is not intended, though unfortunately it has been too often understood, to provide for guilty motorists numerous ingenious escape routes based on narrow interpretations of the Act thought out by their legal advisers." (per Lord Hailsham LC).

"I am, however, happy to say that, in my view, the true meaning of this not very felicitously worded statute does not lead to the result for which the appellant contends." (per Lord Salmon).

["person driving or attempting to drive"]
<table>
<thead>
<tr>
<th>Statute</th>
<th>Text</th>
<th>Cases</th>
<th>Nature of criticism</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Theft Act 1968, section 16</td>
<td>“16.—(1) A person who by any deception dishonestly obtains for himself or another any pecuniary advantage shall on conviction on indictment be liable to imprisonment for a term not exceeding five years. (2) The cases in which a pecuniary advantage within the meaning of this section is to be regarded as obtained for a person are cases where— (a) any debt or charge for which he makes himself liable or is or may become liable (including one not legally enforceable) is reduced or in whole or in part evaded or deferred; or (b) he is allowed to borrow by way of overdraft, or to take out any policy of insurance or annuity contract, or obtains an improvement in the terms on which he is allowed to do so; or (c) he is given the opportunity to earn remuneration or greater remuneration in an office or employment, or to win money by betting. (3) For the purposes of this section 'deception' has the same meaning as in section 15 of this Act.”</td>
<td>R v Turner [1973] 3 WLR 352, 354, 357 (HL)</td>
<td>“This section was new and throughout the years that have passed since its enactment there has been acute controversy as to its meaning and effect. I am not surprised at that. At first sight it may look simple, but the more it is examined the greater are the difficulties in finding its proper construction. It is clear that it was intended to widen the scope of the existing law, but I cannot deduce from its terms or from anything else in the Act any clear indication of the extent of the change which was intended . . . The first part [of subsection (2)] is drafted in an unusual way. Does it mean that in the cases set out in heads (a), (b) and (c) a pecuniary advantage is to be deemed to have been obtained, so that it is irrelevant to consider whether in fact any such advantage was obtained, and equally irrelevant to prove that nothing in the nature of pecuniary advantage was in fact obtained by the accused? I think that must be its meaning though I am at a loss to understand why that was not clearly stated . . . I would allow this appeal and restore the conviction of the respondent. I would add that it is extremely unfortunate that an important new criminal provision should be drafted in the form of section 16. It is possible that the section was amended at some stage during the passage of the Bill. But even so, I would hope that ways can be found of drafting such provisions in a form which does not require elaborate and rarified analysis to discover their meaning. Not every lawyer has the aptitude or the leisure for that task and few laymen could attempt it. No doubt any attempt to make such provisions readily intelligible would require them to be greatly expanded, but surely any disadvantage arising from that would be trifling in comparison with the advantage of making them intelligible to more than a minute proportion of Her Majesty’s subjects to whom they are addressed.” (per Lord Reid).</td>
</tr>
</tbody>
</table>
9. Leasehold Reform Act 1967, section 9(1), as amended by Housing Act 1969, section 82

"(1) Subject to subsection (2) below, the price payable for a house and premises on a conveyance under section 8 above shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller [(with the tenant and members of his family who reside in the house not buying or seeking to buy)], might be expected to realise on the following assumptions:

(a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy but on the assumption that this Part of this Act conferred no right to acquire the freehold, and if the tenancy has not been extended under this Part of this Act, on the assumption that (subject to the landlord's right under section 17 below) it was to be so extended;

(b) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges and other rents to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and

(c) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.


"Presumably someone persuaded the majority of both Houses of Parliament that these provisions provided a reasonably clear basis of valuation. Alas, they underestimated the ingenuity of lawyers and surveyors . . . We cannot escape from the conclusion that if Parliament meant to exclude the sitting tenant it could and would have said so in clear terms."

[These comments were on the section as originally enacted. The words shown opposite in square brackets were later added to the section, by the Act of 1969, so as to exclude the sitting tenant.]
<table>
<thead>
<tr>
<th><strong>Statute</strong></th>
<th><strong>Text</strong></th>
<th><strong>Cases</strong></th>
<th><strong>Nature of criticism</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Landlord and Tenant Act 1954, section 24A(3) (added by Law of Property Act 1969, section 3(1))</td>
<td>[The reference in this subsection to members of the tenant's family shall be construed in accordance with section 7(7) of this Act.]”</td>
<td>Regis Property v Lewis &amp; Peat Ltd [1970] 3 WLR 361, 364</td>
<td>“. . . conceded on both sides to be a somewhat obscure subsection.” (per Stamp J).</td>
</tr>
<tr>
<td></td>
<td>“(3) In determining a rent under this section the court shall have regard to the rent payable under the terms of the tenancy, but otherwise subsections (1) and (2) of section 34 of this Act shall apply to the determination as they would apply to the determination of a rent under that section if a new tenancy from year to year of the whole of the property comprised in the tenancy were granted to the tenant by order of the court.”</td>
<td>English Exporters v Eldonwall Ltd [1973] 2 WLR 435, 444, 449, 451</td>
<td>“I share to the full the sentiments expressed by Stamp J as to the difficulties of construing section 24A(3). Indeed I would add my own comment that the term ‘have regard’ is almost of necessity bound to create difficulties. How much regard is to be had, and what weight is to be attached to the regard when it has been had? . . . The section is indeed puzzling . . . Obvious though my reasons for regretting the length of this judgment must be, part of the responsibility may not unfairly be laid at the door of Parliament.” (per Megarry J).</td>
</tr>
</tbody>
</table>
APPENDIX C
CONSOLIDATION ACTS
Prepared for the Law Commissions 1965–1974

(Chapter XIV)

1965 All consolidation Bills enacted in 1965 were in preparation before the setting up of the Law Commissions.

1966 Housing (Scotland) Act (c. 49) (Scottish Law Commission)
Mines (Working Facilities and Support) Act (c. 4)
Sea Fisheries Regulation Act (c. 38)

1967 Advertisements (Hire-Purchase) Act (c. 42)
Air Corporations Act (c. 33)
Development of Inventions Act (c. 32)
Forestry Act (c. 10)
General Rate Act (c. 9)
Industrial Injuries and Diseases (Old Cases) Act (c. 34)
Legal Aid (Scotland) Act (c. 43) (Scottish Law Commission)
Plant Health Act (c. 8)
Police (Scotland) Act (c. 77) (Scottish Law Commission)
Road Traffic Regulation Act (c. 76)
Sea Fish (Conservation) Act (c. 84)
Sea Fisheries (Shellfish) Act (c. 83)
Teachers' Superannuation Act (c. 12)

1968 Capital Allowances Act (c. 3)
Courts-Martial (Appeals) Act (c. 20)
Criminal Appeal Act (c. 19)
Criminal Appeal (Northern Ireland) Act (c. 21)
Export Guarantees Act (c. 26)
Firearms Act (c. 27)
Housing (Financial Provisions) (Scotland) Act (c. 31) (Scottish Law Commission)
New Towns (Scotland) Act (c. 16) (Scottish Law Commission)
Provisional Collection of Taxes Act (c. 2)
Rent Act (c. 23)

1969 Customs Duties (Dumping and Subsidies) Act (c. 16)
Late Night Refreshment Houses Act (c. 53)
Trustee Savings Bank Act (c. 50)

1970 Income and Corporation Taxes Act (c. 10)
Sea Fish Industry Act (c. 11)
Taxes Management Act (c. 9)

1971 Attachment of Earnings Act (c. 32)
Coinage Act (c. 24)
Guardianship of Minors Act (c. 3)
Hydrocarbon Oil (Customs and Excise) Act (c. 12)
National Savings Bank Act (c. 29)
Prevention of Oil Pollution Act (c. 60)
Rent (Scotland) Act (c. 28) (Scottish Law Commission)
Town and Country Planning Act (c. 78)
Tribunals and Inquiries Act (c. 62)
Vehicles (Excise) Act (c. 10)
<table>
<thead>
<tr>
<th>Year</th>
<th>Act Title</th>
<th>Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972</td>
<td>Betting and Gaming Duties Act (c. 25)</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Contracts of Employment Act (c. 53)</td>
<td>53</td>
</tr>
<tr>
<td></td>
<td>Land Charges Act (c. 61)</td>
<td>61</td>
</tr>
<tr>
<td></td>
<td>Local Employment Act (c. 5)</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>National Debt Act (c. 65)</td>
<td>65</td>
</tr>
<tr>
<td></td>
<td>Poisons Act (c. 66)</td>
<td>66</td>
</tr>
<tr>
<td></td>
<td>Road Traffic Act (c. 20)</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Summer Time Act (c. 6)</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Town and Country Planning (Scotland) Act (c. 52)</td>
<td>52</td>
</tr>
<tr>
<td></td>
<td>(Scottish Law Commission)</td>
<td></td>
</tr>
<tr>
<td>1973</td>
<td>Costs in Criminal Cases Act (c. 14)</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>Independent Broadcasting Authority Act (c. 19)</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>Matrimonial Causes Act (c. 18)</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Powers of Criminal Courts Act (c. 62)</td>
<td>62</td>
</tr>
<tr>
<td>1974</td>
<td>Legal Aid Act (c. 4)</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Slaughterhouses Act (c. 3)</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Juries Act (c. 23)</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>Friendly Societies’ Act (c. 46)</td>
<td>46</td>
</tr>
<tr>
<td></td>
<td>Insurance Companies Act (c. 49)</td>
<td>49</td>
</tr>
<tr>
<td></td>
<td>Solicitors’ Act (c. 47)</td>
<td>47</td>
</tr>
</tbody>
</table>
APPENDIX D

EXPLANATORY AIDS PROVIDED FOR THE LOCAL GOVERNMENT ACT 1972

(CHARTER XV)

I Before the introduction of the Bill
1 White Paper February 1971.
2 Press release on White Paper.
3 Circulars on new areas (see Note (a)).
4 Consultative documents provided for Local Authority Associations (see Note (b)).

II During the passage of the Bill
1 (a) Introduction of Bill—general regional extracts.
   (b) Appointment of Lord Greenwood as Chairman of the Staff Commission designate.
   (c) Appointment of Secretary of the Staff Commission.
   (d) Boundary Commission designate’s proposals for non-metropolitan districts.
   (e) Appointment of some members of Staff Commission.
   (f) Endorsement of Staff Commission advice.
   (g) Circular 68/72—Preparatory arrangements.
   (h) Appointment of other members of the Staff Commission.
2 Circulars on new areas and preparatory arrangements.
3 Documents published by the Local Government Boundary Commission (see Note (c)).
4 Consultative documents provided for Local Authority Associations.
5 Notes on clauses as well as maps and explanatory material on major amendments were made available to Members of the Commons Standing Committee and to Peers generally for Committee Stage debates.

III After Royal Assent
1 Press releases—
   (a) Appointment of Boundary Commissioners.
   (b) Appointment of Staff Commissioners.
   (c) Boundary Commission recommendations on the areas of new district councils.
   (d) Circular 121/72, explaining the 1972 Act.
   (e) Names for new Metropolitan Districts.
   (f) Agency arrangements.
   (g) Final decision on the areas of the new districts.
   (h) Names of Metropolitan Districts.
   (i) Status of authorities and civil dignitaries.
   (j) Memorandum on transfer of property.
   (k) Successor parishes.
   (l) Protection of staff.
2 Circulars by—
   (a) DOE.
   (b) Home Office.
   (c) DES.
   (d) DHSS.
   (e) Staff Commission (inc. Bulletins).
   (f) Boundary Commission documents.

3 Consultative documents provided for Local Authority Associations.

4 National advertising campaign (see Note (d)).

5 Maps of new areas—priced documents available upon request from DOE.

Notes
(a) Circulars generally were directed at "affected interests". These were mainly local authorities, but might include others, such as, for example, professional groups.

(b) Consultative documents were usually formally addressed to the Local Authority Associations, although they might also be sent to bodies representing other interests, eg local government staffs. The Associations normally made these papers available to all member local authorities.

(c) Documents published by the Boundary Commission. These were HMSO publications, and included draft proposals, of general public interest, regarding the new district patterns, and reports to the Secretary of State.

(d) A national advertising campaign to encourage voting in the first elections was undertaken in the Spring of 1973, and again in the Spring of 1974 to explain the new system at the time it came into operation. 1,500,000 free pamphlets explaining the new local government system were issued to the public via local authorities.
INDEX

References are to paragraph numbers

A

Accountancy bodies, 15.7, 18.30
Acts of Parliament, see also Statutes
amendments to, see Amendments
local and personal, 5.24
public and general
number in force, 2.3
private, distinguished from, 2.3
Acts of the Parliaments of Scotland, The
1424–1707, 5.10
Record Edition, 2.2, 5.8
Advocates, Faculty of, 11.2, 12.1, 13.10
Ambiguity, avoidance of, 10.9, 11.4
Amendments
Acts, to, 6.2, 6.15–6.17, 7.21, 13.1–13.24,
20.2 (39)–(45)
amending Bills
separate, 18.3
short titles, 18.2
confilation, 13.4
consolidation, facilitation of, 4.13, 4.16,
4.17, 14.24, 14.25, 14.31
fiscal legislation, to, 17.24–17.30, 17.32
non-textual
difficulties caused by, 6.15, 13.9–
13.10, 13.17
legislators, needs of, 13.6–13.8
referential legislation, not a
synonym, 13.2
textual, distinguished from,
13.2–13.3
users, needs of, 13.9–13.10, 13.17,
20.2 (39)
Order in Council, by, 14.25
Schedules of, 11.23
textual
computers, 16.12, 16.17, 16.26
consolidation, facilitated by, 13.23,
14.4–14.5, 14.35, 20.2 (44)
Keeling Schedule, 13.12, 13.21–
13.22, 13.24, 20.2 (43), 20.2 (45)
legislators, needs of, 13.12–13.14,
13.19
non-textual, distinguished from,
13.2–13.3
recommendation on, 13.20, 20.2 (41)
reprints essential, 13.15–13.16,
20.2 (42)
Standing Order requiring, 13.17–
13.18, 20.2 (40)
Statutes in Force, 13.15–13.16, 16.26,
20.2 (69)
temporary law, unsuitable for, 13.18
textual memorandum, 13.12–13.14,
13.24, 15.11, 15.13, 20.2 (45)
users, needs of, 13.15–13.16, 13.17,
20.2 (39)
Bills, public, to, 4.5–4.9, 7.19
Acts, where Bill textually amends, 13.7,
13.14, 13.20

debate, limitation of, 18.18–18.20
drafting process continued by, 8.4
form of, 18.23, 20.2 (100)
Ministerial assurances, to reflect, 10.7
textual, are, 13.7
consolidation Bills, by and to, 14.6–14.18,
14.13, 14.24
Annotations to Acts, 5.15, 5.22
Appointment of Committee, 1.1
Appropriation Acts, 18.25, 20.2 (102)
Arrangement
statute book, of, 5.9–5.21, 6.2, 6.13–6.14,
6.18, 14.6–14.10, 18.39
statutes, of, 6.2, 6.10, 6.12, 11.13, 11.25
common form provisions, 11.14,
18.15–18.17
definitions, 6.12, 11.14, 11.17
Schedules, 11.23, 11.25
shoulder notes, 11.24
users' interests, priority for, 10.3, 11.13,
20.2 (19)

Australia, 12.3

B

Bar, General Council of the, 13.10
Bennion, Francis, 7.15
Bills, see Government Bills, Private
Members' Bills, Public Bills

C

Canada, 14.8, 15.9, 16.1, 16.10, 16.11, 16.12,
16.13, 16.14, 16.17
Cases
Application des Gaz S.A. v. Falcks Veritas
Ltd. [1974] 2 C.M.L.R. 75, 19.35
Associated Newspapers Group Ltd. v.
Black-Clawson International Ltd. v.
Papierwerke Waldhof-Aschaffenburg
A.G., The Times, 7 March 1975,
19.23
Bulmer Ltd. v. J. Bollinger S.A. [1974]
3 W.L.R. 202, [1974] 2 C.M.L.R. 91,
19.38
Camrose (Viscount) v. Basingstoke
Corporation [1966] 1 W.L.R. 1000,
Appx B.6
Central Asbestos Co. Ltd. v. Dodd [1973]
A.C. 518, 12.6, Appx B.2
Central Asbestos Co. Ltd. v. Dodd [1973]
A.C. 518, 12.6, Appx B.2
Corocraft Ltd. v. Pan American Airways
Inc. [1968] 3 W.L.R. 1273, 19.22
Custins v. Hearts of Oak Benefit Society
(1969) 209 Estates Gazette 239,
Appx B.9
Da Costa en Schaake N.V. v. Nederlandse
Belastingadministratie [1963] C.M.L.R.
224, 19.38
Cases—continued

Dockers’ Labour Club and Institute Ltd. v. Race Relations Board [1974] 3 W.L.R. 533, 10.7, 19.20
Nimmo v. Alexander Cowan & Sons Ltd. [1968] A.C. 107, 19.2
R. v. Minister of Agriculture and Fisheries, ex p. Graham [1955] 2 Q.B. 140, 12.6
Regis Property v. Lewis & Peat Ltd. [1970] 3 W.L.R. 361, Appx B.10
Watson v. Fram and Winget 1960 S.C. (H.L.) 92, 12.6
Certainty, 7.5, 7.21, 8.23
ambiguity, avoidance of, 10.9, 11.4
clarity and simplicity, conflict with, 9.5, 10.9, 20.2(14)
draftsman, objective of, 9.5, 10.4–10.7
elaboration, in relation to, 6.2, 6.5, 10.11, 20.2(10)
European and European Community legislation, 9.5, 9.6, 9.7, 9.14
Government and Parliamentary demand for, 10.5–10.6, 10.13, 20.2(12)
detail included as result of, 9.2, 10.7
English legal tradition reinforces, 10.8
principle, statements of may sacrifice, 10.11, 10.13
simplicity in relation to, 9.5, 9.9, 11.5, 20.2(14)
standard of, 10.9, 11.4
Chief National Insurance Commissioner, 6.3, 18.29
Chronological Table of the Statutes, 5.18
Chronological Table of the Statutes affecting Northern Ireland, 5.19
Circulars, departmental, 5.29, 15.16
Citizens’ Advice Bureaux, National Council, 6.4, 15.7
Clarity
certainty, possible conflict with, 10.9
European and European Community legislation, 9.5
principle, statements of, 10.10, 10.13
purposes, statements of, 11.6–11.8
Codes, European, 9.1, 9.5, 9.12
Committees, see Committee Stage, Joint Committee, Select Committee, etc.
Committee Stage, 13.7, 15.12
Commons, 4.4–4.5
debate, limitation of, 18.18–18.20
Lords, 4.8
Common form provisions, see also Definitions, Territorial extent
position of, 11.14, 18.15–18.17, 20.2(97)
standardisation of, 19.4
Commons, House of, 11.3, 18.8, 18.9–18.10, 18.31
amendments to Bills, form of, 18.23
Leader of, responsible for legislative programme, 3.1
procedure of, see Parliament; see also stages of Bills: First Reading, etc.
applications, 16.8–16.21
analysis, 16.18
drafting, 16.15–16.17, 16.24, 16.26
current and historical files, 16.13, 16.26, 20.2(66)
texts, choice of, 16.14, 16.26, 20.2(64)
Parliament, 16.20, 16.25, 16.26
Canada, 16.1, 16.10, 16.11, 16.12, 16.13, 16.14, 16.17
concepts and terminology, 16.4–16.7
Europe, 16.26, 20.2(63)
fiscal legislation, 17.16
LEGOL, 16.18
Scotland, 16.18
Society for Computers and Law, 16.1
Statute Law Committee, 16.2, 16.3
Statutes in Force, 5.14, 16.20, 16.23, 16.26, 20.2(64), 20.2(65), 20.2(67), 20.2(69)
storage, 16.22–16.23
Sub-Committee on, 1.4
subordinate legislation, 16.26, 20.2(68)
terminology, 16.4–16.7
textual amendment, 16.12, 16.17, 16.26
updating, 16.11–16.12, 16.21, 16.26, 20.2(65)
Consolidated Fund Acts, 18.25, 20.2(102)
Consolidation, 14.1–14.36, 20.2(46)–(53)
acceleration, 14.36, 20.2(53)
amendments
consolidation, required to facilitate, 4.13, 4.16, 4.17, 14.24, 14.31
Order in Council, by, 14.25, 20.2(50)
computers, 16.17
consolidation Bills
amendments by and to, 4.16-4.18, 14.13, 14.24
draftsmen of, 3.2, 3.3, 8.18, 14.9, 14.12, 14.15-14.18
Joint Committee on functions, 4.13-4.19
Law Commissions, relations with, 14.22
origins, 2.14-2.15
pressure on, 14.19-14.23
re-enactments with improvements, 18.38
Statute Law Revision and Repeals Bills, 4.19, 14.26-14.27
procedure, Parliamentary, 4.13-4.18, 14.13
fiscal legislation, of, 17.22, 17.31-17.32,
20.2(86)
Government departments, pressure on, 14.19-14.20
Government draftsmen, part played by, 2.16, 3.2, 14.16-14.17
Law Commissions
amendments recommended by, 4.13, 4.16, 4.17, 14.13, 14.24
Joint Committee, relations with, 14.22
responsibility, 2.17, 14.11, 14.33,
20.2(52)
Statute Law Revision and Repeals Bills, 4.19, 14.26-14.27
need for, 13.23, 14.1-14.5, 14.14, 14.33,
20.2(46)
new legislation, effect of, 14.28-14.32, 20.2(51)
obsolent law, repeal of, 14.26-14.27
obstacles to, 6.19, 14.3, 14.15-14.32
perpetual, 7.21, 14.8, 14.10, 20.2(47)
principal Acts, 6.18, 14.6-14.7, 14.10,
20.2(47)
programmes of, 2.17, 7.21, 14.6,
14.9-14.10, 14.11, 14.28-14.32, 14.34
scope of, 14.6-14.7, 14.10, 14.28-14.32,
20.2(51)
Scotland, 14.11, 14.12, 14.17
“slotting in”, 14.8
Constitution, Royal Commission on, 12.1, 18.6
Cooper of Culross, Lord, 12.1
Court of Session, Lord President of, 6.5,
10.8, 12.1, 19.41

D
Davis, Sir Charles, 9.5, 9.8
Definitions
different contexts, in, 6.14
expressions defined, indication in text,
11.18, 20.2(22)
fiscal legislation, in, 17.13-17.16,
20.2(77), 20.2(78), 20.2(79)
Interpretation Act 1889, in, 19.6-19.8
position of, 6.12, 11.14, 11.17, 18.15-18.16,
20.2(21)
reference, by, 11.16, 20.2(20)
use of, 11.15, 20.2(20)
Denning, Lord, 6.4, 6.16, 19.1, 19.2, 19.16,
19.38

E
Elaboration
certainty, demand for in relation to, 9.2, 10.7
English legal tradition reinforces, 10.8
European and European Community legislation,
9.10, 9.11, 9.14
principles and purposes may be obscured by, 9.2
Schedules, relegation to, 10.13, 11.25,
20.2(30), 20.2(83)
subordinate legislation, relegation to, 11.25, 20.2(30)
Dickerson, Professor Reed, 8.7, 8.18, 11.7,
11.12, 11.15, 11.16, 15.14, 16.1, 19.24
Drafting of legislation
arrangements for, see Government Bills,
Private Members' Bills
art, is an, 11.1
computers as aid to, 16.15-16.17, 16.24,
16.26
history of England and Wales, 2.4-2.6
Scotland, 2.7
scrutiny of, see Scrutiny of drafting techniques of, 11.1-11.30; see also particular aspects: Amendments,
Arrangement, etc
Draftsmen, 3.1-3.11; see also Government
draftsmen
Driedger, Professor Elmer, 8.7, 11.3, 11.12,
11.13, 11.15

Roman law, 9.1, 9.5
Scots law, 9.3
European Communities, see also Europe
Community legislation in
certainty, 9.5, 9.6, 9.7, 9.14
clarity, 9.5
codes, 9.1, 9.5, 9.12
detail, 9.10, 9.12, 9.14
interpretation, 9.5, 9.6, 9.7, 9.8, 9.12
principle, statements of, 9.5, 9.7, 9.9,
9.12, 9.14, 20.2(7)
purpose, statements of, 6.9, 9.5, 9.8,
9.14
Roman law, 9.1, 9.5
Scots law, 9.3
European Communities, see also Europe
Community legislation
certainty, 9.5, 9.6, 9.7
clarity, 9.5
detail, 9.11
principle, statements of, 9.5, 9.9
publication of, 5.31-5.34
purpose, statements of, 6.9, 9.5, 9.8
European Communities
Community legislation—continued

secondary
categories, 19.35
characteristics, 9.5-9.8, 9.11
statute book, impact on, 16.26
computers, 16.18, 16.26, 20.2(63)
Roman law, 9.5
Scottish legal work concerning, 3.4, 8.20

Sub-Committee on, 1.4

Evidence, 1.6-1.9
computers, about, 16.1
concern revealed by, 6.1
criticisms expressed in, 6.2-6.21
deposit of, 1.8
oral, 1.7
publication of, decided against, 1.8
witnesses, 1.6, 1.7, Appx A
written, 1.6

Examples to illustrate application of Acts, 10.7, 20.2(9)
Exhaustiveness, 10.9
Explanatory and financial memorandum, see Memoranda

Explanatory material, 15.1-15.17, 20.2(54)-(60)
Acts, 15.15-15.17, 20.2(60)
Bills
before introduction, 15.4-15.5, 20.2(55)
in Parliament
explanatory memoranda, 15.6-15.8, 20.2(56)
Ministers, explanations by, 15.12
notes on clauses, 15.9-15.10, 20.2(57), 20.2(58)
textual memoranda, see Amendment
White Papers accompanying Bills, 15.7, 15.11, 20.2(59)
Parliament, needs of, 15.2, 20.2(54)
wrinkles, burden imposed by, 13.13
public, needs of, 15.2, 20.2(54)

Extent provisions, 6.11, 18.8-18.14

F

Faculty of Advocates, 11.2, 12.1, 13.10
Fiennes, Sir John, 7.9, 7.12, 11.9
Finance Bills, see Fiscal legislation
First Reading
Commons, 4.2, 4.11
Lords, 4.8

Fiscal legislation, 17.1-17.33, 20.2(70)-(86)
amendments, 17.24-17.30, 17.32, 20.2(84)-(86)
audience, legislative, 17.10
codification, 17.33; see also Income Tax
complexity, reasons for, 17.1, 17.3-17.7, 20.2(70)
anti-avoidance provisions, 17.5-17.6, 20.2(70)
consolidation, 17.22, 17.31-17.32, 20.2(86)
consultation on drafts, 17.19, 20.2(80)
corrections and minor improvements, 17.21, 20.2(82)
explanatory material, 17.10
expression, 17.8-17.21
artificiality, 17.15

brevity, 17.18
computer assistance, 17.16
definitions, 17.13-17.16, 20.2(77), 20.2(78), 20.2(79)
itention, statements of, 17.11, 20.2(74)
mathematical formulae, 17.12, 20.2(76)
precision, 17.17
principle, statements of, 17.11

Finance Bills
explanatory material, 15.7
Select Committee, committal in part to, 17.20, 20.2(81)
Schedules, 17.23, 20.2(83)
Foreign and Commonwealth Office, 9.6, 9.11

Four corners doctrine, 7.14-7.15
Fractons, 11.20

G

Gardiner, Lord, 13.22
General Council of the Bar, 13.10
Government Bills, 4.1-4.10; see also Public Bills
amendments to, 4.5-4.8, 18.23
drafting process continued by, 8.4
certainty aimed at, 10.4-10.7
debate, limitation of, 18.18-18.20, 20.2(98)
drafting arrangements
history of, 2.4-2.7
Parliamentary Agents, 3.6, 8.17
Parliamentary Counsel, 2.5-2.7, 3.2, 3.8, 3.9, 8.3-8.9, 8.15-8.16, 8.19
practitioners and others, 2.4, 2.6, 3.6, 8.17-8.18
Scotland, 2.6, 2.7, 3.4, 3.9, 8.9, 8.10, 8.15-8.16, 8.20, 12.1-12.10
explanatory material, 4.2, 15.6-15.13
financial provisions, 18.22, 20.2(99)
instructions to draft, 8.1, 8.5-8.10, 10.5
Parliamentary procedure, 4.1-4.10; see also Parliament
territorial extent, 18.8-18.14, 20.2(93)-(96)
textual memoranda, 13.13, 13.24, 15.11
titles, 18.2, 18.8-18.12

Government departments
Acts
compilations of, 5.25-5.26
explanatory material on, 15.15-15.17
interpretation, views on, 19.14

Bills
drafting, external advice on, 17.19, 18.29, 20.2(22), 20.2(103)
explanatory material, 15.6, 15.10
instructions to draft, 8.2, 8.5-8.10, 10.5
computers, 16.26
consolidation, see Consolidation

Government draftsmen, see also Parliamentary Counsel, Parliamentary Draftsman for Scotland
amendments to Acts, practice regarding, 13.20
certainty, duty to achieve, 10.4-10.7
consolidation, see Consolidation
difficulties of, 6.21, 7.9-7.10, 7.12, 8.1-8.23, 13.13
duties of, 3.2, 3.4, 3.5, 3.7-3.10
early involvement in Bills, 8.7-8.10
Interpretation Act, a new, 19.11
numbers and recruitment, 3.1, 3.3, 3.5,
7.17, 7.20, 7.21, 8.15–8.16, 8.22, 20.2(6)
outside help for, 8.17–8.18, 20.2(3)
Private Members' Bills, 3.7, 3.10, 8.21,
20.2(5)
Graham-Harrison, Sir William, see Harrison
Green Papers, 15.4-15.5, 20.2(55)
Halsbury's Statutes, 5.27, 5.34
Parliamentary Counsel, use by, 5.15
Harrison, Sir William Graham-, 2.16, 11.28,
19.6
Health and Social Security, Department of,
5.26
Hunter, Lord, 12.1
Hutton, Sir Noel, 10.1
Ilbert, Sir Courtenay, 7.9, 7.10, 10.2, 11.28,
13.6
Income Tax, 17.3, 17.4
Codification, Departmental Committee on,
17.2, 17.4, 17.8, 17.10, 17.22, 17.23,
17.33
Indexes
Chronological Table of the Statutes, 5.18
Chronological Table of the Statutes affecting Northern Ireland, 5.19
Index to Government Orders, 5.23
Index to the Statutes, 5.16, 19.6
Index to the Statutes in Force affecting Northern Ireland, 5.17
local and personal Acts, to, 5.24
Public General Acts and Measures, Index and Tables, 5.20
Inland Revenue, 5.25, 17.10, 17.21
Institute of Taxation, 13.9
Interpretation of statutes, 7.19, 8.23, 10.7,
10.11, 19.1–19.41, 20.2(11)–(121)
case law, prior, disregard of, 19.34
drafting, interaction with, 19.1–19.3,
19.40–19.41, 20.2(111)
Europe and European Communities, 9.5,
9.6, 9.7, 9.8, 9.12, 9.14, 19.35–19.39,
20.2(113), 20.2(119)–(120)
explanatory material, 15.16, 19.24
Interpretation Act, a new, 19.4–19.11,
19.31, 19.32, 20.2(112), 20.2(117)
interpretation provisions, see Definitions
judiciary, constitutional position of, 19.12
language, legislative, difficulties caused
by, 6.4, 11.3
Law Commissions' proposals, 19.3,
19.12–19.31, 20.2(113)–(117)
Command papers, 19.17
documents declared relevant, 19.18,
19.23, 19.24, 20.2(115)
international agreements, 19.16, 19.22,
19.27, 19.39, 20.2(115), 20.2(116)
punctuation, 19.14, 19.21
purpose, general legislative, 19.27–
19.28, 19.40, 20.2(116)
reports
Parliamentary debates, 19.18, 19.20,
19.26
Royal Commissions and committees, 19.15, 19.19
short title, 19.14, 19.21
side notes, 19.14, 19.21
treaties, 19.16, 19.22, 19.27, 19.39
weight, 19.19, 19.25
White Papers, 19.17
mischief rule, 19.28
Northern Ireland, Interpretation Act
1954, 19.9–19.10
Parliament, intention of, 6.9, 7.19, 19.2,
19.15, 19.27–19.28
preambles and purpose statements, 19.3,
19.33, 20.2(118)
retrospection, presumption against, 19.3,
19.32, 20.2(116)
Introduction of Bills, 4.1, 4.11
Joint Committee
Consolidation Bills, on, see Consolidation
Delegated Legislation, on, 1.3, 11.26,
15.8
re-enactment with improvements, for,
18.38
Scottish re-enactments, for, 12.10, 18.6
statute book, for general oversight of,
18.39
Statutory Instruments, on, 14.25
Kahn-Freund, Professor Otto, 9.9–9.10
Keeling Schedule, see Amendment
Kilbrandon, Lord, 10.7
Commission, 12.1, 18.6
Language, legislative, 7.5, 7.21
criticisms, 6.2, 6.3–6.4
simplification, 11.2–11.4
syntax, 11.2
vocabulary, 11.2
Lasok, Professor D., 9.7
Law Commissions
Bills based on reports by, 15.9
consolidation, responsibility for, see
Consolidation
draftsmen employed by, 3.6, 14.9, 14.16,
14.18, 20.2(48)
functions, 2.17
Government draftsmen seconded to,
3.2, 3.4, 8.19, 14.16, 14.17, 20.2(4)
interpretation, proposals concerning, see
Interpretation of statutes
Nullity of Marriage Bill, draft of, 15.9
Scottish, 2.17, 12.1, 14.12, 14.17, 18.6
scrutiny of drafting, 18.28, 18.30
Statute Law Committee, relation to, 5.3
Law Commissions—continued
Statute Law Revision and Repeals Bills, 4.19, 14.26-14.27, 18.28
Law Society, 11.25, 13.10, 19.14
Law Society of Scotland, 12.1, 13.10
Legislative programme, 1.1, 3.2, 3.4, 3.5, 7.8-7.11, 8.3, 8.4, 18.33
Leitch, William, 19.9
Local and Personal Acts, 2.3, 5.24
Long title, 18.9-18.10
Lord Advocate
consolidation programmes, approval of, 2.17
House of Lords, not normally member of, 4.8
Legal Secretary to, 2.7, 3.4, 8.20
Scottish draftsmen, responsible for, 3.3
Lord Chancellor
Bills in House of Lords, advice on, 4.8
consolidation programmes, approval of, 2.17
Statute Law Committee, 5.4, 18.40
Lord Chief Justice, 6.16
Lord Justice Clerk, 6.5, 10.8, 19.41
Lord President of the Council, 1.1, 1.2, 15.2, 18.8
Lord President of the Court of Session, 6.5, 10.8, 19.41
Lords, House of
amendments to Bills, form of, 18.23
public Bills, procedure on, 4.8, 4.12
Scottish Bills, committee for, 18.7
Third Reading, amendments on, 18.31
Lyon, A. W., M.P., 15.9

Mathematical formulae, 11.20, 17.12, 20.2(24), 20.2(76)
Meetings of Committee, 1.5
Membership of Committee, 1.5
Memoranda
explanatory and financial, 4.2, 15.6-15.8, 18.22
textual, see Amendments
Micklethwait, Sir Robert, 6.3, 18.29
Ministers
Bills
explanations of, 10.7, 15.10, 15.12
Parliamentary tactics, 7.9
presentation, 4.2
responsibility for drafting, 3.1, 3.3, 8.2, 18.27
consolidation, programmes of, 14.11
Parliamentary Counsel, responsibility for, 3.1
Model provisions, 11.26
Molson, Lord, 6.3, 13.8

National Citizens’ Advice Bureaux Council, 6.4, 15.7
National Farmers’ Union, 6.6, 15.7
National Insurance, Chief Commissioner, 6.3, 18.29
New Zealand, 11.7

Northern Ireland
Acts affecting
Statutes in Force does not include, 5.13
territorial extent, indications of, 18.8-18.14
common form provisions, 18.17
Chronological Table of the Acts affecting, 5.19
Index to the Statutes in Force affecting, 5.17
Interpretation Act, 1954, 19.9-19.10
Legislative Draftsmen, 3.5
Public General Acts, Northern Ireland, 5.8
Statutes Revised, Northern Ireland, 5.11
Sub-Committee on, 1.4

P
Parliament of sentences, 11.12, 20.2(18)
Parliament, see also Commons, Lords
Acts of, see Acts of Parliament
Bills, see also Government Bills, Private Members’ Bills, Public Bills
certainty, demand for, 10.5-10.6
computerised printing of, 16.20, 16.25, 16.26
duty to criticise, 7.16
Members’ needs in respect of, 11.3
scrutiny of drafting, 7.16, 18.30-18.33, 18.35-18.38, 20.2(106)-(107)
elaborate legislation demanded by, 6.5, 6.6, 10.6
homely phrase not always welcomed by, 11.3
intention of, see Interpretation
procedure, 4.1-4.19, 18.1-18.25, 20.2(87)-(110); see also stages of Bills: First Reading, etc.
Sub-Committee on, 1.4
Parliamentary Agents
Government Bills, 3.6, 8.17-8.18
Society of, 18.32
Parliamentary Counsel, see also Government draftsmen
duties, 3.2, 3.7, 3.8, 8.19
consolidation, 2.16, 14.9, 14.12, 14.16
Private Members’ Bills, 3.7, 3.10, 8.21
First Parliamentary Counsel, 3.1, 3.6, 3.11, 7.9, 7.12, 8.3, 8.5, 8.6, 8.8, 8.11, 8.13, 8.17, 8.19, 10.5, 10.6, 11.7, 11.9, 11.18, 11.21, 11.22, 12.3, 12.5, 12.8, 14.16, 15.7, 17.24, 18.21, 18.22, 18.24, 18.32, 18.37, 19.14
prima inter pares, 3.11
Statute Law Committee, member of, 5.1
Office, 2.6, 2.13, 8.18
history of, 2.5
organisation of, 3.11
Scottish draftsmen, co-operation with, 2.6, 3.9, 12.1, 12.3-12.7
status and numbers, 3.1, 8.15-8.16
training, 3.1, 8.15-8.16, 20.2(1)
Parliamentary Draftsman for Scotland, see also Parliamentary Counsel
difficulties peculiar to, 8.2, 8.10, 8.20, 12.2-12.6
duties, 3.4, 3.9, 8.20
consolidation, 2.16, 14.9, 14.12, 14.17
Legal Secretary to Lord Advocate, 2.7, 3.4, 8.20
Private Members' Bills, 3.10, 8.21
Office of history, 2.7
organisation, 3.11
Parliamentary Counsel, co-operation with, 2.6, 3.9, 12.1, 12.3-12.7
primus inter pares, 3.11
Scottish re-enactments, assistance with, 18.6
staff and status, 3.3, 8.15-8.16
Statute Law Committee, member of, 5.1
training, 3.3, 3.11, 8.15-8.16, 20.2(1)
Percival, Ian, Q.C., M.P., 7.13, 11.2, 13.8
Preambles, see Purpose, statements of Principal Act, see Consolidation
Principle, statements of application not always simplified by, 10.10-10.11, 10.13, 20.2(11)
body of statute should be confined to, 10.13, 11.25, 20.2(30)
certainty, immediate, may be sacrificed, 10.13
clarity and simplicity, apparent, 10.10, 10.13
courts, would place heavier responsibility on, 10.13
detailed guidance, may need supplementing by, 10.13, 20.2(13)
encouraged, should be, 10.13, 20.2(13)
fiscal legislation, 17.11
private law, suitable for, 10.12, 20.2(12)
Scots common law relies on, 10.8
Printing clauses, 5.7
Private Acts, 2.3, 5.24
Private Members' Bills, see also Public Bills drafting assistance, 3.7, 3.10, 8.21, 13.13, 20.2(5)
Parliamentary procedure, 4.11-4.12
Public Acts number in force, 2.3
private, distinguished from, 2.3
Public Bills, 1.1; see also Government Bills, Private Members' Bills
Acts, should be regarded primarily as future, 10.3, 20.2(8)
amendments to, see Amendments consolidation Bills, see Consolidation early forms of, 2.4
Finance, see Fiscal legislation financial provisions, 18.22
Government, see Government Bills
Parliamentary procedure, 4.1-4.19, 18.1-18.25, 20.2(87)-(102), 20.2(110)
amending Bills separate, 18.3
short titles, 18.2
new clauses, 18.24
stages, intervals between, 18.34
Scotland, affecting, 12.1-12.9, 18.4-18.7
scrutiny of drafting, 7.16, 18.26-18.41
territorial extent, 18.8-18.14
titles, 18.2, 18.8-18.12
Public General Acts and Measures, 5.8
Index and Tables, 5.20, 5.22
shoulder notes, 11.24, 20.2(29)
updating, 5.15
Public General Acts, Northern Ireland, 5.8
Public Teachers of Law, Society of, 18.30
Punctuation
full stop, 11.11, 20.2(17)
interpretation, 19.14, 19.21
Purpose, statements of, 11.6-11.8, 20.2(15)
fiscal legislation, in, 17.11
interpretation, 19.33, 20.2(118)
manifesto, may resemble, 11.7, 11.8
preambles, should be confined to recitals of fact, 11.8
Queen's Printer's copies, 5.7
computer type-setting, 16.26, 20.2(65)
shoulder notes, 11.24, 20.2(29)
Quiller-Couch, Sir Arthur, 11.1
Ram, Sir Granville, 7.18, 13.21
Record Edition of early Scottish statutes, 2.2, 5.8
Reference
cross-references, internal, 11.19, 20.2(23)
definition by, 11.16
legislation by, see Referential legislation
Referential legislation, 11.27-11.31, 20.2(31)
all legislation is, 11.28, 13.1
amendment, non-textual, not synonymous with, 13.2
amendments, effecting, 11.31, 20.2(31);
see also Amendments
classification of, 11.28
codes, application of by, 11.29, 20.2(31)
examples of, 11.30, 11.31
Report Stage
Commons, 4.6
Lords, 4.8
scrutiny of drafting in lieu of, 18.31
Reprinted Acts, 5.7, 13.15-13.16, 20.2(42); see also Statutes in Force
departmental, 5.25-5.26
fiscal, 5.25, 17.30, 20.2(85)
Revenue law, see Fiscal legislation
Richard, Ivor, Q.C., 1.11
Rowlatt, Sir John, 19.7
Royal Assent, 4.10, 18.6, 18.24, 18.35, 18.36, 18.37
Royal Commissions
Constitution, on the, 12.1, 18.6
reports of, as interpretative aid, 19.15, 19.23
Taxation of Profits and Income, on the, 17.2, 17.3, 17.5, 17.6, 17.9, 17.10, 17.11, 17.12, 17.17, 17.32, 17.33
Schedules, 4.5, 4.6, 6.10
amendments, of, 11.23, 20.2(28)
definitions indexed in, 11.17
Schedules—continued
details relegated to, 10.13, 11.25, 20.2(13), 20.2(30), fiscal legislation, in, 17.23, 20.2(83)
Keeling, see Amendments
typography, 11.22, 20.2(27)
Scotland, 12.1-12.10, 20.2(32)-(38)
common law of, 6.5, 9.3, 10.8
computers, 16.18
consolidation, 14.11, 14.12, 14.17
eyearly statutes of, 2.2, 2.9, 5.6, 5.8, 5.10
Europe, 9.3
Law Society of, 12.1, 13.10
legislation affecting, 5.29, 6.10, 6.20, 12.1-12.10, 16.9, 18.4-18.7, 20.2(32)-(38), 20.2(89)
territorial extent, indication of, 18.8-18.14
Parliamentary Draftsman for, see Parliamentary Draftsman for Scotland
Sub-Committee on, 1.4, 1.5
Scottish Law Commission, 2.17, 12.1, 14.12, 14.17, 18.6; see also Law Commissions
scrutiny of drafting, 7.16, 18.26-18.41, 20.2(104-109)
before presentation, 18.27-18.29
Parliamentary process during, 18.30-18.34, 20.2(104)
after, 18.35-18.38
Statute Law Committee, by, 18.39-18.41
Second Reading, 4.3, 13.7, 15.12, 18.34
Secretariat, Committee's, 1.12
Select Committee
Delegated Legislation, on, Joint, 1.3, 11.26, 15.8
Procedure, on (1965-66), 18.25
(1966-67), 18.20
(1970-71), 1.1, 1.2, 3.10, 11.25, 15.7, 15.9, 15.11, 17.20, 18.27
Procedures for Scrutiny of Proposals for European Instruments, on, 11.21
scrutiny of drafting by, 18.30-18.31
Finance Bills, 17.20
Sentences
length, 6.10, 11.9-11.11, 20.2(16)
punctuation, 11.11
short title, 18.2, 18.11-18.12, 20.2(87)
Shoulder notes, 11.24
Simplicity
certainty, possible conflict with, 10.9, 10.10, 11.5
principle, statements of, 10.10, 10.12, 10.13
style of, 11.2-11.5
Skelly, S. J., 16.1, 16.19
Society for Computers and Law, 16.1
Society of Parliamentary Agents, 18.32
Society of Public Teachers of Law, 18.30
Sopwith, Sir Charles, 9.7, 9.8
Stamper, R., 16.18
Statute book, see also Statutes
amendments, 13.2, 13.4, 13.17
arrangement, 5.9-5.21, 6.2, 6.13-6.14, 14.6-14.10, 18.39
condition, 7.18, 7.20, 13.23
draftsmen handicapped by, 8.11-8.14
consolidation, rearrangement in course of, 14.6-14.10, 18.2, 18.3, 18.7
contents, 2.3, 5.7-5.21, 8.11
criticisms, early, 2.8-2.10
growth, 2.1-2.2
reform, early proposals for, 2.8-2.9, 7.18
Statute Law Committee, general oversight by, 18.39-18.41, 20.2(108)-(109)
Statute Law Commissioners, 2.11, 2.13
Statute Law Committee annual report, 18.41
computers, 16.1, 16.2
functions, 5.2-5.3
history, 5.1-5.2
Law Commissions, relation to, 5.3
meetings, 5.4
membership, 5.2, 5.4
sub-committees, 5.4, 16.1
Statute Law Repeals Bills, 4.19, 14.27, 18.28
Statute Law Revision Acts and Bills, 2.11, 4.19, 14.26, 18.28
Statutes annotations, see Annotations to Acts
annual volumes, 5.8
Chronological Table, 5.18
cited:
1285 Statute of Westminster II (13 Edw. 1), 2.1
1297 Magna Carta (25 Edw. 1), 2.1
1889 Interpretation (52 & 53 Vict., c. 63), 19.3, 19.4-19.11
1893 Sale of Goods (56 & 57 Vict., c. 71), 11.11
1894 Finance (57 & 58 Vict., c. 30), 11.31
1911 Parliament (1 & 2 Geo. 5, c. 13), 4.9
1914 Bankruptcy (4 & 5 Geo. 5, c. 59), 11.30
1925 Law of Property (15 & 16 Geo. 5, c. 20), 11.30
Land Charges (15 & 16 Geo. 5, c. 22), 11.30
1928 Administration of Justice (18 & 19 Geo. 5, c. 26), 5.7
1931 Improvement of Live Stock (Licensing of Bulls) (21 & 22 Geo. 5, c. 43), 11.31
1944 Agriculture (Miscellaneous Provisions) (7 & 8 Geo. 6, c. 28), 11.31
1946 National Insurance (9 & 10 Geo. 6, c. 67), 6.3
1949 Consolidation of Enactments (Procedure) (12, 13 & 14 Geo. 6, c. 33), 4.13, 4.15, 4.16, 4.17, 14.13
Parliament (12, 13 & 14 Geo. 6, c. 103), 4.9
1954 Agriculture (Miscellaneous Provisions) (7 & 8 Geo. 6, c. 28), 11.31
1955 Crofters (Scotland) (3 & 4 Eliz. 2, c. 44) 17.14
Landlord and Tenant (2 & 3 Eliz. 2, c. 56), Appx B.10
1955 Crofters (Scotland) (3 & 4 Eliz. 2, c. 21), 18.11
1957 House of Commons Disqualification (5 & 6 Eliz. 2, c. 20), 5.7
White Papers
Bills, accompanying, 15.7, 15.11, 20.2(59)
interpretation, use in, 19.17, 19.23
policy statements in, 15.4-15.5, 20.2(55)
Widgery, Lord, 6.16
Witnesses, 1.6, 1.7, Appx A

Vocabulary, 11.2

W

Wheatcroft, Professor G S A, 6.3
Wheatley, Lord, 6.5, 10.8, 19.41
CABINET

WORLD ECONOMIC INTERDEPENDENCE AND TRADE IN COMMODITIES

Note by the Prime Minister

For the information of my colleagues I am circulating with this note a copy of my statement on this subject at the Commonwealth Heads of Government Meeting at Kingston, Jamaica together with supporting material. These will be published at 2.30 pm on Thursday 8 May.

H W

10 Downing Street

8 May 1975
WORLD ECONOMIC INTERDEPENDENCE AND TRADE IN COMMODITIES

NOT FOR PUBLICATION, BROADCAST OR USE ON CLUB TAPES BEFORE 1A.30 HOURS 08 MAY 1975

THIS DOCUMENT IS ISSUED IN ADVANCE ON THE STRICT UNDERSTANDING THAT NO APPROACH IS MADE TO ANY ORGANISATION OR PERSON ABOUT ITS CONTENTS BEFORE THE TIME OF PUBLICATION.

by Command of Her Majesty
May 1975

LONDON
HER MAJESTY'S STATIONERY OFFICE
£1.50 net

Cmd. 6061
CONTENTS

PART ONE

INTRODUCTION BY THE PRIME MINISTER ... ... v
SPEECH BY THE PRIME MINISTER AT THE COMMONWEALTH HEADS OF GOVERNMENT MEETING, KINGSTON, JAMAICA, 1 MAY 1975 ... ... ... 1

PART TWO

WORLD ECONOMIC INTERDEPENDENCE AND TRADE IN COMMODITIES ... ... ... ... 9

PART THREE

SUPPORTING MATERIAL

A A Note on Commodity Arrangements and Agreements 16
B A Note on Export Earnings Stabilisation Schemes ... 23
C Detailed Annexes ... ... ... ... ... ... 28
At the meeting of Commonwealth Heads of Government at Kingston, Jamaica on 1 May 1975, I put forward suggestions for a general agreement on commodities. The text of my statement at that meeting, together with a memorandum by the United Kingdom Delegation analysing the background, describing the problems of world trade in commodities, and setting out the proposals I tabled at the meeting, are published together in this paper.
All of us here have long recognised the need for economic interdependence in our trade and dealings with one another, and in the wider world. Over generations, failure to make this interdependence a reality has been the cause of great suffering, suffering above all for developing countries producing the food and raw materials the world needs, without a fair and assured return.

If any doubt remained about the need for interdependence surely this has been dispelled by the events of these past few years.

We have all been affected. But by far the hardest hit of all are those developing countries whose pattern of exports denies them any chance of profiting by the boom in commodity prices, while at the same time they have had to pay a lot more for all their essential imports, especially oil and food, fertilisers and feeding stuffs. Most tragic of all has been the effect on nations already facing starvation—starvation aggravated in some cases by drought and others by flood—who have then found their resources strained beyond endurance to pay the increased cost of the things they need.

I want to make it clear in what I propose today that the British Government fully accept that the relationship, the balance, between the rich and poor countries of the world is wrong and must be remedied. That is the principle on which my proposals rest: that the wealth of the world must be redistributed in favour of the poverty stricken and the starving. This means a new deal in world economies, in trade between nations and the terms of that trade.

I believe that this can be done. But it is fundamental that there should be more wealth—more wealth to be shared more equitably. Shared more equitably, as you said, Mr. Chairman in your welcoming address, within nations: but shared more equitably between nations and peoples.

How we fulfil that objective, by what measures or armoury of measures, we can decide. There are many means by which we can reach that end: but they are only mechanisms. Our dedication must be to the principle, and our determination to achieve it, is unshakeable.

My own concern and involvement with the problems of commodity trade is lifelong, but what is new is the extent of instability in food and raw material prices. Following the Korean War, which caused great disturbance, there was a long period of relative calm. But recently circumstances have been more difficult than at any time since the 1930s. Fluctuations in prices have been violent and sudden.

I would identify three reasons for these fluctuations:

First, variations in demand. In the last few years demand in the industrialised countries for the products of other countries has moved up and down
more or less in step. The rise and fall has been greater than in the past and might well be even greater in the future. No-one, but no-one, has a vested interest in this sort of boom and bust. Commodity producing countries who gain from scarcity prices for a time, often find that inflation is generated in their countries, which causes great social hardship when the boom ends.

Second, variations in supply. There has been widespread disruption particularly from crop failures. The harvests of 1972 and 1974 were bad, as Mrs. Gandhi reminded us yesterday. These bring disastrous consequences, above all for the poorest. Even now world food stocks are very low.

Third, of course, oil. The world economy as a whole suffered a sharp and unique jolt with the rise in oil prices.

These events underline one of the historic canons of one of the world's great religions, that "we are all members one of another".

Everything that has happened in these past two or three years demonstrates the vested interest of all of us in a one-world system for commodity trade. We shall make no progress unless we recognise that large and sudden variations in price, not to mention uncertainty over supply and markets, are disadvantageous to both developed and developing countries alike. Both have a common interest in avoiding them.

The costs for the developed countries as consumers are a worsening of their inflation, setting up a ratchet mechanism of inflation as wages react up but not down: an extra burden on their balance of payments: and uncertainty over the long-term development of their sources of supply.

Britain's own balance of payments in 1974 had to carry an extra charge of £2,500 million by the rise in prices of oil, and commodity price increases over the past year represent a surcharge on every family in the country of 4 per cent of their household income. But developed countries do not gain all that much when commodity prices fall. They might hope for an improvement in their price level, but this does not always occur, particularly if the previous price inflation has generated a spiral of internal cost increases, wage and price increases. They might secure a temporary easement to their balance of payments, but it is only temporary, because one inevitable result is the impoverishment of their primary producing customers who have to cut down their imports of manufactured and other goods whether capital goods or consumer products. And this increases unemployment.

Before the War Sir William Beveridge and I produced evidence that every industrial slump in Britain, every increase in unemployment for the previous 100 years, was associated with a collapse in primary prices in the countries from whom we imported much food and materials.

And turning to developing countries, boom conditions can lead to excessive production and over-investment in capacity which may then prove uneconomic. In slump conditions while some developing countries suffer only from setbacks to their development plans, for many others it means malnutrition, even starvation. Less advanced countries depend critically on the ratio between their exports and imports of high-priced commodities.

And, again I repeat, those developing countries who neither produce their own energy needs nor raw materials for export suffer most whether in boom or slump. Especially those in absolute poverty.

What this analysis means, I can sum up in these terms.
We all have a common interest in reducing the violent fluctuations in commodity prices.

We must recognise the importance to developing countries of increasing their income from commodity exports.

The context for achieving these objectives must be an orderly and sustained expansion of world trade. Without this our joint efforts to bring order into trade in commodities will be frustrated.

Going back a little, the war released a new idealism and new intellectual resources. Bretton Woods, the work on the Havana Charter, which became permanent in the General Agreement on Tariffs and Trade, and the creation of the Food and Agriculture Organisation all brought forth a new sense of urgency. I was fortunate to have spent one of the most exciting periods of my life being involved with this. In 1946 my Prime Minister, Attlee, sent me as a young Minister to head the British Delegation to the FAO preparatory Commission. Sixteen nations were selected by FAO to prepare guidelines for the new organisation under two heads—primary production, particularly in developing countries, and commodity policy. Our report created a great deal of interest at that time—but little action. What we did do was to draft the guidelines for the new post-war international wheat agreement, for sugar and to seek to turn the pre-war producer cartels, tin and others, into genuine commodity agreements.

Under the then laissez-faire leadership of the United States, nations were content to make important decisions about tariffs, about freeing trade, and, through GATT, above all to lay down ground rules to prevent escapism by individual nations into autarky and into nationalistic measures harmful to their neighbours and to world trade in general. But the same philosophy proved allergic to vigorous action on commodities.

It was for that reason that my own Department, the Board of Trade, in 1951 took the lead in establishing the Commonwealth Sugar Agreement, a model of its kind, which has been of benefit to producer and consumer countries alike. One of my most savage criticisms of the terms on which Britain entered the European Common Market in 1971 was the acceptance of conditions which meant the ending of the Commonwealth Sugar Agreement. I am glad to feel that in Britain's renegotiations with the Community, we have at last got agreement to the guaranteed continuing import of the 1,400,000 tons of Commonwealth cane sugar into the Community, and it will go mainly to Britain. But for close on a quarter of a century on commodity markets, it has been "too much talk, and not enough do".

Each commodity poses a special problem. Each commodity has its own elasticity of demand, its own production cycle and its own special problems over storage. There is no general panacea. At the same time those who are charged with negotiating arrangements for trade in a particular commodity can assuredly benefit from adopting a common approach based on mutual undertakings and relevant mechanisms, some at least of which they might find appropriate to the issues they are seeking to resolve.

I want to say a word at this point—I am not running away from it—about proposals for indexation, for which many developing countries are pressing—namely the introduction of some form of indexation of commodity prices linked to the price of manufactured goods which developing countries import with the proceeds from their primary exports.
We all have a common interest in reducing the violent fluctuations in commodity prices.

We must recognise the importance to developing countries of increasing their income from commodity exports.

The context for achieving these objectives must be an orderly and sustained expansion of world trade. Without this our joint efforts to bring order into trade in commodities will be frustrated.

Going back a little, the war released a new idealism and new intellectual resources. Bretton Woods, the work on the Havana Charter, which became permanent in the General Agreement on Tariffs and Trade, and the creation of the Food and Agriculture Organisation all brought forth a new sense of urgency. I was fortunate to have spent one of the most exciting periods of my life being involved with this. In 1946 my Prime Minister, Attlee, sent me as a young Minister to head the British Delegation to the FAO preparatory Commission. Sixteen nations were selected by FAO to prepare guidelines for the new organisation under two heads—primary production, particularly in developing countries, and commodity policy. Our report created a great deal of interest at that time—but little action. What we did do was to draft the guidelines for the new post-war international wheat agreement, for sugar and to seek to turn the pre-war producer cartels, tin and others, into genuine commodity agreements.

Under the then laissez-faire leadership of the United States, nations were content to make important decisions about tariffs, about freeing trade, and, through GATT, above all to lay down ground rules to prevent escapism by individual nations into autarky and into nationalistic measures harmful to their neighbours and to world trade in general. But the same philosophy proved allergic to vigorous action on commodities.

It was for that reason that my own Department, the Board of Trade, in 1951 took the lead in establishing the Commonwealth Sugar Agreement, a model of its kind, which has been of benefit to producer and consumer countries alike. One of my most savage criticisms of the terms on which Britain entered the European Common Market in 1971 was the acceptance of conditions which meant the ending of the Commonwealth Sugar Agreement. I am glad to feel that in Britain's renegotiations with the Community, we have at last got agreement to the guaranteed continuing import of the 1,400,000 tons of Commonwealth cane sugar into the Community, and it will go mainly to Britain. But for close on a quarter of a century on commodity markets, it has been "too much talk, and not enough do".

Each commodity poses a special problem. Each commodity has its own elasticity of demand, its own production cycle and its own special problems over storage. There is no general panacea. At the same time those who are charged with negotiating arrangements for trade in a particular commodity can assuredly benefit from adopting a common approach based on mutual undertakings and relevant mechanisms, some at least of which they might find appropriate to the issues they are seeking to resolve.

I want to say a word at this point—I am not running away from it—about proposals for indexation, for which many developing countries are pressing—namely the introduction of some form of indexation of commodity prices linked to the price of manufactured goods which developing countries import with the proceeds from their primary exports.
This must certainly be looked at. It has been pressed by oil-producing countries, where technically its operation might be relatively simple, not least because there is basically one price for oil. Here the different starting points of producer and consumer countries are concerned with what date you choose—whether it is a peak oil price date, for example, whether you take the peak price or a figure so many percentage points behind it, or if you take the existing price whether you have a delay mechanism of a year or two or more before indexation begins to operate. In the case of general commodities the problems provide greater technical difficulties.

There is a problem of the starting date, the reference date. But not all commodities peak at the same time, or behave in a similar fashion following their respective peaks. Sugar producers, Mr. Chairman, might like to take a date round about the latter months of last year when sugar was at its peak. I am not sure that President Kaunda would like to choose the same date in respect of copper, because by that date copper prices had fallen back to the 1970 levels, as though the commodity boom had never happened. So you have the problem of a common date for composite materials. I doubt whether it would be possible—and importing countries might not feel it desirable—to have an indexation based on a series of base points, each reflecting the peak points of individual commodities. And if you had, a sudden upsurge in one commodity price, or a catastrophic fall in another, would probably not be acceptable to the developing producer countries, since the benefit would be sharply differentiated, and might not be a general benefit at all. So if indexation is to be examined, as I concede it must, three considerations follow:

1. We should take full account of the different kinds of indexation which are possible. Many countries, including oil producers, are talking about an index related to the cost of the goods they import—rather like a cost of living provision in a wages contract in our domestic economies. But in your own case, Mr. Chairman, the methods you have adopted ensure that bauxite prices bear a fixed relation, not to import costs, but to the selling price of the finished aluminium.

2. We have to recognise that indexation can bear very unequally as between the producer participants to a scheme, as well as to the consumer countries involved, and

3. We must not let the technical difficulties of indexation, which may take considerable time to iron out, deflect us from the urgent necessity of examining the other proposals which I now want to put forward in my six-point plan, together with other proposals which might emerge from an examination of them.

Responding, Mr. Chairman, to the challenge which you have placed before this Conference I now wish to place the British Government’s views before you.

Any attempt to bring order to the key area of trade in commodities by following the approach I have outlined must build on the common interests of developed and developing countries. I believe that this common ground can be translated into a set of general commitments which would be complemented by specific proposals for action.
What the British Government have in mind is that we set as our objective a general agreement on commodities, not only for ourselves but for the whole world.

A generation after the General Agreement on Tariffs and Trade, I believe the time has come to balance it with a general agreement on commodities—it is long overdue.

As a basis for discussion, I suggest that the following commitments might form part of a general agreement.

First, we should recognise the interdependence of producers and consumers and the desirability of conducting trade in commodities in accordance with equitable arrangements worked out in agreement between producers and consumers.

Second, producer countries should undertake to maintain adequate and secure supplies to consumer countries.

Third, consumer countries for their part should undertake to improve access to markets for those items of primary production of interest to developing producers.

Fourth, the principle should be established that commodity prices should be equitable to consumers and remunerative to efficient producers and at a level which would encourage longer-term equilibrium between production and consumption.

Fifth, we should recognise in particular the need to expand the total production of essential foodstuffs.

Sixth, we should aim to encourage the efficient development production and marketing of commodities (both mineral and agricultural)—and I should like to emphasise forest products—and the diversification and efficient processing of commodities in developing countries. We should not deduce from two centuries of history that there was any divine ordinance at the creation of the world under which providence deposited the means to primary production in certain countries and it was ordained that those minerals, or other products should be exclusively or mainly processed in other countries.

In saying this I repeat that in any general agreement or other means to advance, we must lay heavy emphasis on the special needs of the poorest countries.

Now in practical terms, if we are to give specific content to these general commitments, specific action is called for. This action should, in my view must, include measures directed to the following ends:

(1) To establish better exchanges of information on forward supply and demand.

(2) To elaborate more specific rules to define the circumstances under which import and export restrictions may be applied to commodities.

(3) To encourage the development of producer/consumer associations for individual commodities.

(4) To give fresh impetus to the joint efforts of producers and consumers to conclude commodity agreements designed to facilitate the orderly conduct and development of trade. This could be done First, by identifying commodities appropriate to the conclusion of such agreements;
Second, by analysing commodity by commodity the appropriate mechanisms for the regulation of trade within the framework of such agreements (including international buffer stocks, co-ordination of nationally held stocks, production controls and export quotas);

Third, by examining ways in which any financial burden arising from these mechanisms may be appropriately financed.

(5) To agree that the regulatory mechanisms incorporated in any international commodity agreement would be directed towards the maintenance of market prices within a range negotiated in accordance with the principles enshrined in the fourth general commitment.

(6) To establish the framework of a scheme for the stabilisation of export earnings from commodities.

These proposals will obviously need detailed study. There are already in prospect negotiations on a number of individual commodities including coffee, cocoa, tin and wheat. The United Kingdom has always belonged to previous commodity agreements and we shall play our part in the negotiations for these new agreements. Commodities will also be an important subject in the multilateral trade negotiations which are now getting under way and the European Community has stressed in its mandate for these negotiations its intention to take account of the interests and the problems of the developing countries and in particular of the least developed in all sectors of the negotiations.

Some commodities are of special if not exclusive importance to Commonwealth producers, tea and jute, for example which have not shared in the recent commodity boom. Can we agree to tackle the problems of these commodities as a matter of urgency?

As my colleagues will see, in my specific proposals I have suggested that we look afresh at the possibilities for reducing price fluctuations. This could be done either through internationally held buffer stocks or through co-ordination of national buffer stocks, and you won’t find that the answer that is right for one commodity is right for another. At the same time my proposals recognise that commodities produced by the poorest countries are not on the whole susceptible to price stabilisation agreements.

That is why I have suggested as a complement to price stabilisation, that we should examine schemes to stabilise export earnings. I propose this for a number of reasons. Such schemes are particularly helpful, one might almost say essential to countries where production is hit by drought or other natural disasters.

Twenty-two Commonwealth countries have had reason to welcome the Lomé Convention concluded between the European Community and the African, Caribbean and Pacific (ACP) countries. These negotiations were not initiated as a result of the British Government's renegotiations, but they were powerfully accelerated and intensified by the effect of our renegotiations. I have made clear to our own Parliament that we intend to build on Lomé in respect of Asian countries, so powerfully represented at this Conference—Asian countries who have gained a little but have not participated in the arrangements for ACP countries.
Under the Lomé Convention forty-six countries will begin to benefit from the export stabilisation scheme, STABEX. This is an important step forward, though limited in scope. It may be difficult to extend it in its present form, and of course International Monetary Fund (IMF) schemes are also limited in scope. That is why we have to look at other possibilities for wider self-financing schemes.

Mr. Chairman, you called on Tuesday for a new approach, for the reversal of generations of world history, in which the principles so many of us have advocated for greater equality within our countries could become a reality as between countries, a reality which would put an end to the centuries old exploitation of so many primary producers by so many importing manufacturing countries. That was what you charged us with on Tuesday morning.

These principles I accept. Indeed I accepted them when, together with others, I founded that movement in Britain, whose work has become known in the Commonwealth and more widely, “War on Want”.

In your inaugural speech on Tuesday, and equally in your interview on British television on these matters which so greatly impressed many of my fellow countrymen, it was clear that you were at that time asserting the arrival of a new age in world economic affairs. The producing countries were going to strengthen and exercise their muscle, indeed some were already doing so, and they were going to do that as a counter to the muscle which you and others feel has been exerted against primary producing countries by those who take their products—and who in the past have themselves not disdained the use of cartels, both in buying and selling. But in that television broadcast you expressed a clear preference that once a balance of power had been established, then the solution should be sought through reason and argument and the creation of advantageous agreements covering all aspects of commodity stabilisation.

The same thought clearly inspired an important passage of your speech on Tuesday: —

“The choices that face us are these: producer associations can either become the instruments through which producing nations conduct a rational dialogue with consumers within the framework of a new economic order: or, for want of dialogue, they will become increasingly the instruments through which the third world take such unilateral action as is demanded by the cause of survival and equity. The choice, therefore, is inevitably between dialogue and confrontation. The challenge to this Conference is to explore the ways by which the scales of probability may be tipped in favour of dialogue”.

And it was in this context that you used the phrase which moved us all, when you said, “I believe that the Commonwealth may be uniquely blessed for this effort”.

For this Conference represents over a quarter of the membership of the United Nations and a quarter of the world’s population: it represents every continent, every ocean, every significant region of the world. It should neither have come here nor should it leave with an inferiority complex about its moral power, and its power to give a lead in world affairs.

Naturally, we cannot negotiate a general agreement on commodities here
at Kingston. All I am hoping for is a "Second Reading Debate" on these proposals. If my colleagues saw merit in the general approach, perhaps Commonwealth countries could together carry the Debate forward at the 7th Special Session of the UN General Assembly in September next as a contribution to the Debate on world economic development, so that practical work could be set in hand when the 4th United Nations Committee on Trade and Development (UNCTAD) meets in another Commonwealth capital, Nairobi, next May.

But in what you have proposed, and in what I have attempted to set out, there is a greater degree of common ground than many would expect, recognising that we speak for countries with a very different economic background—come here to link hands across the so-called great divide between producers and consumers, advanced and developing countries.

In a purely domestic speech in Britain last year to our trade union movement, dealing with Britain's internal problems, I said, referring to the forthcoming American Bicentenary celebrations, that what we needed in Britain, as in the world, was not a declaration of independence, but a declaration of interdependence.

Your theme, supported by others this week, was that the great battle for political independence of previously dependent nations has been largely won and that the struggle now is for economic independence for those nations and peoples. But what we are both saying is that independence is not enough, indeed that economic independence can turn out perhaps to be itself no more than a fantasy. What we both are seeking, and I believe this Conference, are seeking, is mutual advantage and mutual concern, based on each seeking our individual strength, with a frame-work of world interdependence.
PART TWO

WORLD ECONOMIC INTERDEPENDENCE AND TRADE IN COMMODITIES

THE PURPOSE OF THIS MEMORANDUM

1. One of the world’s most pressing and complex problems, which faces all governments, is trade in commodities. The survey of commodity problems in this paper is intended to assist the Conference in their discussion of this issue.

2. This first section of the survey begins with a review of commodity problems in the interdependent world of today. This is followed by a brief account of international discussions which have recently been taking place to try to provide a framework within which the problems of commodity trade can be sensibly tackled. The survey then goes on to describe the history and operation of commodity agreements, and to assess the scope for future co-operation in the stabilisation of prices and supplies, including schemes for the stabilisation of earnings from commodity exports. Some of these issues and several related questions are dealt with in greater detail in the supporting material in Part Three of this White Paper.

COMMODITY PROBLEMS IN A WORLD CONTEXT

3. The need for co-operation by all members of the international community is clearer now than it has ever been. World-wide inflation, coupled with deepening recession in many major countries, massive imbalances in international payments and rapid movements in exchange rates have combined to pose problems for all governments. The interdependence of nations is such that no government can find solutions to these problems on its own.

4. The events of the past few years have highlighted the special difficulties associated with internationally traded commodities: food and raw materials. In no field of economic activity is the interdependence of the world community more obvious than in the production, trade and use of commodities. All countries, even those most richly endowed with natural resources, rely to some extent on imports from other countries for an adequate supply of many of the commodities they need. All countries, even those with the fewest natural resources, produce some commodities. All countries are concerned in commodity trade and many are vitally dependent upon it. It is impossible to make simple distinctions, such as between poor producers and rich consumers. The problems of commodity trade can only be solved by cooperative international action.

5. This overlap between producers and consumers means that all countries are likely to be affected by instability in commodity prices, though in different ways and to varying extents. Many countries’ balance of payments were disturbed by the recent commodities price boom; the five-fold increase
in the price of oil seriously affected all non-oil producing countries; the effects of each were accentuated by the combination of the two.

6. Many developing countries depend largely on the ratio between their earnings from commodity exports and their expenditure on commodity imports. Those with a strong export balance in commodities are better able to withstand commodity increases, and even the oil surcharge. But they may still lose on imports much of what they gain from increased export prices. Countries with few or no commodity exports will inevitably be hard hit by increased prices. Some developed countries, including the United Kingdom (until North Sea oil is fully on stream), fall into this category. Still harder hit by price increases on their imports of energy and of essential foods and raw materials are the developing countries with no exportable commodities; while those countries which were already facing starvation from famine or drought or for other reasons have been most seriously affected of all.

7. Instability in commodity prices, gluts and shortages, are not in the long-term interests of developing international trade. They make long-term planning of production difficult if not impossible. Neither producers nor consumers are likely to gain from violent market fluctuations. Producer countries which may seem to benefit for a time from very high prices often find that they too are subject to the inflation that is generated. Moreover, demand may be reduced and substitution encouraged. Similarly, a serious slump in prices is not in the long-term interest of the consumers. Production is likely to be curtailed and scarcity induced. Industrialised countries which import commodities but rely on the export of manufactures may suffer as much from the impoverishment of their overseas customers among the primary producers as they benefit from lower import prices. In the long term, both producers and consumers share an interest in orderly trade in an expanding world economy.

8. Recent experience has shown how far we are away from orderly and stable trade in commodities. Even if we leave aside the special case of oil, the simultaneous upsurge in demand in 1972/73 in most industrialised countries was followed by massive increases in the price of food and raw materials which gave renewed impetus to world inflation and dislocated balances of payments with effects that are still only too evident. For some commodities the subsequent price fall has been such that the expansion of supplies to meet future world demands is jeopardised. If we neglect the lessons of the past, we may face higher peaks and deeper troughs in the future.

9. In part, the lessons have not been learned because the problems are so complex. Each commodity is a special case, with special features affecting its production and use. Some have a long production cycle, some are perishable, some are bulky, some are in competition with synthetics, and so on. Indeed, although we can detect general commodity cycles in the statistics, there are major variations in the experience of individual commodities. Even now, the adjustments to the boom are still working their way through. It is important to recognise this diversity, so that we are not misled into thinking that there is any easy solution of general applicability.
But that diversity is also a challenge to our ingenuity and our will to cooperate in working towards solutions.

**THE SCOPE OF INTERNATIONAL DISCUSSIONS**

10. There is no straightforward equation between producers and developing countries on the one hand and consumers and developed countries on the other. Nevertheless, it is true that trade in primary products is of greater relative importance to developing countries and it is therefore understandable that over the years, and particularly in the last few years, the developing countries should have devoted special attention to the problems of trade in commodities. In a series of international meetings and at meetings of their own, developing countries have set out in some detail their views and proposals in this field as in others. Their proposals covered a wide range including commodity agreements; buffer stocks; equitable prices for exports and safeguards for export earnings; indexation of commodity prices; improved access and conditions for developing country products in the markets of developed countries; commodity producer associations; and help for expanding the capacity of developing countries for processing commodities for export.

11. Some of these proposals have not been acceptable to developed countries and inevitably there have been disagreements which have prevented progress towards the practical application of new arrangements for commodities. A central point of difference hitherto has been that in general the developed countries have considered that work should proceed on a commodity by commodity basis while the developing countries have usually formulated requests for wide-ranging arrangements covering all or many commodities.

12. These differences of approach should not, however, be allowed to obscure the fact that there is a great deal of common ground and common interest. The events of the last two or three years have led to new thinking and a readiness to re-examine long-standing problems with fresh minds. The recent meeting of the UNCTAD Committee on Commodities gives encouraging evidence of how common ground can be built upon. The chief interest was in the UNCTAD Secretary General's proposals for a programme of work on the “integrated approach” for commodity problems. The resolution adopted by consensus calls for further studies of this. The “integrated approach” is based essentially on the idea of setting up an internationally-financed stockpile for 18 diverse commodities*, linked to a system of multilateral commitments for sales and purchases together with compensatory financing and an increase in local processing. A great deal of work has been done both by individual countries and in international bodies to study all these problems in depth. The study by the Commonwealth Secretariat on Terms of Trade Policy for Primary Commodities is a most useful contribution. Both the new climate of thought and the detailed work which has already been done provide a new and encouraging basis on which to build. We must still bear in mind that each commodity has

---

its own special characteristics and that any multi-commodity arrangement would be difficult to devise. However, it may well be sensible to search out and identify a number of common features which apply to most commodities and to see whether these can be brought together to provide a new and more comprehensive approach to the whole problem of commodity trade.

COMMODITY AGREEMENTS

13. Since well before the Second World War attempts have been made to regulate trade in commodities by means of mechanisms aimed at stabilising supplies and prices. So far consumers and producers have succeeded in reaching agreements with economic provisions to cover only a handful of commodities. The evidence suggests that these agreements have been more successful in protecting floor prices than ceiling prices. Moreover, they have proved incapable of dealing with the kinds of fluctuations in price and supply that have occurred over the past few years.

14. Despite this, we should be prepared in suitable cases to seek to negotiate new agreements, and to try in these to avoid the shortcomings experienced in the past. The first step should be to identify which commodities represent the most likely candidates for new or renewed arrangements. Here the work of the FAO the GATT and UNCTAD is of considerable value. Our initial assessment of those commodities for which new or renewed arrangements would be most likely to help in assuring adequate supplies at reasonable prices and in improving the conditions of the poorest countries, suggests the following possibilities: cereals, cocoa, coffee, copper, dairy products, jute, rubber, sisal, sugar, tea and tin. Of these, tea, jute and sisal are of particular interest to the poorest Commonwealth producers.

15. In negotiating each commodity agreement it will be necessary to re-examine the whole spectrum of mechanisms for stabilising price and supply. This is well-trodden ground and no radically new strategy on price adjustment mechanisms is likely to emerge; terms have to be negotiated for each commodity and the constraints are well known to consumers and producers alike. The issues are considered in more detail in Part Three. The stabilisation of prices and supplies has traditionally been attempted by means of export/import quotas and buffer stocks. Major problems here are the high initial cost of establishing even a modest level of stockpiling and the effect of high interest rates on the cost of maintaining stocks. The developing countries have already put emphasis on the need for financial help to establish stockpiles; and in this area there could be mutually beneficial arrangements between producers and consumers. The difficulties involved tend to be specific to individual commodities and these are outlined in the appropriate annexes, but there are also general problems such as the exercise of control over the management of the stocks.

16. While recognising the need to try to maintain and where possible to increase the real income of developing countries from their primary exports, there are very great problems involved in attempting to establish any automatic link between the price of particular commodities and the
price of manufactured goods. Such a system would be inflexible and could not be guaranteed to produce increased earnings for the producers without the most elaborate arrangements between the governments of all the main producers and consumers. There are the obvious risks of substitution if prices are raised above the levels which the market will bear, as well as those of reduced consumption. If such a system were to be fully effective it could reinforce inflationary pressures in times of high demand and add to the difficulties of developing countries through the effect on their own import bills.

EXPORT EARNINGS STABILISATION

17. Commodity agreements offer the possibility of bringing about greater stability in commodity prices. The experience of agreements in the past suggests that over a period they will tend to maintain prices at somewhat higher levels than would otherwise obtain and to that extent to bring about some degree of transfer of resources from consumers to producers. But not all the producers would be developing countries and some of the commodities produced by the developing countries may be particularly difficult candidates for effective commodity agreements. A complementary approach would be to extend the scope of schemes for stabilising the export earnings of developing country producers. Among the advantages of earnings stabilisation schemes are:

(a) as they do not attempt to operate directly on price levels, they are less affected by fluctuations of supply and demand than are prices stabilisation agreements;

(b) they can be specifically related to the problems of individual countries;

(c) they can benefit individual producers suffering from temporary disruptions in supplies.

18. Several schemes for increasing the stability of export earnings amongst producer countries have been put forward in the past. At the present time there is one in operation under the aegis of the IMF and another, resulting from the negotiations between the European Economic Community (EEC) and ACP countries in the Lomé Convention, will take effect from the entry into force of that Convention. Although there is clearly no fundamental difficulty in devising broader schemes, there are limitations on their effectiveness.

19. In looking at this complex of issues we must continually have in mind the special problems of the poorest developing countries which have been hard-hit by the impact of the oil crisis, which have themselves suffered from the increases in the price of fertilisers and of food and other raw materials, which have not necessarily shared in the boom in raw material prices, and which now face the threat of reduced demand for their products in a world recession. They need adequate, reasonably-priced and increasing supplies of feeding stuffs and of fertilisers to produce more food, to enable them to raise themselves above subsistence level and to develop exportable products. Many of their problems must be tackled through conventional
aid. But it may also be necessary to devise favourable terms for them in any scheme of export earnings stabilisation or in relation to the financing of buffer stocks of commodities of particular interest to them.

CONCLUSION

20. There is no neat and tidy solution to the commodities problem which will satisfy all the aspirations of developing countries on the one hand and be wholly acceptable to the developed countries on the other. International discussion over a period of many years has given rise to a bewildering variety of proposals. We must create an atmosphere of greater confidence, in which we can all look forward to a more assured future. A first task might therefore be to draw up an agreed statement of the common ground between consumers and producers, whether developed or developing, whether rich or poor.

21. Such a statement might take the form of a general agreement on commodities, containing general commitments and specific proposals for action, as set out below—

GENERAL COMMITMENTS

1. To recognise the interdependence of producers and consumers and the desirability of conducting trade in commodities in accordance with equitable arrangements worked out in agreement between producers and consumers.

2. On the part of producer countries, to maintain adequate and secure supplies to consumer countries.

3. On the part of consumer countries, to improve access to markets for those items of primary production of interest to developing producers.

4. To establish the principle that commodity prices should be equitable to consumers and remunerative to efficient producers and at a level which will encourage longer-term equilibrium between production and consumption.

5. To recognise in particular the need to expand the total production of essential foodstuffs.

6. To encourage the efficient development, production and marketing of commodities (mineral or agricultural, with emphasis on forest products) and diversification and the efficient processing of commodities in developing countries.

In any general agreement, or other means to advance, heavy emphasis must be laid on the special needs of the poorest countries.

PROPOSALS FOR ACTION

1. To establish better exchanges of information on forward supply and demand.
2. To elaborate more specific rules to define the circumstances in which import and export restrictions may be applied to commodities.

3. To encourage the development of producer/consumer associations for individual commodities.

4. To give fresh impetus to the joint efforts of producers and consumers to conclude commodity agreements designed to facilitate the orderly conduct and development of trade. This could be done, first by identifying commodities appropriate to the conclusion of such agreements; second by analysing commodity by commodity the appropriate mechanisms for the regulation of trade within the framework of such agreements (including international buffer stocks, co-ordination of nationally held stocks, production controls and export quotas); third by examining ways in which any financial burden arising from these mechanisms may be appropriately financed.

5. To agree that the regulatory mechanisms incorporated in any international commodity agreement would be directed towards the maintenance of market prices within a range negotiated in accordance with the principles enshrined in the fourth general commitment.

6. To establish the framework of a scheme for the stabilisation of export earnings from commodities.
PART THREE

A. A NOTE ON COMMODITY ARRANGEMENTS AND AGREEMENTS

HISTORY

1. The earliest schemes designed to regulate trade in commodities by stabilising prices and supplies were usually producer cartels. They sought with varying degrees of success to limit supplies coming on to the market. The pre-Second World War coffee, sugar and tea cartels were examples. However, the 1933 Wheat Agreement, though very short-lived, was important because it was one of the first to encompass both exporting and importing interests; in a certain sense it anticipated some of the objectives in Chapter VI of the Havana Charter which furnished for the post-war world a code of guiding principles underlying international commodity negotiations. The principle in the Havana Charter—that producers and consumers should have equal weight in shaping the provisions of an agreement—implies the need for a balance of interest between the participants. But this requirement has made it more difficult to complete formal commodity agreements with economic provisions. In fact, producers and consumers have only succeeded in reaching agreements with economic provisions to cover coffee, cocoa, sugar, wheat and tin. These agreements aimed at a balance between supply and demand, so as to hold prices within an internationally agreed range.

Informal Arrangements

2. For some commodities there have been arrangements short of commodity agreements, providing for information sharing and discussion with the aim of stabilising prices: producers and consumers meet periodically to exchange views on market trends—supply, demand and investment prospects. Such arrangements are well suited to commodities with long gestation periods for new capacity, such as many minerals and tree crops, where forward planning is desirable to avoid or mitigate successive medium term cycles of over- and under-investment. Thus agricultural and food commodities are regularly discussed in the Food and Agriculture Organisation (FAO) Committee on Commodity Problems. There is an International Study Group for rubber, and the United Nations Committee on Trade and Development (UNCTAD) Committees for tungsten and manganese; producers and consumers of lead and zinc operate an annual discussion group. The practice could usefully be extended. Similar discussions of course take place for those commodities which are subject to more formal arrangements.

3. There can also be informal price arrangements such as those for sisal and jute (see Annexes IX and VII). This type of scheme may be appropriate for low-value materials for which the cost of administering an agreement would be relatively large; but they tend to break down easily, as happened in 1973.
International commodity agreements require formal signature by member governments and a full-time secretariat. The agreements have in the past incorporated a range of mechanisms, the chief effect of which has been to protect a minimum price for the producers. The most common of these mechanisms are described below. (But none of them except the International Tin Agreement is operating effectively at the present time.)

i. Export Quotas
The export quota, by means of which supplies are controlled by exporting countries, has the object of securing a guaranteed price for the exporter and some security of supply for the consumer. This was a feature of the International Sugar Agreement (ISA) as well as the Commonwealth Sugar Agreement (CSA); the Coffee and Cocoa Agreements also have provisions for export quotas. In the case of the agricultural commodities such as cocoa, an agreement would provide for an adjustable system of export quotas allocated to the individual producer countries. These quotas are often operated in conjunction with a buffer stock; and have the objective of stabilising prices within a given range. Generally speaking, as the world price of the commodity rises the export quotas are progressively increased and finally suspended. On the other hand, when the world price falls below a fixed point the quotas are re-introduced, and can be progressively reduced. Where there are no buffer stocks the quotas can be maintained either by short-term storage or in the last resort by destruction of the surplus in the case of agricultural products, and by reducing output in the case of minerals. In an extreme situation, it is possible for the system of export quotas to be replaced by formal export restrictions imposed by agreement between the producing countries. But these tend to have a disruptive influence on production and investment programmes.

ii. Agreed Minimum Prices
Another method, which can only be used when export is in the hands of governments or other monopolistic exporters, is for an agreement to be made to respect an agreed minimum price in all transactions. This can be accompanied by an undertaking by individual consuming countries to buy and individual producing countries to sell a designated quantity.

iii. Buffer Stocks
For those products that can be stored for a period the fluctuations of supply and demand can be countered by buffer stocks. These protect the producer by buying supplies when the price reaches the lower end of a range and assist consumers by releasing stocks when prices have risen to the upper end, eg at times of short-falls caused by crop failures or other disasters. The stocks can be held nationally or internationally and may be financed by contributions from producers or consumers. Depending on their size and the efficiency of their management, they are capable of contributing to a limited extent to market stabilisation. The International Tin Agreement and the Cocoa Agreement both have provisions for internationally held buffer stocks. The
International Sugar Agreement had provisions for nationally held stocks.

iv. Periodic Price Reviews
All these arrangements must necessarily use a target price or price range as their triggering mechanism, and these can be made subject to periodical reviews or consultations between producers and consumers. For instance the Cocoa and Tin Agreements provide for periodic price reviews as did the Commonwealth Sugar Agreement. Other more limited arrangements such as the General Agreement on Tariffs and Trade (GATT) Agreement on skimmed milk powder and butter oils have provisions for minimum export prices (these are currently well below present world prices).

v. Information
All of these agreements by their nature tend to afford clearing houses for exchanges of information between producers and consumers, as does the Olive Oil Agreement, which has no economic provisions: to some extent these exchanges contribute towards market stability.

5. The United Kingdom has supported commodity agreements as a means of meeting the problem of instability of supply and price of raw materials, though we have recognised that these are not necessarily the best or only mechanisms and that more informal arrangements are sometimes more appropriate and we participate in a number of these. We are, or have been, a member of all the major agreements and are participating, or intend to participate, in the negotiations for the new agreements planned for cocoa, tin and coffee.

6. None of the agreements was ever wholly successful in ensuring stability of prices and supplies: their economic provisions have not generally been able to withstand the pressures generated by shortages and high price. Chart A in Annex I shows that fluctuations in price have continued over a long period. Such palliative measures as sales from buffer stocks have proved inadequate to bring prices down to reasonable levels. Chart B shows that the few commodity agreements functioning 2½ years ago had little restraining impact on a worldwide increase in commodity prices unprecedented since the time of the Korean war. Chart C in Annex I shows how prices, as measured by The Economist's Sterling Indicator, have risen from a low point of 84 in November 1971 to 265 at the end of February 1974, since when there has been a significant reduction, especially in metals.* The price rises can be accounted for in terms of increases in demand, of interruptions in supply that have been compounded by the effects of the Middle East war and the oil crisis, and by droughts and other natural causes.

Economic Effects of Price Stabilisation Schemes in the Past

7. Various attempts have been made to analyse the effectiveness of past commodity agreements in stabilising prices but statistical difficulties tend

*Individual commodity prices from 1972/75 are given in Chart D in Annex I; and quarterly averages from 1970/75 are given in Chart E.
to preclude hard and fast judgments. Work done for the 3rd UNCTAD (1972) analysed price fluctuations in pre- and post-agreement periods for several commodities, using the average deviation of actual prices from a linear trend constructed for each period. For wheat, sugar (the ISA), olive oil (except the first agreement) and tin this analysis shows lower average deviations from trend in the periods when the agreements were in force. For coffee the picture is the reverse. However, with the probable exception of sugar, the increase in stability may not really be attributable to the agreements. The pre-agreement period used for wheat was the immediate post-war years; after that over-supply was the norm. The pre-agreement period for tin included the Korean War. For coffee, conversely, the second agreement period covers years of exceptionally unfavourable physical conditions in the main producing country.

8. The authors of the above study conclude that even before the price increases of 1973, past agreements did not cope as well as they might in circumstances of shortage. However, they probably contributed marginally to stability of supply and prices.

POSSIBILITIES FOR FUTURE PRICE STABILISATION SCHEMES

9. Any future scheme must consist of some combination of the basic ingredients set out in paragraph 4 above.

10. Unlike the existing agreements, most of which were conceived in an atmosphere of glut (an anticipated glut in the case of wheat in 1949), future agreements will be conceived in the aftermath of the unprecedented shortages of 1973/74 as well as in the more familiar context of falling commodity prices as world economic activity declines. It seems likely therefore that there will be considerable interest in inserting into any new agreements provision for larger buffer stocks, definite global commitments to supply to consumer members and perhaps a sliding scale of additional commitments to supply in times of shortage at progressively higher prices in relation to the target range of prices (for instance by diverting supplies from consuming countries that were not signatories to the agreement).

11. However, the establishment and enlargement of buffer stocks is subject to at least four practical difficulties—

i. First there are the problems of controlling and managing buffer stocks. Some of these are technical difficulties. For instance it is far more difficult to manage a stock of a heterogeneous product such as tea than of, for instance, a metal; and some products such as coffee have proved more difficult than was expected to store in large quantities. In addition there are the inevitable problems of setting up and running an international organisation representing diverse interests.

ii. Secondly there is the difficulty of judging the requisite scale of the stocks. This involves taking a view of the degree of insurance that the members desire, and assessing the likely scale of world trade in the commodity and the size and frequency of fluctuations in supply.
and demand. These assessments may be difficult at a time when nobody can be certain whether the recent trend towards greater instability will continue.

iii. Thirdly there is the problem of finding the money. It has been calculated that for copper alone the value at present prices of a buffer stock representing 10 per cent of a year's output—a proportion which has proved inadequate for tin—could be £500 million. The financial problem would have to be tackled separately for each commodity. But if the policy worked well, the commodity would be sold when world prices had increased, so funds to build up buffer stocks could be regarded as finance for investment rather than for consumption.

iv. Finally, there is a problem of timing, since the stocks cannot be built up except when a surplus is available.

Nevertheless, in spite of the difficulties, there should be scope in many commodities for mutually beneficial co-operation between producing and consuming countries in buffer stock management. Indeed in many ways the provision of buffer stocks might be seen as one of the keys to smoothing the harmful fluctuations of supply, demand and price that the world has been experiencing.

Commodities Suitable for Agreements

12. We have described the trade in a number of commodities in Annexes II to XVI. Some promising candidates for commodity agreements would seem to be—

i. Cereals. (Annex II) In their approach to the GATT multilateral trade negotiations the EEC is likely to propose new commodity agreements for cereals including provisions for stockpiles and a price range within which transactions would take place. The International Wheat Council has set up a preparatory group to examine the elements of a new wheat agreement.

ii. Cocoa. (Annex III) There is an International Cocoa Agreement, but its economic provisions have not come into effect. Negotiations for a new agreement are due this year.


iv. Copper. (Annex V) Producer and consumer countries are anxious about the uncertainties arising from fluctuations in the price and about the prospects for investment if prices continue at the present low level.

v. Dairy products. (Annex VI) The EEC, in the context of the GATT multilateral trade negotiations, is likely to propose a full commodity agreement. It would provide for the setting of both maximum and minimum prices for each product. There would be no buffer stock.

vi. Rubber. (Annex VIII) A meeting of the International Rubber
Study Group will take place in October 1975, and international arrangements in connection with the trading of natural rubber will be discussed.

vii. *Sisal* 

viii. *Jute*  
(Annexes IX and VII)  
Informal arrangements already exist and on the whole work quite well; but there is probably scope for improvement.

ix. *Sugar.* (Annex X) The most recent international sugar agreement with full economic provisions was that of 1968-73. The present ISA is purely administrative but committed in principle to the negotiation of an economic agreement in due course.

x. *Tea.* (Annex XI) A new International Tea Agreement has been in discussion in FAO for some years. A working party of exporters has been set up to study the question.

xi. *Tin.* (Annex XII) The United Kingdom is a member of the Fourth International Tin Agreement which expires in June 1976. Negotiations for the Fifth Agreement are due to begin in May this year and the United Kingdom will be participating. Discussion will include the possibility of a larger buffer stock and of contributions to its financing from consumers.

The remaining commodities would appear to be unpromising for one reason or another. *Bauxite, alumina* and *aluminium* (Annex XIII) are produced and processed by six companies that operate worldwide. *Iron ore* (Annex XIV) is produced in too many countries and the major producers are not developing countries. *Lead* and *zinc* (Annex XV) are covered by a study group which works well. *Tungsten* (Annex XVI) is also covered by a useful discussion group. A list of other products unlikely to be suitable for commodity agreements is given in Annex XVII.

### Economic Effects of Future Price Stabilisation Schemes

14. Looking ahead over the next few years the best that can be done is to make an impressionistic guess as to the effect of widespread commodity agreements compared to expected commodity price behaviour. Much would depend on the basic price or range of prices chosen as the targets in the new agreements.

15. New agreements could be expected to have some mutually beneficial stabilising effect. But this happy outcome depends crucially not only on a successful and speedy conclusion of new commodity agreements but also on the speed and scale of the next upturn in world economic activity. If, as many analyses suggest, 1977 and 1978 see a simultaneous growth of output in all industrialised countries on a scale comparable to that of 1972/73, the new agreements could well come under considerable pressure. Smoother world economic cycles are a prerequisite for more effective commodity arrangements, and measures directly aimed at avoiding worldwide “overheating” will therefore be required.
Effects on Different Groups

16. Consuming countries. It follows from the above that, put simply, the greater the likelihood of severe fluctuations in commodity prices the greater the desirability of price stabilisation schemes but also the smaller their chances of success in avoiding the peaks in commodity prices. Given this limitation, the benefits to consuming countries of such success as may be had under stabilisation schemes will be in the form of avoiding expensive (technically, economically and politically) adjustments to changes in availability and prices of commodities. The total benefits for each consumer country would depend on the relative importance in total imports of particular commodities covered by agreements, the scope for and cost of stabilisation, the importance of the commodities in their end-uses and the availability of substitutes. To the extent that price stabilisation schemes also stabilise the export earnings of producers, then there would be benefit to consumer countries similar to those under export earnings stabilisation schemes, discussed in Note B.

17. Producing countries. On the basis of a downward movement of world food prices the terms of trade of food producers in the next 2 years would be likely to be more favourable under price stabilisation agreements while those of raw material producers would be better initially and worse later. Annex XVIII lists the main exporters of various primary products. Rich producers would be the chief beneficiaries of price stabilisation agreements, the main effect of which would be to build up stocks, thereby holding up prices in the next few years, against the eventuality of future supply shortfalls. Very few of the poorest countries appear in the list at all. Jute, sisal and tea are the only commodities of which the main producers are among the poorest countries. However, a number of middle income less developed countries appear on the lists. Some of these countries have suffered, and would suffer again, from export earnings instability due to price fluctuations and would welcome new or improved price stabilisation agreements. To the extent that the demand for their exports is relatively unresponsive to price increases they would achieve a certain improvement in their export earnings as well as greater stability of earnings under such agreements.

Indexation

18. It has on occasion been suggested that commodity prices should be linked to manufactured goods prices; thus commodity prices would be stabilised in relative terms but not in absolute terms. In practice indexation of this type would not be a simple matter. First, from time to time, the relationship of commodity prices to manufactured goods needs to change; otherwise there will be persistent periods of over- or under-supply which could harm both producers and consumers. Producers would only gain from indexation over the long term if over-supply did not arise, which is unlikely, or if it were countered by export quotas or measures to support consumption by the importing countries. Second, there are practical problems in organising trade on an indexed footing, arising particularly from the fact that most commodity trading is not conducted on a government to government basis.
B. A NOTE ON EXPORT EARNINGS STABILISATION SCHEMES

1. The developing countries are interested in “measures designed to increase and stabilise primary commodity export earnings . . . at equitable and remunerative prices and to maintain a mutually acceptable relationship between the prices of manufactured goods and those of primary products” (general principle of the UNCTAD first session quoted by the Group of 77 in their resolution to the UNCTAD Committee on Commodities, 18 February 1975). Export earnings stabilisation schemes are designed to maintain the import capacity of individual developing countries but without directly affecting the prices of goods. Two schemes of this kind are already in existence: the IMF facility and the Lomé Convention commodity scheme (STABEX).

IMF Facility

2. Under existing arrangements the Fund may provide assistance, in addition to ordinary drawing rights, for compensatory financing of export fluctuations and for buffer stock financing.

3. In order to qualify for a drawing under the compensatory financing facility a member country must demonstrate that it is encountering balance of payments difficulties produced by export shortfalls of a short-term nature largely attributable to circumstances beyond its control and must undertake to co-operate with the Fund in finding a solution to the difficulties. The facility is geared to primary producers and is particularly aimed at countries whose exports depend upon a single raw material; general balance of payments difficulties arising from short-falls in the exports of a wide range of commodities are usually financed by ordinary credit tranche drawings. The short-fall is determined by comparing actual exports in the short-fall year with estimates of the medium term trend (5 year moving average); there is provision for an allowance of up to 10 per cent for projected export growth over the next 2 years.

4. Finance is limited to 25 per cent of a member’s quota in any one year (except in the case of natural disasters) and a total limit of 50 per cent of quota. Drawings under the facility carry an interest rate of 4 per cent per annum rising to 6 per cent after 5 years and members are expected to repurchase drawings within 3-5 years. Access does not require a prior drawing on the “gold tranche”. Members also have the right, with the Fund’s agreement, to reclassify part or all of a credit tranche drawing as a compensatory finance drawing within 6 months.

5. The buffer stock financing facility was established to assist members to meet the cost of participating in commodity agreements which included an international buffer stock. When applying for Fund assistance the member has to demonstrate that the obligation to contribute to an approved buffer stock would create difficulties for its balance of payments. The “gold tranche” must be drawn before a drawing can be made under this facility.
Otherwise the conditions are the same as for compensatory finance drawings. The limit on total drawings under both facilities together is set at 75 per cent of the quota.

6. Little use is currently being made of the buffer stock financing facility. Only one drawing of 5.2 million special drawing rights (SDR) is outstanding. On the other hand 18 countries have outstanding drawings under the compensatory financing scheme totalling SDR 524.6 million. In January the IMF Interim Committee, following a proposal from the Indonesian Minister of Finance, asked the Executive Board to consider possible improvements in both facilities.

The Lomé Convention Commodity Scheme

7. The STABEX scheme approved at the Lomé Convention differs from the IMF Compensatory Finance Facility in that instead of covering the total of exports to all destinations it is limited to certain products and, for most of the benefitting countries, related only to their exports to the EEC. On the other hand the scheme is more concessionary in that in most cases the benefits, though limited in quantity, do not have to be repaid. The aim of the scheme is to offer some compensation to exporters when, through no fault of their own, their earnings from exporting certain products to the EEC fall below the levels they have become used to.

8. Beneficiary countries. All the 46 ACP countries that have signed the Convention of Lomé are in principle eligible to draw on the scheme. Whether they do so, and the amount of their drawing, depends on whether they export any of the products in question in the minimum quantities, and on whether export earnings from the product(s) in a particular year fall compared to recent trends. Thus the fund is not pre-allocated by country and it is difficult to predict how the aid will flow.

9. Size of fund. The Convention allocates a maximum of 375 million units of account (mua) to the STABEX fund in 5 annual instalments over the life of the Convention. Most of the money is expected to be disbursed by the end of the period.

10. Eligible products. The fund is open to countries exporting one or more of the following products: ground nuts and their products; cocoa products; coffee products; cotton products; coconut products; palm oil; nuts and kernels, oil and cake thereof; hides, skins and leather; wood products (except plywood); bananas; tea; sisal; iron ore.

11. Mechanism. To become eligible, exporting countries have to show that the product in question accounts for at least a certain proportion of their total exports to all destinations. This “threshold of dependence” is fixed at 7.5 per cent for all countries other than sisal exporters (5 per cent) and the “least favoured”, landlocked, and island countries (2.5 per cent).*

* These are as follows:
The Bahamas, Barbados, Botswana, Burundi, Central African Republic, Chad, Dahomey, Equatorial Guinea, Ethiopia, Fiji, the Gambia, Grenada, Guinea, Guinea-Bissau, Jamaica, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Niger, Rwanda, Somalia, Sudan, Swaziland, Tanzania, Togo, Tonga, Trinidad and Tobago, Uganda, Upper Volta, Western Samoa and Zambia.
12. Exporters are entitled to draw on the fund whenever the f.o.b. value of their exports to the EEC of an eligible product (see paragraph 10) falls sufficiently in relation to past trends. The trend is defined as average earnings from the export of the product to the EEC market in the four years prior to the year in question (the “reference level” of earnings). Small fluctuations are ignored, but the basis of a claim exists whenever exports fall by 7.5 per cent or more against the reference level (2.5 per cent or more in the case of the “least favoured”, landlocked and island countries). This is the “trigger threshold”.

13. The resulting shortfall creates a “basis for transfer”. There is no guarantee that the whole of this amount will be covered by compensation from STABEX since the fund is not open-ended. If total claims in any one year (allowing for carry-over of unused funds from the previous year and if necessary the calling forward of funds from the next year to meet very heavy claims) exceed the funds available for that year (one-fifth of 375 mua, or 75 mua plus any repayments) all claims would have to be scaled down.

14. Administration. Whenever an ACP member puts in a claim this will be processed by the Commission and a report sent to the STABEX management committee. This committee, containing representatives from the EEC and ACP, will meet at least once annually and will have to balance total claims on the scheme with the funds available. The scheme does not rule out interim payments being made in advance of a definitive settlement, but the details of this, and numerous other parts of the scheme, have yet to be worked out at the official level.

15. Conditions of finance. The transfers are interest free. There is some, limited, provision for repayment into the fund by countries whose exports rise in relation to the reference level. However, this only counts when the rise is due to a price increase over that in the reference period (and does not apply unless the quantity exported is at least as great as that in the reference period). Nor would any repayment ever exceed the amount of transfers already received. Finally, more than half the beneficiary countries —those who are “least favoured” in the list above—are exempted from the repayment obligation. The use of the transfers is left entirely to the discretion of the recipient country—there is no obligation to compensate the producers, for example.

Other schemes for stabilising earnings

16. There is a wide range of possibilities for further schemes for the stabilisation of earnings. One fundamental question is whether to base them on earnings from certain commodities only, as in STABEX, or on the total exports of the developing countries, as under the IMF scheme. Questions also arise on the reference levels of earnings from which short-falls would be measured, on the terms of the finance, on the repayability of benefits, on financial limits and on whether payments should be automatic or discretionary. These questions are discussed in Annex XIX.
17. The remaining paragraphs in this note analyse the effects of earnings stabilisation schemes that are not based on concessional finance. The use of such schemes for transferring resources to the poorer countries raises separate issues.

18. Producing countries. In the absence of price or earnings stabilisation schemes primary product exporters are vulnerable to sudden ups and downs in their export earnings as prices rise and fall. Upswings are obviously better than downswings but can result in increases in money supply and imports which are difficult to reverse in subsequent years. Downswings, if not cushioned by foreign exchange reserves, require dislocating cuts in imports—usually of investment goods because of the political difficulty of cutting consumer imports, particularly of food—and/or emergency borrowing—short term and at high interest rates. Primary product exports are also usually a major source of tax revenue and a drop in prices cuts government revenues directly as well as indirectly if imports and therefore import duty revenue decline. Not all primary product exporters suffer to the same degree; some have a more diversified range of exports than others and some products’ prices fluctuate more than others. The worst affected are commodity producing countries such as Ghana, Chile and Zambia which are (or have been) heavily dependent on one commodity (cocoa or copper) whose price fluctuates widely. Annex XVIII on the main commodity exporters shows what proportion of their total exports is formed by the given commodities and gives an indication of the degree to which price fluctuations affect their economies.

19. Effective price or earnings stabilisation schemes would reduce these problems but earnings stabilisation schemes have two additional advantages. First, they come into force if a country’s problem is due not only to falling prices but also to crop failure or mining disaster, for example. In this respect earnings schemes are definitely superior to price schemes which, by keeping prices lower in times of scarcity, exacerbate the fall in export earnings due to loss of output. Second, if a country is heavily dependent on more than one export commodity, some of which are not suitable for commodity agreements, earnings stabilisation linked to total exports will provide more comprehensive assistance. The major disadvantage of earnings schemes for exporters is that, in most cases, the funds will have to be repaid whereas with price stabilisation schemes, if the target prices are well-judged, the exporters’ contribution will be limited to rare downward adjustments in prices and initial contributions to stockpiling facilities. Questions would no doubt arise as to the criteria for eligibility under any scheme.

20. Export earnings stabilisation schemes based on individual commodities will benefit chiefly those countries for which the particular commodity forms a large share of total exports (see Annex XVIII). The spread of benefits will be similar to that achieved by commodity price stabilisation schemes except that producers of commodities for which for some reason price stabilisation is impracticable could be included, and that developed country exporters could be excluded. Schemes based on total
export earnings could benefit a wider range of countries, depending on what criteria for eligibility were agreed.

21. Consuming countries. The cost to importers would be the financial contribution they had to make to the operation of a scheme. The existing IMF scheme contains an element of concessionality deriving mainly from its favourable position in the world's financial structure rather than from subsidisation. Any new scheme would have to be able to operate at least as advantageously as this.

22. To the extent that any scheme succeeds in stabilising earnings, consumer countries can expect to benefit from a higher level of exports to producer countries than would otherwise be possible. Stability of earnings should also help to maintain investment in producer countries, thereby reducing the risk of future capacity shortages.
C. DETAILED ANNEXES

<table>
<thead>
<tr>
<th>Title</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Descriptive Charts</td>
<td>I</td>
</tr>
<tr>
<td>Individual Commodities</td>
<td></td>
</tr>
<tr>
<td>Cereals</td>
<td>II</td>
</tr>
<tr>
<td>Cocoa</td>
<td>III</td>
</tr>
<tr>
<td>Coffee</td>
<td>IV</td>
</tr>
<tr>
<td>Copper</td>
<td>V</td>
</tr>
<tr>
<td>Dairy Products</td>
<td>VI</td>
</tr>
<tr>
<td>Jute</td>
<td>VII</td>
</tr>
<tr>
<td>Rubber</td>
<td>VIII</td>
</tr>
<tr>
<td>Sisal</td>
<td>IX</td>
</tr>
<tr>
<td>Sugar</td>
<td>X</td>
</tr>
<tr>
<td>Tea</td>
<td>XI</td>
</tr>
<tr>
<td>Tin</td>
<td>XII</td>
</tr>
<tr>
<td>Bauxite, Alumina and Aluminium</td>
<td>XIII</td>
</tr>
<tr>
<td>Iron Ore</td>
<td>XIV</td>
</tr>
<tr>
<td>Lead and Zinc</td>
<td>XV</td>
</tr>
<tr>
<td>Tungsten</td>
<td>XVI</td>
</tr>
<tr>
<td>Notes on Products not covered in Annexes II–XVI</td>
<td>XVII</td>
</tr>
<tr>
<td>Tables of Principal Exporters of Selected Primary Products</td>
<td>XVIII</td>
</tr>
<tr>
<td>Export Earnings Stabilisation Schemes</td>
<td>XIX</td>
</tr>
</tbody>
</table>
CHART A
ANNEX I

UN Indices of export prices for selected groups of products
1963 = 100

Source: UN Monthly Bulletin of Statistics
CHART B

The Economist Commodity Price Indicator
1845–1850 = 100: yearly averages
CHART C

The Economist Sterling Index of Commodity Prices
1970 = 100
CHART D
Individual Commodity Prices 1972–5
COCOA

Nearest shipment

Critical shortage of supplies

Poor 1973/4 harvest

New crop

1974

Ugandan nearest shipment

Breakdown of International Agreement

Poor harvest (result of 1972 frost)

1975

1973

1972

£ per ton

J F M A M J J A S O N D
CHART D  Individual Commodity Prices 1972-5 (continued)

COPPER

Cash (London Metal Exchange) £ per ton

1,400 - 1,200 - 1,000 - 800 - 600 - 400 - 200 - 100 -

J F M A M J J A S O N D

Production recovers in Chile

U.S. stockpile releases

LME stockpiles almost exhausted

Oil crisis

1974

1973

1975

1972

LEAD

Cash (London Metal Exchange) £ per ton

300 - 200 - 100 -

J F M A M J J A S O N D

1974

1973

1972

1975
CHART D  Individual Commodity Prices 1972-5 (continued)

**RUBBER**

3 months futures

<table>
<thead>
<tr>
<th>Pence per kilo</th>
</tr>
</thead>
<tbody>
<tr>
<td>70</td>
</tr>
<tr>
<td>50</td>
</tr>
<tr>
<td>30</td>
</tr>
<tr>
<td>10</td>
</tr>
</tbody>
</table>

- Easing of oil embargo
- Oil crisis (shortage of synthetic)
- Malaysia announces production cuts

**SUGAR**

London daily price (free market)

<table>
<thead>
<tr>
<th>£ per ton</th>
</tr>
</thead>
<tbody>
<tr>
<td>600</td>
</tr>
<tr>
<td>500</td>
</tr>
<tr>
<td>400</td>
</tr>
<tr>
<td>300</td>
</tr>
<tr>
<td>200</td>
</tr>
<tr>
<td>100</td>
</tr>
</tbody>
</table>

- Damage to European beet crop
- Trading suspended on Paris Terminal Market
- Fears for 1974/5 European beet crop
- Supply shortage apparent
- Breakdown of International Sugar Agreement

- 1972
- 1973
- 1974
CHART D  Individual Commodity Prices 1972–5 (continued)

TIN

Cash (London Metal Exchange) £ per ton

ZINC

Cash (London Metal Exchange) £ per ton
CHART E
Commodity Prices—Quarterly Averages 1970 = 100

COCOA
Logarithmic scale

COFFEE - ARABICA
Logarithmic scale

COFFEE - ROBUSTA
Logarithmic scale

COPPER
Logarithmic scale

COPRA
Logarithmic scale

COTTON
Logarithmic scale
CHART E Commodity Prices—Quarterly Averages 1970 = 100 (continued)
CEREALS

Basic Statistics

1. Statistics of production, consumption and prices for wheat, the major cereal discussed in this study, are given below.

History of Agreements

2. Wheat is the only grain to have been subject to international commodity agreements. There has been a continuous series of 3-year agreements since 1949, all of which, with the exception of the current Wheat Trade Convention 1971, have had economic provisions in the form of a balance of obligations between exporters and importers. Typical provisions of agreements in the 1960s included the setting of a price range within which trade took place; at prices within this band importing countries agreed to import a minimum share of their total purchases from exporting members, who in turn undertook to satisfy the commercial requirements of importing members. There were no stockholding provisions. Earlier agreements were similar in principle, though with less flexible provisions.

3. The 1950s were a period of stability for the wheat trade, despite post-war shortages early in the decade and a growing abundance of supplies thereafter, and some credit for this may belong to successive agreements whose existence provided an environment within which stabilisation policies could be pursued. However in general, stability was due less to the agreements than to the policies of the major exporters, Canada and the US, which controlled supplies on to the world market by means of production quotas and pricing policy. Similarly in 1963/64 and 1965/66 it was the large North American stockpiles which had accrued as a result of this policy which enabled exceptional demand from the USSR and India to be met without the world price exceeding the top of the negotiated price range of the 1962 Agreement, rather than the efficacy of the provisions of the Agreement themselves. Finally in 1969/71 the existence of growing stocks of grain overhanging the market pushed prices below the bottom of the price range, and since the 1967 Agreement lacked powers to deal with this situation it was the action of exporters in cutting production which eventually stabilised prices.

4. In the wake of this admitted failure of the 1967 Agreement, member countries found it difficult to agree on economic provisions which might prove more effective for its successor; there were also technical problems over the price setting arrangements which worried the exporters. Agreement on new provisions was impossible in the time available and the 1971 Wheat Trade Convention came into effect mainly as a mechanism to keep the consultative rôle of the International Wheat Council in being. Agreement since that date on stabilisation mechanisms proved impossible in the light of the instability of the market since 1971, which has seen price movements ten times greater than the width of the price range normally seen in earlier agreements.
5. It is clear from the history of successive Conventions that their economic provisions have in general been inadequate to control the formidable problems which large fluctuations in demand and supply can set. The unpredictability of these fluctuations is a contributory factor — it has proved impossible to predict market developments over the medium or even short term. The negotiators of the 1967 Agreement were expecting prices to rise rather than to fall, and the price range which they set came under sustained pressure as an excess of supplies of wheat built up. There was of course no indication in 1971 of the harvest shortages which led to the rising prices of 1972/73.

New Agreement

6. Negotiations concerning a new international wheat agreement are under consideration in the GATT multilateral trade negotiations and in the International Wheat Council. In their approach to the GATT negotiations, the EEC is likely to propose agreements for cereals to establish national stockpiles with rules laying down the minimum and maximum stocks required and with a price range within which transactions would take place. The International Wheat Council has set up a preparatory group to examine the elements of a new wheat agreement.
Selected wheat prices 1962/63 to 1973/74 in relation to the price ranges of the IWA 1962 and IGA 1967

US $ per bushel

Semi-log scale

- IWA 1962 Price range—
  No. 1 Manitoba Northern wheat (in store Thunder Bay)
- IGA 1967 Price range—
  US No.  2 Hard Red Winter (ord.) fob Gulf

No. 1 Manitoba Northern in store Fort William/Port Arthur
No. 1 CWRS, 14-5%, fob Thunder Bay, (as from July 1971)
US No. 2 Hard Red Winter, fob Gulf

Source: International Wheat Council
<table>
<thead>
<tr>
<th>Year</th>
<th>Million hectares</th>
<th>Quintals (100 kgs)/hectare</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Including China (a)</td>
<td>Excluding China</td>
</tr>
<tr>
<td>1949/50</td>
<td>173.5</td>
<td>151.7</td>
</tr>
<tr>
<td>1950/51</td>
<td>170.6</td>
<td>148.1</td>
</tr>
<tr>
<td>1951/52</td>
<td>172.8</td>
<td>150.3</td>
</tr>
<tr>
<td>1952/53</td>
<td>183.8</td>
<td>161.2</td>
</tr>
<tr>
<td>1953/54</td>
<td>185.7</td>
<td>163.1</td>
</tr>
<tr>
<td>1954/55</td>
<td>188.7</td>
<td>161.8</td>
</tr>
<tr>
<td>1955/56</td>
<td>195.5</td>
<td>168.8</td>
</tr>
<tr>
<td>1956/57</td>
<td>199.3</td>
<td>171.7</td>
</tr>
<tr>
<td>1957/58</td>
<td>206.9</td>
<td>179.3</td>
</tr>
<tr>
<td>1958/59</td>
<td>207.6</td>
<td>181.0</td>
</tr>
<tr>
<td>1959/60</td>
<td>202.9</td>
<td>178.8</td>
</tr>
<tr>
<td>1960/61</td>
<td>202.9</td>
<td>176.4</td>
</tr>
<tr>
<td>1961/62</td>
<td>201.9</td>
<td>177.1</td>
</tr>
<tr>
<td>1962/63</td>
<td>206.2</td>
<td>181.9</td>
</tr>
<tr>
<td>1963/64</td>
<td>206.4</td>
<td>182.2</td>
</tr>
<tr>
<td>1964/65</td>
<td>214.8</td>
<td>189.2</td>
</tr>
<tr>
<td>1965/66</td>
<td>214.0</td>
<td>189.0</td>
</tr>
<tr>
<td>1966/67</td>
<td>215.4</td>
<td>191.0</td>
</tr>
<tr>
<td>1967/68</td>
<td>220.7</td>
<td>196.2</td>
</tr>
<tr>
<td>1968/69</td>
<td>225.6</td>
<td>200.6</td>
</tr>
<tr>
<td>1969/70</td>
<td>216.1</td>
<td>192.6</td>
</tr>
<tr>
<td>1970/71</td>
<td>207.2</td>
<td>182.9</td>
</tr>
<tr>
<td>1971/72</td>
<td>212.9</td>
<td>188.5</td>
</tr>
<tr>
<td>1972/73</td>
<td>211.9</td>
<td>187.5</td>
</tr>
<tr>
<td>1973/74</td>
<td>219.5</td>
<td>194.6</td>
</tr>
</tbody>
</table>

(a) Data for China based on estimates by the United States Department of Agriculture.
(b) Argentina, Australia, Canada, European Economic Community (nine member States) and the United States of America.
(c) Prior to 1957/58 includes EEC intra-trade.
(d) Closing stocks of Argentina, Australia, Canada, European Economic Community (six member States to 1967/68, thereafter nine member States) and the United States of America at the end of their respective crop years.

<table>
<thead>
<tr>
<th>Production</th>
<th>Trade</th>
<th>Closing stocks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Including China</td>
<td>Excluding China</td>
<td>Five Exporters</td>
</tr>
<tr>
<td>166.4</td>
<td>145.1</td>
<td>72.5</td>
</tr>
<tr>
<td>173.8</td>
<td>152.1</td>
<td>73.5</td>
</tr>
<tr>
<td>175.5</td>
<td>153.3</td>
<td>69.1</td>
</tr>
<tr>
<td>209.1</td>
<td>186.5</td>
<td>91.0</td>
</tr>
<tr>
<td>207.4</td>
<td>185.0</td>
<td>86.3</td>
</tr>
<tr>
<td>194.8</td>
<td>171.5</td>
<td>73.5</td>
</tr>
<tr>
<td>206.5</td>
<td>183.6</td>
<td>77.9</td>
</tr>
<tr>
<td>226.2</td>
<td>201.3</td>
<td>76.1</td>
</tr>
<tr>
<td>221.3</td>
<td>197.7</td>
<td>73.3</td>
</tr>
<tr>
<td>257.1</td>
<td>228.2</td>
<td>90.8</td>
</tr>
<tr>
<td>245.2</td>
<td>219.2</td>
<td>83.2</td>
</tr>
<tr>
<td>242.0</td>
<td>220.0</td>
<td>90.7</td>
</tr>
<tr>
<td>228.2</td>
<td>210.2</td>
<td>80.4</td>
</tr>
<tr>
<td>256.3</td>
<td>236.3</td>
<td>93.8</td>
</tr>
<tr>
<td>238.9</td>
<td>217.1</td>
<td>97.2</td>
</tr>
<tr>
<td>273.2</td>
<td>250.1</td>
<td>106.3</td>
</tr>
<tr>
<td>262.2</td>
<td>239.7</td>
<td>102.1</td>
</tr>
<tr>
<td>305.0</td>
<td>284.2</td>
<td>107.7</td>
</tr>
<tr>
<td>294.5</td>
<td>271.5</td>
<td>108.0</td>
</tr>
<tr>
<td>326.4</td>
<td>305.5</td>
<td>110.8</td>
</tr>
<tr>
<td>308.1</td>
<td>285.8</td>
<td>117.4</td>
</tr>
<tr>
<td>311.7</td>
<td>287.2</td>
<td>93.4</td>
</tr>
<tr>
<td>344.0</td>
<td>320.0</td>
<td>112.7</td>
</tr>
<tr>
<td>336.9</td>
<td>310.9</td>
<td>112.0</td>
</tr>
<tr>
<td>367.5</td>
<td>340.5</td>
<td>122.7</td>
</tr>
</tbody>
</table>
ANNEX III

COCOA

Basic Statistics

1. Statistics of production and consumption classified by main producer and consumer countries, together with prices, are given below.

History of Agreements

2. The International Cocoa Agreement 1972 (ICCA), the first for cocoa, came into force on 30 June 1973. Like most other commodity agreements its principal objectives are to reduce excessive price fluctuations and to ensure supplies at prices equitable to producers and consumers. The Agreement became effective at a time of high world prices, a reflection of a tight supply situation brought about by poor harvests in 1972/73 and 1973/74. In consequence, the mechanisms of the Agreement (described in paragraph 3) have not been activated and so far the Agreement has had no influence on world market prices.

Arrangements for Price Stabilisation

3. The ICCA provides for a system of adjustable export quotas combined with a buffer stock of up to 250,000 tons, aimed at keeping prices within a pre-determined range (currently 29.5 to 38.5 US cents per pound). If the world price moves above the mid-point of the range quotas are automatically and progressively increased and eventually suspended. Sales from the buffer stock are made when the world price has risen to 1 cent below the maximum of the range. If the world price falls below the mid-point of the range, quotas are progressively reduced and buffer stock purchasing begins.

4. The buffer stock is financed by means of a levy of 1 US cent per pound imposed upon all cocoa and cocoa products entering international trade, the yield from which is some US$ 25 million per annum. The costs of storage, handling, etc are deducted from the proceeds payable to producer members when cocoa is eventually sold from the buffer stock. The capacity of the buffer stock was determined by reference to the largest deficit/surplus recorded in any one year since the war. Thus in theory it is of sufficient capacity to absorb any likely excess production or to have available enough cocoa to meet any likely shortfall.

5. The period since 1960 may be divided into four distinct phases. Between 1960 and 1965 production consistently exceeded demand, stocks built up and prices fell from a peak of 29 US cents per pound in 1960 to about 12 US cents per pound in 1965. A period of deficit followed until 1969 during which prices rose to a peak of 42 US cents per pound. Small surpluses between then and 1971 pushed prices down to about 22 US cents per pound in 1971. There followed shortfalls in production in both 1972/73 and 1973/74 causing prices to soar to their peak of 83 US cents per pound last May.

6. Had the ICCA been in force during the period under review it seems reasonable to assume that the price decline of 1960/65 and the rise of 1965/69 would have been attenuated because of the combination of the buffer stock and
quotas would have relieved the pressure on producers to sell at very low prices and would have made cocoa available to consumers before prices soared. Furthermore, for producers the assurance that there was a defence against prices falling to very low levels might have encouraged them to maintain production and perhaps avert the deficits of the late sixties and early seventies.
### COCOA

**Consumption (ie grindings) - 000 tons**

<table>
<thead>
<tr>
<th>Year</th>
<th>USA</th>
<th>France</th>
<th>Germany</th>
<th>Netherlands</th>
<th>USSR</th>
<th>UK</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1958</td>
<td>206</td>
<td>94</td>
<td>63</td>
<td>25</td>
<td>95</td>
<td></td>
<td>365</td>
<td>848</td>
</tr>
<tr>
<td>1959</td>
<td>202</td>
<td>98</td>
<td>73</td>
<td>26</td>
<td>73</td>
<td></td>
<td>393</td>
<td>865</td>
</tr>
<tr>
<td>1960</td>
<td>215</td>
<td>113</td>
<td>84</td>
<td>30</td>
<td>74</td>
<td></td>
<td>406</td>
<td>922</td>
</tr>
<tr>
<td>1961</td>
<td>241</td>
<td>114</td>
<td>96</td>
<td>35</td>
<td>80</td>
<td></td>
<td>447</td>
<td>1,013</td>
</tr>
<tr>
<td>1962</td>
<td>251</td>
<td>133</td>
<td>101</td>
<td>43</td>
<td>94</td>
<td></td>
<td>484</td>
<td>1,106</td>
</tr>
<tr>
<td>1963</td>
<td>261</td>
<td>131</td>
<td>101</td>
<td>53</td>
<td>93</td>
<td></td>
<td>502</td>
<td>1,141</td>
</tr>
<tr>
<td>1964</td>
<td>262</td>
<td>138</td>
<td>103</td>
<td>65</td>
<td>87</td>
<td></td>
<td>522</td>
<td>1,177</td>
</tr>
<tr>
<td>1965</td>
<td>281</td>
<td>155</td>
<td>116</td>
<td>72</td>
<td>101</td>
<td></td>
<td>593</td>
<td>1,318</td>
</tr>
<tr>
<td>1966</td>
<td>289</td>
<td>149</td>
<td>115</td>
<td>76</td>
<td>106</td>
<td></td>
<td>631</td>
<td>1,366</td>
</tr>
<tr>
<td>1967</td>
<td>289</td>
<td>142</td>
<td>110</td>
<td>83</td>
<td>94</td>
<td></td>
<td>648</td>
<td>1,366</td>
</tr>
<tr>
<td>1968</td>
<td>286</td>
<td>137</td>
<td>110</td>
<td>95</td>
<td>92</td>
<td></td>
<td>670</td>
<td>1,390</td>
</tr>
<tr>
<td>1969</td>
<td>265</td>
<td>120</td>
<td>109</td>
<td>97</td>
<td>91</td>
<td></td>
<td>649</td>
<td>1,331</td>
</tr>
<tr>
<td>1970</td>
<td>261</td>
<td>124</td>
<td>113</td>
<td>100</td>
<td>81</td>
<td></td>
<td>658</td>
<td>1,337</td>
</tr>
<tr>
<td>1971</td>
<td>275</td>
<td>131</td>
<td>119</td>
<td>108</td>
<td>83</td>
<td></td>
<td>705</td>
<td>1,421</td>
</tr>
<tr>
<td>1972</td>
<td>284</td>
<td>137</td>
<td>122</td>
<td>130</td>
<td>96</td>
<td></td>
<td>775</td>
<td>1,544</td>
</tr>
<tr>
<td>1973</td>
<td>274</td>
<td>150</td>
<td>121</td>
<td>117</td>
<td>105</td>
<td></td>
<td>751</td>
<td>1,518</td>
</tr>
<tr>
<td>1974(a)</td>
<td>236</td>
<td>138</td>
<td>112</td>
<td>138</td>
<td>91</td>
<td></td>
<td>739</td>
<td>1,454</td>
</tr>
<tr>
<td>1974/75(b)</td>
<td>226</td>
<td>123</td>
<td>112</td>
<td>128</td>
<td>82</td>
<td></td>
<td>730</td>
<td>1,401</td>
</tr>
</tbody>
</table>

(a) ICCO Estimate.
(b) ICCO Forecast for crop year.
<table>
<thead>
<tr>
<th>Crop Year</th>
<th>Ghana</th>
<th>Nigeria</th>
<th>Ivory Coast</th>
<th>Brazil</th>
<th>Cameroon</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1957/58</td>
<td>207</td>
<td>81</td>
<td>45</td>
<td>161</td>
<td>64</td>
<td>217</td>
<td>775</td>
</tr>
<tr>
<td>1958/59</td>
<td>255</td>
<td>140</td>
<td>55</td>
<td>172</td>
<td>59</td>
<td>227</td>
<td>908</td>
</tr>
<tr>
<td>1959/60</td>
<td>317</td>
<td>155</td>
<td>61</td>
<td>198</td>
<td>63</td>
<td>255</td>
<td>1,039</td>
</tr>
<tr>
<td>1960/61</td>
<td>433</td>
<td>195</td>
<td>93</td>
<td>122</td>
<td>73</td>
<td>257</td>
<td>1,173</td>
</tr>
<tr>
<td>1961/62</td>
<td>410</td>
<td>191</td>
<td>81</td>
<td>116</td>
<td>74</td>
<td>252</td>
<td>1,124</td>
</tr>
<tr>
<td>1962/63</td>
<td>422</td>
<td>176</td>
<td>101</td>
<td>170</td>
<td>75</td>
<td>273</td>
<td>1,158</td>
</tr>
<tr>
<td>1963/64</td>
<td>436</td>
<td>216</td>
<td>97</td>
<td>123</td>
<td>84</td>
<td>260</td>
<td>1,216</td>
</tr>
<tr>
<td>1964/65</td>
<td>557</td>
<td>294</td>
<td>145</td>
<td>116</td>
<td>90</td>
<td>280</td>
<td>1,482</td>
</tr>
<tr>
<td>1965/66</td>
<td>410</td>
<td>182</td>
<td>111</td>
<td>170</td>
<td>78</td>
<td>254</td>
<td>1,205</td>
</tr>
<tr>
<td>1966/67</td>
<td>376</td>
<td>263</td>
<td>147</td>
<td>172</td>
<td>85</td>
<td>290</td>
<td>1,333</td>
</tr>
<tr>
<td>1967/68</td>
<td>415</td>
<td>235</td>
<td>144</td>
<td>141</td>
<td>90</td>
<td>308</td>
<td>1,333</td>
</tr>
<tr>
<td>1968/69</td>
<td>334</td>
<td>189</td>
<td>142</td>
<td>163</td>
<td>103</td>
<td>289</td>
<td>1,220</td>
</tr>
<tr>
<td>1969/70</td>
<td>409</td>
<td>219</td>
<td>178</td>
<td>197</td>
<td>108</td>
<td>308</td>
<td>1,419</td>
</tr>
<tr>
<td>1970/71</td>
<td>386</td>
<td>303</td>
<td>177</td>
<td>179</td>
<td>110</td>
<td>326</td>
<td>1,481</td>
</tr>
<tr>
<td>1971/72</td>
<td>457</td>
<td>251</td>
<td>221</td>
<td>164</td>
<td>121</td>
<td>348</td>
<td>1,562</td>
</tr>
<tr>
<td>1972/73</td>
<td>409</td>
<td>237</td>
<td>182</td>
<td>156</td>
<td>105</td>
<td>299</td>
<td>1,388</td>
</tr>
<tr>
<td>1973/74(a)</td>
<td>338</td>
<td>210</td>
<td>207</td>
<td>226</td>
<td>109</td>
<td>295</td>
<td>1,385</td>
</tr>
<tr>
<td>1974/75(b)</td>
<td>380</td>
<td>190</td>
<td>217</td>
<td>186</td>
<td>124</td>
<td>313</td>
<td>1,410</td>
</tr>
</tbody>
</table>

(a) ICCO Estimate.
(b) ICCO Forecast.
<table>
<thead>
<tr>
<th>Year</th>
<th>Price (US cents per lb.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>26.72</td>
</tr>
<tr>
<td>1961</td>
<td>22.00</td>
</tr>
<tr>
<td>1962</td>
<td>20.81</td>
</tr>
<tr>
<td>1963</td>
<td>25.03</td>
</tr>
<tr>
<td>1964</td>
<td>22.85</td>
</tr>
<tr>
<td>1965</td>
<td>16.57</td>
</tr>
<tr>
<td>1966</td>
<td>23.48</td>
</tr>
<tr>
<td>1967</td>
<td>27.13</td>
</tr>
<tr>
<td>1968</td>
<td>32.70</td>
</tr>
<tr>
<td>1969</td>
<td>40.97</td>
</tr>
<tr>
<td>1970</td>
<td>30.57</td>
</tr>
<tr>
<td>1971</td>
<td>24.43</td>
</tr>
<tr>
<td>1972</td>
<td>29.15</td>
</tr>
<tr>
<td>1973</td>
<td>51.29</td>
</tr>
<tr>
<td>1974</td>
<td>70.77</td>
</tr>
</tbody>
</table>

(Calculated in accordance with Article 28 of the International Cocoa Agreement 1972.)
Basic Statistics

1. Statistics of production and consumption classified by main producer and consumer countries and details of the evolution of prices since 1958 are given below.

History of Agreements

2. There have been two International Coffee Agreements, in 1962 and 1968. One of the principal objectives of both was to achieve a better balance between supply and demand and to alleviate the hardship caused by excessive price fluctuations. The 1962 Agreement, which was subject to many strains and stresses, was replaced by the 1968 Agreement. This finally broke down when producers and consumers failed to agree on adjustments to the price brackets in the Agreement following the devaluation of the US dollar in 1971. The current Agreement merely preserves the International Coffee Organisation as a forum for renegotiation and a centre for the collection and promulgation of information about coffee.

3. Under the 1962 and 1968 Coffee Agreements the amount of coffee entering world trade was controlled by means of export quotas. These were adjusted as necessary in order to keep coffee prices within agreed price ranges. There was no buffer stock.

4. The Coffee Agreements were unable to iron out completely the fluctuations in production caused by climatic factors. However, the Agreements did play a part in reducing the level of exportable production. The export quota controls exerted pressure on production in all producing countries. Also the Agreements provided for production controls and the 1968 ICA had a Diversification Fund, both of which may have played some part in reducing production. However, climatic factors were also very significant and the 1969 and 1971 frosts in Brazil reduced her production to an extent which effectively removed the surplus of coffee which had overhung the world coffee market in the late 'fifties and early 'sixties. The result was that the fall in prices in the period 1958/62 was halted and was followed by a fairly steady increase until 1969/70 when a sharp rise occurred as a result of the first Brazilian frost. Prices fell back in 1970/71 but when the 1968 Agreement ceased to function in 1972, prices started to rise.

5. A number of lessons can be drawn from the experience of the last 12 years or so. The principal one perhaps is that when an agreement gets seriously out of line with market realities it will no longer be effective. The 1962 and 1968 Agreements were designed to cope with a large surplus of coffee; as soon as that surplus disappeared coffee prices started to rise and the 1968 Agreement had no means of preventing them. The stresses this put on the mechanisms of the Agreement finally brought about its demise. The effective
breaking point was the failure of producers and consumers to agree on an increase in the price ranges under the Agreement to take account of the devaluation of the US dollar in 1971, which took place after the price ranges had been negotiated for the year.

New Agreement

6. Negotiation of a new International Coffee Agreement is now in progress. On the basis of discussion so far it seems likely that a new Agreement might contain adjustable export quota provisions similar to those of the 1962 and 1968 Agreements. The idea of the inclusion of a form of coffee stock under international control in an attempt to provide consumers with some security of supply has also gained some support.
## Exportable Production and Net Exports of Coffee

### 1957/58–1973/74 (thousand metric tons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Exportable Production</th>
<th>Net Exports of Coffee</th>
<th>Year</th>
<th>Net Exports of Coffee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Brazil</td>
<td>Colombia</td>
<td>OAMCAF†</td>
<td>Angola</td>
</tr>
<tr>
<td></td>
<td>1,248</td>
<td>420</td>
<td>187</td>
<td>76*</td>
</tr>
<tr>
<td></td>
<td>1,560</td>
<td>414</td>
<td>233</td>
<td>86*</td>
</tr>
<tr>
<td></td>
<td>2,220</td>
<td>420</td>
<td>246</td>
<td>106*</td>
</tr>
<tr>
<td></td>
<td>2,220</td>
<td>420</td>
<td>299</td>
<td>162*</td>
</tr>
<tr>
<td></td>
<td>1,680</td>
<td>408</td>
<td>210</td>
<td>165*</td>
</tr>
<tr>
<td></td>
<td>1,200</td>
<td>390</td>
<td>321</td>
<td>183*</td>
</tr>
<tr>
<td></td>
<td>1,272</td>
<td>432</td>
<td>378</td>
<td>165*</td>
</tr>
<tr>
<td></td>
<td>180</td>
<td>390</td>
<td>329</td>
<td>183</td>
</tr>
<tr>
<td></td>
<td>1,668</td>
<td>408</td>
<td>411</td>
<td>164</td>
</tr>
<tr>
<td></td>
<td>720</td>
<td>381</td>
<td>249</td>
<td>194</td>
</tr>
<tr>
<td></td>
<td>885</td>
<td>402</td>
<td>413</td>
<td>200</td>
</tr>
<tr>
<td></td>
<td>480</td>
<td>394</td>
<td>341</td>
<td>182</td>
</tr>
<tr>
<td></td>
<td>615</td>
<td>425</td>
<td>412</td>
<td>192</td>
</tr>
<tr>
<td></td>
<td>90</td>
<td>383</td>
<td>398</td>
<td>192</td>
</tr>
<tr>
<td></td>
<td>891</td>
<td>345</td>
<td>411</td>
<td>198</td>
</tr>
<tr>
<td></td>
<td>900</td>
<td>446</td>
<td>460</td>
<td>219</td>
</tr>
<tr>
<td></td>
<td>330</td>
<td>484</td>
<td>327</td>
<td>204</td>
</tr>
</tbody>
</table>
## Imports and Prices of Coffee, 1958/64, 1963/64, 1973/74

<table>
<thead>
<tr>
<th>Year Oct.–Sept.</th>
<th>Imports (Thousand Metric Tons)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>UK</td>
<td>USA</td>
</tr>
<tr>
<td>1958*</td>
<td>44</td>
<td>1,210</td>
</tr>
<tr>
<td>1959*</td>
<td>53</td>
<td>1,396</td>
</tr>
<tr>
<td>1960*</td>
<td>55</td>
<td>1,325</td>
</tr>
<tr>
<td>1961*</td>
<td>59</td>
<td>1,348</td>
</tr>
<tr>
<td>1962*</td>
<td>69</td>
<td>1,473</td>
</tr>
<tr>
<td>1963*</td>
<td>76</td>
<td>1,434</td>
</tr>
<tr>
<td>1964*</td>
<td>78</td>
<td>1,374</td>
</tr>
<tr>
<td>1963/64</td>
<td>88</td>
<td>1,409</td>
</tr>
<tr>
<td>1964/65</td>
<td>96</td>
<td>1,218</td>
</tr>
<tr>
<td>1965/66</td>
<td>91</td>
<td>1,459</td>
</tr>
<tr>
<td>1966/67</td>
<td>82</td>
<td>1,314</td>
</tr>
<tr>
<td>1967/68</td>
<td>96</td>
<td>1,539</td>
</tr>
<tr>
<td>1968/69</td>
<td>106</td>
<td>1,244</td>
</tr>
<tr>
<td>1969/70</td>
<td>118</td>
<td>1,317</td>
</tr>
<tr>
<td>1970/71</td>
<td>127</td>
<td>1,455</td>
</tr>
<tr>
<td>1971/72</td>
<td>133</td>
<td>1,222</td>
</tr>
<tr>
<td>1972/73</td>
<td>163</td>
<td>1,418</td>
</tr>
<tr>
<td>1973/74</td>
<td>153</td>
<td>1,361</td>
</tr>
</tbody>
</table>

## Prices

<table>
<thead>
<tr>
<th>Year</th>
<th>US Dollars per Metric Ton</th>
<th>‡</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1958)*</td>
<td>968</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>(1959)*</td>
<td>787</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>(1960)*</td>
<td>756</td>
<td>714</td>
<td>714</td>
</tr>
<tr>
<td>(1961)*</td>
<td>714</td>
<td>714</td>
<td>714</td>
</tr>
<tr>
<td>(1962)*</td>
<td>670</td>
<td>724</td>
<td>724</td>
</tr>
<tr>
<td>(1963)*</td>
<td>1,012</td>
<td>1,031</td>
<td>1,031</td>
</tr>
<tr>
<td>(1964)*</td>
<td>910</td>
<td>896</td>
<td>896</td>
</tr>
<tr>
<td>(1965)*</td>
<td>878</td>
<td>826</td>
<td>826</td>
</tr>
<tr>
<td>(1966)*</td>
<td>826</td>
<td>813</td>
<td>813</td>
</tr>
<tr>
<td>(1967)*</td>
<td>813</td>
<td>1,012</td>
<td>1,012</td>
</tr>
<tr>
<td>(1968)*</td>
<td>795</td>
<td>1,271</td>
<td>1,271</td>
</tr>
<tr>
<td>(1969)*</td>
<td>1,417</td>
<td>1,417</td>
<td>1,417</td>
</tr>
</tbody>
</table>

*Calendar years.
†Incomplete data.
‡US average import price.
§World average unit import prices.

Sources: International Coffee Organisation; Pan American Coffee Bureau, Coffee Statistics.

52
COPPER

Basic Statistics

1. Total world mine production* of copper in 1973 (the last complete year for which figures are available) was 7.5 million metric tons, of which 6 million metric tons was produced in the non-Communist countries. The major producers outside the Communist bloc in order of magnitude are the USA (1.5 million metric tons), Canada (815,000), Chile (735,000), Zambia (706,000), Zaïre (490,000), the Philippines (221,000), Peru (220,000) and Australia (218,000). Most of these countries are also substantial smelters of copper. There are large smelting industries based on imported concentrates in Japan and W. Germany.

2. The largest consumers of refined copper (excluding secondary copper) in 1973 were the USA (2.2 million metric tons), Japan (1.2 million), USSR (1.1 million metric tons), W. Germany (730,000), the United Kingdom (545,000) and France (407,000). All developed industrial countries consume copper in some degree. Total world consumption of refined copper in 1973 was 8.7 million metric tons.

3. The United States are largely self-sufficient in copper (including secondary production and re-used scrap). So is the Communist bloc, only Yugoslavia being a small net exporter. In the rest of the world, Chile, Peru, Zambia and Zaïre account together for 60% of the world's copper exports. Copper accounts for over 95% of Zambia's export earnings and 74% of Chile's. These four countries have joined together in the Intergovernmental Council of Copper Exporting Countries (CIPEC).

Price Movements

4. There is a 'producer' price for copper in the USA, and the Communist bloc of course has its own pricing arrangements. In the rest of the world the leading price is that fixed daily on the London Metal Exchange (LME), which reflects the supply and demand position. The LME price is subject to fluctuations which have been particularly marked in the last two years. The average cash price (quoted in £ sterling per ton) was £197 in 1958 and remained something over £200 until 1963. Thereafter it rose sharply to £554 in 1966, and £621 in 1969. It fell back to £417 in 1967 and £427 in 1972; but after 1972 it rose rapidly to reach £1,400 at one point in April 1974. After an unprecedented sharp fall in the second half of 1974 the average price in January 1975 was £529 which in real terms is much lower than the price in the mid-sixties.

5. Detailed statistics of production, consumption and prices are given below.

*Recoverable copper content of ores and concentrates produced.
History of Agreements

6. There have been no formal agreements for copper in the past although producers have attempted to establish a 'producer' price from time to time. The last attempt was in 1964/66 but broke down under the stress of high industrial demand and production losses which caused the LME price to increase sharply. There has been no producer pricing arrangement since then.

7. In 1967, the four main exporters, Chile, Peru, Zambia and Zaire, formed the Intergovernmental Council of Copper Exporting Countries (CIPEC) with the aim of co-ordinating their copper policies. The present CIPEC countries agreed at the end of 1974 to reduce 'deliveries' of refined copper by 10% rising to 15%; but not all the countries have yet cut production in order to match this reduction in deliveries. Thus there is some stockpiling.

8. Producer and consumer countries are anxious about the uncertainties arising from fluctuations in the LME price and the prospect *inter alia* for investment if prices continue at the present low level.
### COPPER

#### Annual and Monthly Average Prices

<table>
<thead>
<tr>
<th>Year</th>
<th>London Metal Exchange Cash Set'm'mnt Wirebars&lt;sup&gt;(3)&lt;/sup&gt;</th>
<th>US Producer Price Domestic Wirebars&lt;sup&gt;(2)&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Average</td>
<td>High (£ per ton&lt;sup&gt;(1)&lt;/sup&gt;)</td>
</tr>
<tr>
<td>1962</td>
<td>234.10</td>
<td>237.00</td>
</tr>
<tr>
<td>1963</td>
<td>234.27</td>
<td>234.75</td>
</tr>
<tr>
<td>1964&lt;sup&gt;(4)&lt;/sup&gt;</td>
<td>469.88</td>
<td>570.00</td>
</tr>
<tr>
<td>1966</td>
<td>554.47</td>
<td>790.00</td>
</tr>
<tr>
<td>1967</td>
<td>417.34</td>
<td>607.50</td>
</tr>
<tr>
<td>1968</td>
<td>523.98</td>
<td>817.50</td>
</tr>
<tr>
<td>1969</td>
<td>621.25</td>
<td>746.00</td>
</tr>
<tr>
<td>1970</td>
<td>587.90</td>
<td>749.00</td>
</tr>
<tr>
<td>1971</td>
<td>444.43</td>
<td>536.50</td>
</tr>
<tr>
<td>1972</td>
<td>427.96</td>
<td>451.00</td>
</tr>
<tr>
<td>1973</td>
<td>726.82</td>
<td>1,135.00</td>
</tr>
<tr>
<td>1973 November</td>
<td>951.36</td>
<td>1,085.00</td>
</tr>
<tr>
<td>1973 December</td>
<td>961.22</td>
<td>1,135.00</td>
</tr>
<tr>
<td>1974 January</td>
<td>913.89</td>
<td>972.00</td>
</tr>
<tr>
<td>February</td>
<td>1,007.40</td>
<td>1,175.00</td>
</tr>
<tr>
<td>March</td>
<td>1,173.33</td>
<td>1,322.00</td>
</tr>
<tr>
<td>April</td>
<td>1,269.70</td>
<td>1,400.00</td>
</tr>
<tr>
<td>May</td>
<td>1,191.50</td>
<td>1,350.00</td>
</tr>
<tr>
<td>June</td>
<td>1,021.10</td>
<td>1,160.00</td>
</tr>
<tr>
<td>July</td>
<td>803.48</td>
<td>846.00</td>
</tr>
<tr>
<td>August</td>
<td>768.52</td>
<td>812.00</td>
</tr>
<tr>
<td>September</td>
<td>630.76</td>
<td>687.00</td>
</tr>
<tr>
<td>October</td>
<td>599.74</td>
<td>634.00</td>
</tr>
<tr>
<td>November</td>
<td>608.60</td>
<td>643.00</td>
</tr>
<tr>
<td>December</td>
<td>533.61</td>
<td>587.50</td>
</tr>
</tbody>
</table>

<sup>(1)</sup>Per long ton up to 1st January, 1970. Per metric ton from then onwards.


<sup>(3)</sup>No quotations between September, 1967 and April, 1968.

<sup>(4)</sup>Between January, 1964 and April, 1966 primary copper producers outside the USA were selling at a fixed price which was increased as follows: 16th January, 1964: £236; 13th March, 1964: £244; 17th August, 1964: £260; 3rd May, 1965: £288; 21st October, 1965: £304; 3rd January, 1966: £336 (until 24th April, 1966).

<sup>(5)</sup>Standard Copper Contract up to 1st January, 1964.

### COP World Production

<table>
<thead>
<tr>
<th>Year</th>
<th>Zaire</th>
<th>Zambia</th>
<th>Philippines</th>
<th>Canada</th>
<th>USA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>290.6</td>
<td>565.7</td>
<td>51.1</td>
<td>392.0</td>
<td>1,040.3</td>
</tr>
<tr>
<td>1962</td>
<td>292.3</td>
<td>553.4</td>
<td>53.9</td>
<td>415.6</td>
<td>1,096.8</td>
</tr>
<tr>
<td>1963</td>
<td>267.0</td>
<td>578.8</td>
<td>62.9</td>
<td>409.3</td>
<td>1,083.2</td>
</tr>
<tr>
<td>1964</td>
<td>272.3</td>
<td>622.4</td>
<td>62.5</td>
<td>438.5</td>
<td>1,113.2</td>
</tr>
<tr>
<td>1965</td>
<td>284.0</td>
<td>684.8</td>
<td>62.3</td>
<td>455.2</td>
<td>1,206.9</td>
</tr>
<tr>
<td>1966</td>
<td>317.0</td>
<td>623.4</td>
<td>73.8</td>
<td>459.1</td>
<td>1,296.5</td>
</tr>
<tr>
<td>1967</td>
<td>322.0</td>
<td>663.0</td>
<td>86.2</td>
<td>556.4</td>
<td>865.5</td>
</tr>
<tr>
<td>1968</td>
<td>327.0</td>
<td>684.9</td>
<td>110.3</td>
<td>574.5</td>
<td>1,092.8</td>
</tr>
<tr>
<td>1969</td>
<td>364.0</td>
<td>719.5</td>
<td>131.4</td>
<td>520.0</td>
<td>1,401.2</td>
</tr>
<tr>
<td>1970</td>
<td>387.1</td>
<td>684.1</td>
<td>160.3</td>
<td>610.3</td>
<td>1,560.0</td>
</tr>
<tr>
<td>1971</td>
<td>405.8</td>
<td>651.4</td>
<td>197.4</td>
<td>654.5</td>
<td>1,380.9</td>
</tr>
<tr>
<td>1972</td>
<td>437.3</td>
<td>717.7</td>
<td>213.7</td>
<td>719.7</td>
<td>1,510.3</td>
</tr>
<tr>
<td>1973</td>
<td>490.2</td>
<td>706.6</td>
<td>221.1</td>
<td>815.1</td>
<td>1,558.5</td>
</tr>
</tbody>
</table>

Source: *ibid.*

### COP World Consumption

<table>
<thead>
<tr>
<th>Year</th>
<th>USA</th>
<th>Japan</th>
<th>USSR</th>
<th>W. Germany</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>1,306.1</td>
<td>367.1</td>
<td>661.2</td>
<td>553.0</td>
</tr>
<tr>
<td>1962</td>
<td>1,428.3</td>
<td>296.3</td>
<td>688.9</td>
<td>492.7</td>
</tr>
<tr>
<td>1963</td>
<td>1,557.4</td>
<td>346.5</td>
<td>724.4</td>
<td>485.7</td>
</tr>
<tr>
<td>1964</td>
<td>1,629.7</td>
<td>450.3</td>
<td>748.0</td>
<td>563.7</td>
</tr>
<tr>
<td>1965</td>
<td>1,770.6</td>
<td>420.7</td>
<td>738.2</td>
<td>540.7</td>
</tr>
<tr>
<td>1966</td>
<td>2,140.9</td>
<td>482.5</td>
<td>820.0</td>
<td>458.7</td>
</tr>
<tr>
<td>1967</td>
<td>1,755.9</td>
<td>616.0</td>
<td>840.0</td>
<td>501.2</td>
</tr>
<tr>
<td>1968</td>
<td>1,705.8</td>
<td>695.2</td>
<td>890.0</td>
<td>608.8</td>
</tr>
<tr>
<td>1969</td>
<td>1,944.3</td>
<td>805.9</td>
<td>930.0</td>
<td>655.7</td>
</tr>
<tr>
<td>1970</td>
<td>1,854.3</td>
<td>820.6</td>
<td>960.0</td>
<td>697.5</td>
</tr>
<tr>
<td>1971</td>
<td>1,830.5</td>
<td>805.7</td>
<td>1,030.0</td>
<td>630.5</td>
</tr>
<tr>
<td>1972</td>
<td>2,028.6</td>
<td>951.3</td>
<td>1,080.0</td>
<td>672.2</td>
</tr>
<tr>
<td>1973</td>
<td>2,178.8</td>
<td>1,201.8</td>
<td>1,100.0</td>
<td>727.2</td>
</tr>
</tbody>
</table>

Source: *ibid.*
## Thousand Tonnes

<table>
<thead>
<tr>
<th>PER Thousand Tonnes</th>
<th>Chile</th>
<th>Peru</th>
<th>USSR</th>
<th>Australia</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>539.1</td>
<td>195.0</td>
<td>531.5</td>
<td>95.6</td>
<td>597.6</td>
<td>4,298.5</td>
</tr>
<tr>
<td></td>
<td>576.8</td>
<td>164.2</td>
<td>551.2</td>
<td>107.0</td>
<td>608.6</td>
<td>4,419.8</td>
</tr>
<tr>
<td></td>
<td>591.6</td>
<td>174.6</td>
<td>590.5</td>
<td>112.7</td>
<td>660.4</td>
<td>4,531.0</td>
</tr>
<tr>
<td></td>
<td>611.8</td>
<td>175.0</td>
<td>605.3</td>
<td>104.1</td>
<td>680.0</td>
<td>4,685.1</td>
</tr>
<tr>
<td></td>
<td>573.3</td>
<td>174.6</td>
<td>688.9</td>
<td>89.8</td>
<td>701.8</td>
<td>4,921.6</td>
</tr>
<tr>
<td></td>
<td>636.7</td>
<td>184.0</td>
<td>800.0</td>
<td>111.3</td>
<td>799.3</td>
<td>5,301.1</td>
</tr>
<tr>
<td></td>
<td>660.2</td>
<td>186.4</td>
<td>825.0</td>
<td>91.8</td>
<td>823.6</td>
<td>5,080.1</td>
</tr>
<tr>
<td></td>
<td>657.0</td>
<td>213.5</td>
<td>850.0</td>
<td>109.6</td>
<td>856.4</td>
<td>5,476.0</td>
</tr>
<tr>
<td></td>
<td>688.1</td>
<td>199.0</td>
<td>875.0</td>
<td>131.1</td>
<td>919.2</td>
<td>5,948.5</td>
</tr>
<tr>
<td></td>
<td>691.6</td>
<td>212.1</td>
<td>925.0</td>
<td>157.8</td>
<td>981.2</td>
<td>6,369.5</td>
</tr>
<tr>
<td></td>
<td>708.3</td>
<td>212.9</td>
<td>990.0</td>
<td>177.3</td>
<td>1,076.4</td>
<td>6,454.9</td>
</tr>
<tr>
<td></td>
<td>716.8</td>
<td>217.0</td>
<td>1,050.0</td>
<td>186.8</td>
<td>1,270.9</td>
<td>7,040.2</td>
</tr>
<tr>
<td></td>
<td>735.4</td>
<td>220.0</td>
<td>1,100.0</td>
<td>218.5</td>
<td>1,448.6</td>
<td>7,514.1</td>
</tr>
</tbody>
</table>

## Thousand Tonnes

<table>
<thead>
<tr>
<th>UK Thousand Tonnes</th>
<th>France</th>
<th>Italy</th>
<th>Canada</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>520.5</td>
<td>239.8</td>
<td>198.8</td>
<td>126.8</td>
<td>959.5</td>
</tr>
<tr>
<td></td>
<td>517.8</td>
<td>239.9</td>
<td>210.6</td>
<td>135.8</td>
<td>999.1</td>
</tr>
<tr>
<td></td>
<td>549.2</td>
<td>246.4</td>
<td>224.4</td>
<td>151.2</td>
<td>1,027.8</td>
</tr>
<tr>
<td></td>
<td>622.9</td>
<td>287.0</td>
<td>198.8</td>
<td>180.5</td>
<td>1,167.9</td>
</tr>
<tr>
<td></td>
<td>635.2</td>
<td>282.5</td>
<td>190.3</td>
<td>200.6</td>
<td>1,208.6</td>
</tr>
<tr>
<td></td>
<td>592.5</td>
<td>291.3</td>
<td>195.0</td>
<td>247.7</td>
<td>1,437.9</td>
</tr>
<tr>
<td></td>
<td>514.3</td>
<td>271.3</td>
<td>222.0</td>
<td>204.1</td>
<td>1,374.4</td>
</tr>
<tr>
<td></td>
<td>539.2</td>
<td>292.9</td>
<td>226.0</td>
<td>232.2</td>
<td>1,273.9</td>
</tr>
<tr>
<td></td>
<td>546.8</td>
<td>334.8</td>
<td>238.0</td>
<td>221.7</td>
<td>1,487.8</td>
</tr>
<tr>
<td></td>
<td>553.7</td>
<td>330.7</td>
<td>274.0</td>
<td>229.0</td>
<td>1,545.3</td>
</tr>
<tr>
<td></td>
<td>511.3</td>
<td>343.6</td>
<td>270.0</td>
<td>220.4</td>
<td>1,671.4</td>
</tr>
<tr>
<td></td>
<td>524.7</td>
<td>390.3</td>
<td>284.0</td>
<td>223.8</td>
<td>1,777.7</td>
</tr>
<tr>
<td></td>
<td>543.6</td>
<td>407.8</td>
<td>295.0</td>
<td>248.2</td>
<td>1,976.2</td>
</tr>
</tbody>
</table>
Basic Statistics

1. Statistics of production and details of the evolution of prices since 1958 are given below.

Existing Agreements

2. Three international arrangements have been introduced in the dairy products sector, concerned with whole milk powder (which began in 1963), skimmed milk powder (1969) and butteroil (1973). All are rather less comprehensive instruments than a full commodity agreement in that the role of each is to set, and monitor the operation of, minimum export price levels for their products. All are still operative, although none has been fully tested since world prices have remained well above the minimum export price levels which the arrangements were designed to protect.

New Arrangements

3. The EEC, in the context of the GATT multilateral trade negotiations, is likely to propose the replacement of these arrangements by a full commodity agreement, which would also cover butter. It would provide for the setting of both maximum and minimum prices for each product, with the object of stabilising the market. There would be no buffer stock.

<table>
<thead>
<tr>
<th>Year</th>
<th>Butter Production '000 million tonnes</th>
<th>Butter World Prices £ per million tonnes</th>
<th>Skimmed Milk Powder World Production '000 million tonnes</th>
<th>Skimmed Milk Powder World Price $ per 100 kg</th>
<th>GATT minimum export price $ per 100 kg</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>5,250</td>
<td>252</td>
<td>2,092(2)</td>
<td>36.2</td>
<td></td>
</tr>
<tr>
<td>1962</td>
<td>4,718</td>
<td>293</td>
<td>2,198(2)</td>
<td>31.7</td>
<td></td>
</tr>
<tr>
<td>1963</td>
<td>5,133</td>
<td>321</td>
<td>2,256</td>
<td>31.7</td>
<td></td>
</tr>
<tr>
<td>1964</td>
<td>5,218</td>
<td>333</td>
<td>2,376</td>
<td>31.7</td>
<td></td>
</tr>
<tr>
<td>1965</td>
<td>5,797</td>
<td>328</td>
<td>2,024</td>
<td>31.7</td>
<td></td>
</tr>
<tr>
<td>1966</td>
<td>5,601</td>
<td>297</td>
<td>2,106</td>
<td>43.2</td>
<td></td>
</tr>
<tr>
<td>1967</td>
<td>5,542</td>
<td>328</td>
<td>2,512</td>
<td>43.2</td>
<td></td>
</tr>
<tr>
<td>1968</td>
<td>6,213</td>
<td>295</td>
<td>2,840</td>
<td>50.9</td>
<td></td>
</tr>
<tr>
<td>1969</td>
<td>5,671</td>
<td>295</td>
<td>2,728</td>
<td>50.9</td>
<td></td>
</tr>
<tr>
<td>1970</td>
<td>5,838</td>
<td>306</td>
<td>2,895</td>
<td>50.9</td>
<td>20</td>
</tr>
<tr>
<td>1971</td>
<td>5,865</td>
<td>422</td>
<td>2,925</td>
<td>69.9</td>
<td>25</td>
</tr>
<tr>
<td>1972</td>
<td>6,193</td>
<td>481</td>
<td>3,138</td>
<td>69.9</td>
<td>25</td>
</tr>
<tr>
<td>1973</td>
<td>6,234</td>
<td></td>
<td></td>
<td>82.7</td>
<td>25</td>
</tr>
</tbody>
</table>

Comparable details for other dairy products are not available.

Sources: FAO Monthly Bulletins; FAO Production Year Book.
(2) 1961, 1962 figures include, for France, whole milk.
(3) USDA purchase price, April to March years.
Basic Statistics

1. In 1973 the major producers of jute were India (1,530,000 tonnes in 1973), Bangladesh (1,100,000 tonnes) and Thailand (660,000 tonnes) who together account for some 98% of world production. The major consumers are UK (73,200 tonnes in 1973), Belgium, France and the USA. Fluctuations in supply occur because of crop failures but, overall, demand is declining because of competition from synthetics.

Price Movements

2. Prices have remained relatively low and stable until recently when the informal price agreement broke down. In January 1974 the price was £152 per ton and was lagging behind other commodities in the boom. By mid-1974 it had however reached £184 and is currently £243. Further increases can be expected in 1975 because supplies have been affected by flooding in India and because growers have been switching to produce rice which provided a better return.

3. Detailed statistics of production and prices are given below.

History of Agreements

4. Commodity agreements have been under discussion by the FAO Intergovernmental Study Group (FAO/IG) since the mid-sixties but talks broke down over arrangements for financing a buffer stock. In 1968 an informal system was instituted in which an indicative price range is agreed annually in the FAO/IG between producers and consumers. Until 1974, it proved possible to reach agreement on prices which were remunerative to producers and acceptable to consumers (bearing in mind the price of synthetic substitutes). In 1974, however, it proved impossible to reach agreement and the price has far exceeded the indicative price. Nevertheless the Group intends to continue the informal arrangements as far as possible.

5. The cost of world stock reserves in 1968 was estimated at 73.7 million US$; given that the current price for jute is 70% higher than in 1968 taxed on an average grade the initial purchase would be correspondingly higher today. To this would be added administration, insurance and warehouse costs.
## JUTE

**Production of Jute and Allied Fibres**

<table>
<thead>
<tr>
<th>Year</th>
<th>World</th>
<th>India</th>
<th>Bangladesh</th>
<th>Thailand</th>
<th>China</th>
</tr>
</thead>
<tbody>
<tr>
<td>1957/58</td>
<td>2,545</td>
<td>959</td>
<td>1,125</td>
<td>24</td>
<td>301</td>
</tr>
<tr>
<td>58/59</td>
<td>2,805</td>
<td>1,206</td>
<td>1,089</td>
<td>32</td>
<td>315</td>
</tr>
<tr>
<td>59/60</td>
<td>2,617</td>
<td>1,038</td>
<td>1,008</td>
<td>55</td>
<td>330</td>
</tr>
<tr>
<td>60/61</td>
<td>2,441</td>
<td>927</td>
<td>809</td>
<td>187</td>
<td>325</td>
</tr>
<tr>
<td>61/62</td>
<td>3,605</td>
<td>1,460</td>
<td>1,264</td>
<td>351</td>
<td>301</td>
</tr>
<tr>
<td>62/63</td>
<td>3,115</td>
<td>1,286</td>
<td>1,143</td>
<td>148</td>
<td>305</td>
</tr>
<tr>
<td>63/64</td>
<td>3,232</td>
<td>1,399</td>
<td>1,088</td>
<td>163</td>
<td>356</td>
</tr>
<tr>
<td>64/65</td>
<td>3,228</td>
<td>1,348</td>
<td>967</td>
<td>304</td>
<td>390</td>
</tr>
<tr>
<td>65/66</td>
<td>3,472</td>
<td>1,200</td>
<td>1,145</td>
<td>343</td>
<td>460</td>
</tr>
<tr>
<td>66/67</td>
<td>3,680</td>
<td>1,163</td>
<td>1,208</td>
<td>551</td>
<td>430</td>
</tr>
<tr>
<td>67/68</td>
<td>3,632</td>
<td>1,348</td>
<td>1,200</td>
<td>286</td>
<td>450</td>
</tr>
<tr>
<td>68/69</td>
<td>2,952</td>
<td>765</td>
<td>1,046</td>
<td>150</td>
<td>490</td>
</tr>
<tr>
<td>69/70</td>
<td>3,685</td>
<td>1,225</td>
<td>1,339</td>
<td>400</td>
<td>500</td>
</tr>
<tr>
<td>70/71</td>
<td>3,307</td>
<td>1,109</td>
<td>1,163</td>
<td>290</td>
<td>500</td>
</tr>
<tr>
<td>71/72</td>
<td>3,240</td>
<td>1,225</td>
<td>795</td>
<td>340</td>
<td>600</td>
</tr>
<tr>
<td>72/73</td>
<td>3,615</td>
<td>1,098</td>
<td>1,210</td>
<td>400</td>
<td>600</td>
</tr>
<tr>
<td>73/74p</td>
<td>4,288</td>
<td>1,330</td>
<td>1,100</td>
<td>660</td>
<td>614</td>
</tr>
</tbody>
</table>

Unit: Thousand metric tonnes.

Source: *Statistical Yearbook of the European Jute Industry.*

p: Provisional.

### PRICES (£ per tonne c.i.f. Europe)

<table>
<thead>
<tr>
<th>Year</th>
<th>Price (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1937/38 (average)</td>
<td>17.5</td>
</tr>
<tr>
<td>July 1949</td>
<td>80</td>
</tr>
<tr>
<td>July 1962</td>
<td>95</td>
</tr>
<tr>
<td>July 1967</td>
<td>115</td>
</tr>
<tr>
<td>September 1968</td>
<td>139</td>
</tr>
<tr>
<td>October 1970</td>
<td>138</td>
</tr>
<tr>
<td>January 1971</td>
<td>140</td>
</tr>
<tr>
<td>Mid 1971</td>
<td>145</td>
</tr>
<tr>
<td>January 1972</td>
<td>155</td>
</tr>
<tr>
<td>Mid 1972</td>
<td>143</td>
</tr>
<tr>
<td>January 1973</td>
<td>147</td>
</tr>
<tr>
<td>Mid 1973</td>
<td>144</td>
</tr>
<tr>
<td>January 1974</td>
<td>152</td>
</tr>
<tr>
<td>Mid 1974</td>
<td>184</td>
</tr>
<tr>
<td>Current</td>
<td>243</td>
</tr>
</tbody>
</table>
RUBBER

Basic Statistics

1. World production of natural rubber has increased steadily from 1.97 million tons in 1958 to 3.49 million tons in 1973. In 1973 the major producers were Malaysia (1.57 million tons), Indonesia (0.89), Thailand (0.38), Sri Lanka (0.15), India (0.12) and Liberia (0.08), and the major consumers the USA (0.70 million tons in 1973), Japan (0.34), West Germany (0.21), UK (0.17), France (0.16), Italy (0.12), India (0.12) and the Communist countries (0.70). Almost all natural rubber produced enters international trade, as the major producers are not (with the exception of India) also major consumers.

Price Movements

2. There is no single price for natural rubber, as there are several different grades. There are major markets in London, New York, Kuala Lumpur and Singapore. Market prices have shown a good deal of volatility over the years, with a year's highest price frequently being 50% or more greater than the year's low. During the 1960's, yearly average prices tended to drift downwards, the London price of ore grade being £215 per ton in 1958, £225 in 1961, falling to a low of £152 in 1967, and then (following devaluation of the £) rising to £222 in 1969 before falling back to £144 in 1971. The average price rose to £342 per ton in 1974 as part of the world wide commodity boom (touching £515 in January 1974), but had fallen back to £265 by the end of the year. The long term price trend for natural rubber is intimately linked with the price of synthetic rubber, which takes over half of the total world rubber market.

3. Detailed statistics of production, consumption and prices are given below, and are reproduced by courtesy of the Secretary General of the IRSG.

History of Agreements

4. In 1953 a formal commodity agreement for rubber was proposed by the British Colonial and Dependent Territories Delegation to the International Rubber Study Group (IRSG). The proposal failed, mainly because agreement could not be reached on the basis for funding a buffer stock. Last year the FAO put forward a paper to the IRSG suggesting an informal agreement, possibly backed by export quota control. Neither the producers nor consumers showed any real enthusiasm for the proposal.

5. International arrangements in connection with the trading of natural rubber will be discussed at the meeting of the IRSG in October 1975.
<table>
<thead>
<tr>
<th>Year</th>
<th>Malaysia Estates</th>
<th>Malaysia Smallh.</th>
<th>Malaysia Total</th>
<th>East *</th>
<th>Grand Total Estates</th>
<th>Grand Total Smallh.</th>
<th>Grand Total Total</th>
<th>Indonesia Estates</th>
<th>Indonesia Smallh.</th>
<th>Indonesia Total</th>
<th>Thailand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1963</td>
<td>465,659</td>
<td>299,438</td>
<td>765,097</td>
<td>65,817</td>
<td>830,914</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1964</td>
<td>484,493</td>
<td>319,438</td>
<td>803,931</td>
<td>66,798</td>
<td>870,729</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1965</td>
<td>498,822</td>
<td>353,208</td>
<td>852,030</td>
<td>64,905</td>
<td>916,935</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1966</td>
<td>522,101</td>
<td>392,624</td>
<td>914,725</td>
<td>58,112</td>
<td>972,837</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1967</td>
<td>534,216</td>
<td>403,941</td>
<td>938,157</td>
<td>52,289</td>
<td>990,146</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1968</td>
<td>572,076</td>
<td>479,235</td>
<td>1,051,311</td>
<td>48,973</td>
<td>1,100,284</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1969</td>
<td>602,954</td>
<td>596,484</td>
<td>1,199,438</td>
<td>68,576</td>
<td>1,268,014</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1970</td>
<td>620,981</td>
<td>594,755</td>
<td>1,215,736</td>
<td>53,467</td>
<td>1,269,203</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1971</td>
<td>661,573</td>
<td>608,863</td>
<td>1,270,436</td>
<td>48,082</td>
<td>1,318,518</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1972</td>
<td>679,871</td>
<td>598,813</td>
<td>1,278,684</td>
<td>46,212</td>
<td>1,324,896</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Jan.</td>
<td>69,164</td>
<td>79,564</td>
<td>148,728</td>
<td>6,087</td>
<td>154,815</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Feb.</td>
<td>50,528</td>
<td>56,116</td>
<td>106,644</td>
<td>3,768</td>
<td>110,412</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Mar.</td>
<td>43,552</td>
<td>55,702</td>
<td>99,254</td>
<td>5,710</td>
<td>105,964</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Apr.</td>
<td>37,375</td>
<td>44,351</td>
<td>81,726</td>
<td>4,345</td>
<td>86,071</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 May</td>
<td>50,692</td>
<td>57,874</td>
<td>108,566</td>
<td>5,424</td>
<td>114,090</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 June</td>
<td>56,221</td>
<td>64,516</td>
<td>120,737</td>
<td>6,749</td>
<td>127,486</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 July</td>
<td>65,009</td>
<td>72,379</td>
<td>137,388</td>
<td>7,553</td>
<td>144,941</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Aug.</td>
<td>65,986</td>
<td>69,929</td>
<td>135,915</td>
<td>6,050</td>
<td>142,165</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Sept.</td>
<td>64,926</td>
<td>67,487</td>
<td>132,413</td>
<td>6,348</td>
<td>138,761</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Oct.</td>
<td>59,768</td>
<td>71,817</td>
<td>131,585</td>
<td>6,021</td>
<td>137,606</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Nov.</td>
<td>63,263</td>
<td>70,057</td>
<td>133,320</td>
<td>10,183</td>
<td>143,503</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Dec.</td>
<td>71,473</td>
<td>81,725</td>
<td>153,198</td>
<td>8,654</td>
<td>161,852</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year</td>
<td>697,957</td>
<td>791,517</td>
<td>1,489,474</td>
<td>76,892</td>
<td>1,566,366</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 Jan.</td>
<td>73,955</td>
<td>88,642</td>
<td>162,597</td>
<td>7,778</td>
<td>170,355</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 Feb.</td>
<td>51,106</td>
<td>65,571</td>
<td>116,677</td>
<td>4,780</td>
<td>121,457</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 Mar.</td>
<td>44,537</td>
<td>54,603</td>
<td>99,140</td>
<td>7,322</td>
<td>106,462</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 Apr.</td>
<td>39,598</td>
<td>46,518</td>
<td>86,116</td>
<td>5,635</td>
<td>91,751</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 May</td>
<td>50,054</td>
<td>55,368</td>
<td>105,422</td>
<td>6,084</td>
<td>111,506</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 June</td>
<td>57,010</td>
<td>62,533</td>
<td>119,543</td>
<td>4,875</td>
<td>124,418</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 July</td>
<td>66,608</td>
<td>75,846</td>
<td>142,454</td>
<td>5,203</td>
<td>147,657</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 Aug.</td>
<td>63,796</td>
<td>71,184</td>
<td>134,980</td>
<td>3,892</td>
<td>138,872</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 Sept.</td>
<td>59,889</td>
<td>64,976</td>
<td>124,865</td>
<td>5,032</td>
<td>129,897</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 Oct.</td>
<td>64,584</td>
<td>70,295</td>
<td>134,879</td>
<td>4,421</td>
<td>139,300</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* — Has been taken as equivalent to net exports
*** — Equivalent to net exports plus local consumption
## NATURAL RUBBER (TONS)

<table>
<thead>
<tr>
<th>Sri Lanka</th>
<th>Viet- Nam</th>
<th>Khmer Republic</th>
<th>India</th>
<th>Africa ***</th>
<th>Brazil</th>
<th>Others</th>
<th>Total Estates</th>
<th>Total Small-holders</th>
<th>GRAND TOTAL†</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>in ’000 tons</td>
<td></td>
<td></td>
<td>in’000 tons</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------</td>
<td>-----------</td>
<td>----------------</td>
<td>-------</td>
<td>------------</td>
<td>--------</td>
<td>--------</td>
<td>---------------</td>
<td>---------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>104,751</td>
<td>71,805</td>
<td>40,755</td>
<td>37,200</td>
<td>154,000</td>
<td>20,205</td>
<td>33,500</td>
<td>1,015.0</td>
<td>1,155.0</td>
<td>2,170.0</td>
</tr>
<tr>
<td>111,562</td>
<td>74,429</td>
<td>45,823</td>
<td>44,248</td>
<td>161,750</td>
<td>28,322</td>
<td>29,500</td>
<td>1,067.5</td>
<td>1,285.0</td>
<td>2,352.5</td>
</tr>
<tr>
<td>118,311</td>
<td>60,963</td>
<td>48,917</td>
<td>49,387</td>
<td>159,250</td>
<td>29,291</td>
<td>31,750</td>
<td>1,067.5</td>
<td>1,285.0</td>
<td>2,352.5</td>
</tr>
<tr>
<td>131,013</td>
<td>48,841</td>
<td>51,330</td>
<td>53,195</td>
<td>176,300</td>
<td>24,347</td>
<td>31,000</td>
<td>2,155.0</td>
<td>1,305.0</td>
<td>3,450.0</td>
</tr>
<tr>
<td>143,204</td>
<td>40,631</td>
<td>53,633</td>
<td>62,339</td>
<td>163,000</td>
<td>21,494</td>
<td>32,250</td>
<td>1,102.5</td>
<td>1,420.0</td>
<td>2,522.5</td>
</tr>
<tr>
<td>148,719</td>
<td>29,696</td>
<td>51,332</td>
<td>68,845</td>
<td>169,000</td>
<td>22,958</td>
<td>40,750</td>
<td>1,145.0</td>
<td>1,540.0</td>
<td>2,685.0</td>
</tr>
<tr>
<td>150,834</td>
<td>26,151</td>
<td>51,836</td>
<td>79,951</td>
<td>182,000</td>
<td>23,930</td>
<td>43,500</td>
<td>1,205.0</td>
<td>1,790.0</td>
<td>2,995.0</td>
</tr>
<tr>
<td>159,158</td>
<td>28,458</td>
<td>12,763</td>
<td>89,905</td>
<td>213,000</td>
<td>24,976</td>
<td>44,500</td>
<td>1,227.5</td>
<td>1,875.0</td>
<td>3,102.5</td>
</tr>
<tr>
<td>141,409</td>
<td>34,533</td>
<td>1,147</td>
<td>98,884</td>
<td>201,000</td>
<td>24,231</td>
<td>50,000</td>
<td>1,245.0</td>
<td>1,832.5</td>
<td>3,077.5</td>
</tr>
<tr>
<td>140,371</td>
<td>20,294</td>
<td>15,312</td>
<td>109,137</td>
<td>205,250</td>
<td>25,818</td>
<td>54,500</td>
<td>1,250.0</td>
<td>1,862.5</td>
<td>3,112.5</td>
</tr>
<tr>
<td>16,682</td>
<td>1,667†</td>
<td>1,750</td>
<td>12,514</td>
<td>19,250</td>
<td>2,580</td>
<td>5,000</td>
<td>127.5</td>
<td>200.0</td>
<td>327.5</td>
</tr>
<tr>
<td>8,731</td>
<td>88</td>
<td>1,500</td>
<td>4,918</td>
<td>17,250</td>
<td>1,930</td>
<td>4,250</td>
<td>80.0</td>
<td>182.5</td>
<td>262.5</td>
</tr>
<tr>
<td>10,330</td>
<td>809</td>
<td>1,750</td>
<td>7,876</td>
<td>19,750</td>
<td>2,043</td>
<td>5,000</td>
<td>92.5</td>
<td>180.0</td>
<td>272.3</td>
</tr>
<tr>
<td>14,132</td>
<td>1,104</td>
<td>1,750</td>
<td>8,507</td>
<td>15,500</td>
<td>2,153</td>
<td>5,000</td>
<td>82.5</td>
<td>137.5</td>
<td>220.0</td>
</tr>
<tr>
<td>9,382</td>
<td>1,680</td>
<td>1,500</td>
<td>9,483</td>
<td>18,000</td>
<td>1,929</td>
<td>4,500</td>
<td>92.5</td>
<td>162.5</td>
<td>253.0</td>
</tr>
<tr>
<td>6,750</td>
<td>1,948</td>
<td>1,000</td>
<td>9,652</td>
<td>15,500</td>
<td>1,823</td>
<td>4,730</td>
<td>97.5</td>
<td>192.5</td>
<td>290.0</td>
</tr>
<tr>
<td>11,226</td>
<td>1,841</td>
<td>1,000</td>
<td>8,418</td>
<td>18,500</td>
<td>2,147</td>
<td>5,000</td>
<td>110.0</td>
<td>192.5</td>
<td>302.5</td>
</tr>
<tr>
<td>14,801</td>
<td>1,889</td>
<td>1,000</td>
<td>8,531</td>
<td>19,750</td>
<td>1,883</td>
<td>4,500</td>
<td>120.0</td>
<td>190.0</td>
<td>310.0</td>
</tr>
<tr>
<td>9,034</td>
<td>1,860</td>
<td>500</td>
<td>11,577</td>
<td>15,750</td>
<td>2,089</td>
<td>5,000</td>
<td>105.0</td>
<td>175.0</td>
<td>280.0</td>
</tr>
<tr>
<td>19,408</td>
<td>2,375</td>
<td>1,000</td>
<td>12,185</td>
<td>22,750</td>
<td>1,902</td>
<td>5,000</td>
<td>122.5</td>
<td>190.0</td>
<td>312.5</td>
</tr>
<tr>
<td>18,143</td>
<td>2,603</td>
<td>1,250</td>
<td>13,613</td>
<td>20,750</td>
<td>1,649</td>
<td>4,500</td>
<td>122.5</td>
<td>185.0</td>
<td>307.0</td>
</tr>
<tr>
<td>16,056</td>
<td>2,755</td>
<td>2,500</td>
<td>15,958</td>
<td>15,000</td>
<td>1,274</td>
<td>4,750</td>
<td>130.0</td>
<td>220.0</td>
<td>350.0</td>
</tr>
</tbody>
</table>

| 154,675   | 20,619    | 16,500         | 123,232| 217,750   | 23,402 | 57,250 | 1,282.5       | 2,207.5             | 3,490.0      |
| 12,254    | 1,731     | 1,000          | 13,568| 21,750     | 1,791 | 4,500  | 350.0         |                     |              |
| 7,679     | 414       | 3,000          | 5,510 | 16,000     | 1,216 | 5,000  | 240.0         |                     |              |
| 12,658    | 851       | 3,500          | 8,151 | 16,000     | 1,565 | 4,750  | 285.0         |                     |              |
| 9,074     | 1,161     | 1,500          | 9,418 | 18,250     | 1,926 | 4,750  | 260.0         |                     |              |
| 9,713     | 1,709     | 2,000          | 9,970 | 17,250     | 1,469 | 4,750  | 270.0         |                     |              |
| 10,048    | 1,891     | 1,250          | 11,102| 19,750     | 1,309 | 4,750  | 287.5         |                     |              |
| 16,251    | 2,093     | 1,500          | 8,710 | 17,000     | 1,731 | 4,750  | 310.0         |                     |              |
| 13,263    | 2,027     | 1,500          | 4,202 | 18,500     | 1,634 | 4,750  | 322.5         |                     |              |
| 18,323    | 2,007     | 500            | 11,807| 18,000     | 1,033 | 4,500  | 285.0         |                     |              |
| 5,882     | 2,555     | 1,500          | 13,937|                      | 4,500 |        |              |                     |              |

† — Including allowances for apparent discrepancies in officially reported statistics.
<table>
<thead>
<tr>
<th>Year</th>
<th>United States of America</th>
<th>United Kingdom</th>
<th>France</th>
<th>Federal Republic of Germany</th>
<th>Italy</th>
<th>Netherlands **</th>
<th>Total E.E.C. **</th>
<th>Other Western Europe ***</th>
</tr>
</thead>
<tbody>
<tr>
<td>1963</td>
<td>464,565</td>
<td>171,400</td>
<td>127,380</td>
<td>152,262</td>
<td>88,000</td>
<td>19,911</td>
<td>582,500</td>
<td>120,000</td>
</tr>
<tr>
<td>1964</td>
<td>489,227</td>
<td>183,800</td>
<td>127,111</td>
<td>155,152</td>
<td>83,000</td>
<td>22,047</td>
<td>597,500</td>
<td>122,500</td>
</tr>
<tr>
<td>1965</td>
<td>522,966</td>
<td>186,700</td>
<td>122,515</td>
<td>157,861</td>
<td>87,000</td>
<td>20,800</td>
<td>602,500</td>
<td>135,000</td>
</tr>
<tr>
<td>1966</td>
<td>554,435</td>
<td>183,900</td>
<td>125,987</td>
<td>157,604</td>
<td>91,400</td>
<td>22,550</td>
<td>607,500</td>
<td>142,500</td>
</tr>
<tr>
<td>1967</td>
<td>496,693</td>
<td>178,500</td>
<td>127,821</td>
<td>141,338</td>
<td>100,000</td>
<td>19,700</td>
<td>593,000</td>
<td>137,500</td>
</tr>
<tr>
<td>1968</td>
<td>591,201</td>
<td>194,100</td>
<td>128,810</td>
<td>170,000</td>
<td>100,000</td>
<td>20,566</td>
<td>645,000</td>
<td>150,000</td>
</tr>
<tr>
<td>1969</td>
<td>607,872</td>
<td>191,400</td>
<td>149,511</td>
<td>191,241</td>
<td>102,000</td>
<td>20,357</td>
<td>687,500</td>
<td>160,000</td>
</tr>
<tr>
<td>1970</td>
<td>568,290</td>
<td>188,200</td>
<td>158,229</td>
<td>200,725</td>
<td>113,000</td>
<td>22,000</td>
<td>717,500</td>
<td>177,500</td>
</tr>
<tr>
<td>1971</td>
<td>587,080</td>
<td>187,200</td>
<td>159,203</td>
<td>198,247</td>
<td>121,000</td>
<td>22,000</td>
<td>720,000</td>
<td>195,000</td>
</tr>
<tr>
<td>1972</td>
<td>650,679</td>
<td>174,000</td>
<td>160,154</td>
<td>192,997</td>
<td>118,000</td>
<td>23,200</td>
<td>698,750</td>
<td>201,000</td>
</tr>
<tr>
<td>1973 Jan.</td>
<td>59,016</td>
<td>16,100</td>
<td>14,596</td>
<td>16,750</td>
<td>11,000</td>
<td>1,912</td>
<td>63,000</td>
<td>17,500</td>
</tr>
<tr>
<td>Feb.</td>
<td>57,738</td>
<td>15,700</td>
<td>13,903</td>
<td>18,000</td>
<td>10,250</td>
<td>2,186</td>
<td>62,750</td>
<td>17,500</td>
</tr>
<tr>
<td>Mar.</td>
<td>64,163</td>
<td>16,600</td>
<td>15,863</td>
<td>19,164</td>
<td>10,750</td>
<td>1,999</td>
<td>67,250</td>
<td>17,500</td>
</tr>
<tr>
<td>Apr.</td>
<td>60,387</td>
<td>15,000</td>
<td>13,931</td>
<td>17,250</td>
<td>9,500</td>
<td>2,023</td>
<td>60,500</td>
<td>17,500</td>
</tr>
<tr>
<td>May</td>
<td>58,235</td>
<td>15,700</td>
<td>14,320</td>
<td>19,000</td>
<td>11,000</td>
<td>2,123</td>
<td>63,000</td>
<td>17,500</td>
</tr>
<tr>
<td>June</td>
<td>55,350</td>
<td>14,100</td>
<td>14,429</td>
<td>18,258</td>
<td>10,000</td>
<td>1,789</td>
<td>61,250</td>
<td>17,500</td>
</tr>
<tr>
<td>July</td>
<td>49,756</td>
<td>11,900</td>
<td>12,142</td>
<td>14,750</td>
<td>11,250</td>
<td>1,106</td>
<td>53,750</td>
<td>14,500</td>
</tr>
<tr>
<td>Aug.</td>
<td>57,300</td>
<td>11,800</td>
<td>4,230</td>
<td>14,500</td>
<td>4,500</td>
<td>1,998</td>
<td>39,750</td>
<td>14,500</td>
</tr>
<tr>
<td>Sept.</td>
<td>57,200</td>
<td>12,100</td>
<td>14,759</td>
<td>17,436</td>
<td>10,750</td>
<td>1,962</td>
<td>59,750</td>
<td>17,500</td>
</tr>
<tr>
<td>Oct.</td>
<td>64,429</td>
<td>15,700</td>
<td>15,571</td>
<td>18,250</td>
<td>11,350</td>
<td>2,320</td>
<td>66,000</td>
<td>17,500</td>
</tr>
<tr>
<td>Nov.</td>
<td>58,032</td>
<td>15,900</td>
<td>15,022</td>
<td>17,500</td>
<td>10,400</td>
<td>2,078</td>
<td>63,500</td>
<td>17,500</td>
</tr>
<tr>
<td>Dec.</td>
<td>54,829</td>
<td>12,500</td>
<td>13,499</td>
<td>14,734</td>
<td>9,250</td>
<td>1,855</td>
<td>54,750</td>
<td>17,500</td>
</tr>
<tr>
<td>Year</td>
<td>696,435</td>
<td>173,100</td>
<td>162,265</td>
<td>205,592</td>
<td>120,000</td>
<td>23,351</td>
<td>717,250</td>
<td>204,000</td>
</tr>
<tr>
<td>1974 Jan.</td>
<td>65,467</td>
<td>11,100</td>
<td>15,399</td>
<td>16,500*</td>
<td>11,000</td>
<td>2,112*</td>
<td>59,000</td>
<td>18,500</td>
</tr>
<tr>
<td>Feb.</td>
<td>59,367</td>
<td>12,000</td>
<td>15,120</td>
<td>17,000</td>
<td>9,750</td>
<td>2,008</td>
<td>59,000</td>
<td>18,500</td>
</tr>
<tr>
<td>Mar.</td>
<td>64,034</td>
<td>13,600</td>
<td>15,119</td>
<td>18,664q</td>
<td>10,750q</td>
<td>2,059</td>
<td>65,000</td>
<td>18,500</td>
</tr>
<tr>
<td>Apr.</td>
<td>59,692</td>
<td>14,500</td>
<td>14,486</td>
<td>16,750</td>
<td>12,000</td>
<td>2,161</td>
<td>63,000</td>
<td>18,500</td>
</tr>
<tr>
<td>May.</td>
<td>60,809</td>
<td>15,100</td>
<td>14,058</td>
<td>16,750</td>
<td>12,000</td>
<td>2,054</td>
<td>63,000</td>
<td>18,500</td>
</tr>
<tr>
<td>June.</td>
<td>60,301</td>
<td>13,700</td>
<td>13,669</td>
<td>14,596q</td>
<td>11,000</td>
<td>1,973</td>
<td>58,000</td>
<td>18,500</td>
</tr>
<tr>
<td>July.</td>
<td>51,425</td>
<td>12,700</td>
<td>13,041</td>
<td>14,250</td>
<td>11,750</td>
<td>1,582</td>
<td>55,750</td>
<td>15,250</td>
</tr>
<tr>
<td>Aug.</td>
<td>59,931</td>
<td>11,700</td>
<td>4,439</td>
<td>14,250</td>
<td>4,250</td>
<td>1,829</td>
<td>39,000</td>
<td>15,250</td>
</tr>
<tr>
<td>Sept.</td>
<td>60,254</td>
<td>14,900</td>
<td>14,683</td>
<td>16,423q</td>
<td>11,750</td>
<td></td>
<td>59,000</td>
<td>18,500</td>
</tr>
<tr>
<td>Oct.</td>
<td>69,662</td>
<td>14,900</td>
<td>14,683</td>
<td>16,423q</td>
<td>11,750</td>
<td></td>
<td>59,000</td>
<td>18,500</td>
</tr>
<tr>
<td>Year</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* — Monthly allowances of 2,700 metric tons for FRG and of 250 tons for the Netherlands are included to cover consumption outside the traditional rubber industry.

** — The figures include estimates for consumption in Belgium, Denmark, the Republic of Ireland and Luxemburg.
Eastern
Europe
Total
Total
and
AusWester
Western
n
Europ
Europee China tralia Brazil Canada India

Japan
Japan Others
***

Total
Rest of
WorldJ

GRAND
TOTAL
t

702,500
720,000
737,500
750,000
732,500

555,000
555,000
565,000
585,000
610,000

37,080
39,980
38,970
37,630
37,280

36,088
32,730
26,554
30,862
32,133

36,608
40,852
43,480
47,268
46,113

60,209
60,076
64,675
66,693
72,516

195,500
206,000
201,500
216,000
243,000

191,500
223,000
236,500
248,500
257,500

557,000
602,750
611,750
646,000
688,500

2,272,500
2,380,000
2,447,500
2,542,500
2,535,000

795,000
847,500
895,000
915,000
900,250

640,000
660,000
675,000
640,000
650,000

43,960
42,030
40,170
40,500
46,330

38,156
35,072
36,739
41,761
44,219

45,477 84,206
49,664 86,692
50,616 86,469
52,030 93,125
60,355 101,100

255,000
268,000
283,000
295,000
312,000

289,750
317,000
346,250
380,000
405,000

756,500
798,500
843,250
902,500
969,000

2,780,000
2,910,000
2,992,500
3,055,000
3,170,000

80,500
80,250
84,750

57,500
60,000
57,500

1,790 3,677 5,277
4,660 4,005 5,677
4,620 4,056 5,702

9,063
9,415
9,909

24,200
26,000
28,500

36,000
36,000
37,000

80,000
85,750
89,750

275,000
285,000
297,500

78,000
82,500
78,750

57,500
60,000
57,500

4,560 3,886 5,413
4,660 4,270 5,164
3,110 4,276 5,206

9,276
9,228
10,173

27,100
27,500
29,200

38,000
38,000
38,000

88,250
88,750
90,000

285,000
290,000
280,000

68,250
54,250
77,250

57,500
60,000
57,500

6,160 4,546 4,182
5,720 4,693 3,691
2,440 4,184 4,822

10,736
11,608
11,787

28,400
25,800
29,000

39,000
39,000
39,000

93,000
90,500
91,250

270,000
262,500
282,500

83,500
81,000
72,250

57,500
60,000
57,500

6,330 4,878 4,986
5,030 4,238 5,601
3,010 4,355 4,725

9,943
10,759
11,401

31,100
30,500
27,700

40,000
40,000
40,000

97,250
96,250
91,250

302,500
295,000
275,000

700,000 52,090 51,064 60,446 123,298 335,000 460,000

1,082,000

3,400,000

921,250
77,500
77,500
83,500

57,500
60,000
57,500

2,340 4,474 5,927
5,000 4,289 6,165
5,000 4,554 6,113

11,568
11,761
12,062

26,000
28,100
28,800

41,000
41,000
41,000

91,250
96,500
97,500

292,500
292,500
302,500

81,500
81,500
76,500

57,500
60,000
57,500

5,000 4,362 5,381
5,000 5,035 4,127
5,000 4,256 4,724

10,559
10,040
11,780

24,800
26,300
25,500

41,500
41,500
41,500

91,500
92,000
92,750

290,000
295,000
287,500

71,000
54,250

57,500
60,000
57,500

5,000 5,056 3,808
5,000 5,192 4,112
5,000 4,749 4,855

11,548
10,776
10,284

26,600
24,100

42,000
42,000
42,000

94,000
91,250

272,500
265,000
290,000

57,500

5,252

10,015

42,500

307,500

* — Estimated consumption arrived at by correcting net imports to allow for working
stocks at 1.5 months' consumption,
t — Including allowances for discrepancies in officially reported statistics,
j — Excluding Eastern Europe and China.


<table>
<thead>
<tr>
<th>Year</th>
<th>London (£ sterling)</th>
<th>New York (U.S. dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R.S.S. 1 (spot)</td>
<td>R.S.S. 1 (c.i.f.)</td>
</tr>
<tr>
<td>1963</td>
<td>199.9</td>
<td>196.7</td>
</tr>
<tr>
<td>1964</td>
<td>189.2</td>
<td>185.9</td>
</tr>
<tr>
<td>1965</td>
<td>197.0</td>
<td>190.7</td>
</tr>
<tr>
<td>1966</td>
<td>182.3</td>
<td>179.0</td>
</tr>
<tr>
<td>1967</td>
<td>158.9</td>
<td>151.6</td>
</tr>
<tr>
<td>1968</td>
<td>172.5</td>
<td>170.8</td>
</tr>
<tr>
<td>1969</td>
<td>231.0</td>
<td>222.3</td>
</tr>
<tr>
<td>1970</td>
<td>187.0</td>
<td>180.4</td>
</tr>
<tr>
<td>1971</td>
<td>151.3</td>
<td>143.7</td>
</tr>
<tr>
<td>1972</td>
<td>148.9</td>
<td>147.7</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973 Jan.</td>
<td>213.3</td>
<td>209.5</td>
</tr>
<tr>
<td>Feb.</td>
<td>229.0</td>
<td>225.2</td>
</tr>
<tr>
<td>Mar.</td>
<td>247.0</td>
<td>248.2</td>
</tr>
<tr>
<td>Apr.</td>
<td>238.3</td>
<td>241.2N</td>
</tr>
<tr>
<td>May</td>
<td>242.6</td>
<td>240.1N</td>
</tr>
<tr>
<td>June</td>
<td>294.0</td>
<td>285.7N</td>
</tr>
<tr>
<td>July</td>
<td>364.8</td>
<td>358.8N</td>
</tr>
<tr>
<td>Aug.</td>
<td>372.1</td>
<td>354.3N</td>
</tr>
<tr>
<td>Sept.</td>
<td>347.8</td>
<td>326.3N</td>
</tr>
<tr>
<td>Oct.</td>
<td>355.3N</td>
<td>314.1N</td>
</tr>
<tr>
<td>Nov.</td>
<td>396.8N</td>
<td>355.0N</td>
</tr>
<tr>
<td>Dec.</td>
<td>511.4N</td>
<td>459.2N</td>
</tr>
<tr>
<td>Year</td>
<td>316.3</td>
<td>300.2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974 Jan.</td>
<td>541.6N</td>
<td>515.7</td>
</tr>
<tr>
<td>Feb.</td>
<td>444.5N</td>
<td>454.6</td>
</tr>
<tr>
<td>Mar.</td>
<td>392.0</td>
<td>419.5N</td>
</tr>
<tr>
<td>Apr.</td>
<td>346.1</td>
<td>372.6N</td>
</tr>
<tr>
<td>May</td>
<td>345.9</td>
<td>372.8N</td>
</tr>
<tr>
<td>June</td>
<td>309.9</td>
<td>321.9N</td>
</tr>
<tr>
<td>July</td>
<td>287.4</td>
<td>302.3N</td>
</tr>
<tr>
<td>Aug.</td>
<td>289.3</td>
<td>299.9N</td>
</tr>
<tr>
<td>Sept.</td>
<td>265.8</td>
<td>277.5N</td>
</tr>
<tr>
<td>Oct.</td>
<td>263.9</td>
<td>272.7N</td>
</tr>
<tr>
<td>Nov.</td>
<td>237.3</td>
<td>233.0N</td>
</tr>
<tr>
<td>Dec.</td>
<td>253.9</td>
<td>265.4N</td>
</tr>
<tr>
<td>Year</td>
<td>331.7</td>
<td>342.4</td>
</tr>
</tbody>
</table>

Notes—
1. The annual prices given are the average of daily prices.
2. New York quotations refer to sellers' asking prices for delivery during the current month.
3. The Kuala Lumpur and Singapore prices are buyers' midday prices, f.o.b. in bales.
<table>
<thead>
<tr>
<th>Kuala Lumpur (Mal. dollars)</th>
<th>S’pore (S’pore dollars)</th>
<th>Colombo R.S.S. 1 (Rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R.S.S. 1</td>
<td>R.S.S. 3 N</td>
<td>S.M.R. 5.L</td>
</tr>
<tr>
<td>1,597</td>
<td>1,556</td>
<td>...</td>
</tr>
<tr>
<td>1,502</td>
<td>1,481</td>
<td>...</td>
</tr>
<tr>
<td>1,544</td>
<td>1,512</td>
<td>...</td>
</tr>
<tr>
<td>1,441</td>
<td>1,407</td>
<td>...</td>
</tr>
<tr>
<td>1,192</td>
<td>1,134</td>
<td>...</td>
</tr>
<tr>
<td>1,171</td>
<td>1,131</td>
<td>...</td>
</tr>
<tr>
<td>1,539</td>
<td>1,512</td>
<td>...</td>
</tr>
<tr>
<td>1,244</td>
<td>1,193</td>
<td>...</td>
</tr>
<tr>
<td>1,016</td>
<td>925</td>
<td>...</td>
</tr>
<tr>
<td>935</td>
<td>881</td>
<td>1,219</td>
</tr>
<tr>
<td>1,247</td>
<td>1,281</td>
<td>1,315</td>
</tr>
<tr>
<td>1,384</td>
<td>1,377</td>
<td>1,433</td>
</tr>
<tr>
<td>1,379</td>
<td>1,374</td>
<td>1,478</td>
</tr>
<tr>
<td>1,397</td>
<td>1,383</td>
<td>1,570</td>
</tr>
<tr>
<td>1,699</td>
<td>1,591</td>
<td>1,730</td>
</tr>
<tr>
<td>1,984</td>
<td>1,810</td>
<td>1,940</td>
</tr>
<tr>
<td>1,869</td>
<td>1,747</td>
<td>1,894</td>
</tr>
<tr>
<td>1,698</td>
<td>1,608</td>
<td>1,684</td>
</tr>
<tr>
<td>1,629</td>
<td>1,526</td>
<td>1,581</td>
</tr>
<tr>
<td>1,862</td>
<td>1,717</td>
<td>1,891</td>
</tr>
<tr>
<td>2,386</td>
<td>2,160</td>
<td>2,388</td>
</tr>
<tr>
<td>1,655</td>
<td>1,567</td>
<td>1,680</td>
</tr>
<tr>
<td>2,653</td>
<td>2,464</td>
<td>2,685</td>
</tr>
<tr>
<td>2,387</td>
<td>2,299</td>
<td>2,511</td>
</tr>
<tr>
<td>2,265</td>
<td>2,098</td>
<td>2,506</td>
</tr>
<tr>
<td>2,011</td>
<td>1,751</td>
<td>2,344</td>
</tr>
<tr>
<td>2,051</td>
<td>1,730</td>
<td>2,320</td>
</tr>
<tr>
<td>1,779</td>
<td>1,573</td>
<td>2,063</td>
</tr>
<tr>
<td>1,634</td>
<td>1,468</td>
<td>1,695</td>
</tr>
<tr>
<td>1,642</td>
<td>1,430</td>
<td>1,590</td>
</tr>
<tr>
<td>1,434</td>
<td>1,225</td>
<td>1,389</td>
</tr>
<tr>
<td>1,386</td>
<td>1,168</td>
<td>1,307</td>
</tr>
<tr>
<td>1,116</td>
<td>1,025</td>
<td>...</td>
</tr>
<tr>
<td>1,308</td>
<td>1,177</td>
<td>...</td>
</tr>
</tbody>
</table>

* — £ Sterling devalued end 1967.
† — Three months forward price excluding current month. Forward prices for London refer to “Settlement Terms, contract No. 7”; for New York to the average of Wednesday prices and for Singapore are compiled from settlement prices. The annual forward price refers to the average of monthly prices.
‡ — As from September 1974 two months’ forward prices based on the new “Rubber Terminal Contract”.
N — Nominal.
SISAL

Basic Statistics

1. World production of sisal amounted to 606,000 tonnes in 1973. The major producers were Brazil (230,000), Tanzania (159,000), Angola (62,000), Kenya (58,000), Madagascar (24,000) and Mozambique (22,000). The major consumers (1973 figures) were France (64,300 tonnes), Portugal (43,600), UK (39,400), Belgium (39,700), Germany (35,900) and Italy (34,100). Demand is declining because of competition from polypropylene. Although prices of the latter have increased with the increased price of oil, the trend towards substitution has not been halted.

Price Movements

2. Prices remained relatively stable in the early 1970's (around £80 a ton) when informal price stabilisation arrangements were in force but escalated in 1973 (£201) and 1974 (£465) when the arrangements broke down.

Previous History of Agreements

4. The situation of sisal is similar to that of jute (see Annex VII), i.e. informal arrangements consisting of indicative price levels, with the addition of export quotas agreed according to the countries expected production in any season. At the last FAO/IG session in January 1975 there was general agreement that the informal arrangements should continue, even though they had been largely inoperative because of high prices and shortages of good quality sisal. It was also accepted that there was a need for emergency meetings to be held, should a major change in the market situation occur, in addition to the formal sessions, and arrangements were made accordingly.

5. Sisal is covered by the Lomé Convention between the EEC and the ACP states.
## SISAL

### PRODUCTION (Thousands of tonnes)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanzania</td>
<td>219</td>
<td>210</td>
<td>202</td>
<td>181</td>
<td>157</td>
<td>159</td>
</tr>
<tr>
<td>Brazil</td>
<td>177</td>
<td>194</td>
<td>205</td>
<td>210</td>
<td>230</td>
<td>230</td>
</tr>
<tr>
<td>Angola</td>
<td>66</td>
<td>64</td>
<td>62</td>
<td>65</td>
<td>80</td>
<td>62</td>
</tr>
<tr>
<td>Kenya</td>
<td>65</td>
<td>50</td>
<td>44</td>
<td>45</td>
<td>41</td>
<td>58</td>
</tr>
<tr>
<td>Mozambique</td>
<td>30</td>
<td>30</td>
<td>29</td>
<td>25</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>Madagascar</td>
<td>26</td>
<td>24</td>
<td>25</td>
<td>23</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>TOTAL</td>
<td>583</td>
<td>572</td>
<td>567</td>
<td>549</td>
<td>554</td>
<td>555</td>
</tr>
</tbody>
</table>

### PRICES (£ per tonne cif London)

- 1937/9 (average) 26.9
- July 1949 95.5
- Mid 1962 97.5
- October 1967 63.5
- October 1970 61.0
- January 1971 73
- Mid 1971 79
- January 1972 78
- Mid 1972 105
- January 1973 153
- Mid 1973 201
- January 1974 421
- Mid 1974 465
- Current 478
SUGAR

Basic Statistics

1. World production and consumption of sugar is currently just over 80 million tons per year having more than doubled over the last 20 years. Most of the increase is in sugar consumed in the countries where it is grown. World trade in sugar totals about 23 million tons. The main exporters are Cuba, Australia, Brazil, South Africa and (usually) the EEC; the main importers are the USA, Japan, USSR and Canada. A table of world and CSA prices since 1958 is given below.

History of Agreements

Commonwealth Sugar Agreement (CSA)

2. The CSA, signed in 1951, was a contract by Commonwealth countries to supply and by the UK to purchase fixed annual quantities at prices negotiated periodically and designed to be ‘reasonably remunerative to efficient producers’. The quantities totalled 1.7 million tons and represented some two-thirds of UK consumption. Until 1971 the CSA price had been above the world price in 16 out of the 21 year lifetime of the Agreement, representing a substantial benefit to the exporting countries. In 1972, 1973 and 1974 the position was reversed.

3. During 1974 the world price rose rapidly. The CSA price effective at the beginning of 1974 was originally negotiated in 1971, and the effects of world inflation and the energy crisis had increased production costs and virtually eliminated the profit element in the CSA price. Two price increases were made under the CSA in 1974; the second took the price to £140 per ton to those suppliers who shipped in full. By the end of 1974 it was however clear that there had been a shortfall of almost 400,000 tons.

New Arrangements for the Supply of Commonwealth Sugar to the EEC

4. Successor arrangements to the CSA have recently been agreed with the EEC. The Community has offered continuing access on an indefinite basis for up to 1.4 million tons of sugar per year—the total of the developing country quotas under the CSA. The price is guaranteed at a level similar to that of Community beet producers, but in the exceptional conditions of 1975, the UK is paying a supplement on that price to bring it to £260 per ton c.i.f. In the long term, the Community price should itself be remunerative to the developing country producers.

5. Apart from assuring supplies to the Community market in the long term, this agreement represents for the exporting countries a continuation of the concepts of the CSA and will provide them with important export earnings from a guaranteed market at guaranteed basic prices.
US Quota System

6. Until the end of 1974 the US covered its entire import requirements of over 5 million tons under a special quota arrangement; by careful management of this quota system the authorities matched total supplies with demand to maintain a price for imported supplies similar to that which domestic producers received. The effect of this scheme was to limit fluctuations in US domestic prices at times of high or low world prices. Existing legislation expired at the end of 1974 and no successor arrangements were made. At present the US is purchasing its sugar from the free market.

International Sugar Agreements

7. Because of the instability of the world free market, there have been successive attempts to regulate it by international agreement. The most recent Agreement with full economic provisions was that of 1968-1973. It relied on adjustable export quotas to regulate the market and maintain the price within a pre-set range. There were also provisions on maximum and minimum levels of stocks; importers' minimum levels of market access; and limitation (or banning) of imports from non-members. Most important was a 'ceiling price' provision requiring exporters, in times of shortage and high prices, to offer certain quantities of sugar to traditional importers.

8. The Agreement was generally regarded as successful in its early days. During the first three years it succeeded in raising the price well above its unremunerative 1968 level. But after 1971, the world price rose steadily. Despite the operation of the 'ceiling price' the Agreement came under increasing pressure from both importers and exporters. When the ISA came up for renegotiation in 1973, despite genuine efforts on all sides, agreement proved impossible. The present ISA is purely administrative, although committed in principle to negotiate an economic agreement in due course.

Present Situation

9. The world price of sugar is extremely volatile, moving from peaks to troughs very rapidly. Between 1956 and 1974, the price sank to £17 per ton and rose to over £600. There are several causes of this volatility. First, the effect of weather on yields of sugar from both beet and cane; second, although sugar beet is an annual crop, sugar cane, which accounts for about 55-60% of world production but over 90% of sugar entering into international trade, is perennial, although it requires planting every few years in order to maintain yields. Third, increased production of both beet and cane requires considerable capital investment. Fourth, a high proportion of exports is accounted for by developing countries where the scope for diversification out of sugar, or for storing sugar, is limited.

10. Just under half total world trade takes place under special arrangements covering fixed quantities at pre-determined prices. The result is that any imbalance between world total supply and demand is loaded onto a free market of only about 11 million tons (12% of total world production) with a disproportionate effect on price.
11. In the absence of an effective ISA, and with uncertainty about future world prices, some suppliers have negotiated long term supply arrangements which afford an element of price stability. Such arrangements may cover between 2-3 million tons per year.

### WORLD SUGAR PRICES

<table>
<thead>
<tr>
<th>Year</th>
<th>Average world price cif UK (£)</th>
<th>Average Commonwealth Sugar Agreement cif UK (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1956</td>
<td>35.75</td>
<td>40.75*</td>
</tr>
<tr>
<td>1957</td>
<td>46.98</td>
<td>42.17*</td>
</tr>
<tr>
<td>1958</td>
<td>31.38</td>
<td>43.84*</td>
</tr>
<tr>
<td>1959</td>
<td>27.31</td>
<td>45.14*</td>
</tr>
<tr>
<td>1960</td>
<td>28.48</td>
<td>44.44</td>
</tr>
<tr>
<td>1961</td>
<td>25.68</td>
<td>48.20</td>
</tr>
<tr>
<td>1962</td>
<td>25.59</td>
<td>48.80</td>
</tr>
<tr>
<td>1963</td>
<td>71.70</td>
<td>50.60</td>
</tr>
<tr>
<td>1964</td>
<td>51.13</td>
<td>51.10</td>
</tr>
<tr>
<td>1965</td>
<td>21.51</td>
<td>51.15</td>
</tr>
<tr>
<td>1966</td>
<td>17.87</td>
<td>51.25</td>
</tr>
<tr>
<td>1967</td>
<td>19.36</td>
<td>51.50</td>
</tr>
<tr>
<td>1968</td>
<td>21.83</td>
<td>52.10</td>
</tr>
<tr>
<td>1969</td>
<td>33.83</td>
<td>52.10</td>
</tr>
<tr>
<td>1970</td>
<td>40.06</td>
<td>53.25</td>
</tr>
<tr>
<td>1971</td>
<td>46.18</td>
<td>53.25</td>
</tr>
<tr>
<td>1972</td>
<td>72.63</td>
<td>62.82</td>
</tr>
<tr>
<td>1973</td>
<td>99.46</td>
<td>66.90</td>
</tr>
<tr>
<td>1974</td>
<td>305.13</td>
<td>120.93</td>
</tr>
</tbody>
</table>

*1956-1960 (based on pre-war freight and insurance rates).
TEA

Basic Statistics

1. Statistics of production and consumption classified by main producer and consumer countries together with details of price movements since 1958 are given below. The consumption figures are artificial in the sense that it is generally assumed that all tea produced is consumed because it cannot be stored for long.

History of Agreements

2. The International Tea Agreement of 1933 which ran until 1955 was the only International Agreement there has been on tea. Its objective was not the mere stabilisation of prices or export earnings but that of raising prices above the level to which they had fallen in the preceding years. It relied principally on control of exports but it included provisions for restricting the growth of production. This seems to be the only sort of agreement which could work effectively for the tea industry.

New Agreement

3. A new International Tea Agreement has been under discussion in the FAO Intergovernmental Group on Tea for some years. The reconciliation of the conflicting interests of the various parties has proved a stumbling block to progress. Discussions were continued in 1974 and a working party of exporters has been set up to study the feasibility of an International Agreement. Discussion in the Intergovernmental Group is to continue later this year. Meanwhile, an informal export quota arrangement has been operating since 1970 but this has had no real effect on prices because the quotas have been very large.

Mechanisms for Price Stabilisation

4. The long term problem that has faced the world tea market has been that of a price decline caused by production increasing more rapidly than demand. Price instability is not, therefore, the main problem and any agreement would probably have as one of its objectives the reversal of the price decline. Export quota arrangements of the traditional variety seem most likely to provide the answer to this problem provided the participating countries agreed to see that they were enforced. A buffer stock mechanism alone would be unable to function effectively in this situation as it would soon exhaust its funds through purchases. Moreover, because tea is storable only within narrow time limits, it is doubtful whether the buffer stock technique could be used even as a subsidiary means of controlling the flow of supplies. There would also be difficulties in determining the composition of the buffer stock in terms of the different types and qualities of tea, since tea is by no means a homogeneous commodity.

5. The decline in tea prices as evidenced by the evolution of the London Auction Prices is clear with a high point of £516/ton in 1960 and a low of £411/ton in 1969. The rise in 1970 to £464/ton is sometimes attributed to the introduction of the informal export quota controls. What seems the more likely reason is that in that year the increase in consumption matched the increase in production for
the first time. Certainly the slightly higher prices in 1973 and 1974 were the result of lower production, brought about by adverse weather conditions and rising production costs. It is still too early to judge whether the low returns to producers over many years will eventually result in declining production. Historical evidence gleaned from other commodities suggests that it will, but tea has been different from other tropical commodities over the last decade in having a relatively stable price.

6. Such evidence as we have indicates that the long term prospect for the tea market is of continued depressed prices. An International Tea Agreement might provide an assurance of continued price stability, and therefore more security for producers which, particularly in the present inflationary conditions, would help assure tea supplies in the future.

### Production and Consumption of Tea 1958/1973 (Thousand Tons)

<table>
<thead>
<tr>
<th>Year (Calendar)</th>
<th>India</th>
<th>Sri Lanka</th>
<th>Kenya</th>
<th>Indonesia</th>
<th>Total*</th>
<th>Estimated World Consumption</th>
</tr>
</thead>
<tbody>
<tr>
<td>1958</td>
<td>246</td>
<td>187</td>
<td>11</td>
<td>48</td>
<td>685</td>
<td>687</td>
</tr>
<tr>
<td>1959</td>
<td>250</td>
<td>187</td>
<td>12</td>
<td>44</td>
<td>691</td>
<td>689</td>
</tr>
<tr>
<td>1960</td>
<td>237</td>
<td>197</td>
<td>14</td>
<td>45</td>
<td>690</td>
<td>700</td>
</tr>
<tr>
<td>1961</td>
<td>267</td>
<td>207</td>
<td>12</td>
<td>43</td>
<td>735</td>
<td>722</td>
</tr>
<tr>
<td>1962</td>
<td>341</td>
<td>209</td>
<td>16</td>
<td>46</td>
<td>735</td>
<td>732</td>
</tr>
<tr>
<td>1963</td>
<td>341</td>
<td>216</td>
<td>18</td>
<td>39</td>
<td>738</td>
<td>741</td>
</tr>
<tr>
<td>1964</td>
<td>367</td>
<td>215</td>
<td>20</td>
<td>46</td>
<td>780</td>
<td>784</td>
</tr>
<tr>
<td>1965</td>
<td>361</td>
<td>225</td>
<td>20</td>
<td>44</td>
<td>801</td>
<td>791</td>
</tr>
<tr>
<td>1966</td>
<td>370</td>
<td>219</td>
<td>25</td>
<td>39</td>
<td>812</td>
<td>818</td>
</tr>
<tr>
<td>1967</td>
<td>379</td>
<td>217</td>
<td>22</td>
<td>34</td>
<td>813</td>
<td>827</td>
</tr>
<tr>
<td>1968</td>
<td>396</td>
<td>221</td>
<td>29</td>
<td>41</td>
<td>860</td>
<td>841</td>
</tr>
<tr>
<td>1969</td>
<td>387</td>
<td>216</td>
<td>35</td>
<td>40</td>
<td>858</td>
<td>878</td>
</tr>
<tr>
<td>1970</td>
<td>412</td>
<td>209</td>
<td>40</td>
<td>43</td>
<td>895</td>
<td>900</td>
</tr>
<tr>
<td>1971</td>
<td>429</td>
<td>214</td>
<td>36</td>
<td>47</td>
<td>925</td>
<td>926</td>
</tr>
<tr>
<td>1972</td>
<td>448</td>
<td>210</td>
<td>52</td>
<td>49</td>
<td>975</td>
<td>949</td>
</tr>
<tr>
<td>1973</td>
<td>462</td>
<td>218</td>
<td>56</td>
<td>54</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

* — Estimated using total production figures for India, Pakistan, Bangladesh, Sri Lanka, Indonesia and East Africa, and exports from other producers.

**Source:** International Tea Committee, Bulletin of Statistics.
## Imports and Prices of Tea 1958/1973

<table>
<thead>
<tr>
<th>Year (Calendar)</th>
<th>Net Imports (thousands tons)</th>
<th>London Auction Price* £/ton</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>UK</td>
<td>USA</td>
</tr>
<tr>
<td>1958</td>
<td>248</td>
<td>46</td>
</tr>
<tr>
<td>1959</td>
<td>213</td>
<td>48</td>
</tr>
<tr>
<td>1960</td>
<td>221</td>
<td>51</td>
</tr>
<tr>
<td>1961</td>
<td>234</td>
<td>49</td>
</tr>
<tr>
<td>1962</td>
<td>233</td>
<td>58</td>
</tr>
<tr>
<td>1963</td>
<td>235</td>
<td>56</td>
</tr>
<tr>
<td>1964</td>
<td>221</td>
<td>60</td>
</tr>
<tr>
<td>1965</td>
<td>232</td>
<td>57</td>
</tr>
<tr>
<td>1966</td>
<td>210</td>
<td>59</td>
</tr>
<tr>
<td>1967</td>
<td>227</td>
<td>64</td>
</tr>
<tr>
<td>1968</td>
<td>245</td>
<td>69</td>
</tr>
<tr>
<td>1969</td>
<td>187</td>
<td>62</td>
</tr>
<tr>
<td>1970</td>
<td>230</td>
<td>61</td>
</tr>
<tr>
<td>1971</td>
<td>200</td>
<td>78</td>
</tr>
<tr>
<td>1972</td>
<td>189</td>
<td>68</td>
</tr>
<tr>
<td>1973</td>
<td>182</td>
<td>77</td>
</tr>
</tbody>
</table>

* — Average, all teas.

**Source:** International Tea Committee, Bulletin of Statistics.
TIN

Basic Statistics

1. Estimated world primary tin metal production for 1974 was 179,400 tonnes and for 1973 was 184,700 tonnes. These figures do not include tin production in the USSR (a net importer) or in the People’s Republic of China (a net exporter). The main producers of tin-in-concentrates in order of importance are Malaysia, Bolivia, Indonesia and Thailand. Other significant producers are Australia, Nigeria, Zaire, Brazil and the United Kingdom. The three Far Eastern producers account for nearly 60% and the 7 ITC producer members for about 90% of world production of tin-in-concentrates.

2. Estimated world consumption (including imports into the USSR) for 1974 was 209,300 tonnes and for 1973 was 219,900 tonnes. The main consumers of tin are USA, Japan, Federal Republic of Germany, United Kingdom and France. The deficit of production was met by sales from the International Tin Council (ITC) Buffer Stock and the American GS4 stockpiles.

Price Movements

3. A paper presented at the 4th World Conference on Tin in October 1974 showed that the price of tin in real terms stabilised for about eleven years (from 1953-1963) between £800 and £900 (constant sterling 1962 prices). Following a period of two years (1964-65) during which the International Tin Council lost control, it then found a new equilibrium between £1,020 and £1,100 (constant sterling) over the years 1966-1970. Prices (constant sterling) fell below this level over 1971 and 1972, but the fall was limited and the price returned to the £1,100 level (constant sterling) in 1973. Prices rose very sharply in 1974 but have fallen back since then, though less sharply than other non-ferrous metals. The present day price is about £3,000 (1975 prices). There is some evidence that the price of tin expressed in real terms has been more stable over the period 1956/1974 than have other non-ferrous metal prices.

4. Detailed statistics of production, consumption and prices are given below.

History of Arrangements

5. The producer countries have co-operated since 1920. The 1st International Tin Agreement between producers and consumers came into force in 1956. 7 producers and 22 consumer countries are members of the 4th Agreement; significant exceptions are the USA, People’s Republic of China and Brazil.

6. The objectives of the International Tin Council are (a) to achieve a long-term balance between supply and demand at prices remunerative to producers and fair to consumers and (b) to avoid severe short-term price fluctuations. The Council aims to achieve these objectives by buffer stock operations in the world metal markets, and if need be, export controls. Under the 4th Agreement, the buffer stock of 20,000 tonnes (cash equivalent at floor price in 1971 is £27m) is
financed by compulsory contributions from producers and voluntary contributions from consumers (only France and the Netherlands have contributed). In the past the buffer stock has made a profit (it generally buys when the price is low and sells when it is high) and contributions have been returned with an additional margin at the end of each Agreement. However the cost of financing 20,000 tonnes of metal has increased with each new Agreement—at the present floor price a buffer stock of 20,000 tonnes of metal would cost about £60m.

7. The Fourth International Tin Agreement is due to expire in June 1976. Negotiations for a Fifth Agreement are to take place in Geneva in May and June this year. A number of major changes, including compulsory consumer contributions to the buffer stock and the size of the buffer stock, will be discussed.

8. The Tin Council is undoubtedly a valuable forum for continuing dialogue between producers and consumers. It has been suggested that although consumers have had the benefit of more stable prices as a result of the buffer stock, they have, in the long-term, paid a higher price for the tin than they would otherwise have done but it is difficult to prove this conclusively as it is over 50 years since tin prices were last determined by market forces alone and there is therefore no suitable period for comparison.

9. The buffer stock has had considerable success in defending the floor price (it has been breached only twice, both early in the life of the 1st Agreement). Export controls have had to be introduced on only four occasions (Dec 1957-Sept 1960; Sept 1968-Dec 1969; Jan 1973-Sept 1973; and April 1975). The introduction of export controls invariably disrupts production patterns and can delay investment plans so that periods of control have generally ended with sharply rising prices. For this reason purchases by the buffer stock to delay the introduction of export controls has benefits for consumers as well as for producers.

10. The buffer stock has been less successful in defending the ceiling. Despite the sale of the buffer stock’s entire holding of tin metal, the price rise in 1973/4 could not be kept below the ceiling, and in fact the tin price remained above the Council’s ceiling for several months. It has been argued that a larger buffer stock would be better able to defend the ceiling but it is a fact that the price was above the ceiling for a long period despite the sale of over 40,000 tonnes of tin metal from the American strategic stockpile during 1973/74.
### TIN

#### PRODUCTION (1) 1960-1974

<table>
<thead>
<tr>
<th>Year</th>
<th>Malaysia</th>
<th>Thailand</th>
<th>Indonesia</th>
<th>Bolivia</th>
<th>Nigeria</th>
<th>Congo/Zaire</th>
<th>Australia</th>
<th>UK</th>
<th>World (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>51,979</td>
<td>12,081</td>
<td>22,596</td>
<td>20,219</td>
<td>7,675</td>
<td>9,202</td>
<td>2,202</td>
<td>1,199</td>
<td>136,500</td>
</tr>
<tr>
<td>1961</td>
<td>56,028</td>
<td>13,271</td>
<td>18,574</td>
<td>20,664</td>
<td>7,799</td>
<td>6,570</td>
<td>2,745</td>
<td>1,210</td>
<td>136,500</td>
</tr>
<tr>
<td>1962</td>
<td>58,603</td>
<td>14,679</td>
<td>17,310</td>
<td>21,800</td>
<td>8,210</td>
<td>7,197</td>
<td>2,715</td>
<td>1,181</td>
<td>141,600</td>
</tr>
<tr>
<td>1963</td>
<td>59,947</td>
<td>15,585</td>
<td>12,947</td>
<td>22,246</td>
<td>8,729</td>
<td>7,053</td>
<td>2,860</td>
<td>1,226</td>
<td>141,300</td>
</tr>
<tr>
<td>1964</td>
<td>60,004</td>
<td>15,597</td>
<td>16,345</td>
<td>24,199</td>
<td>8,721</td>
<td>6,492</td>
<td>3,642</td>
<td>1,232</td>
<td>147,200</td>
</tr>
<tr>
<td>1965</td>
<td>63,670</td>
<td>19,047</td>
<td>14,699</td>
<td>23,037</td>
<td>9,547</td>
<td>6,211</td>
<td>3,849</td>
<td>1,313</td>
<td>152,100</td>
</tr>
<tr>
<td>1966</td>
<td>68,886</td>
<td>22,565</td>
<td>12,526</td>
<td>25,522</td>
<td>9,534</td>
<td>9,677</td>
<td>4,838</td>
<td>1,272</td>
<td>167,100</td>
</tr>
<tr>
<td>1967</td>
<td>72,121</td>
<td>22,490</td>
<td>13,601</td>
<td>27,283</td>
<td>9,340</td>
<td>6,999</td>
<td>5,600</td>
<td>1,475</td>
<td>171,900</td>
</tr>
<tr>
<td>1968</td>
<td>75,069</td>
<td>23,601</td>
<td>16,672</td>
<td>29,101</td>
<td>9,649</td>
<td>6,165</td>
<td>6,537</td>
<td>1,798</td>
<td>181,200</td>
</tr>
<tr>
<td>1969</td>
<td>73,325</td>
<td>21,092</td>
<td>16,542</td>
<td>30,047</td>
<td>8,741</td>
<td>6,647</td>
<td>8,304</td>
<td>1,648</td>
<td>179,700</td>
</tr>
<tr>
<td>1970</td>
<td>73,794</td>
<td>21,779</td>
<td>19,092</td>
<td>30,100</td>
<td>7,959</td>
<td>6,447</td>
<td>8,918</td>
<td>1,722</td>
<td>185,800</td>
</tr>
<tr>
<td>1971</td>
<td>75,445</td>
<td>21,689</td>
<td>19,767</td>
<td>30,290</td>
<td>7,326</td>
<td>6,456</td>
<td>10,035</td>
<td>1,816</td>
<td>186,500</td>
</tr>
<tr>
<td>1972</td>
<td>76,830</td>
<td>22,072</td>
<td>21,766</td>
<td>32,405</td>
<td>6,731</td>
<td>5,892</td>
<td>11,997</td>
<td>3,327</td>
<td>195,300</td>
</tr>
<tr>
<td>1973</td>
<td>72,260</td>
<td>20,921</td>
<td>22,492</td>
<td>28,568</td>
<td>5,828</td>
<td>5,129</td>
<td>10,633</td>
<td>3,573</td>
<td>185,000</td>
</tr>
<tr>
<td>1974*</td>
<td>68,122</td>
<td>20,359</td>
<td>24,683</td>
<td>29,553</td>
<td>5,657</td>
<td>4,380</td>
<td>10,418</td>
<td>3,000</td>
<td>179,400</td>
</tr>
</tbody>
</table>

* — Provisional figures
(1) 1960-1968 in long tons (2,240 lbs), 1969-1974 in metric tonnes (2,204 lbs)
(2) Excludes USSR, Peoples Republic of China, and other centrally planned states

**Source:** International Tin Council.

#### CONSUMPTION (1) 1960-1974

<table>
<thead>
<tr>
<th>Year</th>
<th>USA</th>
<th>Japan</th>
<th>UK</th>
<th>Federal Rep. Germany</th>
<th>France</th>
<th>Italy</th>
<th>Canada</th>
<th>World (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>51,530</td>
<td>12,933</td>
<td>21,790</td>
<td>27,745</td>
<td>11,165</td>
<td>4,500</td>
<td>3,880</td>
<td>163,100</td>
</tr>
<tr>
<td>1961</td>
<td>50,288</td>
<td>14,319</td>
<td>20,242</td>
<td>25,801</td>
<td>10,050</td>
<td>5,200</td>
<td>3,953</td>
<td>158,100</td>
</tr>
<tr>
<td>1962</td>
<td>54,602</td>
<td>13,818</td>
<td>21,439</td>
<td>11,623</td>
<td>11,200</td>
<td>5,413</td>
<td>4,507</td>
<td>160,900</td>
</tr>
<tr>
<td>1963</td>
<td>55,209</td>
<td>15,896</td>
<td>20,636</td>
<td>11,161</td>
<td>11,050</td>
<td>5,905</td>
<td>4,412</td>
<td>161,600</td>
</tr>
<tr>
<td>1964</td>
<td>58,586</td>
<td>17,945</td>
<td>19,252</td>
<td>12,394</td>
<td>11,025</td>
<td>5,610</td>
<td>4,548</td>
<td>171,200</td>
</tr>
<tr>
<td>1965</td>
<td>58,550</td>
<td>17,151</td>
<td>19,256</td>
<td>11,662</td>
<td>10,136</td>
<td>5,700</td>
<td>4,892</td>
<td>167,700</td>
</tr>
<tr>
<td>1966</td>
<td>60,209</td>
<td>18,622</td>
<td>18,425</td>
<td>10,773</td>
<td>10,300</td>
<td>5,909</td>
<td>5,055</td>
<td>171,100</td>
</tr>
<tr>
<td>1967</td>
<td>57,848</td>
<td>20,043</td>
<td>17,355</td>
<td>10,666</td>
<td>10,700</td>
<td>5,610</td>
<td>4,812</td>
<td>169,800</td>
</tr>
<tr>
<td>1968</td>
<td>58,859</td>
<td>22,242</td>
<td>17,148</td>
<td>11,100</td>
<td>9,300</td>
<td>6,200</td>
<td>4,251</td>
<td>174,200</td>
</tr>
<tr>
<td>1969</td>
<td>58,656</td>
<td>25,880</td>
<td>18,062</td>
<td>13,430</td>
<td>11,300</td>
<td>6,800</td>
<td>4,317</td>
<td>184,900</td>
</tr>
<tr>
<td>1970</td>
<td>53,878</td>
<td>24,710</td>
<td>16,951</td>
<td>14,062</td>
<td>10,500</td>
<td>6,400</td>
<td>4,270</td>
<td>179,700</td>
</tr>
<tr>
<td>1971</td>
<td>52,814</td>
<td>29,300</td>
<td>16,418</td>
<td>14,202</td>
<td>10,450</td>
<td>7,200</td>
<td>4,800</td>
<td>188,700</td>
</tr>
<tr>
<td>1972</td>
<td>54,365</td>
<td>32,341</td>
<td>14,649</td>
<td>14,392</td>
<td>11,030</td>
<td>7,500</td>
<td>5,120</td>
<td>191,100</td>
</tr>
<tr>
<td>1973</td>
<td>59,075</td>
<td>38,676</td>
<td>16,600</td>
<td>15,847</td>
<td>11,701</td>
<td>8,400</td>
<td>5,614</td>
<td>212,500</td>
</tr>
<tr>
<td>1974*</td>
<td>53,600</td>
<td>34,078</td>
<td>14,670</td>
<td>15,943</td>
<td>11,525</td>
<td>8,800</td>
<td>5,704</td>
<td>200,900</td>
</tr>
</tbody>
</table>

* — Provisional figures
(1) 1960-1968 long tons (2240 lbs) 1969-1974 metric tonnes (2204 lbs)
(2) Excludes USSR, Peoples Republic of China and other centrally planned states

**Source:** International Tin Council.
Tin price: Penang Straits ex-works Monthly average, maximum, minimum 1956-1973

Source: International Tin Council
BAUXITE—ALUMINA—ALUMINIUM

Basic Statistics

1. Mined bauxite is processed into alumina which in turn becomes the principal raw material from which primary aluminium metal is smelted. Six international companies (3 American, 1 Canadian, 1 French and 1 Swiss) own, or have interests in, a substantial part of the aluminium industry. As vertically integrated groups they own, wholly or partially, a large part of all stages from mining to semi-manufactures. Detailed figures for production of bauxite and alumina and consumption of aluminium are appended.

Price Movements

2. Official prices of bauxite and alumina for metallurgical purposes are not published. Most of the transfers are within or between the international companies.

3. The governments of some countries of origin of bauxite take their income from the operations by imposing taxes, duties and royalties on the exported material. The recent sharp increases have had an appreciable effect on the price paid by the smelter operation to their alumina producing associates and in turn the bauxite producing unit.

4. As a rough guide the cost of bauxite might be taken at about £5 per ton (fob) and alumina at about £50 per ton. Freight costs are appreciable and vary considerably depending on the journey. The posted price for aluminium metal ingot in USA is 39 cents per lb and in UK £378 per tonne.

History of Agreements

5. There is a producer organisation, the International Bauxite Association (IBA). Ten countries including five of the six major producers (USSR is the exception) are members of the IBA whose stated objectives include:

   To promote the orderly and rational development of the bauxite industry.

   To secure for member countries fair and reasonable return from the exploitation, processing and marketing of bauxite and its products for the economic and social development of their people, bearing in mind the recognised interests of consumers.

   To generally safeguard the interests of member countries in relation to the bauxite industry.
### BAUXITE

**WORLD PRODUCTION 000 TONNES**

<table>
<thead>
<tr>
<th>Year</th>
<th>Jamaica</th>
<th>USSR</th>
<th>Surinam</th>
<th>Guyana</th>
<th>France</th>
<th>Guinea</th>
<th>USA</th>
<th>Hungary</th>
<th>Yugo-Slavia</th>
<th>Greece</th>
<th>Australia</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1963</td>
<td>7,014</td>
<td>4,300</td>
<td>3,438</td>
<td>2,163</td>
<td>2,029</td>
<td>1,664</td>
<td>1,530</td>
<td>1,362</td>
<td>1,285</td>
<td>1,281</td>
<td>360</td>
<td>4,011</td>
<td>30,457</td>
</tr>
<tr>
<td>1964</td>
<td>7,937</td>
<td>4,300</td>
<td>3,933</td>
<td>2,517</td>
<td>2,433</td>
<td>1,433</td>
<td>1,627</td>
<td>1,488</td>
<td>1,293</td>
<td>1,063</td>
<td>797</td>
<td>4,322</td>
<td>33,143</td>
</tr>
<tr>
<td>1965</td>
<td>8,651</td>
<td>4,700</td>
<td>4,360</td>
<td>2,919</td>
<td>2,664</td>
<td>1,600</td>
<td>1,681</td>
<td>1,478</td>
<td>1,574</td>
<td>1,274</td>
<td>1,186</td>
<td>5,205</td>
<td>37,292</td>
</tr>
<tr>
<td>1966</td>
<td>9,062</td>
<td>4,800</td>
<td>5,563</td>
<td>3,358</td>
<td>2,811</td>
<td>1,609</td>
<td>1,825</td>
<td>1,429</td>
<td>1,887</td>
<td>1,529</td>
<td>1,827</td>
<td>5,357</td>
<td>41,057</td>
</tr>
<tr>
<td>1967</td>
<td>9,396</td>
<td>5,000</td>
<td>5,660</td>
<td>3,381</td>
<td>2,813</td>
<td>1,639</td>
<td>1,681</td>
<td>1,649</td>
<td>2,131</td>
<td>1,661</td>
<td>4,247</td>
<td>6,990</td>
<td>45,154</td>
</tr>
<tr>
<td>1968</td>
<td>8,526</td>
<td>5,000</td>
<td>5,660</td>
<td>3,723</td>
<td>2,713</td>
<td>2,118</td>
<td>1,692</td>
<td>1,959</td>
<td>2,072</td>
<td>1,836</td>
<td>4,955</td>
<td>6,381</td>
<td>46,635</td>
</tr>
<tr>
<td>1969</td>
<td>10,499</td>
<td>5,200</td>
<td>6,236</td>
<td>4,306</td>
<td>2,797</td>
<td>2,459</td>
<td>1,873</td>
<td>1,936</td>
<td>2,128</td>
<td>1,948</td>
<td>7,921</td>
<td>5,396</td>
<td>54,596</td>
</tr>
<tr>
<td>1970</td>
<td>12,010</td>
<td>5,400</td>
<td>6,022</td>
<td>4,417</td>
<td>3,031</td>
<td>2,490</td>
<td>2,115</td>
<td>2,022</td>
<td>2,099</td>
<td>2,292</td>
<td>9,256</td>
<td>8,310</td>
<td>59,484</td>
</tr>
<tr>
<td>1971</td>
<td>12,543</td>
<td>5,800</td>
<td>6,718</td>
<td>4,234</td>
<td>3,184</td>
<td>2,630</td>
<td>2,020</td>
<td>2,090</td>
<td>1,959</td>
<td>2,861</td>
<td>12,733</td>
<td>9,051</td>
<td>65,823</td>
</tr>
<tr>
<td>1972</td>
<td>12,989</td>
<td>5,800</td>
<td>7,777</td>
<td>3,668</td>
<td>3,258</td>
<td>2,600</td>
<td>1,841</td>
<td>2,358</td>
<td>2,197</td>
<td>2,435</td>
<td>14,437</td>
<td>9,499</td>
<td>68,859</td>
</tr>
<tr>
<td>1973</td>
<td>13,490</td>
<td>5,800</td>
<td>6,866</td>
<td>3,621</td>
<td>3,299</td>
<td>3,660</td>
<td>1,521</td>
<td>2,600</td>
<td>2,167</td>
<td>2,739</td>
<td>17,596</td>
<td>9,555</td>
<td>73,134</td>
</tr>
</tbody>
</table>

*Source: Metallgesellschaft Metal Statistics.*

---

### PRIMARY ALUMINIUM

**WORLD CONSUMPTION 000 TONNES**

<table>
<thead>
<tr>
<th>Year</th>
<th>USA</th>
<th>USSR</th>
<th>UK</th>
<th>W. Germany</th>
<th>France</th>
<th>Japan</th>
<th>Canada</th>
<th>Italy</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1963</td>
<td>2,340</td>
<td>778</td>
<td>318</td>
<td>315</td>
<td>243</td>
<td>239</td>
<td>147</td>
<td>128</td>
<td>962</td>
<td>5,470</td>
</tr>
<tr>
<td>1964</td>
<td>2,535</td>
<td>825</td>
<td>356</td>
<td>386</td>
<td>249</td>
<td>265</td>
<td>156</td>
<td>120</td>
<td>1,094</td>
<td>6,635</td>
</tr>
<tr>
<td>1965</td>
<td>2,852</td>
<td>971</td>
<td>351</td>
<td>387</td>
<td>249</td>
<td>298</td>
<td>169</td>
<td>128</td>
<td>1,230</td>
<td>7,590</td>
</tr>
<tr>
<td>1966</td>
<td>3,274</td>
<td>1,044</td>
<td>363</td>
<td>420</td>
<td>298</td>
<td>393</td>
<td>190</td>
<td>171</td>
<td>1,437</td>
<td>8,766</td>
</tr>
<tr>
<td>1967</td>
<td>3,119</td>
<td>1,147</td>
<td>357</td>
<td>417</td>
<td>294</td>
<td>477</td>
<td>182</td>
<td>184</td>
<td>1,569</td>
<td>9,890</td>
</tr>
<tr>
<td>1968</td>
<td>3,597</td>
<td>1,212</td>
<td>388</td>
<td>539</td>
<td>294</td>
<td>621</td>
<td>209</td>
<td>217</td>
<td>1,813</td>
<td>11,183</td>
</tr>
<tr>
<td>1969</td>
<td>3,706</td>
<td>1,230</td>
<td>388</td>
<td>642</td>
<td>367</td>
<td>807</td>
<td>196</td>
<td>258</td>
<td>2,042</td>
<td>11,636</td>
</tr>
<tr>
<td>1970</td>
<td>3,488</td>
<td>1,281</td>
<td>404</td>
<td>670</td>
<td>413</td>
<td>911</td>
<td>214</td>
<td>279</td>
<td>2,246</td>
<td>12,906</td>
</tr>
<tr>
<td>1971</td>
<td>3,927</td>
<td>1,324</td>
<td>326</td>
<td>684</td>
<td>377</td>
<td>973</td>
<td>259</td>
<td>254</td>
<td>2,467</td>
<td>13,591</td>
</tr>
<tr>
<td>1972</td>
<td>4,299</td>
<td>1,300</td>
<td>408</td>
<td>724</td>
<td>398</td>
<td>1,216</td>
<td>287</td>
<td>304</td>
<td>2,636</td>
<td>13,572</td>
</tr>
<tr>
<td>1973</td>
<td>5,077</td>
<td>1,550</td>
<td>488</td>
<td>856</td>
<td>450</td>
<td>1,574</td>
<td>304</td>
<td>336</td>
<td>2,948</td>
<td>13,583</td>
</tr>
</tbody>
</table>

*Source: Metallgesellschaft Metal Statistics.*
UK Primary aluminium prices

List price 99.5% primary ingot

DEVALUATION
IRON ORE

Basic Statistics
1. Iron ore is widely distributed throughout the world, and is produced in significant quantities in all continents. Total world mine production was 794 million tonnes in 1973; the largest producers in 1972 were the USSR (208 million tonnes), USA (77), Australia (64), France (55), China (45), Canada (39), India (34), Sweden (33), Brazil (31) and Liberia (25). The major consumers in 1970 were the USSR (159 million tonnes), the 6 EEC countries (155), the USA (130), Japan (104) and the UK (32); the developing countries accounted for 27 million tonnes. Until the 1950's international trade in iron ore was a small fraction of total world production, but since then it has grown rapidly so that in 1970 over 40% of ore produced was exported from the countries of origin; the major exporters are Australia, Canada, Sweden, Brazil, Liberia, India, USSR, Venezuela and France; the major importers are Japan, the EEC (including the UK) and the USA. However, over half the world production of iron ore is still consumed in the country of origin.

Price Movements
2. There is no single world price for iron ore; prices are negotiated for individual contracts and depend on many factors including quality, iron content and transport costs. After reaching exceptionally high levels, average UK imports prices declined steadily from £5.7 per tonne in 1958 to £4.3 in 1967; since then the price has risen to £6.6 in 1973. Prices for most of the ore traded are negotiated annually, which accounts for the lack of serious price fluctuations.

3. Detailed statistics on production, consumption and prices are given below.

History of Agreements
4. An association of iron ore exporting countries has recently been set up. It includes Algeria, Australia, Chile, India, Mauritania, Peru, the Philippines, Sierra Leone, Sweden, Tunisia and Venezuela. There are of course many other iron ore exporting countries. It is a consultative organisation.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Western Europe</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>E.E.C.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Belgium</td>
<td>0.10</td>
<td>0.08</td>
<td>0.11</td>
<td>0.14</td>
<td>0.14</td>
<td>0.12</td>
<td>0.14</td>
</tr>
<tr>
<td>2. France</td>
<td>42.45</td>
<td>43.83</td>
<td>50.31</td>
<td>52.69</td>
<td>57.78</td>
<td>59.48</td>
<td>60.94</td>
</tr>
<tr>
<td>4. Italy</td>
<td>0.93</td>
<td>1.06</td>
<td>1.35</td>
<td>1.62</td>
<td>1.56</td>
<td>1.28</td>
<td>1.24</td>
</tr>
<tr>
<td>5. Luxembourg</td>
<td>7.17</td>
<td>5.89</td>
<td>7.21</td>
<td>7.59</td>
<td>7.84</td>
<td>6.64</td>
<td>6.51</td>
</tr>
<tr>
<td>6. Netherlands</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Total E.E.C.</td>
<td>65.27</td>
<td>63.90</td>
<td>74.66</td>
<td>78.97</td>
<td>85.64</td>
<td>85.50</td>
<td>86.89</td>
</tr>
<tr>
<td>E.F.T.A.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Austria</td>
<td>2.76</td>
<td>2.72</td>
<td>2.84</td>
<td>3.26</td>
<td>3.50</td>
<td>3.41</td>
<td>3.38</td>
</tr>
<tr>
<td>9. Denmark</td>
<td>0.01</td>
<td>0.01</td>
<td>0.01</td>
<td>0.01</td>
<td>0.01</td>
<td>0.01</td>
<td>0.01</td>
</tr>
<tr>
<td>10. Finland (a)</td>
<td>0.27</td>
<td>0.38</td>
<td>0.48</td>
<td>0.49</td>
<td>0.50</td>
<td>0.47</td>
<td>0.47</td>
</tr>
<tr>
<td>11. Norway (b)</td>
<td>1.31</td>
<td>1.24</td>
<td>1.41</td>
<td>1.74</td>
<td>1.76</td>
<td>1.81</td>
<td>1.77</td>
</tr>
<tr>
<td>12. Portugal</td>
<td>0.13</td>
<td>0.11</td>
<td>0.19</td>
<td>0.24</td>
<td>0.29</td>
<td>0.23</td>
<td>0.23</td>
</tr>
<tr>
<td>13. Sweden (c)</td>
<td>16.98</td>
<td>15.33</td>
<td>17.35</td>
<td>18.95</td>
<td>19.92</td>
<td>18.31</td>
<td>18.35</td>
</tr>
<tr>
<td>14. Switzerland</td>
<td>0.11</td>
<td>0.10</td>
<td>0.13</td>
<td>0.13</td>
<td>0.12</td>
<td>0.08</td>
<td>0.06</td>
</tr>
<tr>
<td>15. United Kingdom</td>
<td>16.07</td>
<td>15.81</td>
<td>16.43</td>
<td>16.51</td>
<td>17.17</td>
<td>14.85</td>
<td>15.11</td>
</tr>
<tr>
<td>16. Total E.F.T.A.</td>
<td>37.66</td>
<td>35.70</td>
<td>38.84</td>
<td>41.33</td>
<td>43.27</td>
<td>39.17</td>
<td>39.40</td>
</tr>
<tr>
<td>Eastern Europe</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17. Greece</td>
<td>0.08</td>
<td>0.08</td>
<td>0.19</td>
<td>0.33</td>
<td>0.43</td>
<td>0.28</td>
<td>0.23</td>
</tr>
<tr>
<td>18. Spain</td>
<td>3.00</td>
<td>3.10</td>
<td>3.71</td>
<td>4.40</td>
<td>5.24</td>
<td>5.04</td>
<td>4.81</td>
</tr>
<tr>
<td>19. Turkey</td>
<td>0.50</td>
<td>0.59</td>
<td>0.87</td>
<td>0.93</td>
<td>1.16</td>
<td>0.98</td>
<td>0.87</td>
</tr>
<tr>
<td>20. Yugoslavia</td>
<td>0.80</td>
<td>1.11</td>
<td>1.40</td>
<td>1.73</td>
<td>1.88</td>
<td>2.00</td>
<td>2.10</td>
</tr>
<tr>
<td>21. Total Eastern Europe</td>
<td>107.31</td>
<td>104.48</td>
<td>119.67</td>
<td>127.69</td>
<td>137.62</td>
<td>132.97</td>
<td>134.30</td>
</tr>
<tr>
<td>Western Hemisphere</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22. Argentina</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>23. Brazil</td>
<td>3.62</td>
<td>3.07</td>
<td>3.38</td>
<td>4.07</td>
<td>4.98</td>
<td>5.18</td>
<td>8.84</td>
</tr>
<tr>
<td>24. Canada (g)</td>
<td>5.90</td>
<td>6.68</td>
<td>14.77</td>
<td>20.27</td>
<td>20.21</td>
<td>14.27</td>
<td>22.22</td>
</tr>
<tr>
<td>25. Chile</td>
<td>2.94</td>
<td>2.29</td>
<td>1.72</td>
<td>3.00</td>
<td>3.08</td>
<td>3.76</td>
<td>4.65</td>
</tr>
<tr>
<td>26. Colombia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27. Mexico</td>
<td>0.55</td>
<td>0.52</td>
<td>0.71</td>
<td>0.81</td>
<td>0.96</td>
<td>0.97</td>
<td>0.89</td>
</tr>
<tr>
<td>28. Peru</td>
<td>1.00</td>
<td>2.22</td>
<td>1.77</td>
<td>2.69</td>
<td>3.58</td>
<td>2.59</td>
<td>3.43</td>
</tr>
<tr>
<td>29. U.S.A.</td>
<td>119.89</td>
<td>79.38</td>
<td>104.66</td>
<td>99.45</td>
<td>107.85</td>
<td>68.80</td>
<td>61.24</td>
</tr>
<tr>
<td>30. Venezuela</td>
<td>2.18</td>
<td>5.42</td>
<td>8.44</td>
<td>11.10</td>
<td>15.30</td>
<td>15.48</td>
<td>17.29</td>
</tr>
<tr>
<td>31. Other W. Hemisphere</td>
<td>0.24</td>
<td>0.26</td>
<td>0.23</td>
<td>0.31</td>
<td>0.38</td>
<td>0.05</td>
<td>0.03</td>
</tr>
<tr>
<td>32. Total W. Hemisphere</td>
<td>136.40</td>
<td>100.00</td>
<td>136.10</td>
<td>142.16</td>
<td>157.00</td>
<td>111.73</td>
<td>118.80</td>
</tr>
</tbody>
</table>

(a) Pyrites Production
(b) Includes Ilmenite up to 1963
(c) Includes re-claimed Low-grade ore from 1960 onwards
(f) Include Pyrites residue
(g) Deliveries

SOURCE: *International Steel Statistics* (British Steel Corporation).
### ORE 1953-1972

<table>
<thead>
<tr>
<th>Year</th>
<th>Million tonnes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>0.16</td>
</tr>
<tr>
<td>1961</td>
<td>0.16</td>
</tr>
<tr>
<td>1962</td>
<td>0.16</td>
</tr>
<tr>
<td>1963</td>
<td>0.16</td>
</tr>
<tr>
<td>1964</td>
<td>0.16</td>
</tr>
<tr>
<td>1965</td>
<td>0.16</td>
</tr>
<tr>
<td>1966</td>
<td>0.16</td>
</tr>
<tr>
<td>1967</td>
<td>0.16</td>
</tr>
<tr>
<td>1968</td>
<td>0.16</td>
</tr>
<tr>
<td>1969</td>
<td>0.16</td>
</tr>
<tr>
<td>1970</td>
<td>0.16</td>
</tr>
<tr>
<td>1971</td>
<td>0.16</td>
</tr>
<tr>
<td>1972</td>
<td>0.16</td>
</tr>
</tbody>
</table>

- 1960-1972: Data presented in million tonnes across the years from 1960 to 1972. Each year shows a consistent pattern with minor fluctuations.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Algeria</td>
<td>3.37</td>
<td>2.93</td>
<td>3.60</td>
<td>2.63</td>
<td>2.79</td>
<td>2.33</td>
<td>1.93</td>
</tr>
<tr>
<td>2 Angola</td>
<td>0.41</td>
<td>0.59</td>
<td>0.65</td>
<td>0.85</td>
<td>1.09</td>
<td>0.41</td>
<td>0.34</td>
</tr>
<tr>
<td>3 Guinea</td>
<td>1.46</td>
<td>1.26</td>
<td>1.75</td>
<td>2.07</td>
<td>2.16</td>
<td>2.07</td>
<td>2.71</td>
</tr>
<tr>
<td>4 Liberia (g)</td>
<td>1.84</td>
<td>1.44</td>
<td>1.31</td>
<td>1.35</td>
<td>1.87</td>
<td>1.87</td>
<td>1.54</td>
</tr>
<tr>
<td>5 Mauritania</td>
<td>0.06</td>
<td>0.06</td>
<td>0.08</td>
<td>0.12</td>
<td>0.13</td>
<td>0.13</td>
<td>0.13</td>
</tr>
<tr>
<td>6 Morocco</td>
<td>1.25</td>
<td>0.94</td>
<td>1.29</td>
<td>1.33</td>
<td>1.31</td>
<td>1.38</td>
<td>1.61</td>
</tr>
<tr>
<td>7 Rep. of S. Africa</td>
<td>1.97</td>
<td>1.89</td>
<td>2.00</td>
<td>2.07</td>
<td>2.08</td>
<td>2.21</td>
<td>2.89</td>
</tr>
<tr>
<td>8 Rhodesia</td>
<td>0.11</td>
<td>0.29</td>
<td>0.38</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9 Sierra Leone (g)</td>
<td>0.41</td>
<td>0.59</td>
<td>0.65</td>
<td>0.85</td>
<td>1.09</td>
<td>0.41</td>
<td>0.34</td>
</tr>
<tr>
<td>10 Swaziland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11 Tunisia</td>
<td>1.06</td>
<td>0.94</td>
<td>1.15</td>
<td>1.17</td>
<td>1.18</td>
<td>1.10</td>
<td>0.98</td>
</tr>
<tr>
<td>12 Other Africa</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Africa</td>
<td>11.02</td>
<td>9.92</td>
<td>11.88</td>
<td>12.13</td>
<td>12.95</td>
<td>11.50</td>
<td>12.27</td>
</tr>
<tr>
<td>East Asia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13 China (incl. Manchuria)</td>
<td>12.00</td>
<td>11.80</td>
<td>16.00</td>
<td>16.80</td>
<td>18.50</td>
<td>30.00</td>
<td>45.00</td>
</tr>
<tr>
<td>14 Hong Kong</td>
<td>0.13</td>
<td>0.09</td>
<td>0.12</td>
<td>0.13</td>
<td>0.10</td>
<td>0.11</td>
<td>0.12</td>
</tr>
<tr>
<td>15 India (h)</td>
<td>3.92</td>
<td>4.38</td>
<td>4.75</td>
<td>4.98</td>
<td>5.17</td>
<td>6.13</td>
<td>7.98</td>
</tr>
<tr>
<td>16 Japan (i)</td>
<td>1.69</td>
<td>1.66</td>
<td>1.57</td>
<td>2.01</td>
<td>2.25</td>
<td>2.09</td>
<td>2.55</td>
</tr>
<tr>
<td>17 Korea</td>
<td></td>
<td>0.03j</td>
<td>0.03j</td>
<td>0.06j</td>
<td>1.24</td>
<td>1.81</td>
<td>2.96</td>
</tr>
<tr>
<td>18 Malaysia</td>
<td>1.08</td>
<td>1.23</td>
<td>1.49</td>
<td>2.48</td>
<td>3.62</td>
<td>2.84</td>
<td>3.82</td>
</tr>
<tr>
<td>19 Thailand</td>
<td>0.19</td>
<td>0.01</td>
<td>0.01</td>
<td>0.01</td>
<td>0.02</td>
<td>0.02</td>
<td>0.02</td>
</tr>
<tr>
<td>20 Other East Asia</td>
<td>0.94</td>
<td>1.35</td>
<td>2.23</td>
<td>2.54</td>
<td>2.97</td>
<td>2.94</td>
<td>3.08</td>
</tr>
<tr>
<td>Total East Asia</td>
<td>19.77</td>
<td>20.54</td>
<td>26.20</td>
<td>29.01</td>
<td>33.26</td>
<td>45.94</td>
<td>65.53</td>
</tr>
<tr>
<td>Oceania</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21 Australia</td>
<td>3.35</td>
<td>3.58</td>
<td>3.63</td>
<td>3.99</td>
<td>3.87</td>
<td>3.98</td>
<td>4.21</td>
</tr>
<tr>
<td>22 New Caledonia</td>
<td>1.42</td>
<td>1.42</td>
<td>1.43</td>
<td>1.44</td>
<td>1.33</td>
<td>1.10</td>
<td>1.23</td>
</tr>
<tr>
<td>23 Phillipine Republic</td>
<td>1.22</td>
<td>1.42</td>
<td>1.43</td>
<td>1.44</td>
<td>1.33</td>
<td>1.10</td>
<td>1.23</td>
</tr>
<tr>
<td>24 Other Oceania</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Oceania</td>
<td>4.57</td>
<td>5.00</td>
<td>5.06</td>
<td>5.46</td>
<td>5.43</td>
<td>5.38</td>
<td>5.73</td>
</tr>
<tr>
<td>25 GRAND TOTAL</td>
<td>345.13</td>
<td>310.79</td>
<td>377.93</td>
<td>402.24</td>
<td>438.28</td>
<td>404.57</td>
<td>439.78</td>
</tr>
</tbody>
</table>

(a) Deliveries.
(h) From 1962 includes Goa, formerly Portuguese India.
(i) Includes iron sand (concentrates).
(j) South Korea only.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>ORE</td>
<td>3.44</td>
<td>2.87</td>
<td>2.06</td>
<td>1.98</td>
<td>2.75</td>
<td>3.22</td>
<td>1.75</td>
<td>2.54</td>
<td>3.08</td>
<td>3.00</td>
<td>2.86</td>
<td>3.15</td>
<td>2.75</td>
</tr>
<tr>
<td></td>
<td>0.66</td>
<td>0.81</td>
<td>0.75</td>
<td>0.64</td>
<td>0.91</td>
<td>0.82</td>
<td>0.79</td>
<td>1.16</td>
<td>1.22</td>
<td>1.08</td>
<td>1.04</td>
<td>0.87</td>
<td>0.84</td>
</tr>
<tr>
<td></td>
<td>0.40</td>
<td>0.45</td>
<td>0.70</td>
<td>0.66</td>
<td>0.77</td>
<td>0.76</td>
<td>1.50</td>
<td>1.70</td>
<td>1.80</td>
<td>2.00</td>
<td>2.03</td>
<td>2.06</td>
<td>2.12</td>
</tr>
<tr>
<td></td>
<td>2.96</td>
<td>2.84</td>
<td>3.80</td>
<td>6.46</td>
<td>12.22</td>
<td>15.33</td>
<td>16.55</td>
<td>17.44</td>
<td>19.20</td>
<td>20.60</td>
<td>23.56</td>
<td>25.70</td>
<td>24.80</td>
</tr>
<tr>
<td></td>
<td>1.58</td>
<td>1.46</td>
<td>1.15</td>
<td>1.03</td>
<td>0.89</td>
<td>0.95</td>
<td>1.02</td>
<td>0.88</td>
<td>0.81</td>
<td>0.74</td>
<td>0.88</td>
<td>0.70</td>
<td>0.23</td>
</tr>
<tr>
<td></td>
<td>3.07</td>
<td>4.06</td>
<td>4.33</td>
<td>4.46</td>
<td>4.83</td>
<td>5.82</td>
<td>6.80</td>
<td>7.74</td>
<td>8.15</td>
<td>8.79</td>
<td>9.06</td>
<td>10.40</td>
<td>11.22</td>
</tr>
<tr>
<td></td>
<td>0.16</td>
<td>0.39</td>
<td>0.62</td>
<td>0.66</td>
<td>0.82</td>
<td>1.29</td>
<td>1.30</td>
<td>0.70</td>
<td>0.70</td>
<td>0.70</td>
<td>0.70</td>
<td>0.70</td>
<td>0.50</td>
</tr>
<tr>
<td></td>
<td>1.56</td>
<td>1.81</td>
<td>1.91</td>
<td>2.04</td>
<td>2.01</td>
<td>2.33</td>
<td>2.23</td>
<td>2.26</td>
<td>2.46</td>
<td>2.95</td>
<td>2.44</td>
<td>2.22</td>
<td>2.49</td>
</tr>
<tr>
<td></td>
<td>1.03</td>
<td>0.85</td>
<td>0.76</td>
<td>0.82</td>
<td>0.94</td>
<td>1.12</td>
<td>1.27</td>
<td>0.92</td>
<td>1.02</td>
<td>0.95</td>
<td>0.78</td>
<td>0.90</td>
<td>0.89</td>
</tr>
<tr>
<td></td>
<td>0.03</td>
<td>0.03</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>0.02</td>
</tr>
<tr>
<td>14.89</td>
<td>15.87</td>
<td>17.08</td>
<td>20.18</td>
<td>30.80</td>
<td>38.62</td>
<td>41.95</td>
<td>45.11</td>
<td>50.53</td>
<td>56.08</td>
<td>60.39</td>
<td>64.36</td>
<td>61.44</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>0.32</td>
<td>0.29</td>
<td>0.47</td>
<td>0.52</td>
<td>0.48</td>
<td>0.56</td>
<td>0.50</td>
<td>0.49</td>
<td>0.51</td>
<td>0.47</td>
<td>0.49</td>
<td>0.50</td>
<td>0.50</td>
</tr>
<tr>
<td>55.00</td>
<td>45.00</td>
<td>35.00</td>
<td>40.00</td>
<td>40.00</td>
<td>35.00</td>
<td>35.00</td>
<td>32.00</td>
<td>35.00</td>
<td>42.00</td>
<td>43.00</td>
<td>44.00</td>
<td>45.00</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>0.12</td>
<td>0.12</td>
<td>0.11</td>
<td>0.11</td>
<td>0.12</td>
<td>0.12</td>
<td>0.12</td>
<td>0.14</td>
<td>0.14</td>
<td>0.16</td>
<td>0.17</td>
<td>0.17</td>
<td>0.16</td>
</tr>
<tr>
<td>10.68</td>
<td>12.31</td>
<td>19.64</td>
<td>20.60</td>
<td>21.39</td>
<td>23.74</td>
<td>26.80</td>
<td>25.82</td>
<td>27.43</td>
<td>28.34</td>
<td>30.78</td>
<td>31.74</td>
<td>34.38</td>
<td>17</td>
</tr>
<tr>
<td>2.85</td>
<td>2.87</td>
<td>2.59</td>
<td>2.43</td>
<td>2.56</td>
<td>2.52</td>
<td>2.38</td>
<td>2.22</td>
<td>2.17</td>
<td>1.85</td>
<td>1.57</td>
<td>1.42</td>
<td>1.34</td>
<td>18</td>
</tr>
<tr>
<td>3.35</td>
<td>3.71</td>
<td>3.79</td>
<td>4.35</td>
<td>5.38</td>
<td>5.14</td>
<td>5.19</td>
<td>5.50</td>
<td>7.00</td>
<td>7.50</td>
<td>8.60</td>
<td>8.97</td>
<td>8.40</td>
<td>19</td>
</tr>
<tr>
<td>5.73</td>
<td>6.84</td>
<td>6.61</td>
<td>7.39</td>
<td>6.57</td>
<td>6.98</td>
<td>5.86</td>
<td>5.44</td>
<td>5.19</td>
<td>5.24</td>
<td>4.49</td>
<td>0.95</td>
<td>0.53</td>
<td>20</td>
</tr>
<tr>
<td>0.01</td>
<td>0.03</td>
<td>0.05</td>
<td>0.02</td>
<td>0.19</td>
<td>0.73</td>
<td>0.69</td>
<td>0.55</td>
<td>0.50</td>
<td>0.48</td>
<td>0.02</td>
<td>0.02</td>
<td>0.02</td>
<td>0.02</td>
</tr>
<tr>
<td>5.86</td>
<td>6.40</td>
<td>0.01</td>
<td>—</td>
<td>0.01</td>
<td>0.02</td>
<td>0.02</td>
<td>0.02</td>
<td>0.02</td>
<td>0.02</td>
<td>0.02</td>
<td>0.01</td>
<td>—</td>
<td>22</td>
</tr>
<tr>
<td>83.60</td>
<td>77.30</td>
<td>67.80</td>
<td>74.90</td>
<td>76.22</td>
<td>74.28</td>
<td>76.08</td>
<td>72.69</td>
<td>77.47</td>
<td>85.60</td>
<td>88.65</td>
<td>87.27</td>
<td>89.85</td>
<td>23</td>
</tr>
<tr>
<td>4.43</td>
<td>5.43</td>
<td>4.92</td>
<td>5.60</td>
<td>5.76</td>
<td>6.80</td>
<td>11.07</td>
<td>17.31</td>
<td>26.39</td>
<td>39.10</td>
<td>50.97</td>
<td>61.08</td>
<td>63.71</td>
<td>24</td>
</tr>
<tr>
<td>0.28</td>
<td>0.28</td>
<td>0.30</td>
<td>0.29</td>
<td>0.31</td>
<td>0.28</td>
<td>0.22</td>
<td>0.20</td>
<td>0.17</td>
<td>0.18</td>
<td>0.19</td>
<td>0.19</td>
<td>0.18</td>
<td>25</td>
</tr>
<tr>
<td>1.14</td>
<td>1.17</td>
<td>1.39</td>
<td>1.33</td>
<td>1.60</td>
<td>1.44</td>
<td>1.46</td>
<td>1.47</td>
<td>1.36</td>
<td>1.36</td>
<td>1.87</td>
<td>2.25</td>
<td>2.20</td>
<td>26</td>
</tr>
<tr>
<td>5.85</td>
<td>6.88</td>
<td>6.61</td>
<td>7.22</td>
<td>7.67</td>
<td>8.52</td>
<td>12.75</td>
<td>18.98</td>
<td>27.92</td>
<td>40.87</td>
<td>53.04</td>
<td>63.53</td>
<td>66.15</td>
<td>28</td>
</tr>
<tr>
<td>520.90</td>
<td>508.56</td>
<td>514.01</td>
<td>528.28</td>
<td>583.67</td>
<td>611.30</td>
<td>633.82</td>
<td>632.03</td>
<td>680.26</td>
<td>718.84</td>
<td>774.28</td>
<td>776.75</td>
<td>754.42</td>
<td>29</td>
</tr>
</tbody>
</table>
### IRON ORE

#### Consumption 1950-1970

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(million tons, actual weight)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Worlda</td>
<td>243.4</td>
<td>408.8</td>
<td>455.5</td>
<td>635.0</td>
<td>670.5</td>
<td>699.1</td>
</tr>
<tr>
<td>Developing countries</td>
<td>7.2</td>
<td>5.4</td>
<td>15.3</td>
<td>36.5</td>
<td>35.5</td>
<td>27.0</td>
</tr>
<tr>
<td>Developed market economy countries</td>
<td>191.3</td>
<td>310.4</td>
<td>321.3</td>
<td>411.5</td>
<td>436.9</td>
<td>466.2</td>
</tr>
<tr>
<td>United States</td>
<td>104.6</td>
<td>137.0</td>
<td>118.8</td>
<td>125.8</td>
<td>126.1</td>
<td>130.1</td>
</tr>
<tr>
<td>European Economic Community</td>
<td>50.4</td>
<td>104.8</td>
<td>122.7</td>
<td>139.3</td>
<td>147.4</td>
<td>155.3</td>
</tr>
<tr>
<td>Japan</td>
<td>2.3</td>
<td>10.6</td>
<td>16.8</td>
<td>70.4</td>
<td>85.1</td>
<td>103.6</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>21.7</td>
<td>33.4</td>
<td>35.0</td>
<td>31.8</td>
<td>30.8</td>
<td>32.1</td>
</tr>
<tr>
<td>Others</td>
<td>12.3</td>
<td>24.6</td>
<td>28.0</td>
<td>44.2</td>
<td>47.5</td>
<td>45.1</td>
</tr>
<tr>
<td>Centrally Planned States of Eastern Europe</td>
<td>44.9</td>
<td>93.0</td>
<td>118.9</td>
<td>187.4</td>
<td>198.1</td>
<td>205.9</td>
</tr>
<tr>
<td>USSR</td>
<td>36.5</td>
<td>71.4</td>
<td>90.4</td>
<td>144.4</td>
<td>153.1</td>
<td>158.9</td>
</tr>
<tr>
<td>Others</td>
<td>8.4</td>
<td>21.6</td>
<td>28.5</td>
<td>43.0</td>
<td>45.0</td>
<td>47.0</td>
</tr>
</tbody>
</table>

(a) Excluding the centrally planned states of Asia.
(b) Partly estimated.
(c) Consumption is taken as the sum of production and imports less exports.

**SOURCE:** UNCTAD Secretariat Paper TD/B/C.1/IRON/CONS R2.

### IRON ORE

#### PRICES (UK import price average value per ton)

<table>
<thead>
<tr>
<th>Year</th>
<th>£</th>
</tr>
</thead>
<tbody>
<tr>
<td>1958</td>
<td>5.7</td>
</tr>
<tr>
<td>1959</td>
<td>5.2</td>
</tr>
<tr>
<td>1960</td>
<td>4.9</td>
</tr>
<tr>
<td>1961</td>
<td>4.9</td>
</tr>
<tr>
<td>1962</td>
<td>4.8</td>
</tr>
<tr>
<td>1963</td>
<td>4.6</td>
</tr>
<tr>
<td>1964</td>
<td>4.5</td>
</tr>
<tr>
<td>1965</td>
<td>4.5</td>
</tr>
<tr>
<td>1966</td>
<td>4.4</td>
</tr>
<tr>
<td>1967</td>
<td>4.3</td>
</tr>
<tr>
<td>1968</td>
<td>4.7</td>
</tr>
<tr>
<td>1969</td>
<td>4.7</td>
</tr>
<tr>
<td>1970</td>
<td>5.3</td>
</tr>
<tr>
<td>1971</td>
<td>6.1</td>
</tr>
<tr>
<td>1972</td>
<td>6.1</td>
</tr>
<tr>
<td>1973</td>
<td>6.6</td>
</tr>
</tbody>
</table>

**SOURCE:** Derived from Overseas Trade Statistics of the United Kingdom.
LEAD AND ZINC

1. This note considers lead and zinc together because they are to a large extent produced by the same countries, subject to similar market forces and represented nationally and internationally by the same trade and industrial bodies. Both are traded on the London Metal Exchange.

Basic Statistics

2. With the exception of Mexico and Peru the major mine producers of lead are developed industrial countries. The majority of refined lead is produced in developed countries. Trade in refined metal is relatively modest. There is however a large export trade especially from Canada, Australia and Peru in unrefined lead for refining, principally in the USA, Western Europe and Japan.

3. Mine production of zinc is concentrated in a few countries, primarily Canada, the USA, Australia and Peru. Slab production from imported concentrates is carried on to a substantial degree in all the major industrial countries, which largely supply their own needs. The most important importers of slab zinc are the USA (mainly from Canada) and the UK (mainly from Canada, Australia and Finland.)

Price Movements

4. Lead is priced on a free market basis on the London Metal Exchange. Zinc is quoted on the LME but since 1964 the world's main producers outside the USA have combined to fix a 'producer' price at which the bulk of world zinc is traded.

5. The LME prices of lead and zinc moved quite closely together until recently. Cash lead fell from an average of £73 per ton in 1958 to £56 in 1962. It rose to £115 in 1965 and thereafter fluctuated about the £100 mark until 1973 when the average was £175. It reached a high of £324 in February 1974 but has been steady since August 1974 at £230-240.

6. Zinc was £65 per ton for cash in 1958. After moderate fluctuations it rose to £118 in 1964 and then stayed at £100-120 until 1971. The average price rose very sharply to £347 in 1973, when a high of £938 was touched in December and was £529 in 1974. For some months the price has been around £330-340. The producer price of zinc remained more or less in line with the LME price until 1973. It held at £300-330 throughout the LME price boom in 1974 and is now above the LME price at £360.

7. Detailed statistics on production, consumption and prices are given below.

International Arrangements

8. There is an intergovernmental organisation (the Lead & Zinc Study Group) under the auspices of the UN, which meets regularly to consider technical and
trade matters concerned with both metals. It undertakes detailed statistical exercises and performs a valuable function in enabling forecasts of physical supply to be matched against expected demand. It does not attempt to intervene in the market or to fix prices.

9. The zinc producer price has served both producers and consumers well over the years. Since only marginal quantities are sold on the LME the impact on consumers of the recent fluctuations in zinc prices has also been marginal, though acute in individual cases.

## LEAD

### PRODUCTION THOUSAND TONNES

<table>
<thead>
<tr>
<th>Year</th>
<th>USA</th>
<th>USSR</th>
<th>Australia</th>
<th>Canada</th>
<th>Peru</th>
<th>Mexico</th>
<th>China</th>
<th>Yugoslavia</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>243.6</td>
<td>369.1</td>
<td>262.4</td>
<td>163.0</td>
<td>128.2</td>
<td>187.0</td>
<td>88.6</td>
<td>93.5</td>
<td>861.9</td>
<td>2397.3</td>
</tr>
<tr>
<td>1962</td>
<td>220.4</td>
<td>391.1</td>
<td>362.9</td>
<td>188.7</td>
<td>146.5</td>
<td>175.9</td>
<td>88.6</td>
<td>94.5</td>
<td>859.3</td>
<td>2327.9</td>
</tr>
<tr>
<td>1963</td>
<td>235.6</td>
<td>393.7</td>
<td>399.2</td>
<td>177.6</td>
<td>140.5</td>
<td>171.9</td>
<td>88.6</td>
<td>99.4</td>
<td>832.7</td>
<td>2339.2</td>
</tr>
<tr>
<td>1964</td>
<td>266.0</td>
<td>383.8</td>
<td>369.0</td>
<td>187.1</td>
<td>160.4</td>
<td>163.8</td>
<td>88.6</td>
<td>100.0</td>
<td>836.2</td>
<td>2354.9</td>
</tr>
<tr>
<td>1965</td>
<td>280.1</td>
<td>390.0</td>
<td>355.4</td>
<td>217.0</td>
<td>167.7</td>
<td>166.7</td>
<td>90.0</td>
<td>95.3</td>
<td>897.3</td>
<td>2713.5</td>
</tr>
<tr>
<td>1966</td>
<td>309.4</td>
<td>425.0</td>
<td>362.4</td>
<td>293.2</td>
<td>144.8</td>
<td>168.2</td>
<td>100.0</td>
<td>102.6</td>
<td>1005.7</td>
<td>2911.3</td>
</tr>
<tr>
<td>1967</td>
<td>299.5</td>
<td>430.0</td>
<td>372.8</td>
<td>316.9</td>
<td>163.2</td>
<td>165.8</td>
<td>100.0</td>
<td>108.0</td>
<td>1005.3</td>
<td>2961.5</td>
</tr>
<tr>
<td>1968</td>
<td>339.4</td>
<td>440.0</td>
<td>387.6</td>
<td>329.7</td>
<td>164.9</td>
<td>161.7</td>
<td>105.0</td>
<td>111.8</td>
<td>1031.5</td>
<td>3071.6</td>
</tr>
<tr>
<td>1969</td>
<td>481.0</td>
<td>450.0</td>
<td>360.0</td>
<td>320.0</td>
<td>155.0</td>
<td>166.4</td>
<td>104.0</td>
<td>118.0</td>
<td>1043.7</td>
<td>3272.1</td>
</tr>
<tr>
<td>1970</td>
<td>540.3</td>
<td>470.0</td>
<td>357.2</td>
<td>315.0</td>
<td>164.0</td>
<td>171.6</td>
<td>110.0</td>
<td>126.7</td>
<td>1080.9</td>
<td>3477.4</td>
</tr>
<tr>
<td>1971</td>
<td>546.7</td>
<td>485.0</td>
<td>394.8</td>
<td>147.4</td>
<td>173.7</td>
<td>120.0</td>
<td>124.3</td>
<td>1082.2</td>
<td>3747.7</td>
<td></td>
</tr>
<tr>
<td>1972</td>
<td>584.9</td>
<td>495.0</td>
<td>376.3</td>
<td>189.0</td>
<td>190.0</td>
<td>125.0</td>
<td>120.0</td>
<td>1070.1</td>
<td>3517.9</td>
<td></td>
</tr>
<tr>
<td>1973</td>
<td>569.8</td>
<td>500.0</td>
<td>404.1</td>
<td>387.8</td>
<td>198.6</td>
<td>170.3</td>
<td>130.0</td>
<td>124.0</td>
<td>1070.8</td>
<td>3564.4</td>
</tr>
</tbody>
</table>


## LEAD

### CONSUMPTION THOUSAND TONNES

<table>
<thead>
<tr>
<th>Year</th>
<th>USA</th>
<th>USSR</th>
<th>West Germany</th>
<th>UK</th>
<th>Japan</th>
<th>France</th>
<th>Italy</th>
<th>China</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>818.5</td>
<td>307.1</td>
<td>232.4</td>
<td>271.4</td>
<td>123.7</td>
<td>161.3</td>
<td>84.6</td>
<td>83.7</td>
<td>761.9</td>
<td>2844.6</td>
</tr>
<tr>
<td>1962</td>
<td>887.0</td>
<td>326.8</td>
<td>240.0</td>
<td>271.9</td>
<td>115.8</td>
<td>153.8</td>
<td>89.6</td>
<td>83.7</td>
<td>793.7</td>
<td>2962.3</td>
</tr>
<tr>
<td>1963</td>
<td>926.0</td>
<td>338.2</td>
<td>241.8</td>
<td>279.0</td>
<td>128.2</td>
<td>167.4</td>
<td>90.5</td>
<td>83.7</td>
<td>821.2</td>
<td>3076.0</td>
</tr>
<tr>
<td>1964</td>
<td>953.9</td>
<td>373.0</td>
<td>253.3</td>
<td>302.9</td>
<td>161.6</td>
<td>169.4</td>
<td>87.6</td>
<td>83.7</td>
<td>938.5</td>
<td>3232.9</td>
</tr>
<tr>
<td>1965</td>
<td>973.5</td>
<td>378.9</td>
<td>266.4</td>
<td>307.1</td>
<td>154.1</td>
<td>142.3</td>
<td>92.5</td>
<td>83.7</td>
<td>952.0</td>
<td>3350.7</td>
</tr>
<tr>
<td>1966</td>
<td>821.7</td>
<td>418.0</td>
<td>255.8</td>
<td>293.4</td>
<td>147.9</td>
<td>168.6</td>
<td>105.0</td>
<td>100.0</td>
<td>169.9</td>
<td>2778.7</td>
</tr>
<tr>
<td>1967</td>
<td>770.2</td>
<td>425.0</td>
<td>256.8</td>
<td>276.3</td>
<td>163.3</td>
<td>164.2</td>
<td>123.0</td>
<td>100.0</td>
<td>169.9</td>
<td>3277.8</td>
</tr>
<tr>
<td>1968</td>
<td>817.4</td>
<td>448.4</td>
<td>285.6</td>
<td>276.8</td>
<td>180.7</td>
<td>179.3</td>
<td>133.0</td>
<td>120.0</td>
<td>169.9</td>
<td>3490.2</td>
</tr>
<tr>
<td>1969</td>
<td>955.5</td>
<td>460.0</td>
<td>314.7</td>
<td>275.3</td>
<td>187.6</td>
<td>198.5</td>
<td>146.0</td>
<td>130.0</td>
<td>171.1</td>
<td>3838.7</td>
</tr>
<tr>
<td>1970</td>
<td>894.2</td>
<td>486.0</td>
<td>308.9</td>
<td>261.7</td>
<td>210.5</td>
<td>192.3</td>
<td>168.0</td>
<td>160.0</td>
<td>189.6</td>
<td>3871.4</td>
</tr>
<tr>
<td>1971</td>
<td>938.9</td>
<td>515.0</td>
<td>286.5</td>
<td>276.7</td>
<td>209.7</td>
<td>188.4</td>
<td>178.0</td>
<td>170.0</td>
<td>1211.1</td>
<td>3974.3</td>
</tr>
<tr>
<td>1972</td>
<td>1016.3</td>
<td>530.0</td>
<td>273.5</td>
<td>278.4</td>
<td>231.1</td>
<td>202.0</td>
<td>186.0</td>
<td>180.0</td>
<td>1270.1</td>
<td>4167.4</td>
</tr>
<tr>
<td>1973</td>
<td>1096.5</td>
<td>540.0</td>
<td>293.7</td>
<td>282.2</td>
<td>267.3</td>
<td>213.7</td>
<td>178.0</td>
<td>170.0</td>
<td>1325.6</td>
<td>4367.0</td>
</tr>
</tbody>
</table>

Source: ibid.
### ZINC Production Thousand Tonnes

<table>
<thead>
<tr>
<th>Year</th>
<th>Canada</th>
<th>USSR</th>
<th>Australia</th>
<th>USA</th>
<th>Peru</th>
<th>Mexico</th>
<th>Japan</th>
<th>Poland</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>395.7</td>
<td>374.0</td>
<td>288.2</td>
<td>455.7</td>
<td>171.1</td>
<td>254.0</td>
<td>165.5</td>
<td>137.4</td>
<td>1126.9</td>
<td>3368.5</td>
</tr>
<tr>
<td>1962</td>
<td>448.2</td>
<td>383.8</td>
<td>305.4</td>
<td>495.9</td>
<td>223.0</td>
<td>241.1</td>
<td>189.5</td>
<td>142.8</td>
<td>1115.0</td>
<td>3544.7</td>
</tr>
<tr>
<td>1963</td>
<td>443.9</td>
<td>393.7</td>
<td>316.2</td>
<td>519.3</td>
<td>242.9</td>
<td>231.8</td>
<td>194.9</td>
<td>144.8</td>
<td>1107.6</td>
<td>3595.1</td>
</tr>
<tr>
<td>1964</td>
<td>656.5</td>
<td>433.1</td>
<td>313.5</td>
<td>564.1</td>
<td>267.7</td>
<td>224.7</td>
<td>213.1</td>
<td>147.6</td>
<td>1177.9</td>
<td>3998.2</td>
</tr>
<tr>
<td>1965</td>
<td>812.8</td>
<td>433.1</td>
<td>322.3</td>
<td>598.8</td>
<td>315.3</td>
<td>233.0</td>
<td>217.3</td>
<td>147.6</td>
<td>1192.5</td>
<td>4272.7</td>
</tr>
<tr>
<td>1966</td>
<td>949.8</td>
<td>480.0</td>
<td>342.2</td>
<td>570.5</td>
<td>257.8</td>
<td>238.4</td>
<td>253.4</td>
<td>189.9</td>
<td>1261.5</td>
<td>4543.5</td>
</tr>
<tr>
<td>1967</td>
<td>1129.0</td>
<td>485.0</td>
<td>374.3</td>
<td>547.7</td>
<td>328.6</td>
<td>236.6</td>
<td>262.7</td>
<td>218.4</td>
<td>1348.4</td>
<td>4930.7</td>
</tr>
<tr>
<td>1968</td>
<td>1165.9</td>
<td>525.0</td>
<td>384.6</td>
<td>527.8</td>
<td>303.3</td>
<td>235.8</td>
<td>264.3</td>
<td>218.4</td>
<td>1449.2</td>
<td>5074.3</td>
</tr>
<tr>
<td>1969</td>
<td>1170.4</td>
<td>530.0</td>
<td>509.9</td>
<td>551.4</td>
<td>315.0</td>
<td>251.6</td>
<td>269.4</td>
<td>229.0</td>
<td>1568.7</td>
<td>5395.4</td>
</tr>
<tr>
<td>1970</td>
<td>1253.1</td>
<td>550.0</td>
<td>487.2</td>
<td>532.2</td>
<td>329.0</td>
<td>263.0</td>
<td>279.7</td>
<td>241.2</td>
<td>1609.2</td>
<td>5545.3</td>
</tr>
<tr>
<td>1971</td>
<td>1270.3</td>
<td>610.0</td>
<td>452.6</td>
<td>501.0</td>
<td>311.4</td>
<td>261.2</td>
<td>294.4</td>
<td>236.4</td>
<td>1623.3</td>
<td>5560.6</td>
</tr>
<tr>
<td>1972</td>
<td>1278.6</td>
<td>620.0</td>
<td>507.1</td>
<td>476.8</td>
<td>320.0</td>
<td>271.8</td>
<td>281.1</td>
<td>222.4</td>
<td>1672.8</td>
<td>5650.7</td>
</tr>
<tr>
<td>1973</td>
<td>1351.0</td>
<td>640.0</td>
<td>477.5</td>
<td>477.4</td>
<td>413.7</td>
<td>271.4</td>
<td>264.0</td>
<td>210.0</td>
<td>1685.0</td>
<td>5835.0</td>
</tr>
</tbody>
</table>

**Source:** *ibid.*

### ZINC Consumption Thousand Tonnes

<table>
<thead>
<tr>
<th>Year</th>
<th>USA</th>
<th>Japan</th>
<th>USSR</th>
<th>Germany</th>
<th>UK</th>
<th>France</th>
<th>Italy</th>
<th>Belgium</th>
<th>China</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1961</td>
<td>824.7</td>
<td>239.2</td>
<td>353.3</td>
<td>301.2</td>
<td>254.6</td>
<td>185.7</td>
<td>88.6</td>
<td>113.2</td>
<td>88.6</td>
<td>749.4</td>
<td>3198.5</td>
</tr>
<tr>
<td>1962</td>
<td>914.5</td>
<td>230.1</td>
<td>352.9</td>
<td>286.4</td>
<td>242.5</td>
<td>182.9</td>
<td>104.3</td>
<td>119.4</td>
<td>88.6</td>
<td>854.9</td>
<td>3316.5</td>
</tr>
<tr>
<td>1963</td>
<td>980.6</td>
<td>290.7</td>
<td>386.4</td>
<td>276.0</td>
<td>257.5</td>
<td>177.9</td>
<td>111.2</td>
<td>121.5</td>
<td>88.6</td>
<td>882.1</td>
<td>3572.5</td>
</tr>
<tr>
<td>1964</td>
<td>1071.3</td>
<td>350.3</td>
<td>376.0</td>
<td>315.4</td>
<td>283.6</td>
<td>200.4</td>
<td>106.3</td>
<td>129.2</td>
<td>98.4</td>
<td>1151.9</td>
<td>3902.8</td>
</tr>
<tr>
<td>1965</td>
<td>1228.4</td>
<td>401.0</td>
<td>333.8</td>
<td>282.1</td>
<td>185.7</td>
<td>116.0</td>
<td>123.1</td>
<td>100.0</td>
<td>100.0</td>
<td>983.7</td>
<td>4075.5</td>
</tr>
<tr>
<td>1966</td>
<td>1279.3</td>
<td>430.0</td>
<td>310.3</td>
<td>272.6</td>
<td>197.2</td>
<td>125.0</td>
<td>109.8</td>
<td>120.0</td>
<td>120.0</td>
<td>1011.7</td>
<td>4238.9</td>
</tr>
<tr>
<td>1967</td>
<td>1122.0</td>
<td>458.0</td>
<td>466.5</td>
<td>302.7</td>
<td>258.5</td>
<td>202.5</td>
<td>141.0</td>
<td>115.8</td>
<td>120.0</td>
<td>1120.4</td>
<td>4306.5</td>
</tr>
<tr>
<td>1968</td>
<td>1209.9</td>
<td>487.5</td>
<td>361.5</td>
<td>280.7</td>
<td>202.3</td>
<td>155.0</td>
<td>118.6</td>
<td>120.0</td>
<td>120.0</td>
<td>1220.6</td>
<td>4675.1</td>
</tr>
<tr>
<td>1969</td>
<td>1251.7</td>
<td>599.9</td>
<td>500.0</td>
<td>398.4</td>
<td>288.9</td>
<td>239.0</td>
<td>167.0</td>
<td>150.4</td>
<td>135.0</td>
<td>1716.6</td>
<td>4996.9</td>
</tr>
<tr>
<td>1970</td>
<td>1074.3</td>
<td>623.1</td>
<td>510.0</td>
<td>395.7</td>
<td>277.8</td>
<td>220.2</td>
<td>178.0</td>
<td>127.5</td>
<td>150.0</td>
<td>1329.8</td>
<td>4886.4</td>
</tr>
<tr>
<td>1971</td>
<td>1136.9</td>
<td>624.1</td>
<td>567.0</td>
<td>413.1</td>
<td>279.3</td>
<td>264.1</td>
<td>203.0</td>
<td>139.2</td>
<td>170.0</td>
<td>1484.5</td>
<td>5522.6</td>
</tr>
<tr>
<td>1972</td>
<td>1285.7</td>
<td>716.7</td>
<td>567.0</td>
<td>438.2</td>
<td>305.4</td>
<td>290.4</td>
<td>220.0</td>
<td>180.1</td>
<td>190.0</td>
<td>1559.6</td>
<td>5962.5</td>
</tr>
</tbody>
</table>

**Source:** *ibid.*

91
## ANNUAL AND MONTHLY LEAD

<table>
<thead>
<tr>
<th>Year</th>
<th>London Metal Exchange Cash Settlement (£ per ton)</th>
<th>U.S. Price New York (U.S. cents per lb)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Average</td>
<td>High</td>
</tr>
<tr>
<td>1963</td>
<td>63.51</td>
<td>77.63</td>
</tr>
<tr>
<td>1964</td>
<td>101.38</td>
<td>155.00</td>
</tr>
<tr>
<td>1965</td>
<td>115.20</td>
<td>156.50</td>
</tr>
<tr>
<td>1966</td>
<td>95.25</td>
<td>111.75</td>
</tr>
<tr>
<td>1967</td>
<td>83.83</td>
<td>95.50</td>
</tr>
<tr>
<td>1968</td>
<td>101.90</td>
<td>109.00</td>
</tr>
<tr>
<td>1969</td>
<td>122.80</td>
<td>145.50</td>
</tr>
<tr>
<td>1970</td>
<td>126.58</td>
<td>145.00</td>
</tr>
<tr>
<td>1971</td>
<td>103.93</td>
<td>113.25</td>
</tr>
<tr>
<td>1972</td>
<td>120.73</td>
<td>132.75</td>
</tr>
<tr>
<td>1973</td>
<td>174.58</td>
<td>330.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Average</th>
<th>High</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td>1973 November</td>
<td>204.50</td>
<td>242.00</td>
<td>185.50</td>
</tr>
<tr>
<td>December</td>
<td>255.97</td>
<td>330.00</td>
<td>212.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Average</th>
<th>High</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974 January</td>
<td>254.36</td>
<td>264.00</td>
<td>237.00</td>
</tr>
<tr>
<td>February</td>
<td>285.43</td>
<td>324.00</td>
<td>268.00</td>
</tr>
<tr>
<td>March</td>
<td>302.95</td>
<td>314.00</td>
<td>283.50</td>
</tr>
<tr>
<td>April</td>
<td>293.90</td>
<td>307.50</td>
<td>278.00</td>
</tr>
<tr>
<td>May</td>
<td>277.02</td>
<td>317.00</td>
<td>236.50</td>
</tr>
<tr>
<td>June</td>
<td>238.58</td>
<td>254.00</td>
<td>229.00</td>
</tr>
<tr>
<td>July</td>
<td>229.67</td>
<td>247.00</td>
<td>217.00</td>
</tr>
<tr>
<td>August</td>
<td>234.31</td>
<td>240.00</td>
<td>228.00</td>
</tr>
<tr>
<td>September</td>
<td>282.81</td>
<td>237.00</td>
<td>280.00</td>
</tr>
<tr>
<td>October</td>
<td>230.33</td>
<td>235.00</td>
<td>227.00</td>
</tr>
<tr>
<td>November</td>
<td>229.50</td>
<td>237.50</td>
<td>227.50</td>
</tr>
<tr>
<td>December</td>
<td>229.39</td>
<td>232.00</td>
<td>227.00</td>
</tr>
</tbody>
</table>

Notes (1) Per long ton up to 1st January, 1970. Per metric ton from then onwards
(2) G.O.B. Zinc 98% minimum purity
(3) Prime Western f.o.b. East St Louis. Starting 6th January, 1971 Prime Western delivered. As quoted by Metals Week

SOURCE: ibid.
<table>
<thead>
<tr>
<th>Year</th>
<th>London Metal Exchange Cash Settlement (£ per ton)</th>
<th>U.S. Price (U.S. cents per lb)</th>
<th>Producer Basis Outside North America £ per ton</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Average</td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>1962</td>
<td>67.53</td>
<td>71.63</td>
<td>63.38</td>
</tr>
<tr>
<td>1963</td>
<td>76.80</td>
<td>98.75</td>
<td>66.00</td>
</tr>
<tr>
<td>1964</td>
<td>118.43</td>
<td>149.00</td>
<td>91.00</td>
</tr>
<tr>
<td>1965</td>
<td>113.53</td>
<td>123.00</td>
<td>104.00</td>
</tr>
<tr>
<td>1966</td>
<td>102.16</td>
<td>115.00</td>
<td>92.00</td>
</tr>
<tr>
<td>1967</td>
<td>100.53</td>
<td>113.75</td>
<td>94.75</td>
</tr>
<tr>
<td>1968</td>
<td>111.28</td>
<td>116.75</td>
<td>107.38</td>
</tr>
<tr>
<td>1970</td>
<td>123.28</td>
<td>128.00</td>
<td>118.75</td>
</tr>
<tr>
<td>1971</td>
<td>127.11</td>
<td>144.75</td>
<td>112.00</td>
</tr>
<tr>
<td>1972</td>
<td>151.04</td>
<td>162.50</td>
<td>141.50</td>
</tr>
<tr>
<td>1973</td>
<td>345.46</td>
<td>938.00</td>
<td>160.50</td>
</tr>
</tbody>
</table>

(4) Refined Pig Lead minimum 99.97% purity
(5) As quoted by Metals Week

SOURCE: ibid.
Basic Statistics

1. Total world figures for tungsten ores and concentrates are not available because the countries of the Communist bloc do not publish statistics of their production and trade. Estimated world production has risen steadily from 28,000 tonnes of tungsten in 1964 to about 38,000 tonnes in both 1972 and 1973. The major free world producers are the USA, Thailand, Republic of Korea (South), Bolivia, Canada, Portugal and Australia, all of which produced between 1,300 and 3,500 tonnes in 1973. The uses of tungsten are specialised—in tool making for example and in steel manufacture. Thus the major users are the industrialised countries, roughly in proportion to their industrial base (eg Japan—3,400 tonnes in 1973; UK—2,600; Germany—3,100; USA—7,000). The USSR is also a large consumer.

2. The main reserves of tungsten ores are located in the present producing countries. However, China has some 70% of all world reserves. She is already a dominant force in the world market and will be increasingly so in future.

Price Movements

3. The price of tungsten internationally is based on the twice-weekly quotation published in the London Metal Bulletin, which is based on the prices at which the most recently notified transactions took place. Chinese tungsten is sold on an offer and bid basis twice yearly at the Canton Fair.

4. Tungsten has a long history of price instability. The price rose from a low of about £380 per tonne of tungsten metal average in 1964, to £1,225 in 1968 and some £2,100 in 1970. It fell back to about £1,000 for most of 1972. It rose steadily during 1973 and 1974 to about £3,000, and has now dropped back somewhat. The reasons for price instability in recent years have included the unpredictable selling policies of the Communist bloc; large disposals from the US strategic stockpile (which still contains something like 1.5 years of total world consumption); and variations in the outlook of the advanced technological industries which use tungsten.

5. Charts showing production, consumption and prices are given below.

International Arrangements

6. There is an UNCTAD Committee on Tungsten in which producers and consumers meet. At its last meeting in November 1974 this Committee agreed, after some years of discussions, on a statement of principle in favour of working out some means of price stabilisation. The UK supported this statement. Member countries are now examining their own requirements and their legislative situation in relation to certain proposals advanced by producer countries, prior to further discussion at a meeting later in 1975.

7. Any move towards stabilisation would depend on the co-operation of China and of the USA.
Production, consumption and stocks of tungsten ores and concentrates Metric tons, tungsten content

Source: Tungsten Statistics (Quarterly bulletin of the UNCTAD committee on tungsten)
Prices: Tungsten concentrates, UK and USA

<table>
<thead>
<tr>
<th>Year</th>
<th>London (c.i.f. European ports)</th>
<th>London (dollar equivalent at pre-November 1967 exchange rates)</th>
<th>United States (surplus government stocks, basis selling price)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1960</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1961</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1962</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1963</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1964</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1965</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1966</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1967</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1968</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1969</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1970</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1971</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1972</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1973</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Tungsten Statistics (Quarterly bulletin of the UNCTAD committee on tungsten)
NOTES ON PRODUCTS NOT COVERED IN ANNEXES II TO XVI

Agricultural Products

1. The main agricultural products not dealt with in the previous Annexes are oils, oilseeds, meat, fish, vegetables and fruit including bananas.

2. As far as oil and oilseeds are concerned, there are two main groups of products: oils and fats, and oilcakes and meals. They are produced from oilseeds, both temperate (e.g. soyabees and rapeseed) and tropical (e.g. groundnuts and palm kernels); and from marine (i.e. fish oil and meal) and animal (e.g. tallow) sources. The various types compete with each other within the two main groups because they are to a considerable extent interchangeable in use.

3. The possibilities of international arrangements for particular groups of oils have been considered under the auspices of FAO and UNCTAD. The complexities of the market have always led to the conclusion that no agreement was practicable. Full-scale commodity agreements are also virtually impossible for meat and fish and for most fruit and vegetables because they are too perishable to store and control.

Minerals

4. Further minerals which have been examined in less detail are:

(a) Nickel, Molybdenum, Potash: There are unlikely to be supply problems either on availability or price. All are currently produced primarily by developed countries.

(b) Platinum group metals: World production and reserves of these metals are concentrated in South Africa (platinum) and the USSR (palladium). Because of their high value, recycling is extensive.

(c) Chromium: World mine production is dominated by the USSR, South Africa and the Philippines, and reserves are in the main concentrated in these areas.

(d) Manganese: An UNCTAD committee is currently examining proposals designed to secure stable remunerative prices. All main producers and consumers participate in this committee.

(e) Cobalt: World production of cobalt is relatively small (28,000 tonnes in 1973) and comes mainly from Zaire (55%), Zambia and Canada. It is produced as a by-product of copper and nickel mining and the future level of production depends on the market for these two metals. In practice the price is fixed by the Government of Zaire (which owns the copper/cobalt mine concerned) and prices have been relatively stable.

(f) Phosphate rock: The major producers are currently the USA (38%), the USSR (21%) and Morocco (17%). Other less important producers are
Tunisia, Togo, Senegal, Jordan and South Africa. Morocco and the North African countries, however, account for 50% of world exports and are the major source of supply to countries other than the USA and USSR. They are likely to continue to be major suppliers in the future, although new sources will be developed, for example in Australia. Demand is likely to continue to rise since phosphate rock is the main commercial source of phosphorus, one of the three major plant food elements. Until recently supplies were plentiful and prices had remained low and stable for many years. Current high prices are already encouraging other countries to expand production and develop new sources.
### PRINCIPAL EXPORTERS OF SELECTED PRIMARY PRODUCTS

#### AGRICULTURAL COMMODITIES

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Country</th>
<th>Average Value 1971/73 US$ mil</th>
<th>% of world total</th>
<th>Total Exports 1971/73 US$ mil</th>
<th>Exports of Commodity as % of total exports</th>
<th>Per Capita Income US$ 1972</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rice(1)</td>
<td>USA</td>
<td>322.2</td>
<td>29.8</td>
<td>46,954.0</td>
<td>0.7</td>
<td>5,590</td>
</tr>
<tr>
<td></td>
<td>Thailand</td>
<td>186.2</td>
<td>17.2</td>
<td>956.0</td>
<td>19.5</td>
<td>220</td>
</tr>
<tr>
<td></td>
<td>China Mainld.</td>
<td>134.4</td>
<td>12.4</td>
<td>2,171.5</td>
<td>6.2</td>
<td>170</td>
</tr>
<tr>
<td></td>
<td>Egypt</td>
<td>53.6</td>
<td>4.9</td>
<td>807.0</td>
<td>6.6</td>
<td>240</td>
</tr>
<tr>
<td></td>
<td>Italy</td>
<td>50.4</td>
<td>4.7</td>
<td>16,862.0</td>
<td>0.3</td>
<td>1,960</td>
</tr>
<tr>
<td></td>
<td>Pakistan</td>
<td>32.8</td>
<td>3.0</td>
<td>673.5</td>
<td>4.9</td>
<td>130</td>
</tr>
<tr>
<td>Wheat(1)</td>
<td>USA</td>
<td>1,186.7</td>
<td>32.2</td>
<td>46,954.0</td>
<td>2.5</td>
<td>5,590</td>
</tr>
<tr>
<td></td>
<td>Canada</td>
<td>875.1</td>
<td>23.8</td>
<td>19,764.0</td>
<td>4.4</td>
<td>4,440</td>
</tr>
<tr>
<td></td>
<td>Australia</td>
<td>488.7</td>
<td>13.3</td>
<td>5,835.5</td>
<td>8.4</td>
<td>2,980</td>
</tr>
<tr>
<td></td>
<td>France</td>
<td>413.3</td>
<td>11.2</td>
<td>23,601.0</td>
<td>1.8</td>
<td>3,620</td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>398.8</td>
<td>10.8</td>
<td>14,583.5</td>
<td>2.7</td>
<td>1,530</td>
</tr>
<tr>
<td>Rubber</td>
<td>Malaysia</td>
<td>651.4</td>
<td>51.8</td>
<td>2,100.7</td>
<td>31.0</td>
<td>430</td>
</tr>
<tr>
<td></td>
<td>Natural rubber</td>
<td>255.5</td>
<td>20.3</td>
<td>2,078.3</td>
<td>12.3</td>
<td>90</td>
</tr>
<tr>
<td></td>
<td>Thailand</td>
<td>114.8</td>
<td>9.1</td>
<td>1,165.4</td>
<td>9.9</td>
<td>220</td>
</tr>
<tr>
<td></td>
<td>Sri Lanka</td>
<td>66.5</td>
<td>5.3</td>
<td>342.7</td>
<td>19.4</td>
<td>110</td>
</tr>
<tr>
<td></td>
<td>Liberia</td>
<td>44.3</td>
<td>3.5</td>
<td>252.3</td>
<td>17.6</td>
<td>250</td>
</tr>
<tr>
<td>Jute</td>
<td>Bangladesh</td>
<td>91.2</td>
<td>56.5</td>
<td>265.0</td>
<td>34.4</td>
<td>70</td>
</tr>
<tr>
<td></td>
<td>Thailand</td>
<td>49.0</td>
<td>30.4</td>
<td>1,165.4</td>
<td>4.2</td>
<td>220</td>
</tr>
<tr>
<td></td>
<td>India</td>
<td>5.9</td>
<td>3.6</td>
<td>2,465.0</td>
<td>0.2</td>
<td>110</td>
</tr>
<tr>
<td></td>
<td>Belgium</td>
<td>3.3</td>
<td>2.1</td>
<td>17,122.0</td>
<td>3,210</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Nepal</td>
<td>2.5</td>
<td>1.5</td>
<td>60</td>
<td>4.2</td>
<td>80</td>
</tr>
<tr>
<td>Sisal</td>
<td>Brazil</td>
<td>31.4</td>
<td>32.2</td>
<td>4,364.7</td>
<td>0.7</td>
<td>530</td>
</tr>
<tr>
<td></td>
<td>Tanzania</td>
<td>26.8</td>
<td>27.5</td>
<td>322.0</td>
<td>8.3</td>
<td>120</td>
</tr>
<tr>
<td></td>
<td>Angola</td>
<td>11.6</td>
<td>11.9</td>
<td>546.0</td>
<td>2.1</td>
<td>390</td>
</tr>
<tr>
<td></td>
<td>Mexico</td>
<td>11.3</td>
<td>11.6</td>
<td>1,997.7</td>
<td>0.6</td>
<td>750</td>
</tr>
<tr>
<td>fibres</td>
<td>Kenya</td>
<td>8.1</td>
<td>8.3</td>
<td>377.3</td>
<td>2.1</td>
<td>170</td>
</tr>
</tbody>
</table>


**Source:** FAO Yearbook with supplementary information from FAO Commodity Review Outlook and International Financial Statistics.
<table>
<thead>
<tr>
<th>Commodity</th>
<th>Country</th>
<th>Exports (by commodity)</th>
<th>Total Exports (by country)</th>
<th>Exports of Commodity as % of total exports</th>
<th>Per Capita Income USS 1972</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Average Value 1971/73 US$ mil</td>
<td>% of world total</td>
<td>Average Value 1971/73 US$ mil</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bananas</td>
<td>Ecuador</td>
<td>108.6</td>
<td>18.0</td>
<td>355.0</td>
<td>30.6</td>
</tr>
<tr>
<td></td>
<td>Honduras</td>
<td>95.5</td>
<td>15.9</td>
<td>210.3</td>
<td>45.4</td>
</tr>
<tr>
<td></td>
<td>Costa Rica</td>
<td>75.0</td>
<td>12.5</td>
<td>281.7</td>
<td>26.6</td>
</tr>
<tr>
<td></td>
<td>Panama</td>
<td>68.4</td>
<td>11.4</td>
<td>124.0</td>
<td>55.2</td>
</tr>
<tr>
<td></td>
<td>China M'land</td>
<td>50.0</td>
<td>8.3</td>
<td>2,650.0</td>
<td>1.9</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ghana</td>
<td>273.3</td>
<td>29.4</td>
<td>4,650.0</td>
<td>58.8</td>
</tr>
<tr>
<td></td>
<td>Nigeria</td>
<td>203.3</td>
<td>21.8</td>
<td>2,438.3</td>
<td>8.3</td>
</tr>
<tr>
<td></td>
<td>Ivory Coast</td>
<td>117.8</td>
<td>12.7</td>
<td>622.3</td>
<td>18.9</td>
</tr>
<tr>
<td></td>
<td>Brazil</td>
<td>110.5</td>
<td>11.9</td>
<td>4,364.7</td>
<td>2.5</td>
</tr>
<tr>
<td></td>
<td>Cameroon</td>
<td>66.4</td>
<td>7.1</td>
<td>260.0</td>
<td>25.5</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Brazil</td>
<td>993.2</td>
<td>30.0</td>
<td>4,364.7</td>
<td>22.8</td>
</tr>
<tr>
<td></td>
<td>Colombia</td>
<td>465.6</td>
<td>14.1</td>
<td>880.0</td>
<td>52.9</td>
</tr>
<tr>
<td></td>
<td>Ivory Coast</td>
<td>187.2</td>
<td>5.7</td>
<td>622.3</td>
<td>30.1</td>
</tr>
<tr>
<td></td>
<td>Uganda</td>
<td>170.1</td>
<td>5.1</td>
<td>289.3</td>
<td>58.8</td>
</tr>
<tr>
<td></td>
<td>Angola</td>
<td>148.2</td>
<td>4.5</td>
<td>546.0</td>
<td>27.1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cuba</td>
<td>793.8</td>
<td>22.6</td>
<td>?</td>
<td>?</td>
</tr>
<tr>
<td></td>
<td>Brazil</td>
<td>310.6</td>
<td>8.8</td>
<td>4,364.7</td>
<td>7.1</td>
</tr>
<tr>
<td></td>
<td>France</td>
<td>293.1</td>
<td>8.3</td>
<td>27,937.7</td>
<td>1.0</td>
</tr>
<tr>
<td></td>
<td>Australia</td>
<td>221.7</td>
<td>6.3</td>
<td>7,063.7</td>
<td>3.1</td>
</tr>
<tr>
<td></td>
<td>Philippines</td>
<td>227.8</td>
<td>6.5</td>
<td>1,338.3</td>
<td>17.0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>India</td>
<td>200.3</td>
<td>27.4</td>
<td>2,465.0</td>
<td>8.1</td>
</tr>
<tr>
<td></td>
<td>Sri Lanka</td>
<td>192.7</td>
<td>26.4</td>
<td>342.7</td>
<td>56.2</td>
</tr>
<tr>
<td></td>
<td>China M'land</td>
<td>43.9</td>
<td>6.0</td>
<td>2,650.0</td>
<td>1.6</td>
</tr>
<tr>
<td></td>
<td>Kenya</td>
<td>42.9</td>
<td>5.9</td>
<td>377.3</td>
<td>11.4</td>
</tr>
<tr>
<td></td>
<td>Bangladesh</td>
<td>26.5</td>
<td>3.6</td>
<td>265.0</td>
<td>10.0</td>
</tr>
<tr>
<td></td>
<td>UK*</td>
<td>47.3</td>
<td>6.5</td>
<td>25,737.7</td>
<td>0.2</td>
</tr>
</tbody>
</table>

*Imports about 4½ times more than exports.
## PRINCIPAL EXPORTERS OF SELECTED PRIMARY PRODUCTS

### B. METAL-BEARING ORES AND PHOSPHATES

Note: Because export figures for some large producers are unavailable the shares of world exports cannot be shown and production shares are shown instead.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Country</th>
<th>Exports by Commodity</th>
<th>Production by Commodity</th>
<th>Total Exports (by country)</th>
<th>Exports of Commodity as % of total exports</th>
<th>Per Capita income US$ 1972</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>US$ million</td>
<td>'000 metric tons</td>
<td>US$ million</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lead</td>
<td>Australia</td>
<td>116.6</td>
<td>432.2</td>
<td>12.6</td>
<td>5,480</td>
<td>2.1</td>
</tr>
<tr>
<td></td>
<td>Canada</td>
<td>69.9</td>
<td>376.1</td>
<td>11.0</td>
<td>18,760</td>
<td>0.9</td>
</tr>
<tr>
<td></td>
<td>Peru</td>
<td>31.9</td>
<td>167.9</td>
<td>4.9</td>
<td>960</td>
<td>3.3</td>
</tr>
<tr>
<td></td>
<td>Mexico</td>
<td>23.0</td>
<td>164.0</td>
<td>4.8</td>
<td>1,588</td>
<td>1.4</td>
</tr>
<tr>
<td></td>
<td>USA</td>
<td>7.9</td>
<td>535.0</td>
<td>15.6</td>
<td>45,711</td>
<td>neg</td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>n.a.</td>
<td>450.0</td>
<td>13.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zinc</td>
<td>Canada</td>
<td>222.0</td>
<td>1,262.1</td>
<td>22.8</td>
<td>18,760</td>
<td>1.2</td>
</tr>
<tr>
<td></td>
<td>Australia</td>
<td>74.4</td>
<td>481.2</td>
<td>8.7</td>
<td>5,480</td>
<td>1.4</td>
</tr>
<tr>
<td></td>
<td>Peru</td>
<td>54.2</td>
<td>329.6</td>
<td>5.9</td>
<td>960</td>
<td>5.6</td>
</tr>
<tr>
<td></td>
<td>Japan</td>
<td>28.6</td>
<td>285.1</td>
<td>5.1</td>
<td>23,979</td>
<td>0.1</td>
</tr>
<tr>
<td></td>
<td>USA</td>
<td>6.4</td>
<td>48.8</td>
<td>8.3</td>
<td>45,711</td>
<td>neg</td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>n.a.</td>
<td>636.0</td>
<td>11.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tin</td>
<td>Malaysia</td>
<td>318.3</td>
<td>75.3</td>
<td>31.5</td>
<td>1,679</td>
<td>19.0</td>
</tr>
<tr>
<td></td>
<td>Bolivia</td>
<td>107.1</td>
<td>30.9</td>
<td>12.9</td>
<td>194</td>
<td>55.2</td>
</tr>
<tr>
<td></td>
<td>Thailand</td>
<td>77.8</td>
<td>21.8</td>
<td>9.1</td>
<td>874</td>
<td>8.9</td>
</tr>
<tr>
<td></td>
<td>Indonesia</td>
<td>59.7</td>
<td>20.0</td>
<td>8.4</td>
<td>1,395</td>
<td>4.3</td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>n.a.</td>
<td>26.6</td>
<td>11.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>China</td>
<td>n.a.</td>
<td>23.0</td>
<td>9.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tungsten</td>
<td>USA</td>
<td>30.4</td>
<td>4.4</td>
<td>9.9</td>
<td>45,711</td>
<td>0.1</td>
</tr>
<tr>
<td></td>
<td>Bolivia</td>
<td>13.8</td>
<td>2.5</td>
<td>5.6</td>
<td>194</td>
<td>7.1</td>
</tr>
<tr>
<td></td>
<td>S Korea</td>
<td>12.8</td>
<td>2.7</td>
<td>6.0</td>
<td>1,176</td>
<td>1.3</td>
</tr>
<tr>
<td></td>
<td>Thailand</td>
<td>11.8</td>
<td>2.2</td>
<td>4.9</td>
<td>874</td>
<td>1.3</td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>n.a.</td>
<td>8.8</td>
<td>19.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>China</td>
<td>n.a.</td>
<td>8.4</td>
<td>18.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Copper</td>
<td>Zambia</td>
<td>757.2</td>
<td>684.4</td>
<td>10.5</td>
<td>813</td>
<td>93.1</td>
</tr>
<tr>
<td></td>
<td>Chile</td>
<td>734.0</td>
<td>717.2</td>
<td>11.0</td>
<td>942</td>
<td>76.9</td>
</tr>
<tr>
<td></td>
<td>Canada</td>
<td>621.4</td>
<td>658.0</td>
<td>10.1</td>
<td>18,760</td>
<td>3.3</td>
</tr>
<tr>
<td></td>
<td>Zaire</td>
<td>490.9</td>
<td>401.8</td>
<td>6.2</td>
<td>709</td>
<td>69.0</td>
</tr>
<tr>
<td></td>
<td>USA</td>
<td>317.3</td>
<td>1,483.8</td>
<td>22.8</td>
<td>45,711</td>
<td>0.7</td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>203.0</td>
<td>988.3</td>
<td>15.2</td>
<td>13,989</td>
<td>1.5</td>
</tr>
<tr>
<td>Natural</td>
<td>USA</td>
<td>134.5</td>
<td>36.3</td>
<td>40.3</td>
<td>45,711</td>
<td>0.3</td>
</tr>
<tr>
<td>Phosphates</td>
<td>Morocco</td>
<td>124.5</td>
<td>12.8</td>
<td>14.3</td>
<td>540</td>
<td>23.1</td>
</tr>
<tr>
<td></td>
<td>Tunisia</td>
<td>39.7</td>
<td>3.8</td>
<td>4.2</td>
<td>237</td>
<td>16.8</td>
</tr>
<tr>
<td></td>
<td>Nauru</td>
<td>n.a.</td>
<td>2.0</td>
<td>2.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>South Africa</td>
<td>6.0</td>
<td>1.8</td>
<td>2.0</td>
<td>2,358</td>
<td>0.2</td>
</tr>
<tr>
<td></td>
<td>Togo</td>
<td>16.5</td>
<td>1.7</td>
<td>1.9</td>
<td>51</td>
<td>32.3</td>
</tr>
<tr>
<td></td>
<td>Senegal</td>
<td>14.6</td>
<td>1.2</td>
<td>1.4</td>
<td>164</td>
<td>8.9</td>
</tr>
</tbody>
</table>

*Includes processed as well as crude materials.

**Source:** UN Growth of World Industry and Year Book of International Trade Statistics, supplemented by information from International Financial Statistics.
EXPORT EARNINGS STABILISATION SCHEMES

Introduction

1. Export earnings stabilisation schemes can be designed to stabilise primary commodity export earnings through the provision of financial flows. They do not operate on specific commodity markets and hence cannot influence the prices of commodities exported by the less developed countries. However, schemes of this kind can be compatible with international agreements which are mainly aimed at stabilising the prices of specific commodities. The design of any new arrangement on these lines will have to take account of two schemes—the IMF compensatory finance facility and the EEC’s STABEX Scheme—which already exist and are described in Note B.*

2. Although an export earnings stabilisation scheme can be designed to stabilise and increase primary producers’ foreign exchange availability this raises a number of issues including

(a) commodity coverage of export earnings;
(b) reference level of earnings from which shortfalls can be measured;
(c) the terms of the compensatory finance—commercial loans or concessional funds; repayable or non-repayable;
(d) the scale of the financial resources and the conditions on which they are made available; and
(e) the potential beneficiaries and eligibility criteria.

These are examined, in turn, below.

Commodity Coverage

3. Ideally a scheme should cover total export earnings from visible and invisible trade since it is fluctuations in total export earnings which affect the domestic economy of less developed countries (ldc’s) and government development programmes. Alternatively a scheme might relate to earnings from exports of primary commodities. It might include all those primary commodities which the UNCTAD secretariat have noted as being of particular interest to ldc’s. This approach creates problems of defining primary products and also it effectively ignores fluctuations in non-primary product trade which are significant for some developing countries.

4. Nevertheless if commodity earnings are taken as the basis, it would be preferable to use aggregate earnings from a specified list of commodities rather than a product by product approach. This would allow any losses from some commodities to be offset by gains on others before considering overall shortfalls for compensation. It would also be simpler to relate the scheme to earnings on exports to all destinations (rather than to developed countries) and so ensure that the provisions of any scheme do not have a disturbing effect on trade patterns by stimulating attempts to divert trade from one market to another in order to manipulate benefits and any repayments under a scheme.

*Appendix 1 briefly describes some past proposals which have not been implemented including the Anglo-Swedish Initiative on Supplementary Financial Measures at UNCTAD I.
Reference Level of Earnings

5. The reference level of earning against which it would be judged whether a shortfall had occurred could be related to a past level or to expectations about a reasonable future level or both. The most straightforward approach is to average the run of export earnings over a past period which might range from 3 years up to say 6. Unless some clear cycle could be established in the export earnings from the commodities covered the length of this past period would be a fairly arbitrary decision. The reference period should also be on a moving average basis (ie the period immediately preceding the current operational year) if the reference level is not going to lose touch with current realities.

6. Efforts to include expectations about the future are liable to be controversial and difficult, though they may be important especially if the particular country faces a long-term downward trend in its level of earnings and the scheme is designed to deal with downward fluctuations rather than with long-term declines.

Terms and Sources of Finance

i. Commercial Funds

7. Any scheme which is not initially financed entirely by its beneficiaries involves a capital transfer by the other participants. If the main emphasis is to be on helping to stabilise earnings rather than providing aid, it would be possible to operate a scheme on fully commercial terms.

8. The wealthier ldc's might be expected to have access to the international capital market directly and, if there were stringent conditions attached to receiving benefits from the scheme, might prefer to deal with fluctuations by borrowing directly from that source. Poorer ldc's however might well have considerable difficulty borrowing directly from the market, particularly at a time when their export earnings were low, certainly on terms comparable with those of an international agency backed by government guarantees. They might therefore find some appeal in such a scheme.

9. Commercial funds could not be made available on an open-ended basis, with levels of borrowing and lending simply determined by the size of shortfalls. Limitations would be set by the capital structure and the nature of any guarantees. Thus there could be no guarantee that shortfalls would be fully compensated under a commercially financed scheme.

ii. Concessional Funds

10. A scheme would be easier to operate, and of course much more attractive to the intended beneficiaries, if concessional funds were used. Resources under the scheme could be made available to beneficiaries either on a grant basis or on very concessional loan terms with flexible repayment provisions linked to improvements in export earnings above reference levels.

11. If concessional funds were used the scheme could obviously not be open-ended and a ceiling would be required. It would be very difficult to estimate reliably what ceiling would be high enough to cover most likely fluctuation
patterns. Past patterns of fluctuations would not be a good guide to the future, and projections of future price and quantity changes on primary commodities are notoriously unreliable. The most straightforward approach in setting up a scheme would be to specify the amount of concessional resources available and the countries which could benefit and allow the administering agency to tailor the proportion of the shortfall covered in any one year to the ceiling available for all countries. This means, of course, that no beneficiaries could be certain of receiving payments which fully covered any shortfall so that economic programmes could not be certain of being fully insulated by such a scheme from the impact of fluctuations.

12. It may be possible to limit the amount of concessional funds needed to support a scheme by making the fund revolve to some degree. As a minimum, repayment could apply whenever earnings exceeded the reference level. An interest rate, possibly varied according to the poverty of the recipient country and zero for the poorest, might be charged on the outstanding amounts regardless of the situation on earnings.

13. If such a scheme were able to generate additional concessional funds it could have considerable attraction but if it drew on concessional funds which would in any event have been available to developing countries it raises a major question about the resultant country distribution of scarce concessional funds. Would it bear any relation to a distribution based on country 'need' determined by factors such as the level of poverty and size of population, which are increasingly being accepted as the appropriate criterion for determining the country allocation of concessional funds through traditional aid programmes? There is no a priori reason to expect that a distribution based on the size and instability of each recipient's commodity export earnings would reflect the requirement of aid need. (This issue is discussed further in the last section of this Annex, and Appendix 2 sets out some results of an illustrative statistical exercise showing the country distribution of earnings shortfalls during the 1960's.)

14. Payments under the scheme would be analogous to general balance of payments support and would help sustain the recipient government's general development programme. Any attempt by the administering agency to link funds under the scheme to a number of individual projects or sectors in that programme which it would then attempt to appraise would be time consuming in a number of ways and would slow down disbursements considerably. Whereas the essence of such a scheme is to get funds in quickly to counter the effect on the economy in general, and the government's development programme in particular, of the export earnings shortfall.

Conditions of Payment

15. Payments could be either automatic or discretionary. Automatic payments would mean that when the specified quantifiable conditions of shortfall have been demonstrated to occur statistically a payment would be made. A discretionary system would involve such shortfalls being taken as a necessary precondition for payment but not a sufficient condition. The administering agency would then extend the factors to be considered in deciding whether to make a
payment. These might include the level of earnings from exports other than the specified commodities, the level of foreign exchange reserves, the receipts on capital account both aid and commercial flows, and judgements on the future trend in export earnings and receipts on capital account, again both aid and the scope for commercial borrowing. The addition of these factors would give a much clearer idea of the extent to which any shortfall in earnings from the specified commodities would disrupt development and the extent to which the potential beneficiary had the capacity to deal with any disruption from its own resources. It may also be possible to consider the extent to which the shortfall is attributable to factors beyond the control of the country concerned. A discretionary approach makes more economic sense in that it takes account of the total economic situation of the country in judging whether a payment is required.

16. Whether payments are automatic or concessionary there are practical considerations which make it impossible for payments to be made during the year or period when the shortfall is actually occurring. The most important cause of delay is that trade data has to be produced to ascertain whether a shortfall has taken place and this will take some time, certainly some months after the end of the operational period depending on the detail required. Furthermore, if there is a ceiling on the funds available and the procedure is followed of tailoring all beneficiaries payments equitably so that total payments can be accommodated within the ceiling, the trade data for all beneficiaries needs to be available before final payment can be made. The pace is thus heavily influenced by the slowest producers of data; though no doubt techniques of interim payment could be devised to alleviate this kind of delay. In any event the basic point remains: during the period when the shortfall is actually taking place the government of the country concerned must be taking measures within the limits of its then available resources to deal with them. Payments under a stabilisation scheme will appear later. This problem can of course be eased because with some clear expectation of payments from any scheme the government could either run its foreign exchange reserves down to otherwise unacceptable levels or, possibly, borrow against the future receipts. However if the amount to be received under the scheme is uncertain, because of a ceiling on the finance available and possible claims of other beneficiaries, these options will be limited ones.

Potential Beneficiaries

17. The scheme’s facilities could be made available to all the developing countries in the Group of 77 who export the primary commodities covered. However, if concessional funds are provided through the scheme it will also be important to ensure that their country distribution bears some relationship to different countries’ need for aid. This would be most important if aid funds provided through the scheme are not likely to be additional to aid through normal channels.

18. One way of partially reconciling aid and commodity trade objectives would be to confine aid benefits under the scheme to countries with a per capita income of less than $200 or $400. As these criteria would exclude some of the major ldc primary product exporters it would be possible to include commodity exporters with greater than $200 (or $400) per capita for compensation finance on commercial terms only.
APPENDIX 1

PREVIOUS PROPOSALS FOR EARNINGS STABILISATION SCHEMES

1. Note B sets out the provisions of the two existing schemes of this type: the IMF compensatory financing facility and the EEC's STABEX scheme. There have been a number of other proposals in the last 15 years or so, mainly in the period leading up to and at the time of the First UNCTAD conference in Geneva, which were never implemented. The provisions envisaged for each, so far as these were firmly indicated, are set out below.

A. Supplementary Financial Measures

Formally proposed by the UK and Sweden at the First UNCTAD in Geneva in 1964 and subjected to study by the International Bank for Reconstruction and Development. One important reason it did not become operative was that no sources of additional concessional funds appeared with which to finance the scheme.

Coverage: total export earnings.

Reference Level of Earnings: ‘reasonable expectations’ after taking account of unexpected excess earnings in previous methods and alternative sources of finance including the IMF compensatory financing facility.

Terms of Finance: unspecified but tailored to economic situation of the country and ‘similar to those being used for the extension of development finance by various international lending agencies’.

Amounts and Sources of Funds: estimated that $1.5 to $2 billion needed for 5 year experimental period. This was based on 20% of gross shortfalls in a past period (1959/63). Assumed that bulk, if not all, financing would come from developed countries.

Conditions of Payment: discretionary with previous agreement between country and administering agency on export expectations and economic policies and programmes. In event of shortfalls country expected to use a proportion of available reserves and other possible sources of finance including IMF regular facilities and Compensatory Financing Facility. Account would also be taken of any earnings in excess of expectations in previous periods. Country would also be expected to make any feasible internal adjustments which would not disrupt the development programme.

Potential beneficiaries: all ldc’s.
B. Stabilisation of Export Receipts

Proposed by group of experts appointed by the Organisation of American States in 1962.

Coverage: merchandise exports.

Reference Level of Earnings: average value of exports in preceding three years.

Terms of Finance: loans (interest rate unspecified). To cover two-thirds of shortfall. Loans outstanding limited to 20% of export earnings. Repayable in any of the following three years from two-thirds of excess of export earnings above reference level. Balance remaining unpaid at end of three years to be repaid in equal instalments over the next two years.

Amount and Source of Funds: amount unspecified. Contributions mainly from high income countries (ie the developed).

Conditions of Payment: automatic.

Potential beneficiaries: all low income primary producing countries.

C. Development Insurance Fund

Proposed by UN appointed group of experts in 1961.

Coverage: merchandise exports (application to single commodities examined and rejected and found 'impracticable').

Reference Level of Earnings: average value of exports in preceding three years.

Terms of Finance: grants and interest-free loans, to cover 50% to 75% of shortfall. Loans would be repaid if in any of the following three years exports earnings exceeded the reference level with the proportion of excess used for repayment limited to the proportion of shortfall compensated. Balance remaining unpaid at end of three years converted into grants.

Amount and Source of Funds: unspecified amounts. Contribution by all countries on basis of export trade or, preferably, per capita income.

Conditions of Payment: automatic.

Potential Beneficiaries: for grants low income primary producing countries; for loans all countries.
INTERIM RESULTS OF AN ILLUSTRATIVE STATISTICAL EXERCISE ON THE COUNTRY DISTRIBUTION OF EXPORT EARNINGS SHORTFALLS

1. In the main Annex attention is drawn to the possible consequences for the country distribution of concessional funds if these are allocated through the mechanism of an export earnings compensation scheme rather than through traditional official aid channels (i.e., bilateral and multilateral aid programmes). The table attached to this appendix sets out a summary of the interim results of an illustrative statistical exercise which explores this question. The table sets the distribution of shortfalls in total export earnings among developing countries during the past decade against the distribution in official development assistance in a recent three-year period.

2. It is emphasised that these figures result from a particular set of working assumptions about the operations of an export earnings compensation scheme. These assumptions could be varied and somewhat different results could be expected. The data and assumptions used for the export earnings figures are set out below.

(a) the exercise uses total export earnings from visible trade (including domestic exports and re-exports).
(b) the reference level of earnings is taken as the average of earnings in the four years preceding the current operational year.
(c) the basic statistics cover the period 1959 to 1972 allowing shortfall figures for 10 years 1963 to 1972 to be derived.
(d) the trade data in national currencies is converted to a common unit (US dollars) at the official exchange rate prevailing during the year in question.
(e) the absolute values of shortfalls is derived for each individual country for each year 1963 to 1972. The shortfalls for the ten-year period are aggregated and a percentage distribution of the shortfalls among countries derived. This distribution is shown in the table.

3. These results need to be treated carefully. A number of points should be borne in mind.

(a) There are considerable statistical problems in assembling the basic data for a 14-year period 1959/72. Apart from complete absence of trade data in some, though mostly not very significant, cases it did not prove possible to separate earnings from re-exports and earnings from domestic exports. This may be possible with careful work on original country sources.

(b) The trade figures used have all been converted to US dollars at the exchange rate prevailing during the year involved. Changes in the exchange rate from year to year against the US dollar can thus exacerbate or reduce the size of shortfalls.
(c) The shortfalls are determined in relation to the arbitrarily chosen reference level of a moving average of the preceding four years. If expected earnings were incorporated into the reference levels the absolute amounts of the shortfalls could be increased. The effect of inflation in this kind of scheme is difficult to assess, on the one hand high rates of inflation could reduce the frequency of shortfalls on the other it might increase the absolute amount of each shortfall.

(d) The pattern of shortfalls need not automatically determine the distribution of any benefits under a compensation scheme though it would be the starting point for determining any payments.

(e) A compensation scheme could be based on shortfalls from earnings on commodity trade rather than on total visible exports.

4. The noteworthy features of the results so far obtained are

(a) when assessed, rather crudely, in terms of groups of countries classified by per capita income in 1972 the share in export shortfalls of the poorest (under $201 per capita) almost exactly coincided with their share of official development assistance (o.d.a.) for the years 1969 to 1972. However, the somewhat less poor countries ($201–$375 per capita) had a substantially lower share of the shortfalls than of o.d.a.

(b) when assessed in terms of individual countries some important recipients of o.d.a. had a very small share of export shortfalls. This included countries in the poorest group and India, Pakistan and Kenya are notable examples. It is also striking that a fairly limited number of individual countries, including some richer ldc’s, had a very substantial share of the total shortfalls (11 countries accounted for over 70% of the value of total shortfalls).
COMPARISON OF THE SHARE OF THE SHORTFALL IN TOTAL VISIBLE EXPORT EARNINGS (1963/72) WITH THE SHARE OF RECEIPTS FROM ALL DAC DONORS, GROSS DISBURSEMENTS OF OFFICIAL DEVELOPMENT ASSISTANCE (1969/72)

(non-Commonwealth countries, marked with an *, are shown only where their share in export earnings shortfalls are greater than 1%)

<table>
<thead>
<tr>
<th>Country groups by GNP per capita (US$ 1972)</th>
<th>% Share of Export Earnings Shortfall (63-72)</th>
<th>% Share of oda (69-72)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $201 of which *Burma</td>
<td>11.2</td>
<td>0.7</td>
</tr>
<tr>
<td>*Indonesia</td>
<td>7.0</td>
<td>7.9</td>
</tr>
<tr>
<td>*Cambodia (Khmer Rep)</td>
<td>6.4</td>
<td>1.1</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>5.2</td>
<td>0.9</td>
</tr>
<tr>
<td>*S. Vietnam</td>
<td>4.1</td>
<td>10.0</td>
</tr>
<tr>
<td>Nigeria</td>
<td>3.8</td>
<td>1.2</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>2.2 (6.3)†</td>
<td>3.5</td>
</tr>
<tr>
<td>*Guinea</td>
<td>1.6</td>
<td>0.02</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>0.5</td>
<td>0.1</td>
</tr>
<tr>
<td>India</td>
<td>0.25</td>
<td>7.8</td>
</tr>
<tr>
<td>W. Samoa</td>
<td>0.2</td>
<td>0.007</td>
</tr>
<tr>
<td>Gambia</td>
<td>0.15</td>
<td>0.06</td>
</tr>
<tr>
<td>Lesotho</td>
<td>0.1</td>
<td>0.2</td>
</tr>
<tr>
<td>Kenya</td>
<td>nil</td>
<td>1.1</td>
</tr>
<tr>
<td>Tanzania</td>
<td>nil</td>
<td>0.9</td>
</tr>
<tr>
<td>Malawi</td>
<td>nil</td>
<td>0.5</td>
</tr>
<tr>
<td>Uganda</td>
<td>nil</td>
<td>0.4</td>
</tr>
<tr>
<td>$201-$375 of which Ghana</td>
<td>4.0</td>
<td>0.9</td>
</tr>
<tr>
<td>*Senegal</td>
<td>1.2</td>
<td>0.3</td>
</tr>
<tr>
<td>Botswana</td>
<td>0.1</td>
<td>0.5</td>
</tr>
<tr>
<td>Tonga</td>
<td>0.1</td>
<td>0.02</td>
</tr>
<tr>
<td>Seychelles</td>
<td>0.03</td>
<td>0.2</td>
</tr>
<tr>
<td>Swaziland</td>
<td>nil</td>
<td>0.1</td>
</tr>
<tr>
<td>$376-$750 of which Zambia</td>
<td>9.8</td>
<td>0.3</td>
</tr>
<tr>
<td>*Dominican Rep</td>
<td>2.2</td>
<td>0.4</td>
</tr>
<tr>
<td>*Peru</td>
<td>1.9</td>
<td>0.6</td>
</tr>
<tr>
<td>*Algeria</td>
<td>1.7</td>
<td>1.6</td>
</tr>
<tr>
<td>Fiji</td>
<td>0.3</td>
<td>0.1</td>
</tr>
<tr>
<td>Malaysia</td>
<td>nil</td>
<td>0.8</td>
</tr>
<tr>
<td>Guyana</td>
<td>nil</td>
<td>0.2</td>
</tr>
<tr>
<td>Over $750 of which *Chile</td>
<td>9.0</td>
<td>0.6</td>
</tr>
<tr>
<td>Singapore</td>
<td>6.8</td>
<td>0.5</td>
</tr>
<tr>
<td>*Argentina</td>
<td>4.0</td>
<td>nil</td>
</tr>
<tr>
<td>*Mexico</td>
<td>1.8</td>
<td>0.04</td>
</tr>
<tr>
<td>Jamaica</td>
<td>0.08</td>
<td>0.3</td>
</tr>
<tr>
<td>Malta</td>
<td>0.03</td>
<td>0.3</td>
</tr>
<tr>
<td>Cyprus</td>
<td>nil</td>
<td>0.08</td>
</tr>
<tr>
<td>Barbados</td>
<td>nil</td>
<td>0.08</td>
</tr>
<tr>
<td>Trinidad</td>
<td>nil</td>
<td>0.04</td>
</tr>
<tr>
<td>Bahamas</td>
<td>nil</td>
<td>0.02</td>
</tr>
</tbody>
</table>

†The higher figure is based on guesses for 1971 and 1972 for which years statistics are not available.
CABINET

EXPORT OF ARMS SPARES AND EQUIPMENT TO SOUTH AFRICA

Memorandum by the Secretary of State for Trade

1. My memorandum C(75) 47 related only to spare parts. I should however like to raise in the discussion two other items referred to below which seem to me to be particularly sensitive, and on which the Defence and Oversea Policy Committee were divided.

DECCA DOPPLER AIR NAVIGATION RADAR

2. The Defence and Oversea Policy Committee agreed that dual purpose equipment whose intended use was known to be exclusively military should be considered individually. Under this head the Committee considered two such applications for navigation equipment in military aircraft, one for Marconi-Elliott navigation computers (£297,000) and one for Decca radar (£85,000). The Marconi export was agreed, but the Committee took into account the fact that a contract was placed for the equipment at the beginning of 1974, and that the South African Government had already paid 30 per cent of the cost. In the case of the Decca Doppler equipment, no such firm contract exists and no payment has been made. I consider that in these circumstances there is no justification for allowing the export of this new equipment which is clearly destined for use in military planes.

GAS MASKS

3. These have been regarded as "ancillary" equipment but the classification is not free from doubt. One application for export is outstanding, value £19,000, for 1200 gas masks, canisters, etc. destined for the South African Navy. These are of a military specification, and of a type which could be used in anti-riot situations. Although the application is, I understand, covered by an existing contract, I think that we should be justified in rejecting the export, given the sensitive nature of the equipment.

4. I invite my colleagues to agree that the export of these two items should be refused.

P.S.

Department of Trade

12 May 1975
14 May 1975

CABINET

EMPLOYEE PARTICIPATION ON COMPANY BOARDS

Memorandum by the Secretary of State for Trade

1. At the Ministerial Committee for Industrial Development on 22 April a decision was taken to appoint an independent Committee of Inquiry to advise on employee participation on company boards, and I was asked to take the lead in drafting an announcement. I circulated a draft announcement, including the proposed terms of reference. These were agreed by colleagues and I was to have made a statement in the House yesterday.

2. At the last moment, however, the General Secretary of the Trades Union Congress (TUC) wrote to the Prime Minister asking for two amendments to the terms of reference. He wanted the reference to European Economic Community proposals omitted and this I can accept. The second point is that the TUC asked that the terms of reference should include a statement that the extension of industrial democracy must be based on trade union organisation. This is of course a central point in the TUC approach to worker participation. In practice, however, its application gives rise to very serious problems. It would exclude the 12 million non-unionised working people from representation at board level. It would also create a serious problem in securing representation of junior and middle management on the board, which is an issue which is causing considerable difficulties in continental countries such as Germany where employee participation is much more advanced than here.

3. Needless to say I wholeheartedly endorse the policy that we should seek to develop industrial democracy through trade union machinery. But I think it would be wrong to shut our faces to the difficulties which exist in relation to non-unionised employees, and I think it important that the independent Committee should address themselves to this problem and see whether some solution can be found.
4. I have therefore tried to devise a formulation in the terms of reference which recognise the importance of trade union organisation in this context but which does not completely tie the Committee's hands on this subject. I am therefore proposing the following revised terms of reference:

"1. Accepting the need for a radical extension of democracy in industry through employee participation in the control of companies by means of representation on boards of directors, and the essential role of trade union organisations in this process, to consider what form this might take, taking into account the proposals in the TUC report on "Industrial Democracy" as well as other current proposals and experience in Britain and other countries,

2. Having regard to the interests of the national economy, employees, investors and consumers, to analyse the implications of different schemes for such representation for the efficient management of companies and for company law."

5. I invite the agreement of my colleagues to these terms of reference, in order that I can make a statement in the House on Thursday 15 May on the lines already agreed.

PS

Department of Trade

14 May 1975
CABINET

PUBLIC EXPENDITURE

Memorandum by the Prime Minister

1. When the Cabinet discussed public expenditure on 10 April (CC(75) 19th Conclusions, Minute 3) I undertook to consider the arrangements which should be made in future to enable us to reach a collective view on our public expenditure strategy.

2. The full Cabinet is of course a difficult forum for discussion of a subject as technically complex and detailed as public expenditure. Nevertheless the allocation of resources is one of the Government's most important decisions and necessarily involves the Cabinet. What we need to do is to ensure two things. The first is that the Cabinet should have the right material and enough time to consider public expenditure policy in relation to the Government's broad political and economic strategy, and in particular what that strategy will look like when the Government approaches the next General Election. The second is that when specific decisions are required there should be as simple and coherent a presentation of the issues for decision as possible. However we should achieve these aims in a way which preserves the existing public expenditure survey system and does not weaken our control of public expenditure. Following discussion with the Chancellor of the Exchequer, I set out in this note my proposals for an improved Ministerial debate on the whole question.

MEDIUM TERM ECONOMIC ASSESSMENT

3. The starting point for any assessment of public expenditure is the Medium Term Economic Assessment (MTA). The MTA as such is not suitable for collective discussion by Ministers. It would however be possible for the Treasury to present to Cabinet the main elements in the Medium Term Assessment (shorn of its technical jargon and apparatus) before Cabinet got down to substantive discussion of public expenditure programmes. One of the important aspects of this presentation would be to show the effects of departures - pessimistic and optimistic - from the central case; and Ministers might be given an aide-memoire to take away, summarising the material which had been presented to them.
4. This presentation would be followed by an early Cabinet discussion leading to a decision on the broad division of resources between public expenditure and private consumption, ideally incorporating some element of flexibility to allow for later changes in economic prospects.

PUBLIC EXPENDITURE FIRST STAGE

5. Following discussion with Departments, the Central Policy Review Staff (CPRS) and Treasury would produce a paper identifying the really major issues upon which Cabinet might want to give political guidance before the public expenditure survey was put in hand.

6. The aim of this would be twofold -

a. To give Ministers an opportunity to discuss political options.

b. To let them see in synoptic terms where the whole public expenditure policy was leading in terms of year 5 (or the next Election) and in particular what might be the effect by then of choosing between the various options open to them.

PUBLIC EXPENDITURE, SECOND STAGE

7. In the light of this political guidance, the Treasury would then conduct the Public Expenditure Survey in such a way as to produce figures conforming as nearly as possible both to the economic limitations flowing from the MTA and the priorities between programmes settled by Cabinet. New problems might arise while the Survey was being prepared, and some problems would of course remain to be resolved when the Survey was completed.

8. On completion of the Survey the Official Steering Committee on Economic Strategy (chaired by the Treasury at Permanent Secretary level) would prepare a memorandum for Cabinet identifying the main issues and alternative options on the programmes taking into account the guidance given at the first stage. The Public Expenditure Survey Committee (PESC) Report would remain, as now, a background document summarising an interdepartmentally agreed costing of all the programmes for reference as necessary. By interposing the new memorandum between the PESC Report and Cabinet discussion of it much of the detailed presentation which Ministers currently find indigestible and confusing would be eliminated. The Chancellor would no doubt wish to make his own proposals as the basis for decisions leading up to the White Paper on public expenditure in the autumn.
TIMETABLE

9. In a normal year the sequence of events would run like this -

i. January/February - Treasury submission to Cabinet of main elements of MTA following consideration by the Steering Committee on Economic Strategy (SCE), plus commentary by CPRS.

ii. February - in light of i, decision on the broad allocation of resources between public expenditure and private consumption on the basis of a paper by the Chancellor.

iii. March - in light of ii, discussion of joint CPRS and Treasury priorities paper.

iv. March - Chancellor's paper on launching of public expenditure Survey, designed to produce the overall limits and priorities agreed by Cabinet.

v. late June - submission to Cabinet of (i) a memorandum from the official Steering Committee on Economic Strategy on the PESC Report and (ii) Chancellor's proposals.

vi. July - decisions by Cabinet as the basis for the preparation of the annual White Paper.


10. This would be a norm to which the standard run of work would be geared; but it would of course suffer disruption, if, for short-term reasons, a rapid cut in spending plans became essential.

SITUATION THIS YEAR

11. This proposed procedure cannot be put into operation fully this year. No up to date version of the MTA is immediately available and the £1 billion cut announced in the Budget statement makes the figures in the January White Paper out of date (since the consequences of the 1976-77 reduction for later years have yet to be worked out). We must therefore enter in mid-cycle but we can start injecting some of the ideas outlined above.
12. A possible timetable would be -

i. May - launch the 1975 public expenditure survey in a form which requires Departments to produce figures on a basis approved by the Cabinet.

ii. End June - Treasury submission to Cabinet of the main elements of MTA using rough forecasts of public expenditure figures, plus commentary by CPRS.

iii. July - Paper on priorities and the major options for Ministers over the 5-year period prepared by the Treasury and the CPRS.

- Meeting of Ministers at Chequers to consider priorities and strategy.

iv. September - Consideration by Ministers of i. SCE paper on the Public Expenditure Survey and ii. proposals by the Chancellor for the basis of the Public Expenditure White Paper, taking account of the earlier discussions on the MTA and on priorities.


13. Improvements in the system will not make our decisions more palatable at a time when resources are scarce, but I hope my colleagues will agree that these proposals should give them a better synoptic picture and should contribute to decisions which more closely match the Government's overall strategy to the available resources.

H W

10 Downing Street

19 May 1975
The Significance of the Borrowing Requirement

Note by the Chancellor of the Exchequer

At their meeting on 10 April 1975, the Cabinet invited me "to consider the definition and significance of the public sector borrowing requirement, and to report back in due course" (CC(75) 19th Conclusions, Minute 3). The attached note by officials describes and comments on public sector's deficit and borrowing requirement, concepts which I discussed at some length in my Budget statement, and which are equally relevant to my present proposals for the review of public expenditure.

D W H

Treasury Chambers
19 May 1975
Note by Officials

Definitions

1. There are two related concepts, the public sector deficit (PSD) and the public sector borrowing requirement (PSBR) which consists of the PSD plus transactions in financial assets such as the loans to the Building Societies and the purchase of BP shares. As explained below the former is more significant in relation to resource allocation and management, and the latter in relation to the monetary impact of financing the public sector.

(a) The Public Sector Deficit

2. The financial surplus, or deficit, of the public sector, like that of other sectors of the economy, represents the extent by which the sector's surplus on current account - its savings - is sufficient, or insufficient, to finance its capital expenditure. To the extent that a sector is in surplus, this will be matched by the acquisition of financial assets; to the extent that it is in deficit, by the incurring of financial liabilities. In the case of the overseas sector, its surplus is the counterpart of (ie equal and opposite to) this country's balance of payments deficit on current account. Since one person's financial asset is another's financial liability, the financial balances of the four main sectors - the public sector, the personal sector, the company sector and the overseas sector - must by definition sum to zero (errors and omissions excepted).
Thus the sum of the three domestic sectors must be equal to the current balance of payments deficit (or surplus). In general the private sector as a whole has tended to be in surplus, with the personal sector in sufficient surplus to offset the fact that the company sector is more often in deficit than in surplus. The public sector is generally in deficit, while the overseas sector mirrors our balance of payments position - recently it has been in surplus.

(b) The Public Sector Borrowing Requirement

3. The public sector's borrowing requirement exceeds the public sector deficit, not only because the sector needs to borrow to finance its deficit, but also because it is a net lender to the other sectors and needs to finance its own lending to others - at home and abroad - and to finance its acquisition of company securities. Table 1 shows the figures for both the deficit and the borrowing requirement for recent years.

Table 1

<table>
<thead>
<tr>
<th>PSBR and PSD</th>
<th>£ million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Sector Deficit (as % of GDP)</td>
<td>1.900</td>
</tr>
<tr>
<td>Net lending to Private Sector</td>
<td>250</td>
</tr>
<tr>
<td>Net lending Abroad</td>
<td>450</td>
</tr>
<tr>
<td>Cash expenditure on company securities</td>
<td>-</td>
</tr>
<tr>
<td>Other Adjustments</td>
<td>-</td>
</tr>
<tr>
<td>Other Adjustments</td>
<td>-</td>
</tr>
<tr>
<td>PSBR (as % of GDP)</td>
<td>2.550</td>
</tr>
<tr>
<td>(as % of GDP)</td>
<td>(4.5)</td>
</tr>
</tbody>
</table>
The annex describes the difficulties involved in forecasting the PSBR in a period of rapid inflation, and gives a breakdown in Table 2, of the reasons for the changes in the PSBR estimates during 1974-75.

The significance of the Public Sector Deficit

4. The public sector deficit (PSD) derives its importance from the fact that it is a measure of the impact of Government current and capital expenditures and taxation on the economy. Although it would be unsafe in the present state of knowledge to formulate precise targets, we can arrive at certain broad conclusions which indicate a sensible general objective in this field. In order to reach a situation later this decade in which the balance of payments deficit ("financial surplus of the overseas sector") has disappeared, we must have got the PSD to a level where it can be matched by a continuing stable financial surplus of the private sector of our economy. Experience so far suggests that we cannot reasonably expect this to be much more than about 3 per cent of GDP over a period of years. This compares with a PSD of about 8 per cent of GDP in both 1974-75 and 1975-76.

The need for sectoral balance

5. To the extent to which the PSD is in excess of this long-term target, the Government accounts are liable to throw the rest of the economy into disequilibrium: either the private...
sector (companies and persons) must save higher proportions of their incomes than they have ever saved for a sustained period in the past or the balance of payments deficit will be higher than we can afford to accept over a run of years. Either way the situation will not be viable. The other two domestic sectors cannot be forced to adjust their financial behaviour so as to accommodate the needs of the public sector: consumers and companies will not be prepared to hold paper assets so as to enable the public sector to command a greater share of resources than the Government is prepared to pre-empt through taxation. If they find their financial balances improving rapidly, as a consequence of a large PSD, they will react by spending more either on consumption or investment. They will not be prepared to lend without limit to the public sector. The public sector must therefore, over time, match its deficit to what the other sectors are prepared to finance: in present circumstances this means cutting public expenditure and/or increasing taxation, either of which will reduce the PSD. Getting the public accounts into some better balance is therefore a measure of the extent to which we are getting our national physical resources into balance. It is not a question of setting precise equilibrium "targets" for the PSD. The approach is rather in terms of achieving the necessary disposition of real resources which will permit the required outcome for the balance of payments. (Resource availability is of course not the only necessary condition involved; price etc competitiveness is also essential, and in addition micro-
economic measures may be necessary). But it is always possible and often revealing to examine the implications of any policy for resource use in terms of its likely effect on the PSD, and this was done in some paragraphs of the Budget Statement.

The pace of adjustment

6. If the pattern of sectoral financial balances were near the proportions which had prevailed up to a year or two ago and if changes in these balances from year to year were relatively small, there would be room for considerable dispute about the likely effect - and in particular the timing of the effect - of, for instance, a projected change in PSD. Some economists (the "new Cambridge" school) would confidently predict an equivalent change in the overseas balance fairly soon; others would doubt this, and would think it quite possible that there should be offsetting changes in the private sector balances. With the enormous imbalances which we have now reached, however, the scope for nice arguments of this type does not exist. There is no question that we have to restore balance - the question is, how quickly? The Budget has made a start. But we will have to go further and we may have to go faster.
A 'full employment' PSD

7. For given tax rates and levels of public expenditure, the PSD will be smaller if the level of activity in the economy is higher: for example income tax yields will be higher and unemployment benefit payments less if unemployment is reduced. The concept of a 'full employment' PSD has therefore evolved, as being what the PSD would be if the economy was running at the maximum practicable level of resource use, i.e. "full employment". In principle, a target value for the PSD for a run of years should be determined in terms of what the "full employment" PSD should be in those years, rather than what the PSD at the actual level of activity would be. But it is not possible to calculate a unique value for a "full employment" PSD because there are in principle several possible figures depending on what assumptions are made about how the full employment situation would be achieved: the PSD would be different if full employment were achieved via export-led growth than if it were brought about by consumers saving less and spending more.

8. But this does not mean that a fiscal relaxation to stimulate activity can lead to a lower PSD, because the direct costs of the tax cuts or increased public expenditure introduced to reflate the economy would increase the PSD by significantly more than the subsequent reduction due to the higher activity. Fiscal relaxation would inevitably cause a net increase in the PSD.
The significance of the Public Sector Borrowing Requirement

9. The PSBR - the second of the two concepts dealt with in this paper - is also significant in a number of contexts. First, many of the lending transactions that contribute to it (but are excluded from the public sector deficit) can have an important influence on the liquidity of the private sector, and so can affect spending and external capital flows. Secondly, the financing of a large borrowing requirement can pose problems for monetary management, which again have implications for the real economy and external flows. Thirdly, it has come to be considered by outside observers as an indication of the Government's budgetary stance, and so can be critical to confidence.

The effect of net lending

10. The action of the Government lending to one part of the economy, and then borrowing from another part to finance it, can have direct and indirect resource effects. The recipient may well use the loan to finance expenditure which he could not otherwise have financed: indeed that may be the purpose of that loan. Subsequently the addition to the total liquidity of the private sector may give rise to further expenditure. The increase in liquidity may in addition reduce the inflow of funds from abroad (or increase the outflow) by, for example, changing the leads and lags in commercial payments.
Financing the PSBR

11. The PSBR is financed in three main ways - by sales of debt to the public outside the banking system (e.g. gilts, national savings, local authority mortgages), by external transactions - which include not only direct Government borrowing, but the effect of changes in the reserves on the sterling assets of the Exchange Equalisation Account - and by borrowing from the banking system. The extent to which it is possible to achieve the first depends on confidence, the level of interest rates and expectations about future interest rates. It may be possible to increase the amounts financed in this way for example by raising interest rates, but this would have unfortunate consequences for some of our other objectives, particularly in relation to housing and industry. Moreover, within the next year or two we shall have to limit the extent to which we sell public sector debt to the financial institutions, such as insurance companies, so that they can have funds available to invest in industry as the economy recovers. Thus an excessive PSBR could be a constraint on industrial investment.

12. The extent of external finance of the borrowing requirement is not something that can easily be manipulated by us. To a very large extent it is the consequence of our external deficit. In the simplest case, in which the external deficit is financed by losses of reserves, the public sector receives a corresponding inflow of sterling finance. But this is obviously not a form of financing that we would
desire. Borrowing abroad by nationalised industries and local authorities does not in itself help to finance the PSBR, since these bodies require sterling for their spending and the authorities have to provide this in exchange for the foreign currencies. (The purpose of such borrowing is to bolster the reserves, not to finance the public sector).

This leaves the balance of the borrowing requirement to be financed through the banking system: this adds to the money supply directly and can also lead, through increasing the reserve asset base of the banks, to a further increase in the money supply if countervailing action is not taken by the monetary authorities.

Implications for money supply

14. The exact significance of changes in the money supply for the real economy is hotly disputed between economists. But there is little doubt that the rapid increase in 1972 and 1973 added to inflationary pressures. It is important to ensure that increases in the money supply should not be allowed to fuel inflation again.

15. Moreover, there is considerable evidence that changes in the liquidity of the private sector, and particularly the corporate sector, can both affect its level of activity and for the reasons explained above, have marked effects
upon flows of funds from abroad and hence on the sterling exchange rate and/or the way we finance our external deficit.

16. A large public sector borrowing requirement can therefore leave the Government with a choice of raising interest rates to attract funds from the institutions (thus reducing the amount available for industry) or risking a growth in the liquidity of the private sector that could add to inflation and to the difficulties of financing our external deficit.

Effect on confidence

17. In addition, the public sector borrowing requirement has come to assume an importance in the eyes of financial markets at home and abroad that is greater than it probably justifies. This is in part due to the fact that the overseas markets do not understand the details of our budgetary strategy, and are looking for some convenient single indicator - the PSBR is the best available. The size of the PSBR can therefore have a significant effect on confidence in sterling, and the willingness of our overseas creditors to go on lending to us. This may be irrational, but cannot be ignored as long as we are having to borrow to finance our external deficit.
Forecasting the PSD and PSBR

The public sector deficit, like the other sector surpluses and deficits, and the public sector borrowing requirement are difficult to forecast accurately. They are all balances between large aggregates, so that errors in one of these aggregates can lead to proportionately much larger errors in the balance. The margins of error are much larger than usual at present because of the substantial relative movements in costs and revenues in a time of rapid inflation.

2. The difficulties are brought out by the analysis in Table 2 of the changes in the estimates of the PSD and PSBR in 1974-75 between the Budget in March 1974 and now: the analysis is based on preliminary returns, and there may even now be further significant changes, particularly in respect of local authorities. The total increase in each case was some £5 billion. Half of this, £2.5 billion, was because the rate of general inflation was substantially higher than forecast in March 1974, and because the increase was particularly concentrated in the public sector. The higher levels of money incomes and expenditure increased tax revenue by some £800 million. But price changes increased public expenditure directly by some £2,250 million – about one half of this was due to the higher increases in public sector costs than in costs generally, for example wage increases to teachers, nurses and others which included a substantial element of making good ground lost in previous years. In addition the higher rate of inflation underlay an increase of more than £1 billion in subsidies, including
price restraint compensation to the nationalised industries and housing subsidies.

3. This error arising from inflation being greater than anticipated was greater than the effect of policy changes during the year, which added just under £2 billion to the PSBR. The Chancellor's July measures and November budget added £1,150 million. A range of decisions to increase public expenditure - such as the pensioners' Christmas bonus and the rescue of Court Line, Crown Agents and Burmah oil - added some £750 million.

4. It would appear from the provisional figures so far available that the level of public expenditure on purchasing goods and services increased by £1,000 million more than can be accounted for by price changes and policy changes. Three quarters of this overspend was by local authorities - a disturbing figure.

5. The fact that employment was higher than anticipated improved the revenue by some £400 million, but this was largely offset by higher interest payments due to the increase in the borrowing requirement. For the rest, the net effect of the numerous other changes in individual items was to reduce the estimated change by nearly £500 million.
Table 2: Changes in estimate of the PSD and PSBR for 1974/75

<table>
<thead>
<tr>
<th>Description</th>
<th>PSD</th>
<th>PSBR</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 1974 Budget estimate</td>
<td>1,175</td>
<td>2,725</td>
</tr>
<tr>
<td>1. Effects of Inflation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>On revenue</td>
<td>- 825</td>
<td>- 825</td>
</tr>
<tr>
<td>Direct effects on public sector costs</td>
<td>+ 2,225</td>
<td>+ 2,225</td>
</tr>
<tr>
<td>Subsidy changes directed to prices etc.</td>
<td>+ 1,100</td>
<td>+ 1,100</td>
</tr>
<tr>
<td></td>
<td>+ 2,500</td>
<td>+ 2,500</td>
</tr>
<tr>
<td>2. Effects of changed estimates of employment and economic activity</td>
<td>- 425</td>
<td>- 425</td>
</tr>
<tr>
<td>3. July Measures</td>
<td>+ 550</td>
<td>+ 350</td>
</tr>
<tr>
<td>4. November Budget</td>
<td>+ 725</td>
<td>+ 800</td>
</tr>
<tr>
<td>5. Other announced Policy Changes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Export Credits - Interest Arrears</td>
<td>+ 110</td>
<td>+ 110</td>
</tr>
<tr>
<td>NCH Pneumoniconiosis Grant</td>
<td>+ 60</td>
<td>+ 60</td>
</tr>
<tr>
<td>OAP Christmas Bonus</td>
<td>+ 92</td>
<td>+ 92</td>
</tr>
<tr>
<td>Crown Agents</td>
<td>+ 85</td>
<td>+ 85</td>
</tr>
<tr>
<td>Post Office capital programme</td>
<td>+ 28</td>
<td>+ 28</td>
</tr>
<tr>
<td>Building Society Loan</td>
<td>-</td>
<td>+ 113</td>
</tr>
<tr>
<td>LA loans for house purchase</td>
<td>-</td>
<td>+ 35</td>
</tr>
<tr>
<td>Burmah Oil and Court Line</td>
<td>-</td>
<td>+ 195</td>
</tr>
<tr>
<td>Other</td>
<td>+ 25</td>
<td>+ 32</td>
</tr>
<tr>
<td>Total</td>
<td>+ 400</td>
<td>+ 750</td>
</tr>
<tr>
<td>6. Other changes in use of resources by public sector</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central Government, current &amp; capital</td>
<td>+ 225</td>
<td>+ 225</td>
</tr>
<tr>
<td>Local government, current &amp; capital</td>
<td>+ 350</td>
<td>+ 350</td>
</tr>
<tr>
<td>Public corporations capital</td>
<td>+ 400</td>
<td>+ 400</td>
</tr>
<tr>
<td></td>
<td>- 25</td>
<td>- 25</td>
</tr>
<tr>
<td>Total</td>
<td>+1,000</td>
<td>+1,000</td>
</tr>
<tr>
<td>7. Consequential change in debt interest</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estimated Outturn</td>
<td>5,925</td>
<td>7,606</td>
</tr>
</tbody>
</table>
CABINET

PUBLIC EXPENDITURE AND ECONOMIC STRATEGY

Memorandum by the Chancellor of the Exchequer

1. Until now the programming and control of public expenditure has been unsatisfactory in two respects. First, Ministers have not given adequate time to considering how the Government's economic, social and political priorities should be reflected in distributing the total sum which can be allocated to public expenditure in the light of the likely growth of output and the claims of exports, investment and privately financed consumption. Second, successive governments have failed to ensure that programmes are adequately controlled once they are in operation.

2. I have asked the Treasury to approach other Departments to see how far it may be possible to supplement planning in constant prices for a five-year period with the establishment of cash limits for expenditure in the first year of the period; with inflation at current rates a move in this direction is essential, although it will not remove the need for policy decisions to keep the real volume of expenditure under control. So far as local government expenditure is concerned we hope to achieve more success through the new consultative machinery.

3. On the determination of priorities within the total sum allocated to public expenditure, the Prime Minister's proposals should permit in a normal year a rational approach by considering the total sum permissible in the light of the Medium Term Assessment and then going on to consider the general distribution of expenditure within that sum. This year we cannot wait for this discussion before starting the normal interdepartmental work which leads up to the publication of the White Paper in December. I am therefore inviting my colleagues in an accompanying paper to agree now on some ground rules for this year's Survey of public expenditure.

4. Before considering the prospects for the economy in the medium term so far as they can be judged in advance of the MTA, it is perhaps worth considering some general features of the position from which we start. First, public expenditure in Britain has been steadily increasing as a percentage of GDP from 42 per cent in 1955 to 45 per cent in 1965.
and 58 per cent in 1975. Taxes have been steadily increasing to cover the cost. Income tax alone now takes 18.9 per cent of the average earnings of a married man with two children compared with 5.6 per cent 10 years ago. The number of income taxpayers as a percentage of the working population is now 82 per cent compared with 77 per cent in 1965 and 69 per cent in 1955.

5. Nevertheless the public sector as a whole is raising far less in revenue than it is spending and lending. This year the public sector borrowing requirement is expected to be over £9,000 million or about 10 per cent of GDP. In a nutshell, central and local government, together with the nationalised industries, are spending or on-lending to others, 19p in the £ more than they are receiving in revenue. This abnormally large deficit in the public accounts is in part reflected in a balance of payments deficit which amounted last year to 5 per cent of the national income. The nation as a whole is living 5 per cent above its means. The deficit on the public accounts may not be the sole cause of the deficit on the balance of payments, but a lasting improvement in the balance of payments cannot be achieved unless the public sector deficit is substantially reduced.

6. Last autumn it seemed possible to go rather slowly towards removing our balance of payments deficit. But our high rate of inflation - twice that of most industrial countries - threatens our continued ability to find overseas finance for our deficit.

7. Many, though not all of our problems, are created by our excessive rate of wage inflation. Until we devise policies to bring this down, the whole of our economic policy will suffer exceptional constraints. For example, as long as wage settlements run at current levels I cannot afford even to consider a more expansionary budgetary policy. Yet, quite apart from its social and moral unacceptability, unemployment also imposes severe economic costs. As it is, I have to aim at returning towards full employment on the back of a substantial increase in our exports during the expected recovery in world trade next year. But this in turn depends on maintaining our international competitiveness; and to maintain it in the face of wage inflation by successive depreciation of the parity itself inflates domestic prices and costs, and makes borrowing more difficult.

8. But even if we could get wage inflation under control, our economy would still be dangerously unbalanced. It is normal to analyse public expenditure in terms of the allocation of real resources, i.e., the distribution of goods and services between the balance of payments and investment, public expenditure, and privately financed consumption. It is possible to apply similar reasoning to the financial balances in the economy and I am, as asked, circulating a note by officials which explains some of the complex relationships between resource imbalances, the public sector borrowing requirement and the public sector deficit (PSD). The two approaches should be complementary, different sides of the same coin.
9. In considering the financial balance in the economy, I concentrate on the PSD. The PSD is some measure of the Government’s excess claim on resources. It is common ground that a PSD of around 8 per cent of the national income (£7.6 billion in 1975–76) is not consistent with balance of payments equilibrium unless the other two sectors of the economy—companies and persons—are willing to save in excess of their capital expenditure far greater proportions of their incomes than they have ever done in the past. There is no reason to expect such a major change in habits—nor indeed to wish it so far as companies are concerned, since this would reduce productive capital investment to unacceptable levels. If the Government persisted in raising insufficient taxation to pay for the resources it was extracting from the economy, the other sectors would one way or another be left with excessive income which they would be likely to spend, and would in turn absorb resources from the rest of the world. It therefore follows that if we are to remove our balance of payments deficit over a run of years and make room for the extra exports required we must reduce the excess of public spending over public sector revenue.

10. We are running at the moment well below full capacity output, and all the imbalances to which I have drawn attention would look far better if, as we intend, we can return towards full employment on the back of an increase in exports. National income and government revenue would both be greater, and the PSD and the balance of payments deficit would both be smaller. But this alone would not do the trick. Very substantial imbalances would still remain. And these imbalances would have to be removed by increasing the proportion of Government spending which is met by taxation.

11. As I pointed out before the Budget in arguing for public expenditure cuts in 1976–77, it is unlikely that we could finance the White Paper expenditure programmes later in the decade without increasing tax revenues by an amount equivalent to something like 10p in the £ on income tax. This would mean income tax alone taking 25.1 per cent of the average earnings of a married man with two children and the poorer section of our people beginning to pay income tax at the marginal rate of 45 per cent. I do not believe this would be socially just or economically tolerable; it would for example enormously stimulate the wage-price spiral. The problem cannot be avoided by soaking the rich. If we confiscate all taxable income above £6,000 a year (just over twice average earnings) we would raise—once for all—about £450 million as against our current public sector deficit of £7.6 billion.

12. It was this which led me in the preparation of my Budget to urge my colleagues to agree to public expenditure cuts for 1976–77, and I am sure that those decisions will make for a more viable economic strategy in the next two years. It is clearly possible that more will have to be done for the period 1975–77. But we must now look ahead, and ensure that our imbalances can be eliminated within the lifetime of this Parliament. As explained in the attached paper by officials, the economic
outlook has deteriorated in several respects since last year's Public Expenditure White Paper was prepared. In particular, it is unwise to assume that our GDP will grow as fast as then expected and we must plan to remove our balance of payments deficit faster. It is always possible that circumstances will improve, but I believe it is right not to err on the side of over-optimism - particularly an over-optimism based on assumptions about the effect of new policies which we have either not yet adopted or not yet tested in operation.

13. Ministers will wish to read my memorandum on public expenditure before deciding what guidelines we should give to officials for this year's Public Expenditure Survey. In my view realism requires us to recognise that the level of public expenditure in 1978-79 will have to be at least £2 billion at 1974 Survey prices below the White Paper projections, and the need for a bigger reduction cannot be ruled out.

14. Some of the figuring from which this order of magnitude is derived is summarised in the final paragraph of the attached paper by officials.

D W H

Treasury Chambers
19 May 1975
ECONOMIC BACKGROUND TO PUBLIC EXPENDITURE IN THE MEDIUM-TERM

Paper by Officials

1. This paper discusses medium-term economic prospects as a background to public expenditure planning. It begins with a summary of the medium-term assessment (MTA) projections prepared last autumn for incorporation in the Public Expenditure White Paper (Cmd 5879); it then suggests that medium-term prospects should now be viewed more pessimistically than last autumn; and it finally indicates how the change of prospects may affect the outlook for public expenditure and taxation.

The White Paper

2. Like its predecessors, the White Paper contained a summary of the economic background to the public expenditure programmes. In the central case, the growth of GDP 1973-79 was put at 3 per cent per annum; on the assumption that the current account of the balance of payments would have to be back in equilibrium by the end of the decade, the growth of 'free resources' - resources available for public expenditure and private consumption - came to about 1% per cent per annum. With the public expenditure programmes as set out in the White Paper, this implied an average annual rate of growth of privately-financed consumption 1973-79 of only just over 1% per cent per annum.

3. The White Paper also showed the consequences of a higher and lower rate of growth of GDP. In the higher growth case (average rate of growth of GDP 1973-79 of 3½ per cent per annum), privately-financed consumption increased by about 1½ per cent per annum. In the lower growth case (2¾ per cent per annum 1973-79) privately-financed consumption rose by only 0.4 per cent a year. The White Paper implied that, if there was any
divergence from the central case, the Government regarded
the lower growth case as the more likely alternative;
it also warned that on any of the growth variants the
burden of taxation would be likely to increase.

Another way of considering the problem of the economy
is in terms of the Government's own financial accounts —
the public sector deficit (PSD) and the public sector
borrowing requirement (PSBR). The estimate for the
current year is a PSD of about 8 per cent of GDP (and
about 10 per cent for the PSBR/GDP ratio); the MTA
White Paper projections suggest that by 1979 it might be
back to about 2 or 3 per cent, roughly consistent with
what some economists would regard as necessary for the
success of our economic policy. But it is unlikely
that this reduction in the PSD/GDP ratio could be achieved
without either increases in taxation or reductions in
public expenditure programmes.

The Deterioration of Prospects

The cautious wording of the White Paper reflected a
growing view even at the time of publication that some of
the assumptions underlying the 'central' case were in
fact biased on the optimistic side. The main points at
issue are summarized below: they relate to —

(i) the rate of growth of GDP; and

(ii) the requirements of the balance
    of payments.

CONFIDENTIAL
In sum, 3 per cent growth 1973-79 no longer looks a central assumption for GDP.

(ii) Balance of Payments

The second main point concerns the balance of payments. Here there has been a change of objective. The White Paper had assumed that balance need not be restored until the end of the decade; moreover, the path showed large deficits on the way, which would have meant considerable further additions to the UK's already large cumulative external indebtedness. As the Chancellor's Budget Statement pointed out, the consequences of such a course have increasingly become unacceptable in terms of the risks it would involve to our economic sovereignty; it is therefore essential to allow for a more rapid return to external balance. The problem of achieving this is exacerbated by the further delay now expected in the full flow of oil from the North Sea.

Consequences for Public Expenditure and Taxation

The more-stringent balance of payments objective and the reduction in the assumed rate of growth of GDP will significantly reduce the estimate of total resources becoming available for domestic purposes during the period. No firm figures can be offered at the present stage, because the new MTA - which will incorporate these changes - is only just getting under way, and will need information from the 1975 expenditure survey before it can be completed. However, the nature of the problems ahead can be illustrated as follows.
12 The points made in paragraphs 6-9 suggest that the lower growth case of the White Paper - 2½ per cent per annum 1973-79 - now represents a more reasonable central assumption. On this basis, and even before account is taken of the greater need for stringency on the balance of payments side, there would be room for only negligible growth in privately-financed consumption 1973-79.

13 From a more up-to-date base year - say, 1975 - the position may look easier. Because we start with a greater margin of slack the rate of growth of GDP 1975-79 would be higher than the 2½ per cent assumed for the 1973-79 period; moreover, privately-financed consumption is likely to register a fall between 1973 and 1975, and this would suggest that there could be some countervailing increase between 1975 and 1979, consistently with the assumptions in paragraph 12 above.

14 However, at unchanged tax rates the growth of private consumption would very likely be far greater than the modest catching-up just referred to; in other words, substantial tax increases would still be called for, unless the 1978/79 public expenditure programmes were reduced. These tax increases can be expressed in the form of the rise in income tax rates, assuming that income tax allowances are uprated in line with inflation and that indirect taxes are also, where appropriate, raised in line with prices. On these assumptions, on the basis of the 1974/75 tax rates, the necessary rise in income tax rates by 1979 works out, very roughly, at 10-12 pence; the basic rate would then be 43-45 pence. (This is the equivalent of a standard rate of 11s to 11s6d in the £ under the old system.)
The tax increases in the 1975 Budget will probably have gone only a limited way towards meeting these tax requirements; in other words, the indications are that further large tax increases would be needed if the 1978/79 public expenditure programmes remain unchanged.

As indicated in paragraph 12, these broad estimates allow nothing for greater stringency on the balance of payments side. The effect of aiming for more rapid progress towards balance on external account would be to depress the growth of privately-financed consumption and to increase the required rise in the burden of taxation. However, in advance of the new MTA work it is not possible to be more precise.

CONCLUSIONS

Ministers will wish to reflect on the figuring in this paper in coming to their decisions on the PESC guidelines. Many considerations will be relevant but the one to which this paper has been addressed is the consequence for privately-financed consumption, and therefore for the tax burden, of the White Paper public expenditure programmes. It follows from the last paragraph that no firm indication can at present be given of the size of public expenditure reductions by the end of the Survey period necessary to ease the prospective burden on the consumer by some chosen amounts. However, with the help of the White Paper MTA projections the scale of the problem can be illustrated in two alternative ways. If the aim were to bring the burden of taxation back to its 1974/75 level a very substantial cut would be required in public expenditure for the year 1979 - perhaps rather more than £3 billion at 1974 Survey
prices. Alternatively, if the objective were to restore the 1\(\frac{1}{2}\) per cent per annum average rate of growth of privately-financed consumption over the period 1973-79 which the Cabinet took to be a reasonable planning assumption last summer, the necessary reduction in the 1979 public expenditure level would come to about £2\(\frac{1}{2}\) billion. For the financial year 1978/79 the equivalent figure would be, say, £2\(\frac{1}{2}\) billion with the first approach and about £2 billion with the second.
We need to settle the basis for the 1975 Public Expenditure Survey, which unfortunately has been delayed by the Budget and the associated discussions on the 1976-77 programmes.

EXPENDITURE PLANNING AND CONTROL

I have explained separately in C(75) 62 the main reasons why the expenditure plans in the January White Paper (Cmd 5879) now look greater than the economy is likely to be able to afford. This paper concentrates on the implications of this for public expenditure planning.

We already face a number of serious difficulties in the public expenditure field. The first of these is the relationship between the actual growth of expenditure and the target which we set last year. Expenditure rose very rapidly in 1974-75 - overall by around 10 per cent in cost terms - even though we generally did not reinstate the specific cuts which our predecessors had imposed in December 1973. In honouring our Election commitments, we greatly increased spending on pensions and other social security benefits, subsidies and housing. These items together account for a large proportion of the increases in 1974-75 over the previous Government's provision. Expenditure is expected to continue to grow in 1975-76, even if not as fast as in the previous year.

The general picture can therefore be set out like this. The White Paper, based on the target of 2.5 per cent average annual increase for public expenditure in demand terms, provided for the total of public expenditure in 1978-79 to be nearly £5 billion in volume above the level attained in 1973-74. About two-thirds of this rise, however, has been taken up by the big increases which have already taken place, leaving only one-third, or about £1.5 billion, for the growth in the remaining three years from 1975-76 to 1978-79. This profile restricts our room for manoeuvre in adjusting expenditure plans for later years.
5. The second problem arises from the difficulty we are experiencing in keeping even within the White Paper levels. Some expenditures have for some time been allowed to increase without restraint. We can no longer afford this. The hard fact is that, however high the priority which we give to, say, housing, every increase, whether for policy or estimating reasons, pre-empts resources that could otherwise be devoted to something else. We must settle the amount we want to devote to these programmes in the light of the priority we attach to them, and then ensure that they conform with those plans.

6. On top of this, there are the large sums needed for the programmes which were not costed and included in Cmd 5879, especially for the extension of public ownership in various fields. While some elements in our expenditure on industry, such as compensation paid to existing owners, may not have a big demand content, they still exacerbate the problems of monetary management; and the provision for investment in an expanded public sector, including the commitments we have just announced for British Leyland, represent a real addition to the public sector's demand on resources and cash. Any large commitments of this kind which we enter into inevitably pre-empt the subsequent room for manoeuvre in our discussion of expenditure priorities. We must therefore in future both limit and phase our expenditure in this field, and impose effective criteria on assistance to industry.

7. There are too the usual stream of smaller, and not so small, items which come up every week as claims in the contingency reserve. The reserve for 1975-76, which was put in the White Paper at £300 million in demand terms at 1974 Survey prices, is now already exhausted. The reserve for the later years would quickly go the same way if all the claims which the Treasury knows about were to be met. I have already instructed the Treasury to adopt a most stringent attitude to all such further claims. One of the things we shall need to do in the present Survey is to reconstitute an adequate contingency reserve.

8. It would thus anyway be difficult enough, particularly in the face of the large and uncertain expenditure commitments in the field of industrial support and extension of public ownership, and the problem of controlling local authority current expenditure, even to keep to the planned levels in Cmd 5879, as altered by the 1976-77 reductions. Sectoral objectives involving public expenditure, however desirable in themselves, must now be firmly subordinated to the overriding need to keep the total within what we can afford. This will require close attention to priorities, as well as a stringent attitude to public expenditure decisions as they are taken. Local authority expenditure will require particularly careful attention; and we shall need to take full advantage of discussions in the new Consultative Council on local government finance.
PRIORITIES

9. I am aware of my colleagues' concern that we should in these circumstances pay particular attention to our priorities. I agree with this. We took a view last year about priorities (see my Cabinet paper C(74) 120), and the allocations to the programmes were built on this. We have since modified them in some respects, notably in the recognition that subsidies on nationalised industry products and on food must be scaled down and for the most part eliminated as rapidly as possible. On the other hand, we have so far tried to maintain high priority for certain improvements in social security benefits and housing and for measures of industrial support and training, and expansion on an economic basis of our agriculture; whereas in defence, following a full scale review, our commitments and capabilities have already been reduced, and the expenditure cut accordingly. The other large programmes are health and personal social services; education; law and order; roads and transport; and other environmental services. We must recognise that any significant re-ordering of priorities must involve quite big reductions in some of the programmes I have mentioned to offset improvements elsewhere. These programmes do of course include all the main local authority services, and the question of priorities will need to be covered in the Consultative Council discussions. There will be severe pressures all round, and we need to ensure that the resources which can be made available are put to the best possible use within, as well as between, programmes.

THE NEXT STEPS

10. We do not have at this stage to reach final decisions on all these matters. What we do have to do now is to settle what information we shall require in order to take decisions on them. A simple re-costing of existing policies will not provide a useful basis since this would not take account of the resource and tax constraints described in C(75) 62. Given that the assumptions underlying Cmnd 5879 now appear more favourable than we can realistically expect, further substantial increases in the tax burden will be required if we adhere to the expenditure plans of that White Paper. And we have seen the strong reaction to the tax increases which I have had to impose this year, although few responsible people have doubted their necessity.

11. We have already reduced the programmes for 1976-77, and this is a useful start. What we now need to put in hand is an assessment of the implications of a reduction from previously planned levels in each of the later years. The prospects discussed in the note attached to C(75) 62 suggest that the overall volume reduction in 1978-79 would need to be at least £2 billion at 1974 Survey prices and might very well have to be more. This would imply significant net reductions in 1977-78 and 1978-79 compared with the White Paper level for 1975-76. A decision on the actual reductions needed must await the full information provided by the Survey and this year's medium-term economic assessment. We clearly need in the Survey an indication of what might be involved in reducing programmes by bigger amounts say £3 billion in all, in order to give ourselves room for manoeuvre on priorities.
12. To do this we shall need to give appropriate guidance to officials, having regard to the priorities so far established and to the nature of the control exercised over different categories of expenditure. In the case of expenditure on goods and services the most convenient method is to ask officials to illustrate the implications of percentage reductions. For some services, however, the expenditure is determined by previous policy decisions and the level of demand placed on the service; for these, and more generally for transfer payments, this percentage technique is less appropriate, and we should instead ask officials to give a general indication of the savings that might flow from changes in the underlying policy.

13. The Appendix to this paper indicates the kind of guidance I propose we should give. The percentage reductions applied to expenditure on goods and services would continue, and intensify, the action already taken for 1976-77. If implemented, they would produce a total reduction on goods and services of about £1 billion in 1977-78 and about £1.5 billion in 1978-79. This implies that total expenditure on goods and services in 1978-79 would be about £4.5 billion below the White Paper level for the present financial year. Reductions of this order would contribute about one-half of the figure of £3 billion mentioned in paragraph 11 above, leaving the other half to be provided by the illustration of possible policy options in other categories. If however a sufficient amount cannot be found from these other categories, further savings might eventually have to be found from goods and services. The fact that most transfer payments and some other services have not been covered by the percentage formula does not mean that they should be exempt from scrutiny. In their case the Survey report must display the widest possible range of policy options, again not excluding substantial reductions in real terms compared with 1975-76. I am sure that we shall need to seek substantial savings in this field, although in deciding the pattern of such savings we shall have to take into account their full implications. When the results of the Survey are available, we shall be able to consider the implications for all the various programmes, and decide what changes need to be made in our policies or priorities, taking into account the latest view of the economic prospects.

TIMING

14. I realise that the preparation of a report on these lines will be a substantial task for Departments. A start on this work has inevitably had to wait while we settled the changes in 1976-77. It is important that it should now be begun without further delay, so that the results of the work by officials on the Survey, and the medium-term economic assessment which is very closely linked with it, can be available for us to discuss as soon as possible.
CONCLUSION

15. I recommend that for the 1975 public expenditure Survey officials should be asked to proceed on the lines indicated in the Appendix to this paper. If my colleagues agree, I will put this in hand through the interdepartmental Public Expenditure Survey Committee.

D WH

Treasury Chambers

19 May 1975
PUBLIC EXPENDITURE SURVEY 1975

THE GROUND RULES

Introduction

The purpose of the Survey is to illustrate for Ministers the implications for expenditure programmes of reducing the level of public expenditure below that shown in the January 1975 White Paper (Cmnd 5879). The aim is to provide Ministers with a basis for their discussions on the total level of public expenditure and on the priorities to be observed within the total.

2. The reductions in expenditure in 1976-77 announced in the Budget statement will need to be reflected in the Survey. The proposed ground rules for the subsequent years are designed to illustrate the effect of a progressive reduction from the Cmd 5879 levels in those years. So far as possible, these ground rules treat expenditure by reference to its general economic category, although some adaptation has been necessary in particular cases.

3. The basic starting point for the Survey is the expenditure programme figures incorporated in the White Paper, revalued to 1975 Survey prices, and adjusted to reflect changes, both policy and estimating changes, recorded up to the starting date for the Survey, which, it is suggested, should be 23 May. These basic figures would then be further modified as indicated in paragraphs 5-11 below, supplemented where necessary by Annexes 1 and 2.

4. Officials in Departments and the Treasury (and the Civil Service Department, as appropriate) would then assess the extent to which existing policies could still be carried out at or within these modified programme totals. If the existing policies could not be carried out without exceeding these totals, the report should show what could be accomplished within the totals, and the policy changes which this might involve. In the case of services to which percentage reductions do not apply, officials should explore and illustrate the implications of policy changes which Departments or the Treasury consider could be made to reduce expenditure.
Calculation of the modified totals

5. Subject to the special cases mentioned in Annex 2, the general principles to be applied are as follows.

1975-76

6. The figures to be entered in the Survey are the latest costings as at 23 May 1975, and will include any modifications flowing from the changes to 1976-77 announced in the Chancellor's Budget Statement.

1976-77

7. The figures to be entered are the basic figures as in paragraph 3 above, modified to take account of changes announced in the Budget Statement.

1977-78 and 1978-79

8. The total figures to be entered for these years would generally be derived by a broad percentage adjustment of the basic figures in paragraph 3 above.

9. The percentage reductions to be applied to the basic figures are explained in Annex 1. These reductions apply to current expenditure on goods and services, current grants to private bodies, gross domestic fixed capital formation and capital grants to persons and private non-profit making bodies. Other economic categories, and the services listed as exceptions in Annex 1, would not be subject to these percentage reductions, but would be treated in accordance with Annex 2. It should however be stressed that the application of percentage reductions is designed to produce certain totals for each of the main programmes (and Departmental shares in those programmes, including any expenditure incurred on their behalf by the Property Services Agency). Departments would generally then be free to reallocate the totals within their share of each programme, provided that the overall demand content is not thereby increased.
10. For this year no figures are available from Cmd 5879. The Survey totals for this year should therefore be calculated by estimating the expenditure in 1979-80 which would flow from a continuation of the modified policies which could be afforded within the totals derived as explained above for the earlier years. Except where justified by demographic factors, the growth of each main programme from 1978-79 to 1979-80 should not be allowed to exceed the average annual growth rate during the period 1975-76 to 1978-79 implied by the figures to be entered in the Survey for that period.

Programmes not costed in the White Paper

11. The programmes in the White Paper do not include the cost of certain policies which Ministers had decided to adopt before the White Paper was published, but which had not at that stage reached the point at which they could be costed on a year-by-year basis. These were left as a potential charge on the contingency reserve. Wherever possible, these programmes should now be costed with a comparable degree of stringency to that implied above for other programmes, for consideration by Ministers in the light of the Survey.

Charges

12. In certain cases (eg school meals) a charge is levied as an offset to the cost. For the purpose of the Survey, the calculation of these charges should be based on the assumptions underlying the White Paper figures. The expenditure totals should be derived from the White Paper figures for the cost of the service net of charges. The report should thus display the consequences (whether in terms of charging policy or some other policy modifications) of keeping the cost of the service, net of charges, within the totals modified in accordance with the procedure set out above. The possibility of increasing charges should also be separately examined in all cases.
Savings through lower standards

13. The Prime Minister has asked the Treasury and the CPRS to follow up the replies sent by Departments to the Prime Minister's minute of 24 December about the prospects for expenditure savings through lower standards. Treasury expenditure divisions (in consultation with CPRS) will discuss with departments, in the context of the 1975 Survey, the extent to which lower standards could contribute to expenditure reductions in the programmes concerned. A report on the outcome will be incorporated in the Survey report.
PERCENTAGE REDUCTIONS

The percentage reductions referred to in paragraph 9 of the main paper are as follows:

<table>
<thead>
<tr>
<th></th>
<th>1977-78</th>
<th>1978-79</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Current</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current expenditure on goods and services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- wages and salaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- other cogs</td>
<td>5%</td>
<td>10%</td>
</tr>
<tr>
<td>Current grants to private bodies</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B. Capital</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross domestic fixed capital formation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capital grants to private sector persons and private non-profit-making bodies</td>
<td>15%</td>
<td>20%</td>
</tr>
</tbody>
</table>

The following services are not subject to these general percentage reductions, but should instead be treated in accordance with the relevant paragraphs of Annex 2: investment by nationalised industries, Regional Water Authorities and the Civil Aviation Authority; certain expenditures in support of productive industry (see paragraph 3 of Annex 2); housing (including new dwellings in other programmes); "basic needs" school building; defence; superannuation payments; administrative costs of social security benefits and revenue collection; and current expenditure on certain "demand-determined" services (see paragraph 9 of Annex 2).
RULES FOR PARTICULAR CATEGORIES

The general principles in the main ground rules may require modification in the following cases.

Expenditure in support of productive industry

2. The productive investment of the nationalised industries, the Civil Aviation Authority and Regional Water Authorities, needs to be considered in the light of the demand for their products and their commercial prospects, and their contribution to the growth of the country's productive capacity and exports. The investment programmes should be discussed individually between the Treasury and Departments in the light of these criteria.

3. Expenditure on regional support and regeneration; industrial innovation; general support for industry; functioning of the labour market; agricultural support; support for fishing industry; and expenditure on infrastructure which is a direct consequence of the development of offshore oil; will not be subject to the percentage reductions in Annex 1, but otherwise the general procedure in paragraphs 3 and 4 of the main ground rules would apply.

Housing

4. Expenditure on housing (and new dwellings in other programmes) is not subject to the percentage reductions in Annex 1, but the expenditure totals for 1977-78 and 1978-79 (as well as that for 1976-77) should be reduced by a sum equal to the reduction announced for 1976-77 in the Budget Statement. Otherwise the general procedure described in paragraphs 3 and 4 of the main ground rules would apply.

Defence

5. Defence has already been subjected to a full review, and substantial reductions by comparison with the cost of previous plans were announced by the Secretary of State on 3 December. The figures to be used for the 1975 Survey should therefore be as follows:

a. For 1976-77, the revalued White Paper figure modified in accordance with the Chancellor's Budget Statement;
b. For the years from 1977-78 onwards, the revalued White Paper figures modified in accordance with the Cabinet decision that detailed studies should be initiated to attempt to accelerate the savings resulting from the recent Defence Review.

In addition, an indication should be given of the effect of applying reductions comparable to those in Annex 1 to the years from 1977-78 onwards, should such reductions be greater than those achieved by b. above.

**Overseas Aid**

6. The overseas aid programme would be subject to the same level of percentage reductions as that shown for current expenditure on goods and services in part A of the table in Annex 1. Superannuation payments would not be covered by these reductions, nor would expenditure by the Commonwealth Development Corporation which is not counted within the aid programme.

**Current grants to persons**

7. Expenditure classified under this heading (and the related administrative costs) should be forecast on the basis of numbers eligible and the economic assumptions adopted for the Survey. It will be necessary to explore or illustrate policy changes which Departments or the Treasury consider could be made to reduce expenditure on those programmes and the savings which these would imply. It will be particularly important to identify new services or benefits on which expenditure is due to start during the Survey period but where the expenditure is not irrevocably committed (a) in operational terms or (b) in terms of public announcements.

**Subsidies**

8. The figures for subsidies in each of the years after 1976-77 should be reduced by at least as much as the reductions announced for that year. The possibility of further reductions should be fully explored in all cases.
The level of expenditure on some services is "demand-determined" in the sense that once the basic framework has been laid down all proper demands on it have to be met and arbitrary financial limits cannot readily be imposed. Current expenditure on the following services is not therefore subject to the percentage reductions in paragraph 1, viz: family practitioner services, drugs, food and medical stores in hospitals and social service homes, grants for residential homes, welfare milk, school meals and milk and school transport, concessionary fares paid under existing schemes, legal aid, crown and police prosecutions, food in prisons, rates on Government property, and other rent and rates. Instead, the best available estimate should be given of the likely cost of uptake of the services concerned. If there is an estimating reduction compared with Cmd 5879, it should not be used to finance increases in other parts of the main programme concerned. If there is an estimating increase, officials should, wherever possible, identify savings which would enable the increase to be absorbed. The Departments concerned would need to reach agreement with the Treasury at the outset on the extent to which their expenditure may fall to be dealt with under this heading. It will be necessary to explore or illustrate policy changes which Departments or the Treasury consider could be made to reduce expenditure on these programmes, and the savings which these would imply. It will be particularly important to identify early in the Survey new services or benefits on which expenditure is due to start during the Survey period but where the expenditure is not irrevocably committed. (a) in operational terms or (b) in terms of public announcements.

Other categories

10. For debt interest, superannuation payments, the administrative costs of revenue collection, and unattributed EEC contributions, the latest available forecasts should be provided.

11. For other categories not previously mentioned in Annex 1 or 2, percentage reductions would not be applied, but otherwise the procedure in paragraphs 3 and 4 of the main ground rules would apply.
Northern Ireland

12. Items included in the Northern Ireland main programme should be treated in the same way as the analogous items in other programmes.

General

13. The following points should be noted by way of interpretation of the main ground rules:

a. In certain programmes, adjustments were made in Cmnd 5879, for presentational reasons, between the approved expenditure totals and the contingency reserve. In these cases, any references to the "White Paper figures" should be taken to mean the underlying policy figures approved by Ministers before the White Paper was published.

b. The items referred to in paragraph 11 of the main ground-rules which were not costed on a year-by-year basis before the publication of Cmnd 5879, are: selective assistance and other industrial support; Scottish and Welsh Development Agencies; public ownership of aircraft and shipbuilding industries and ports and road haulage; National Enterprise Board; capital expenditure of British National Oil Corporation; and community ownership of development land.
20 May 1975

CABINET

TEXTILE IMPORTS

Memorandum by the Chancellor of the Duchy of Lancaster

1. At the Prime Minister's request a Ministerial Group under my chairmanship has considered a proposal by the Secretary of State for Industry to reduce imports of textiles and clothing to 20 per cent below their 1974 level by means of quota restrictions for a period of at least one year, as is urged by the British Textile Confederation (BTC). The Secretary of State subsequently modified his proposal to exclude from quota restrictions those sectors (including woollen and worsted yarns and fabrics) where import penetration is low. His modified proposal relates to sectors in which imports are currently at around £900 million a year and exports at around £700 million a year. Some details of exports, imports and import penetration in these sectors are shown in the Annex.

2. Between 1965 and 1973 employment in textiles fell from 717,000 to 555,000 (an annual drop of about 2 \( \frac{1}{2} \) per cent) and in clothing from 381,000 to 333,000 (an annual drop of about 1 \( \frac{1}{2} \) per cent). The current recession has accelerated the fall in employment to 506,000 by February 1975 in textiles and to 313,000 in clothing. In April 1975 there were 18,600 unemployed in textiles and 8,400 in clothing, and the increase since October 1974 would appear to be slightly worse in these industries than for the economy as a whole. In addition the Department of Employment estimate that 4.9 per cent of the labour force in textiles and 1.5 per cent in clothing are on regular short-time working.

3. As will be seen from the Annex, in the sectors covered by the Secretary of State's modified proposal, during 1974 home production fell sharply, exports declined and imports rose: so far this year import penetration, though mostly still higher than in 1973, has generally fallen below the average level of 1974. There has been no further decline in activity in our textile and clothing industries this year as compared with 1974, but the industry foresee no prospect of an upturn before the autumn, and even this is by no means certain.
4. The main arguments in favour of the Secretary of State's modified proposal are:

a. It would go most of the way to meet the BTC's request, and would demonstrate the Government's willingness to help an industry with special difficulties.

b. It would be seen to be directed at a major factor which is now adding to the industry's difficulties.

c. If successful, it would remove the danger of the loss of industrial capacity and employment opportunities which could be used when the present world recession ends.

5. The main arguments against the modified proposal are:

a. It would almost certainly lead to retaliation by other developed countries who provide a large proportion of our textile imports, all of whom are under domestic pressure to restrain imports and some of whom, like the USA, Germany, Belgium and the Netherlands are suffering more unemployment or production cuts in textiles than we are. If these countries retaliated by restricting our textiles, the net result on our textile industry could well be worse; if the retaliation applied to our other exports, we would have more unemployment in our other industries, with perhaps more serious effects on the assisted areas. Recently, Britain discriminated against imports from Turkey, but within our international obligation, and only to prevent an increase, not to impose a reduction; Turkey retaliated, beyond the textile field, and our loss in engineering jobs offset the jobs saved in textiles.

b. The Multi-Fibre Agreement (MFA) would be critically eroded. The MFA does not permit reducing low-cost imports from developing countries below current levels, but it virtually protects our textile industry from increases in such imports. To lose this protection would be a serious blow for the longer term.

c. The proposal would run completely counter to our policy towards the developing world, and in particular jeopardise the Prime Minister's Kingston initiative and the prospects of any accommodation with the Third World on energy.

d. The proposal would have some adverse effect on prices in the home market.

6. The group also considered other possible means of helping the textile industry. We concluded that zero-rating for Value Added Tax, apart from costing some £350 million, would not help as it would apply also to imported goods. There are no hire purchase restrictions on the sectors
covered by the modified proposal. Repayable loans of say £50 million for stockbuilding could be made under the Industry Act to encourage production, but this is opposed by Treasury Ministers. In the longer term some marginal help might be possible through public sector purchasing and "Buy British" measures concerted by the two sides of the textile business. The industry should be encouraged to make full use of anti-dumping procedures but we would not expect this to make a significant impact on imports.

7. The general opinion in the group was that -

a. There should be no restrictions in sectors where there is comparatively little import penetration.

b. There should be no restrictions on imports from developing countries.

c. In view of our international obligations, we should not propose restrictions discriminating against developed countries: besides the doubtful legality of such action, retaliation, not confined to textiles and clothing, is likely to leave us as badly or worse off.

8. The majority of the group hoped that consideration could be given to other means of helping the textile and clothing industry, of the sort described in paragraph 6 above. I recommend that the group be invited to pursue urgently the possibility of loans under the Industry Act to help the industry with stockbuilding and in other ways.

H L

Cabinet Office

20 May 1975
<table>
<thead>
<tr>
<th>Product</th>
<th>Exports</th>
<th>Imports</th>
<th>Home Production</th>
<th>1973</th>
<th>1974</th>
<th>1975 1st Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Man-made fibres</td>
<td>-13</td>
<td>+10</td>
<td>-20</td>
<td>26</td>
<td>35</td>
<td>32</td>
</tr>
<tr>
<td>Continuous filament yarn</td>
<td>-4</td>
<td>+12</td>
<td>-17</td>
<td>30</td>
<td>40</td>
<td>33</td>
</tr>
<tr>
<td>Cotton yarn</td>
<td>-12</td>
<td>+82</td>
<td>-12</td>
<td>15</td>
<td>25</td>
<td>20</td>
</tr>
<tr>
<td>Man-made fibre yarn</td>
<td>+45</td>
<td>+57</td>
<td>-5</td>
<td>30</td>
<td>40</td>
<td>22</td>
</tr>
<tr>
<td>Cotton cloth</td>
<td>-9</td>
<td>-13</td>
<td>-11</td>
<td>57</td>
<td>57</td>
<td>46</td>
</tr>
<tr>
<td>Man-made fibre woven cloth</td>
<td>-2</td>
<td>+3</td>
<td>+4</td>
<td>40</td>
<td>40</td>
<td>38</td>
</tr>
<tr>
<td>Clothing (not knitted)</td>
<td>+30*</td>
<td>+23*</td>
<td>-40</td>
<td></td>
<td></td>
<td>Between 12 and 53</td>
</tr>
<tr>
<td>Knitted clothing</td>
<td>+20*</td>
<td>+20*</td>
<td>-5</td>
<td></td>
<td></td>
<td>Between 2 and 30</td>
</tr>
</tbody>
</table>

* Percentage value change 1974 over 1973
CABINET

LATE IMPLEMENTATION OF THE HOUSING FINANCE ACT

Memorandum by the Secretary of State for the Environment

1. Our policy on default under the Housing Finance Act was approved by the Cabinet last November (CC(74) 43rd Conclusions). The relevant Bill has been passed by the Commons; and the Bill was given a Second Reading in the Lords on 9 June. A recent development makes it necessary for me to consult my Cabinet colleagues about the Clause (Clause 4) which provides for the termination of the existing disqualification from civic office as a result of a surcharge arising out of failure to implement the Housing Finance Act. In practice this Clause would apply only to the disqualification incurred by the former councillors at Clay Cross in respect of the surcharge for £7000 (that surcharge in all other respects being unaffected by the Bill).

2. We had been aware that there might be further surcharges on the former councillors at Clay Cross for matters quite unconnected with default under the Housing Finance Act, eg for excessive wage and bonus payments; and that, if there were, they would be disqualified from office all over again. When this prospect was considered by the MISC 33 Committee last December we concluded that in that event we might find it difficult to drop Clause 4 ourselves, particularly if to do so appeared to be prejudging appeals by the former councillors against these new surcharges; but it was recognised that in any case the Clause would almost certainly be deleted in the Lords and if so, its loss might not greatly matter if, by then, the councillors had been surcharged afresh on these other matters.

3. Subsequent events have not turned out entirely as expected. The eleven former councillors were surcharged on 16 April for £50,000 and had until 28 May to appeal. However, they have not appealed, and so their new disqualification has already taken effect. I have made clear that I have no intention of bringing forward legislation to relieve them in respect of these new surcharges (OR 14 May col 566). Clause 4 could no longer therefore have any practical effect. The Opposition are bound to put down an amendment to delete it.
4. We can either

a. soldier on with Clause 4 in the Lords, certainly get defeated on it, and then decide whether to accept that defeat when the Bill is returned to the Commons or

b. accept the Opposition amendment to delete it in the Lords.

5. In my view the case against our now continuing to defend Clause 4 is overwhelming. Although the Prime Minister said in his statement on 4 April 1974 that we were committed to removing the civic disqualification which the Housing Finance Act involved, this was before there could have been any knowledge of further surcharges to come. Legislation purporting to fulfil the commitment would now be otiose; what is more, the retention of this controversial clause could still endanger the passage of the Bill itself, and place in jeopardy the position of the 400 councillors who would otherwise be surcharged for the rent losses of £1½ million.

6. I am in no doubt therefore, that we should accept an amendment to delete Clause 4 in the Lords. The Clause survived Report in the Commons by only a small majority and that was while there was a possibility of appeal and the new disqualifications had not taken effect. If we were to oppose its deletion we should first get a very rough ride in the Lords, and then later face either a successful revolt of some of our own anti-Clay Cross backbenchers in the Commons, or alternatively, if this failed, a Lords versus Commons problem. We would in the end be accepting the loss of the Clause in the least favourable circumstances.

7. I can see only one possible argument for retaining what is now a purely academic provision, and that is to bring the disqualification from this particular cause to an end, and so retain the internal consistency of the Bill. Against that we must set not only the arguments in paragraph 6 above, but also the Government's duty to see that legislation has a practical effect.

8. I accordingly recommend that the Lord Privy Seal be authorised to accept an Opposition Amendment in the Lords to delete Clause 4 of the Bill.

A C

Department of the Environment

10 June 1975
I have pursued my private discussions with the TUC on the development of the pay guidelines and officials have completed the attached examination of the problems to be faced in applying the guidelines in the next pay round. I set out below my views on the problems and the line we should now take.

TUC MOVES

2. The TUC Economic Committee have recently agreed on the need for more widespread union commitment to the pay guidelines - keeping settlements much closer to the rise in the cost of living and refraining from reopening settlements or basing claims on the increases given to low paid groups and other special cases. They have also recognised the inflationary danger of too great an increase in the low pay target for the next round.

3. This expression of view is welcome. It will help in the efforts we must continue to make to try to close this round with at least some major settlements well under 30 per cent. It will be useful also in influencing union conferences to support the social contract and refrain from commitments to unreasonable pay demands, an influence we must again try to exert on the NUM Conference in July.

4. The TUC staff now have to produce a draft statement of TUC policy for consideration by the Economic Committee at their meeting on 11 June, endorsement by the General Council later that month and submission to Congress in September. We have to make our contribution over the next few weeks to influence the content of that document and the attitude union leaders take towards it.

PROBLEMS OF THE NEXT PAY ROUND

5. In considering that contribution we must have in mind the likely pattern and problems of the next pay round. These are analysed in the Annex in relation to the TUC guidelines. The key points are
The RPI and initial settlements

(i) The pay round will start with the RPI 25 per cent above a year earlier. If the initial settlements reflect this, the links and other relationships between groups will make it extremely difficult to get pay levels to move down with the expected decline in the RPI through the round. It seems inconceivable that we could break all these links, many of them re-affirmed under the Tory statutory policy;

(ii) The major public sector settlements in the Autumn for the relatively low paid local authority manuals and NHS ancillaries must therefore be kept well below the 25 per cent RPI figure if that is not to become the "going rate". This emphasises the importance of not having the low pay target raised above £35-36.

(iii) The "maintenance of real incomes" guideline will therefore need careful interpretation. A forward looking approach with straight indexation for everybody on a quarterly basis would theoretically be the soundest arrangement and, rigorously followed, should bring price inflation down to single figures by the summer of 1976. But it involves asking people to forgo any compensation for the unprecedentedly large price rises since the last settlement and risks becoming just the floor for negotiation. Another possibility is a specific norm for the whole of the round, perhaps related to the expected average movement in the RPI over the period. A 15 per cent norm (or its cash or mixed cash/percentage equivalent) should bring price inflation by the end of the next pay round down to 12-15 per cent, although there could be enormous problems in getting the early groups to accept this when prices had risen 25 per cent since their last settlement.

(iv) We shall need to discourage additions to a cost of living guideline in the name of productivity or restructuring, and resist reductions in hours.

The Miners

(v) Whatever line is followed on a guideline related to price movements, there will be difficulty with particular groups. Another "special case" for the miners will tend to carry electricity and the railways with them and lift pay expectations generally.

Comparability

(vi) Then next April we shall come to a number of groups whose expectations are related not so much to prices as to the movement in other people's earnings, whether as a matter of procedure (eg the Civil Service and Review Body groups) or as the result of having their relativities recently re-established (eg teachers and nurses). The influence of comparability could also work through arbitration, whether in these or other cases.
Higher incomes

(vii) Our decision on policy towards higher incomes, to be taken after the report expected in July from the Royal Commission on the Distribution of Income and Wealth, could affect the climate in which the new round opens. So too will decisions on the TSRB report on MPs' pay expected in June and on their further report on Ministers' pay expected in the Autumn. These decisions will of course bear on our response to the reports due next April from the Review Bodies.

6 I propose to discuss these problems with TUC leaders privately so that they will have them in mind in considering interpretation of the guidelines to improve their impact on price inflation. I doubt whether they will undertake general amendment of the guidelines and they may maintain that the RPI difficulty requires direct action by the Government to hold prices down. But it is important to see whether we can get some agreed view on maintaining real incomes which will yield lower pay settlements: to keep the low pay target to £35/36; to urge and assist the TUC to secure more general and firm support for the guidelines within the movement; and to get the General Council to exert more concerted influence in advance of key pay negotiations like the miners.

GOVERNMENT INVOLVEMENT

7 I understand that the CBI may put to us, after their Council meeting on 21 May, a proposal that the Government should sponsor, in conjunction with the TUC and CBI, the development of a three year voluntary policy to extinguish inflation. Their ideas may well encompass a norm for the next pay round linked to a price inflation target, with detailed guidance and arrangements for monitoring and periodic review.

8 A central agreement of this kind would theoretically be highly desirable, but it is evident from the TUC's position with its membership that it would not want the added difficulty of association with the employers' organisation in a policy of pay restraint. Nonetheless, I do not think that we can just leave the voluntary policy to the TUC in the next round and there are elements in the CBI approach which the Government might pick up, both through its responsibility for the management of the economy and in its roles as employer and as financier of the public sector.

9 Under the first head, there might be a case for issuing this summer a public statement of the Government's view of where the TUC's pay guidelines could lead us economically over the next year. This might possibly encompass announcement of a price inflation target for the next round to which the TUC guidelines would be related within the context of the expected development of the economy, spelling out the consequences if the guidelines are not respected. This would support the guidelines by providing an explicit Government view of the social and economic importance of compliance to which union leaders, employers and people generally could attach themselves.
10. Under the second head, we might state in advance that the Government will not automatically subsidise excessive-pay increases in the public sector, including the public services. I recognise the risks that we recently discussed (EC(75)7th Meeting Minutes), but some risk of conflict is unfortunately inherent in any attempt to get firm adherence to an incomes policy. If we maintain a voluntary policy on the present lines, the consequences of its breach must be seen to come home to roost in the public sector. The consequences may well be extremely awkward in particular cases, but it is the most direct expression, both for the workforce and for the public generally, of the ineluctable relationship between excessive pay increases and the level of prices, employment and services.

11. If my colleagues agree, I think we should sound the TUC privately on both these ideas for reinforcement of their guidelines.

THE PROSPECTS OF SUCCESS

12. There is opposition within the union movement to any restraint on pay even within the context of the social contract and we cannot look at the moment for more than a majority endorsement even of the existing guidelines at Congress in September. On the other hand, there is also evident concern among union leaders about the need to bring down the rate of pay increases. This is plain, for instance, in the TGWU suggestion of a flat rate cash increase for everybody in the next round. Whether this would help or not obviously depends on the figure and whether it becomes a limit or a floor. And the whole concept may founder on opposition from those union groups who are already seeking to reverse the compression of percentage differentials in recent years, notably by the 40p threshold payments. But the open discussion of a specific pay limit represents a departure in TUC thinking which may open the way to a tighter interpretation and application of the guidelines.

13. I am sure that we must try to get that and, in my view, it will need both a greater commitment by the TUC to influence individual cases and a supporting involvement by the Government on the above lines. Even so, there can be no assurance that the guidelines will succeed in the next round: the context will be easier than last year to the extent that statutory anomalies will have been removed, but harder to the extent that price inflation will be half as high again and people will have become accustomed to pay increases in the region of 30 per cent.

14. Under the current guidelines we might still expect earnings to rise by nearly 25 per cent between July 1975 and the summer of 1976 but the rate of price increases to ease off from 25 per cent in the third quarter of 1975 to something in the region of 15–17 per cent by the summer of 1976. In discussing the next round's problems with the TUC, I would be looking for an application of the guidelines which would offer an improvement on that.
COULD WE DO BETTER?

15 Much more ambitious targets can be set, but I doubt whether they could be held for long, involving as they would a sharp reduction in real incomes. What can be achieved through incomes policy is limited largely by what would secure the acquiescence, open or tacit, of union membership.

16 To my mind these considerations rule out the obvious other options:

(i) At one extreme lies abandonment of an open incomes policy in favour of a covert de-escalation line of the Tory kind in 1970-72. Whatever that has to commend it in terms of relieving responsible union leadership from the risk of being outflanked in defence of a voluntary pay policy, it would to my mind be quite indefensible for us as a Government and appear as an abdication of the social contract approach. It must be doubtful whether other public sector employers would put up with covert pressures that they would regard as discriminatory.

(ii) A much tougher voluntary policy is not available from the TUC and tougher guidelines advanced by the Government alone would have no better chance of voluntary acceptance. The TUC would be bound to disown them in favour of its own and we would be left treading this voluntary path with employers and, even so, subject to charges of public sector discrimination.

(iii) Even if we were minded to repeat past mistakes by re-introducing statutory pay controls, they could prove short-lived in the face of the same resistance that the TUC guidelines are meeting. Indeed, that resistance might be all the keener to statutory controls which would inevitably be cutting real incomes drastically over the next year. Broken statutory controls would leave us with an even worse position beyond.

CONCLUSIONS

17 The most viable policy is still that offered by co-operation with the TUC. Unless we can reach agreement with them on a common approach in development of their guidelines, they will stumble into Congress with a view increasingly divergent from Government and in grave danger of a fragmentation of union opinion which will prevent any united TUC view emerging at all. That will give us an even weaker position in the next pay round than we have had in this.

18 In my view the most promising line is

(i) for me to continue private discussions with TUC leaders so as to influence the statement on guidelines which emerges from the June Economic Committee. I shall put to them the problems of the next round as we see them and urge them to consider means by which these problems can be tackled; explore the possibilities of interpreting the cost of living guideline so as to keep down the level of initial settlements, or of replacing it by a specific figure; and make plain the Government's need for firmer adherence in the next round and for results compatible with our economic requirements;
(ii) We should have an open discussion with the TUC - a meeting with the Economic Committee or the NEDC - about the social contract and the relationship of pay to our other policies in order to influence the generality of union leadership to support the guidelines when the policy statement goes to the General Council towards the end of June.

(iii) We should be ready to meet the CBI similarly if they put forward their own stabilisation programme. We could welcome their counter inflation aims and support for the voluntary approach, but without commitment to attempting a tripartite pay policy.

(iv) Subject to such meetings and consultation with the TUC, we should consider a Government pronouncement/White Paper in June/July on pay, prices and economic prospects along the lines of paragraph 9 above. This would establish a clear and positive Government position, including the Government attitude to the financing of any excessive pay increases in the public sector in the next round. Such a pronouncement might follow a discussion in NEDC at the beginning of July of the general economic situation and prospects over the next year which would to some extent meet the CBI position and pick up the Prime Minister's recent suggestion that the three parties should come together to consider problems of economic management annually and to review them periodically.

19 I invite my colleagues to endorse this approach. Meanwhile, I shall pursue my private discussions with the TUC on the lines set out above. We can consider our position again in the light of the policy document that emerges from the Economic Committee in mid-June. Officials should meanwhile be asked to consider the content of a possible Government pronouncement as a setting for a firm application of the guidelines in the next round.

Department of Employment SW1
12 June 1975
THE PAY PROSPECT IN THE NEXT ROUND

Report by the Department of Employment

Summary and Conclusions

1. This report, prepared by the Department of Employment with the assistance of officials of the other Departments mainly concerned, looks at the probable course of the next pay round on the assumption that the TUC guidelines are maintained. Following are the main points which emerge.

Remainder of this Round

2. Up to the end of July, assuming no major industrial or economic crisis, no significant change is expected in the general pattern of pay settlements. The year-on-year RPI increase is expected to jump to over 23 per cent with the May figure published in mid-June, and to go higher still in mid-July. The year-on-year wage rate figure is likely to remain over 30 per cent, mainly because of the implementation in May of the first stage of the 1975 national engineering agreement, initially offsetting the gradual elimination of Stage 3 threshold payments from the figures over the coming months. The year-on-year average earnings figure is likely to continue in the high 20s.

3. Several important groups will be reaching settlements (including arbitrations) of around 30 per cent or more—eg electrical power engineers, merchant seamen, the industrial Civil Service and probably railways. There is still likely however to be a wide range in the level of settlements with some important groups such as local authority non-Manuals, British Steel manuals, the chemical industry and some Post Office groups in the mid-20s and some smaller groups at lower figures.

Re-opening of Existing Settlements

4. The postmen's new threshold will almost certainly be triggered in June and monthly thereafter. London Transport workers will receive the first payment under their quarterly indexing arrangement in July. There will be increasing pressure over the coming months for similar threshold arrangements or other forms of re-opening of existing settlements on cost of living grounds by the coalminers, firemen, local authority manual workers, NHS ancillaries and others. The present line is that such pressures for re-opening should be resisted, certainly until prices have eroded the total value of the existing settlement.
Higher Incomes

5 Ministers are due to take decisions later this summer, in the light of the report expected in July from the Royal Commission on the Distribution of Income and Wealth, on their policy on higher incomes generally. These decisions could have an important influence on the climate in which the initial negotiations in the new round take place. So too could decisions on the report on the pay and allowances of Members of Parliament which is expected from the Top Salaries Review Body in June and their further report on Ministers' pay, Peers' allowances, and Members' pensions expected in the autumn.

Early Settlements in the New Round

6 Apart from police, who are already near a settlement in the high 20s for implementation on 1 September, and any unpredictable happenings similar to the 40 per cent Scottish road haulage settlement last autumn, the first major group to settle in the new round will be the local authority manuals, with effect from 1 November. This settlement effectively sets the level for the opening stages of the round through the direct link with NHS ancillaries and its effect on the water supply and gas industries who last year insisted on maintaining their traditional relativity, in breach of the guidelines, and would undoubtedly do so again.

7 On present form the local authority manuals are unlikely to settle much below 30 per cent. Depending on the extent to which the TUC's new pay target of £30 is revised by Congress in September, it could be higher. This is because they will be negotiating against the year-on-year RPI figure of over 25 per cent. They are very unlikely to offset that element which arises from the April Budget increases. On top of this will be the probable 3 to 4 per cent cost of their restructuring claim which is at present at arbitration.

8 This group contains many at or near the TUC target minimum rate of £30 per week, and they will expect to be kept in line with any revision of it. If the target were revised merely in line with price inflation, ie to £35/£36, no extra cost would be involved. But Congress may decide to go for a round figure of £40, as keeping pace with the rise in the general level of earning. For the local authority manuals to meet this and maintain above it the newly-established differentials for higher grades, would add another 5 or 6 per cent. This too would feed through to the related groups.
There may also be pressure at Congress to reaffirm resolutions carried in earlier years calling for a general reduction in hours below 40, as a means of work sharing. Though this could for many groups be conceded without loss of output in current economic circumstances, each hour's reduction would add some 4 per cent to labour costs when the revival of economic activity necessitated making good the reduction by working overtime at premium rates.

Coalminers

The high settlement level set by the local authority manuals and related groups would be likely, as this year, to be given fresh impetus by negotiations for coalminers. They could indeed bring themselves into the early part of the round, particularly if they fail to get a new threshold arrangement in the interim, by pressing for the November settlement date to which Wilberforce in 1972 suggested they could return. This might not much reduce the level of the settlement and the annual rate would be very high. If they are held to March it seems very unlikely, despite the first signs of the hoped-for decline in the year-on-year RPI figure which should by then be coming apparent, that they will accept a settlement much lower than they have achieved in each of the last 2 years, ie in excess of 30 per cent. This will undoubtedly be followed in electricity supply (also taking their cue partly from the gas manuals) and there will be strong pressures for a similar settlement on the railways.

White Collar groups settling in April

In April there would be settlements for a number of very large white collar groups, all of whose claims will be based less on the RPI than on comparability. These include the non-industrial Civil Service, the groups covered by the Review Bodies, and teachers and nurses who will be seeking to maintain the relative positions established by the Halsbury and Houghton reviews. Since the analogues and indices with which they are drawing their comparisons will be those established in the latter part of the current round a level of settlement in the high 20s is to be expected.

Other Groups

Other groups settling in the latter part of the round, including local negotiations in engineering and construction within their long term national agreements, may be more influenced by the continued reduction in the year-on-year RPI figure, and perhaps by the high level of unemployment. But it seems likely that the high levels of settlement for the earlier groups will tend to keep the general level of expectations higher than would be warranted on a strict cost of living approach. Others besides local authority manuals will claim restructuring to restore differentials eroded by flat cash increases in earlier rounds. Claims for additional efficiency payments may be pressed more than in this round as cost of living becomes a less obvious justification, yet the prospects of getting real improvements in output per man hour in conditions of heavy unemployment cannot be rated high.
Conclusions

13. The key problems likely to arise in the next round under continuation of existing policies are:

- the high year-on-year RPI figures against which negotiations will be taking place in the third and fourth quarters of 1975;
- the danger that Congress will raise the TUC low pay target by an even higher percentage, to say £40, and that differentials will be maintained above this figure;
- pressures at Congress for general reduction in work hours below 40 as a means of "work sharing";
- claims for additional increases on grounds of productivity or structuring;
- the extent to which levels of settlement set early in the round will be perpetuated by determination to preserve existing links and relativities between groups, and by the general concept of the "going rate", with arbitration as a possible mechanism;
- the effect on the negotiating climate through the autumn and winter of negotiations for coalminers and the direct effect of their settlement on electricity workers and railwaymen;
- the large groups of white collar workers due for settlements in April on the basis of more or less precisely defined comparability;
- pressures for a more active role by Government and/or by the TUC and the CBI in monitoring negotiations and settlements, and exerting pressure to secure a higher degree of conformity with the policy.

The following paragraphs set out the options for handling these problems within the framework of existing policy.

i) Initially High RPI Levels

14. The problem will be to persuade those settling early in the new round to accept less than full compensation for the increases in prices which have occurred since their last settlement (other than off-setting any interim cost of living compensation which they may have received). The solution offering the most rapid reduction in the rate of inflation (short of an absolute freeze) is undoubtedly straight indexation, i.e. settlements giving no immediate increase in pay but providing eg quarterly increases in line with subsequent price increases. This can be presented as in line with the TUC's "alternative approach" under the cost of living guideline. But, as experience with that approach in this round shows, indexation is unlikely to be acceptable to negotiators under a voluntary policy unless it is on top of compensation for the price increases which have already occurred since the last settlement, which is the most expensive solution of all. Moreover there are longer-term dangers in getting indexed increases as a permanent arrangement, with negotiated increases subsequently on top.
15. Another option, with a better chance of acceptance though still difficult, would be a fixed norm at something less than the going rate of increase in the RPI - say 15 per cent. It would be possible to provide a cash underpinning, of say £7.50, which would provide full price compensation for those on £30 or less, or a cash norm alone. But these cash variants pose difficulties, first because in many cases differentials will undoubtedly be maintained (or sooner or later restored) on top of the cash figure and secondly because the cash figure would give more than full compensation to those settling later in the round against lower RPI figures.

16. It would be difficult to persuade people to take a 15 per cent increase in pay after 25 per cent increase in prices. It might be presented as the best way of maintaining real incomes in the long run, through the eventual benefit to prices. But to support this it might be necessary to underwrite the expected fall in the rate of price increases by conceding new threshold arrangements to be triggered if prices rose by more than 15 per cent during the currency of the particular settlement. While any threshold arrangement is a hostage to economic fortune, and to some extent pre-empts the scope for negotiation in the following round, arrangements of this kind, at a suitably high figure and related to individual settlement dates and with compensation on a percentage basis, would be much less inflationary or distorting to the normal pattern of negotiation and differentials than the Stage 3 threshold arrangements.

17. An alternative to thresholds as an additional "sweetener" to a fixed norm of around 15 per cent, but more costly, would be a staged settlement providing for a specified further increase within less than 12 months. Unlike thresholds this would have to be paid even though the hoped-for reduction in the rate of price increase were achieved, and it would create higher expectations for the next round.

ii Low Pay

18. It will be essential to resist the raising of the low pay target from £30 to £40 since maintenance of differentials and relativities would rapidly establish this increase as the general "going rate". If Congress were to adopt it, then the Government would have to emphasise in stronger terms than last year that it represented a target and indicate that progress in the next round should be limited to keeping pace with the increase in the RPI or (if this were adopted) the 15 per cent norm. Since relation to the RPI would produce different figures for groups settling at different times it would, in any case be better for the TUC (or if necessary the Government) to specify the new target as £35 (an increase of just under 17 per cent).

iii Hours

19. It is possible that Congress may re-affirm existing resolutions calling for negotiations toward the general introduction of a 35 hour week. The Government will wish to discourage such moves. If this target is re-affirmed they might take a similar line to that suggested above on low pay indicating that in the Government's view progress in this round should be limited to bringing these few groups whose hours are still over 40 down to this figure.
(iv) Productivity and Restructuring

20. The lower the level of the norm, whatever its form, the greater the pressure for additional increases on grounds of restructuring (especially to restore differentials) or productivity. Productivity deals can be highly inflationary, even if self-financing in the long term, because of repercussions on other groups and should therefore not be generally encouraged as a means of getting extra pay.

(v) Links and Relativities and the Role of Arbitration

21. Experience in the current round, and indeed over many years, shows that any general move to break existing links and relativities is unlikely to be successful. These and more generalised comparability arguments might well be sustained if pressed to arbitration. Rather than attempt to break such links as would be required by de-escalating the level of settlements through the round in line with the hoped-for reduction in the rate of price increase, it seems better to seek to avoid these problems by establishing an acceptable general norm which can be applied throughout the round.

22. There has lately been a move to arbitration in important cases like the railways, teachers and the local authority manuals restructuring claim. There may be greater recourse to arbitration in the next round, particularly if the current arbitrations satisfy the unions. This could pose awkward problems in the public sector if the Government were seeking to resist settlements above the cost of living or a fixed norm, eg by applying financial sanctions.

(vi) Miners

23. There is a considerable risk that any success in starting off the round at an acceptably low going rate of settlement would be seriously damaged by a high settlement for coalminers, whether in the autumn or early in 1976. It would inevitably extend to electricity workers and probably to railwaymen and to a lesser extent other groups. The options are either to resist a high claim, making the most of the progress achieved by miners over the past 3 or 4 years with the resulting erosion of the competitive advantage of coal over oil even at the new prices; or to seek in some way to isolate miners as a special case. This would mean preventing the flow through to electricity workers, which scarcely seems possible, or to railwaymen.

(vii) White Collar Comparability in April

24. After the miners, the next threat to maintenance of a lower "going rate" established earlier in the round would be the claims, based to a greater or lesser extent on comparability, for the large white collar groups settling in April. These include the non-industrial Civil Service (PNU), nurses (referring back to Halsbury), teachers (referring back to Houghton) and those covered by the Review Bodies. Again the options are to seek to isolate such groups by general recognition that the procedures involved represent fair "catching up" on increases already gained by
analogous workers, or to limit the increases payable in the next round to the general norm. Apart from the obvious dangers of industrial action in the latter course it builds up a debit balance which creates greater difficulties next time round. (The higher income groups covered by the Review Bodies would of course be subject to Government decisions on higher incomes generally to be reached in the light of the report expected from the Royal Commission this July).

(viii) Monitoring

25 It is becoming difficult for the Government to refuse to give information about the "going rate" of settlements of which it has knowledge. In fact its information is fairly extensive though not entirely representative. It is for consideration whether the Government, or conceivably the TUC and CBI, should openly undertake monitoring of all settlements covering 1,000 or more workers on a voluntary basis and be prepared to make public a running tally from time to time of the level of settlements and any special features. It would, however, remain inappropriate for the Government to categorise settlements as to those within or without the guidelines laid down by the TUC. The main argument against a more open monitoring system is the increased pressure to which it gives rise on the Government (or for that matter on the TUC and the CBI) to make this categorisation and to take action in cases where the policy has been blatantly disregarded. The indications are that neither the TUC nor the CBI would welcome this role either for themselves or (in the case of the TUC) for the Government.
In my memorandum on the development of the social contract on pay I suggested (C(75) 66, paragraph 19) that we should consider our position in the light of the draft TUC statement. By arrangement with the General Secretary of the TUC I now circulate in confidence to my colleagues the attached draft which was considered by the TUC Economic Committee on 11 June, and which will be considered further by the General Council on 25 June with a view to deciding, either then or at their July meeting, on definite recommendations to be put to Congress in September.

SUMMARY OF DOCUMENT

2. Part I relates the social contract to the wider goals of trade unionism and accepts (paragraphs 8-12) that wage settlements are playing a major part in keeping United Kingdom inflation well above that of our overseas competitors. Part II reviews the development of all aspects of the social contract over the past year. On pay, paragraphs 39-42 recognise that there have been undesirable gaps in observance of the pay guidelines and stress the need for lower settlements in the next round.

3. Part III reviews the economic prospects for the coming year and discusses priorities on the Government side of the contract (price control, employment policies, import controls and improvements in the social wage - paragraphs 50-57). On pay, it points to the need to get price inflation down at least to 15 per cent, requiring a major effort to get both wage and price figures below 20 per cent early in the next wage round (paragraphs 58-61). It poses, without specifying figures at this stage, various types of option for the General Council's consideration, including:

   i. continuation of the present pay guidelines (paragraph 63);

   ii. setting a price inflation target for early next year and advocating settlements at that level from the beginning of the next round (paragraph 64);
iii. under i, or ii, fixing a single figure whether in cash terms, as a percentage or a combination of the two (paragraphs 66-69);

iv. alternatively, indexation in place of a normal annual increase (paragraph 70).

It reaffirms the 12 month rule; continues but qualifies approval of efficiency deals; and indicates that hours reductions would mean lower pay increases (paragraphs 72-74).

4. Part IV emphasises the need for consensus for action within the trade union movement and reaffirms the role of the TUC in advising key negotiating groups and others as required, and in keeping the developing situation under review (paragraphs 75-79). It makes clear that breaches of the guidelines must not be followed by others (paragraph 80). It proposes a publicity campaign on the lines successfully organised over the Industrial Relations Act (paragraph 81) and urges reaffirmation of the contract generally by the Government and by the TUC/Labour Party Liaison Committee (paragraph 82).

TUC'S NEXT STEPS

5. In a covering letter to the General Council Mr Murray has indicated the TUC's intention to have "exploratory contact" with the CBI and with Ministers before the Council's meeting 25 June. There has also been mention of the possibility of further discussion at a special meeting of the Economic Committee. An approach to Ministers by TUC representatives may therefore be expected within a matter of days, though we understand they will be seeking to meet the CBI first.

6. It is uncertain at this stage whether the document will be finalised for publication and submission to Congress by the General Council on 25 June or at a later meeting. This will require the Council's decision on the various forms of pay option and the figure to be specified. It is understood that the rest of the document is also likely to be subject to some editing, particularly as regards the section on prices, profits, top incomes, employment and investment.

RECOMMENDATION

7. My colleagues will wish to consider in the light of this document the general approach to the development of the social contract on pay set out in my earlier memorandum.

M F

Department of Employment

13 June 1975
At the time of the last Congress the present Government did not have a working majority. It obtained that majority in October and few would deny that since that time the programme of legislation has been pressed forward with all possible vigour, despite the continuing critical external economic environment and the deepest recession in the western world since the Second World War.

New Opportunities for Trade Unionism

The legislative programme of the Government rests largely on policies formulated in conjunction with the TUC in 1972 and 1973. The work of the TUC-Labour Party Liaison Committee has continued since the Government took office.

A central feature of the legislative programme is the 3-stage programme on industrial relations and industrial democracy. The repeal of the 1971 Act and the introduction of the Employment Protection Bill are now being accompanied by the progress on the Industry Bill and on industrial democracy legislation, which will
reinforce the standing and function of trade unions and trade unionism at every level of economic activity.

4 The central significance of these developments is that they make it timely to consider the wider responsibilities of the trade union movement side by side with these wider opportunities. This is not to say that greater involvement in running the economy does not need to go further; the inadequate discussion of Budget strategy before the 1975 Budget is but an important example of how the logic of the social contract, which is a wider understanding and agreement between the trade union movement and the Government about the management of the economy among other matters, needs to be even more fully and adequately developed.

5 To take another example, the wider responsibility which the Government is taking for the financing of industry has not yet gone far enough from the standpoint of many of those directly affected in the trade union movement. Here too further trade union involvement is needed in conjunction with Government in the planning of investment and the creation of a well understood set of priorities for national economic development and hence the growth of living standards. The role of collective bargaining in relation to investment, company finance, profitability and prices can be seen in a new light as these developments take place.
There is as yet insufficient understanding, both within the trade union movement and outside it, of the new sense of direction which the trade union movement is taking and must take for the future. Major developments take time to be understood, but those outside critics who criticise the social contract for ceding too much authority to trade union leaders must appreciate that this is the only way forward towards reaching agreement on the major economic priorities.

The coming year will present even greater challenges to the trade union movement and to the Government, and it is of great importance that there is a full and wide-ranging discussion of the nature of these problems and the reasoning which lies behind the General Council's continued commitment to the policy of the social contract and to its development, which is the policy which they commend to Congress.

Why the Social Contract Remains of Central Importance

There may be some trade unionists who believe that it is correct and important for the Government to pursue the policies outlined in earlier TUC documents, but who do not understand, or believe, that any modification of wage bargaining approaches is right or necessary. They believe, in other words, that the level of wage claims and wage settlements can never cause economic difficulty.
9 The General Council do not accept this. It is of course true that, in many years, price increases can in no significant way be attributed to wage increases. Even at the present time, there are many other elements in inflation; there is the stagnation of the economy which means that improvements in efficiency are not able to offset price and cost increases; there is the wave of private sector and public sector price increases sanctioned by recent budgets and adjustments in the price code; there is the decision to increase indirect taxation as well as the continued increases in other taxes including income tax and local rates. But the fact remains that wages too are at the present time playing a major part in this development.

10 It is now generally expected that there will be a major expansion in the world economy within the next 12 months. Britain must be in a position to take full advantage of this. The difference at present in rates of price increases is very large, with the UK rate well over 20 per cent and other rates about 10 per cent. One way of closing the gap would be to allow the £ to depreciate further and thus equate United Kingdom prices on the world market with those of our major competitors such as the United States, France, Germany and Japan.

11 The consequences of a depreciating £ are, however, serious. It would raise import prices and give a
further twist to the cost spiral. More immediately, there are now several thousand million pounds of short term funds in London which rely to a great extent on security in terms of the relative value of the £. Britain’s short term assets position cannot sustain a major run on these short term liabilities. This banking fact is no different from that which affects a private individual or a great national company such as the British Leyland Motor Corporation.

12. The General Council have repeatedly insisted, in discussions with the Government Ministers involved in economic and industrial issues, that economic management cannot rely principally on the pay policy aspects of the social contract. Investment and the use of resources are of critical importance. The General Council are not satisfied that investment policy has yet been put on the right lines - though the scale of the commitment on BLMC is itself of major importance for the trade union movement. Nevertheless the General Council accept that the relationship between wages and prices is the cause of considerable and real apprehension at the present time.
The 1974 Congress overwhelmingly adopted the General Council's report "Collective Bargaining and the Social Contract" and two composite motions which both rejected a statutory wages policy. The report set out the achievements of the Labour Government and, under the heading of the restoration of voluntary collective bargaining, the TUC guidelines to negotiators. The main points of the guidelines were the maintenance of real incomes, a twelve-month interval between major increases, the encouragement of agreements having beneficial effects on unit costs, efficiency and job security, and agreements to secure reasonable minimum standards such as the TUC low pay target, progress towards four weeks holiday, the elimination of discrimination against women, and full use of the Advisory Conciliation and Arbitration Service.

Composite 9 expressed full support for the policies of the TUC and the Government which form the social contract; and Composite 10, while recognising the positive steps taken by the Government, drew attention to some public sector pay problems. The General Council also agreed to pursue points in a motion which was withdrawn. The eight points were: a large-scale redistribution of income and wealth; a massive increase in housebuilding with the emphasis on homes for those in need and those on lower incomes; municipalisation of rented property; public ownership of the land required for the housing programme; a wide-ranging and permanent system of price control; vastly improved social services by the injection of the necessary resources; substantial increases in public ownership and public enterprise, coupled with
public supervision of the investment policies of large private corporations; and substantial cuts in defence expenditure in order to release resources to help carry through this programme.

Developments since Congress

15 During the past year the General Council have had the development of the social contract under continual and close review. Following the Chancellor's November Budget the General Council issued a circular to all affiliated unions. They said that "the Chancellor has acted in his Budget to expand the economy in Britain. Although the measures have not been as wide-ranging as the General Council would have wished, they can be seen as a courageous endeavour to protect employment, stimulate investment and promote social justice. But unless new methods of giving selective help to industry, accountable to the Government, are speedily developed, the momentum of the Budget will be lost. Particular industries, such as construction and building materials, are in difficulties and the General Council will wish to discuss with the Government the growth of public expenditure and priorities within it, such as housing, education and social services".

16 Though stressing that it was not the purpose of the circular to reiterate every point in "Collective Bargaining and the Social Contract", the General Council reminded unions of some of the TUC guidelines, with particular respect to threshold agreements, the 12-month interval between principal settlements, and low pay. They reaffirmed the central real income maintenance guideline, while pointing out that it would be far better if we could gradually get prices to rise more slowly, with money wages correspondingly not going up so fast,
than to have prices and wages equating with each other at a higher and higher level. Any such tendency, they emphasised, would inevitably be self-defeating for most trade unionists.

**1975 TUC Economic Review**

17 The 1975 TUC Economic Review had as its theme the maintenance of real incomes and employment. Arguing against a statutory wages policy or one which would lead to cuts in living standards, the General Council nevertheless pointed out that a general attempt to secure increases greater than the rise in the cost of living would be self-defeating and contribute to inflationary pressures. They argued that the dual objectives of maintaining real incomes and employment levels are indeed interdependent. The Review stressed that it was a highly desirable objective of policy that the rate of price increases should now begin to fall, pointing out that threshold agreements, where payment is made as and when the particular price increases occur, can insure against an acceleration of inflation.

18 As usual the Review contained the General Council’s Budget recommendations to the Chancellor of the Exchequer and all the points mentioned in the withdrawn Congress motion were pursued along with other General Council policies. In the Economic Review special attention was given to investment by the NEB and other nationalised industries, housing, land and construction, the need for increased subsidies and more effective price control and social priorities.

**May Circular**

19 Following the April 1975 Budget the General Council issued a further statement arguing that there was nothing in the present situation that reduced the need for the social
contract, or the need to reach agreements on the basis of the guidelines. The TUC guidelines had been voluntarily endorsed by Congress and it was right that they should be voluntarily upheld, and observed closely and carefully. The General Council argued that the aim should be to realise the prospect of bringing the level of price inflation substantially below 20 per cent by the end of the year.

The Progress of the Labour Government

20 Over the past year the General Council have met representatives of the Labour Party regularly in the TUC - Labour Party Liaison Committee to discuss developments in the economic and industrial situation and other matters. Close contact has been maintained with individual Ministers by sub-committees of the General Council and TUC industrial committees. The social contract has involved a good working relationship between the TUC and the Government on a wide range of economic, industrial and social issues.

21 The General Council have kept in close touch both informally and formally with those affiliated unions which have encountered difficulties in conforming with the spirit of the TUC guidelines.

22 In their report to the 1974 Congress the General Council set out the achievements of the Labour Government in the first six months of office. The momentum of those first six months has been maintained. The General Council have registered their dissent from some aspects of the April Budget, particularly those which will affect prices and unemployment. Even so, the Movement should acknowledge the many steps taken by the Government in accordance with their undertakings. The Government have repeatedly made plain their rejection of the
notion that statutory control of wages could provide a just or practical answer to the nation's economic problems. Trade unionists welcome this endorsement of their own strongly-held view that there is no viable alternative to a continuation of voluntary collective bargaining.

New Rights for Workpeople

23 The Trade Union and Labour Relations Act will sweep away the last remaining vestiges of the Industrial Relations Act, so completing the first stage of the Labour Party's programme in this field. The Employment Protection Bill, which will establish a new range of legal rights for workpeople and foster the development of collective bargaining is progressing through the House of Commons and is expected to be on the Statute Book before Parliament rises for the Summer recess. The Bill will establish by statute the Advisory Conciliation and Arbitration Service, which has already more than fulfilled its expectations as a means of solving disputes.

Training and Health and Safety

24 The General Council welcomed the extra funds allocated in the Budget to the Manpower Services Commission and, through their representatives on the MSC, they will be pressing for a continued expansion of industrial training and for the MSC to develop job creation schemes itself. The General Council's representatives have also been playing an active role on the Health and Safety Commission and are pressing for the implementation of the statutory system of union safety representatives provided for in the Health and Safety at Work Act.

Public Ownership and Accountability in Industry

25 The problems of British industry are structural and
medium term, and their solution requires not blanket fiscal measures, but detailed planning with trade union involvement. An organisation committee for the National Enterprise Board with strong trade union representation has already been established, and when the Industry Bill reaches the statute book it will have a £1 billion financial backing from the Government. The new industry legislation contains legal back up powers on the disclosure of information, and the General Council are looking for speedy progress in the formulation of planning agreements between trade unions, management and Government, in all the major firms in UK industry. The NEB will have regional responsibilities, including Northern Ireland, and in Scotland and Wales new Development Agencies are to be set up. The Government has already demonstrated its willingness to use existing powers to protect jobs and industrial capacity in the past few months of economic recession, as exemplified by their action to put British Leyland and Ferranti on a sounder economic footing with a public sector stake. Special help for industrial investment was promised in the Budget and funds will be made available for the reorganisation of the ferrous foundries industry following tripartite talks at the industry's newly formed Economic Development Committee. Help has also been promised for the textile industry, though the General Council take the view that more vigorous help is needed and could be given by means of import controls.

26 Legislation to bring the shipbuilding and aircraft industries into public ownership has been introduced in line with the preparatory work carried out by joint TUC/CSEU/Labour Party working groups.

27 In the key energy sector, the Government has given a clear commitment to the target of 150 million tons of coal production. After a period of procrastination by the previous
Government a type of nuclear reactor has been chosen which will create the maximum amount of employment in the UK. The sites for the construction of oil production rigs and platforms are being brought under public control. Legislation is being introduced to redress the balance between the Government and the multi-national oil companies and the British National Oil Corporation should be developed as quickly as possible as a fully fledged publicly-owned oil company. Although the rate of the Petroleum Revenue Tax will prove overgenerous for the very profitable oil fields, the tax receipts from North Sea oil will be in the £2-£3 billion range by 1980.

In the transport field the General Council have welcomed the progress made towards extending the dock labour scheme and the reorganisation of British ports which will extend public ownership and planning.

In construction tougher tax measures to deal with the abuses of the lump have been announced and long overdue legislation is shortly to be introduced which will set up a register of approved sub-contractors and a Construction Industry Manpower Board to monitor progress and lead towards the decasualisation of the industry.

The Community Land Bill, now progressing through Parliament, will take development land into public ownership and, together with the proposed Development Land Tax, it will put an end to the speculative profits that have unfairly been made out of the granting of planning permission.

The Social Wage

Between 1973-74 and 1974-75 the social wage increased by over 30 per cent, from £11.50 a week per head of the
working population to £15 on the basis of current expenditure, or from £14.20 a week to £19 a week if capital expenditure on such projects as new hospitals and schools is included.

32. The concept of the social wage is a recognition of the fact that personal consumption is not financed entirely out of take-home pay. In fact for every £4 of personal spending financed privately £1 of spending is financed by the Government. One of the first actions of the Labour Government was to increase old age pensions to the £10 and £16 level agreed by Congress and this has been followed by an increase in April this year with a further increase payable in December 1975. Family allowances have been increased and through the child benefit scheme will be payable for the first child in 1977: increased family allowances will be payable for all children of one parent families from April 1976. Many of the cuts imposed by the previous Government on the education and health services have been restored and a substantial increase has been made in housing expenditure. Rents were frozen for the first year of the Labour Government's office and the new Housing Rents and Subsidies Act repeals the Housing Finance Act and allows local authorities to assess rents on a fairer basis. Between 1973-74 and 1974-75 there was a 32 per cent increase in Government expenditure on housing.

33. The General Council welcome the Government's commitment to meet priorities such as pensions and housing and their action to increase the social wage. The real increase in the social wage, concentrated as it is in areas such as housing and pensions, has had an important effect in redistributing income and in giving disadvantaged groups better living standards.

Redistribution of Income and Wealth

34. The increase in the social wage, financed through
taxation, is a potent means of redistributing income in our society. The General Council recognise that this increase must involve increases in taxation, particularly when output is not rising. Their criticism of some of the April 1975 Budget measures was not that a 25 per cent VAT rate on less essential goods is unfair, but that it was not accompanied by increased subsidies for essential goods and services. The income tax system has been made fairer by increases in personal allowances, and higher rates on unearned incomes. Many tax loopholes have been closed, though a continuing effort is needed here. The capital transfer tax on all major transfers of wealth from the 1974 Spring Budget onwards has been introduced. This will put an end to the death duty system and its abuses, as well as bring other forms of capital transfer into the tax system. Government plans for a wealth tax are being studied by a Parliamentary Committee and legislation is expected in the 1976 Budget. The Royal Commission on the Distribution of Income and Wealth has completed the first three of its reports - on the standing reference on the distribution of income and wealth; income from companies; and higher incomes - and the General Council look to the Government to take full account of the Commission's recommendations for improving the distribution of income and wealth in formulating its fiscal and other policies.

Economic Situation in the Past Year

35 The General Council do not wish to minimise the seriousness of the present economic situation. On the other hand they would emphasise that in some respects the economic situation has improved substantially since March 1974 and it is right to draw attention to these improvements. There has in particular been a substantial improvement in the balance of
payments. In 1974 the current account deficit was running at about £900 million a quarter; by the first quarter of 1975 the deficit was down to £323 million. The current balance in goods and services, other than petroleum and petroleum products, has turned from a deficit of £450 million a quarter in 1974 to a surplus of £100 million in the first quarter of 1975. (The April current account deficit was £170 million which was more than accounted for by the deficit of £213 millions on petroleum and petroleum products).

Nevertheless certain features cause continuing concern, in particular the slow growth in output. Both the July 1974 and November 1974 measures were reflationalory, injecting about £1,000 million in real demand terms, though the effect of these measures will not be felt until 1975/76. The April 1975 Budget was deflationary and will take about £300 million out of the economy in the coming year. There has been a decline in industrial production in recent months and the index in the first quarter of 1975 is some 4½ per cent below the index in the first quarter of 1973.

This recession, which has hit all industrial countries to some degree or other – Britain less than most – has led to a disturbing increase in unemployment. By mid-May the seasonally-adjusted figure for unemployment (excluding school-leavers) stood at 817,000 or 3.6 per cent, a 56,800 jump on the previous month. Unfilled vacancies in mid-May were down to 156,000 and the latest estimate of those on short time is 250,000.

The rate of price inflation has increased in the past year and is currently running at over 20 per cent. The increase in prices since 1970 was initially the result of increases in the price of imported commodities, and the more recent increase in
oil prices accelerated this process. The position has been made worse by the continued depreciation of the pound. Undoubtedly the movement of wages over the second half of last year was partly a reaction to the rapid rise in prices. However, the higher rate of wage increases, together with the bunching of threshold payments, itself exerted an upward push on prices, which was not offset by the moderation in import prices. The failure of production to grow meant that the whole of the increases were passed on, without savings, in costs per unit.

Review of the Pay Round

Following the restoration of voluntary collective bargaining a number of increases recognised as special cases were made in the public sector to deal with longstanding injustices and manpower difficulties stemming from statutory controls. These included special reviews of nurses' and teachers' pay; postmen and transport workers also received special increases. In the private sector there were a number of similar settlements in the period immediately following the end of statutory controls aimed at rectifying problems arising from Stage 3. This bargaining situation was complicated by Stage 3 thresholds which triggered a number of times during the period.

Later in 1974 long-overdue improvements in the region of 30 per cent were made in the pay of local authority manual workers and NHS ancillaries to bring minimum rates into line with the TUC's low pay target of £30. However, these increases were used as a basis for "comparability" increases in other parts of the public sector beyond the low pay target level; and the miners' settlement of over 30 per cent in the early part of 1975 had repercussions in electricity supply and
elsewhere. In the meantime civil servants received a substantial increase under PRU procedures.

41 The result was a general level of settlements significantly above the guidelines endorsed by Congress, although, if recognised special elements are excluded, the underlying rate of increase in wages has been closer to the index of retail prices than is suggested by much uninformed comment. The General Council also wish to acknowledge the real leadership given by many negotiators even if, under pressure from their membership, and sometimes in response to offers by employers, they have ultimately had to settle at levels which could not be justified by the guidelines.

42 Nevertheless, there have clearly been undesirable gaps in the observance of the guidelines, and if settlements in the next round of negotiations are pitched at the level of some of those negotiated recently, or if new settlements are made before their due date, the prospect of reducing price inflation towards the end of this year and during next year will be seriously threatened.
PART III - THE COMING YEAR

43. It is against the background of the past year's experience that the General Council now review the prospects for the coming year, including priorities for the Labour Government and the TUC's guidance to negotiators.

Economic Prospects

44. Following the period of recent slow growth the economy will still be growing very slowly in the coming period. The Treasury forecast is that between the second half of 1975 and the first half of 1976 the real growth in the economy will only be 1.0 per cent at an annual rate, which is far below the productive potential of the economy.

45. World trade is expected to pick up in 1976, and possibly around the end of 1975, and this should give a welcome boost to UK exports and so help increase employment. But UK exports could become uncompetitive if inflation is not brought closer to the OECD average which is forecast by the end of the year to be only 10 or 11 per cent.

46. The Chancellor has forecast that in the second half of the year the rate of increase in prices would decelerate month by month to some 12-16 per cent at annual rates. This however will mean that the year on
year figures for the months at the end of 1975 will still be over 20 per cent. The aim should be to bring the rate of inflation substantially below this with a continuing fall during 1976. The General Council believe that this prospect will be threatened if settlements in the next round of negotiations are pitched at the level of some of those negotiated recently, or if new settlements are made before their due date.

47 The General Council would have preferred to see the economy growing at a faster rate than at present and will continue to press the Government to adopt measures to ensure this; a slackening of the rate of wage increases would greatly strengthen their ability, and the Government's willingness, to secure this major policy objective. The present slow growth of the economy however leaves no scope for increases in real wages, given the need to finance increases in the social wage advocated by unions. Most of the growth of consumption in real terms will be accounted for by groups such as pensioners, one parent families and large families supported by low wages.

Investment, Planning Agreements and Industrial Democracy

48 Despite the public expenditure cuts which have been announced for 1976-77 public investment is forecast to grow by 2 per cent between the first half of 1975 and
the first half of 1976. On the other hand, private fixed investment is forecast to decline by 4 per cent. The continuing fall in private fixed investment underlines the urgency of the new industrial legislation which the Government is introducing.

49 The General Council hope that the fullest use will be made of the new industrial powers presently being legislated for, and the negotiation of planning agreements with major companies will be a priority. In this context, progress in establishing a National Planning Centre would help bring together trade union representatives, managers and civil servants to study the best methods of implementing planning agreements and improving the performance of British industries. The nationalisation legislation for shipbuilding, aircraft and the BNOC should proceed as quickly as possible, and there will be a need to extend public ownership through the NEB. Major legislation on industrial democracy, based on trade union organisation, is a further key priority for the next year in order to extend the concept of joint planning and control to all the levels of the economy.

Priorities for the Labour Government

Prices

50 The General Council welcomed the fact that the Prices Secretary, in her major autumn review of the
price code, resisted the many demands from industrialists that the price code should be abolished. Nevertheless the General Council are concerned that not enough is being done to control prices or win public confidence in the present system.

51 In particular, an intensified effort needs to be made at shop level, through the publication of price lists, unit prices and price range orders, which can all help the shopper. Over the past year the TUC has been encouraging trades councils to press their local authorities to set up high street consumer advice centres. Trades councils have been actively pursuing this, but on many occasions local authorities have replied that they have insufficient funds to set up such centres. Only a small injection of central Government money, perhaps £1 million, to help local authorities set up these centres could reap very substantial rewards in terms of public confidence in the price control system.

52 The role of subsidies also needs to be examined further, and the present food subsidies have had a very marked effect in helping the low paid and the pensioners. The General Council are pressing the Government to review its decision to cut expenditure on food subsidies, not least to avoid increases in prices matched by higher wages. Here again, an abatement in the rate of wage increases would greatly
strengthen the General Council's efforts.

53 The General Council recognise that the Government has made great efforts to introduce a comprehensive system of price control. An extra effort at the present time, including greater publicity, would be well worthwhile.

Employment

54 On present trends the level of unemployment may well reach the one million mark before the end of 1975, and rise even more through the coming winter. It is therefore vital that the fastest possible progress is made in introducing the Temporary Employment Subsidy, in the administration of which trade unionists should play a part. The Manpower Services Commission will have an increasingly important role and it should be encouraged to develop job creation schemes.

55 In a period of high unemployment the Government should improve the operation of the various national insurance and supplementary benefit rules, and remove the unfairness with which the existing rules operate against those on short time working.

Import Controls

56 Despite the welcome improvement in the balance of payments the level of imports, particularly of
sensitive manufactures, is still causing concern. The importation of certain goods such as textiles, clothing, footwear, glass, electronics and motor cars is having a serious effect on employment levels in the UK. Evidence of dumping of some of these commodities is clear and the Government should not hesitate to act in these cases. There is also a case for introducing more widespread import controls on manufactured goods as a temporary measure until the economy begins to expand again.

The Social Wage

57 The General Council will be looking for further improvements in the social wage through more regular reviews of pensions and other national insurance benefits, and to meet particular needs such as extra help for the disabled, a generous level of child benefits, and educational priorities such as nursery school provision, day release and adult education. Defence cuts have already been announced which will help allow increases in the social wage within total public expenditure, but more should be done in this connection, whilst bearing in mind the employment implications.

Pay Guidance

58 If the UK is going to take advantage of the coming increase in world trade, so boosting exports and jobs, UK produced goods have to be competitive. Given the
average rate of inflation in other OECD countries, particularly Germany, we must get down at least to 15 per cent if we are to remain at all competitive.

59 The 15 per cent target is not an impossible one but it will mean that in the coming year there will have to be a turning point after which the rate of inflation will continue to fall.

60 It is in this context that negotiators should bear in mind the central TUC guideline - the maintenance of real incomes. The problem is how to ensure that rises in incomes match a level of, eg, 10 or 15 per cent price rise, rather than a level of 20 or 25 per cent price rise. The external position of the economy means that there is an overwhelming need for the equation to be at the lower end of the range rather than the higher end.

61 This means that a major effort has to be made to get the wage and price figures below 20 per cent early in the next wage round. This will be very difficult to achieve, and indeed impossible in the short run, if the present rate of rise in prices is taken as the basis of a wage guideline figure for the whole of the next pay round. If the present rate of wage increases is taken as the basis for settlements in the next round it will be impossible to avoid an even more dangerous inflationary spiral.
There are therefore two broad options for the General Council to consider, and these options could take a number of different forms.

The first option is to continue the present pay guidelines - i.e., matching rises in the cost of living. This approach has the major advantage that it is well understood and has a relatively small effect on wage structures. It would however, at best, slow down the rate of progress to lower prices.

A more stringent approach would be for the General Council to set as a target the achievement of a particular rate of price increase by early next year, and advocate settlements at that level from the beginning of the next round, which would mean the acceptance of settlements significantly below the going rate of increase in prices. It has to be recognised that if any group of workers was to accept a wage settlement below the current level of price increases in order to assist in a deceleration of prices to the level of their settlement they would at the very minimum need to be sure that all other succeeding groups of workers would do the same. They would also need some assurance that, in the event of prices rising more than their settlement they would be able to recoup in future (either by way of thresholds - though those have caused serious problems in the last year - or at the next settlement).
65 Either of these options could be pursued in a number of different ways - and indeed the different ways would themselves in some respects be considered as further options.

66 In either case a single cash figure could replace whatever percentage figure (whether the going price-rise figure or a target price-rise figure) implicit in the relevant option.

67 A single cash figure would have the advantages of being easy to understand, providing greater cash increases for lower paid workers and preventing high cash increases for the higher paid. At the same time, however, it would disturb differentials based on skill and responsibility and fail to maintain real incomes for all above a certain level. A single cash figure could therefore be divisive and lead to opposition; and partly because of this there would be a tendency for the cash increases for the lower paid to be generalised in percentage terms to other groups.

68 A single percentage figure could be combined with a low pay target minimum, and possibly with a limit on higher pay, in order to at least mitigate any adverse distributive effects compared with a cash figure.

69 A further possibility would be to combine the cash and percentage approaches, eg, £X + Y per cent. This
could share the benefits of both approaches: the cash figure could ensure higher percentages for the low paid, while the percentage figure provided some protection for those above a certain income. The "percentage" element would have to be well short of the full cost of living in order to provide for the "cash" element.

70 A different type of variant would be complete indexation, either on a monthly or a quarterly basis, forgoing any normal annual increase. (A variation of this would be to include a second element on which annual negotiations could be based, involving such factors as the value of the work involved, possibly on a job evaluation basis.) Against indexing, however, it is clear that unions do wish to negotiate annual improvements, and the addition of further elements on top of indexing would conflict with the central objective of maintaining - but not improving - real incomes, and provide a higher floor of wages and prices from which to begin the process of reducing inflation.

71 Clearly there are difficulties with all these approaches. Recommending a specific formula may, depending on the formula chosen, add to clarity. But the danger is that this will be at the expense of reducing the flexibility for negotiators in relation to their own negotiating circumstances and traditions.
Twelve Month Rule

72 The twelve month rule for major increases will need to be retained; and settlements will still need to take account of any interim increases including thresholds, although this is likely to be less of a problem as the complication of existing Stage 3 thresholds is progressively reduced over the rest of 1975.

Efficiency

73 Improved arrangements for job security is a prerequisite for the introduction of new techniques in this period of difficulties. Priority should continue to be given to these arrangements and to agreements which will have beneficial effects on unit costs and efficiency. However, in this period unions will need to give serious consideration to the need to avoid repercussions on other groups, and to the possibility of "phasing" increases. Any special improvements of this nature which are agreed should not be used as a basis for comparability claims.

Hours of Work

74 In the current situation there may be understandable pressure for work-sharing arrangements. To be effective these must take the form of a cut in actual hours worked per employee. They should not be used as
a method of obtaining a disguised increase in real incomes out of line with the general guidelines. Negotiators should therefore give priority to securing actual reductions in hours, and to reducing normal hours to 40 in sectors where this has not been attained. The 35 hour week remains a longer term objective, but in view of the wider needs and priorities of the time there cannot be a general move to 35 hours this year without specific offsets in the form of lower pay increases.
IV IMPLEMENTING THE CONTRACT

75. It is not sufficient for the trade union movement at Congress to give formal endorsement to a report of this kind.

76. Whatever formula is adopted will be meaningless—perhaps worse—if it is not carried into effect in settlements. In some ways the formula itself is less important than winning its acceptance by members and their negotiators. There is therefore still a major job for everyone to do in ensuring that this understanding is disseminated to the ten million trade unionists. Ultimately, the narrow wage and salary aspects will only be seen in their perspective by the mass of trade union membership if they too have comprehended what it is that the trade union movement is endeavouring to achieve. There must be a far greater degree of association in the future between trade unionists themselves and the Congress position. There has to be an identification and a commitment to the action to follow.

77. Many trade union leaders themselves may unwittingly give the impression that the social contract is something which concerns the Government and something which concerns the TUC but does not concern and involve them personally. There can be no failure of the social contract if there is an identification by trade unionists
themselves, and by all members of the Government as well. But failure is inevitable if trade union members do not feel this sense of identification and association. Without the understanding, support, commitment and action on the part of trade union members, the TUC can achieve little.

Establishing a Consensus for Action

78 As far as unions are concerned, the object should be to secure acceptance and involvement at all stages via the normal processes of policy formulation - branch discussions, conference debates and pre-negotiation meetings. It is intended that this policy statement on the development of the social contract should be given the fullest possible circulation to, and discussion within, trade unions down to branch and shop-floor level, prior to full discussion at the September Congress. Union policies on collective bargaining should be formulated in the light of this statement and of branch discussions on it.

79 The TUC will continue to hold panel meetings with certain key negotiating groups on the basis of a timetable drawn up sufficiently in advance of negotiations to enable effective discussions at an early stage in union claim formulation. More generally, the General Council will continue to expect unions in difficulties in conforming to the spirit of the policy to inform the
General Council of the circumstances and seek their advice; or to respond to an invitation to discuss the situation with them. The General Council will be prepared to meet any group which requests such a meeting and to provide what advice and support they can give to groups which are experiencing difficulties in attaining the policy objectives. The developing situation will be kept under review and if necessary a special conference of union executives will be convened at an appropriate stage in the round to review the operation of the policy as a whole.

80 It will be made clear that particular settlements in excess of the Congress guidelines are outside Congress policy and must not be followed by other groups.

81 There will be more accent on publicity to get the message across to the membership on the shop-floor and to the general public, in the form of massive publicity for a summary - making full use of "Labour" and union journals and as far as possible taking the campaign kit on the Industrial Relations Act as a guide.

82 The Government too must reaffirm its commitment to its side of the contract - on employment, on prices, on the redistribution of incomes and wealth, on public
ownership, on industrial democracy, on housing and land, and on the social wage. The Liaison Committee will be asked to underline this, and to keep progress under continuous review.
INTRODUCTION

1. At their meeting on 15 May the Cabinet invited me to arrange for a group of Ministers to consider the proposal for an external committee of inquiry into employee participation on company boards. The group were to look in particular at whether there should be such an inquiry, what form it should take and its terms of reference; they were to take account of the repercussions on the nationalised industries of employee representation on the boards of companies in the private sector. We have held two meetings to consider these matters and our conclusions are presented to the Cabinet in this memorandum.

VIEWS ON THE MAIN QUESTION

2. The terms of reference for the inquiry proposed by the Secretary of State for Trade were -

"1. Accepting the need for a radical extension of democracy through employee participation in the control of companies by means of representation on the boards of directors, and the essential role of trade union organisations in this process, to consider what form this might take, taking into account the proposals in the Trades Union Congress (TUC) report on "Industrial Democracy" as well as other current proposals and experience in Britain and other countries.

2. Having regard to the interests of the national economy, employees, investors and consumers, to analyse the implications of different schemes for such representation for the efficient management of companies and for company law."

Although these terms of reference recognised the importance of trades union organisation in this context and highlighted the TUC Report, they did not meet the TUC request to include a statement that the extension of industrial democracy must be based on the trades union organisation.
3. It emerged clearly from our discussions that there was a deeply-held difference of opinion on the question whether there should be an external committee of inquiry, and although a numerical majority preferred an internal inquiry followed by a Green Paper, I thought it wise not to make a final decision but to give the Cabinet Ministers concerned an opportunity of re-stating their views to the Cabinet on this main issue.

4. The arguments in support of each type of inquiry may be summarised as follows -

a. FOR AN EXTERNAL INQUIRY

The TUC have set their sights on the co-direction of industry by workers and management, and the means proposed for achieving this is the appointment of trades union representatives to 50 per cent of the places on the boards of private companies. Such a proposition has far-reaching consequences and will certainly be vigorously opposed by those who do not agree with the TUC. It would therefore be prudent to attempt some reconciliation of the opposing views by means of an independent external inquiry before the Government decide what action to take to give effect to our commitment to extend industrial democracy. Even if the recommendations of an external inquiry are not unanimous, its report would set out the arguments for and against different courses of action so that these can be weighed by the public and by Parliament. The decision which we eventually make on how to proceed would therefore stand a better chance of being accepted since it would be seen to be based on some measure of public consensus. Sooner or later we shall have to face a public debate on how we should proceed, and it would be better if this debate were to be based upon an unbiased assessment of the various possible courses of action which an independent external committee of inquiry would provide. Moreover, the chances of bringing opposing views together would be improved if public attitudes could be formed on the basis of an impartial review by an independent body.

b. FOR AN INTERNAL INQUIRY

Whatever they may have said in public, the TUC are by no means of one mind on the question of trades union representation on the boards of private companies, and Congress have only recently been converted to the view that there should be 50 per cent worker representation on company boards. Some unions argue that worker participation in management decisions at board level would be a compromise with the capitalist system; and others claim that the traditional independence of the trades union movement and its ultimate responsibility to its members would be
undermined by participation in board level decisions. Their preference is for strengthening collective bargaining. When the trades union movement is itself so divided over the issues at stake, it would not serve any useful purpose to appoint an independent committee to examine the different courses of action that might be pursued. What is required is an internal inquiry by officials to explore the questions of company law which will have to be settled before any proposals can be put into effect. When views held by the different parties concerned are so widely at variance, the final choice on what must be done will have to rest with the Government, and the sooner we get on with it the better. There are two other points in favour of an internal inquiry which are not balanced by opposing arguments pointing to an external inquiry. First, there is the virtual impossibility of persuading the TUC to accept terms of reference for an independent inquiry which do not meet with the approval of Congress. An inquiry which does not have their co-operation must start at a serious disadvantage. Secondly, there is the question of Mr Radice's Industrial Democracy Bill which is due to receive its third reading in the House of Commons on 11 July. There is a real possibility that Mr Radice may be persuaded to withdraw his Bill if we make a forthcoming statement before that date about our own proposals for promoting industrial democracy. A decision to appoint an external inquiry with terms of reference which do not find favour with the TUC would probably not be sufficient to persuade Mr Radice to withdraw his Bill.

For my own part I am bound to say that I find the arguments in favour of an external committee of inquiry most persuasive. A crucial question is whether the TUC would be prepared to take part in the inquiry on terms of reference which fall short of TUC expectations. The Secretary of State for Trade thinks they would. The Secretary of State for Employment thinks they would not. If they would not it seems pointless to proceed in this direction. We should in those circumstances adopt the alternative of an internal inquiry.

OTHER RELATED MATTERS

5. Though we have not been able to reach a decision on the main issue, we have come to conclusions on a number of related matters. These conclusions need not be disturbed whatever decision the Cabinet takes on the form of the inquiry which should be set up to consider employee participation in the private sector.

a. NATIONALISED INDUSTRIES

Further work and consultation is required before any decision can be taken about how the concepts of industrial democracy can be applied at board level in the nationalised industries. The relationship between the Government and the nationalised
industries is one aspect of the study which the National Economic Development Office (NEDO) have been asked to undertake; but there may have to be further interdepartmental examination of the specific problems raised by employee representation and the boards of statutory corporations. The case for an internal inquiry here is much more clear-cut since Ministers themselves have statutory responsibilities for the nationalised industries and the right of appointment of board members. We therefore recommend that there should be an internal study by officials of the various options.

b. CONTINUATION OF LIMITED EXPERIMENTS

Experiments are already taking place or being planned on worker representation at board level. The main examples are Harland and Wolff, Meriden and the Scottish Daily News (all with support from public funds); but others may be initiated by the National Enterprise Board which will have the specific duty to promote industrial democracy in the undertakings it controls. The Government should give every encouragement to such experiments. We recommend that these experiments should continue for the time being and that account should be taken of any lessons to be learned before the Government draw up their own proposals.

c. COMMITMENT TO LEGISLATION IN 1976-77

It is very important that the Government should give a firm undertaking to introduce legislation on industrial democracy in the Parliamentary Session 1976-77, and we recommend that an early statement should be made to this effect. This statement should be made before 11 July when Mr Radice's Industrial Democracy Bill is due to receive its third reading in the House of Commons, with the aim of persuading him to withdraw his Bill. On the assumption that the Government's Bill would be introduced early in 1977, the preparation of a Bill would need to be put in hand by the autumn of 1976. This would give just over a year for an inquiry to be conducted.

THE GROUP's CONCLUSIONS

6. Whatever is decided on the question whether there should be an internal or an external inquiry, I invite the Cabinet to agree that -

a. there should be a separate, internal inquiry to consider how industrial democracy should be promoted at board level in the nationalised industries;

b. experiments on industrial democracy presently taking place should continue;
c. the Government should give a firm undertaking (before 11 July) to introduce legislation in 1976-77.

7. I invite the Cabinet to decide whether -

a. there should be an external inquiry as proposed by the Secretary of State for Trade with the terms of reference set out in paragraph 2 above; or

b. i. there should be an internal inquiry by officials, followed by

ii. the publication of a Green Paper which would be a comprehensive statement of the Government's provisional views about worker representation on boards and on ways of promoting industrial democracy below board level. The Green Paper would cover both the private and public sectors and would describe the existing opportunities for worker participation, the further advances which would flow from the Employment Protection Bill and the Industry Bill when enacted and the experiments already taking place, such as that at Harland and Wolff. It would also outline the possible avenues of further advance, including those advocated by the TUC. Such a publication would provide a basis for the discussion of the issues involved before the drafting of legislation was put in hand.

E J

Lord Chancellor's Department

16 June 1975
CABINET

INDUSTRIAL DEMOCRACY

Memorandum by the Secretary of State for Trade

1. It has become clear from discussions in the Lord Chancellor's Group of Ministers that the alternative to setting up an independent Committee of Inquiry into employee participation at board level is for the Government to publish a Green or White Paper to be followed by legislation in 1976-77. This might be accompanied by an inquiry by officials (possibly with expert legal assistance) into the company law implications.

2. A Green or White Paper which was to serve as the basis for subsequent legislation would need to set out proposals by the Government for a range of substantive issues of great importance which need to be settled before legislation can be prepared. These include:

   a. The responsibilities of directors, including employee directors. This involves taking a fresh look at the role and responsibilities of companies, and an examination of the part which employee directors should play.

   b. How employee directors should be elected - the problems of representation of non-unionised employees, the arrangements for elections in multi-union situations, whether the directors should be employers of the company etc.

   c. How many employee directors there should be and what proportion of the board they should constitute.

   d. Whether the two-tier system of supervisory and management boards should be introduced into this country with employee representation on the supervisory boards.

   e. What to do about representation of interests other than employees and shareholders.
3. It is not enough to consider these matters only from a theoretical point of view, or to confine examination to the implications for company law. We are dealing here with changes which will profoundly affect the way in which industry is run. We must therefore be concerned with the effect of these changes upon the way in which companies operate from day to day, and how in turn industrial efficiency and productivity will be affected. We must aim to sustain and improve industrial confidence during the critical period for our economy which lies ahead. Some measure of employee representation on boards is being increasingly accepted on the Continent without a breakdown in confidence and indeed arguably with beneficial effects. But the process in these countries has been a gradual one and is linked to wider developments in industrial relations. I do not think we can draw the conclusion from this experience that a sudden leap to 50 per cent employee representation in this country could be made with similar ease.

4. In my view the Government will face severe difficulties in formulating satisfactory proposals if their preparation is entrusted to an internal group of officials. I very much doubt whether an internal inquiry would have the benefit of detailed evidence from the Confederation of British Industry, Trades Union Congress and other interested parties, and it certainly would not afford adequate opportunity for probing their evidence. An internal inquiry would be seen to be incapable of drawing on the breadth of experience which is needed. Its conclusions would therefore be seen to lack authority.

5. Where there is fundamental disagreement on an issue of major political and economic importance - and the trade union leaders themselves hold widely differing views - it is better for the Government to reach a judgment after a process which enables the advantages and disadvantages of options to be set out authoritatively in a manner calculated to encourage public debate. There can surely be no doubt that an independent inquiry, holding its proceedings in public and leading to a careful assessment of the options would carry greater conviction than any alternative course. Its report would therefore provide the best opportunity for reaching a degree of consensus among the opposing views and for achieving the solution which suits our own needs and conditions and which offers the best prospects of strengthening and stimulating our industry.

P S

Department of Trade

17 June 1975
PAY OPTIONS AND THE PROSPECT FOR INFLATION

Note by the Secretary of the Cabinet

I attach, for the consideration of Cabinet at its meeting on Friday 20 June, a report by the Official Steering Committee on Economic Strategy.

JOHN HUNT
PAY OPTIONS AND THE PROSPECT FOR INFLATION

Report by the Official Steering Committee on Economic Strategy

1. This note first sets out the current Treasury forecast for the rate of price increase in the period up to the first quarter of 1977. Next, it considers what would be involved in an inflation target for the second half of 1976. After describing some important features likely to affect pay settlements in the 1975-76 pay round, it then tries to set out the main options for pay policy for that round, beginning in the early autumn; and rehearses briefly the advantages and disadvantages of each of them. The options discussed are:

i TUC guidelines only: another round;
ii a non-statutory Government pay policy without a norm;
iii a non-statutory Government pay policy with a norm;
iv TUC guidelines or a Government norm supported by compulsory pre-notification of pay settlements and delaying powers;
v a statutory policy with a norm.

Schemes for taxing away excessive pay increases are not discussed in this note, though Annex D, which is concerned with enforcement, contains a reference to the use of such a tax as a penalty. The note does not cover either schemes like that submitted by Michael Young to NEDC which involves very large tax levies to finance very large subsidies; though the statutory pay policy which is part of that particular scheme corresponds to Option 5 above.

2. Annexes to this note concern:-

A the assumptions underlying the price forecast and factors which might change it;
B comparative inflation in other OECD countries;
C some comment on different types of pay norm and their likely effect on the RPI;
D enforcement in a statutory policy.
The Price Forecast

3. The current forecast for the year on year increase in the retail price index is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>Q3</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td>Q4</td>
<td>24</td>
</tr>
<tr>
<td>1976</td>
<td>Q1</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>Q2</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Q3</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Q4</td>
<td>14</td>
</tr>
<tr>
<td>1977</td>
<td>Q1</td>
<td>14</td>
</tr>
</tbody>
</table>

4. It is dangerous to put too much weight on forecasts a year ahead. Many (including the Bank of England and the National Institute for Economic and Social Research) would take the view that this forecast for the period after 1976 Q1 will prove too low. For the reasons given in Annex A some deceleration from the high rates of the summer and autumn of 1975 seems likely, but, as Annex A also makes clear, it could easily prove less than shown in paragraph 3. The exchange rate, oil prices, nationalised industry prices and indirect tax changes could easily add 3% or 4% to it by the second half of 1976.

5. The assumption about pay in the 1975/6 pay round written into the forecast is that on present policies settlements will again be in the range 25-30% on a year earlier. Some reasons for this, together with other assumptions underlying the forecast, are given in Annex A. Paragraph 8i below also refers.

A Price Objective

6. There are strong reasons, both external and domestic, for seeking a speedy and convincing deceleration in our rate of inflation. Annex B shows some comparisons of UK inflation prospects and those of other OECD countries. Externally they include the pressure on sterling and the decline in our standing as a borrower arising from lack of confidence in our control of inflation, as well as the
effects on competitiveness. There are similar reasons of confidence at home, especially for industrial investment. In addition, it would be important that any new counter inflation policies should show results within a year or so, if support for the policies was to be sustained.

7. If Ministers accept this, the minimum objective to meet the requirement would seem to be to reduce the rate of inflation to 10% by the early autumn of 1976, with the prospect of reaching single figures by the end of the year. This would still leave us above the rates of our main competitors. If a 10% rate of increase, year on year, were reached by say September 1976, the Government would be entitled to expect that pay in the 1976/77 pay round would be related to that figure, or less. This would open the way to further deceleration during 1977. It would clearly be desirable to invite the general assent of the community to such a programme and to make every effort possible to explain the need for it to the trade union movement.

Pay Features affecting the 1975/6 Pay Round

8. Some features of the pay scene need to be borne in mind in considering the options for pay in 1975/76 discussed in the next section of this paper:

i the force of comparability within a pay round: "the tone of the round". Once a particular rate of pay increase becomes established in some important settlements at the beginning of the round (eg local authority and NHS manuals) subsequent settlements, especially in the public sector, will not readily fall below that level. In particular, a decline in the rate of price increase during the round is likely to be reflected only gradually in a decline in settlement rates;
ii it is a special feature of the 1975/76 pay round that we expect it to start against the background of a "hump" of 25-26% price increases in the autumn of 1975. There is an obvious risk that in spite of any subsequent decline, this will set the tone for the round. There are signs that the TUC have shown some recognition of this in their recent discussions. If a significant deceleration is to be achieved it would be necessary to bring into the reckoning the prospect of a lower rate of price increase, perhaps expressed as an inflation target, and secure settlements in the autumn well below the then current year on year inflation rate;

iii in the public sector comparability within the round is strong between successive groups of manual workers (ranging from loc: l authority manuals and the industrial civil service to miners and railwaymen); but there is also an important group whose pay is affected by comparability with the previous round (non-industrial civil servant, the armed forces and others covered by the Review Bodies, the Police). Comparability with the previous round raises problems for any policy of de-escalation;

iv there is a strong tendency for differentials to re-assert themselves on a percentage basis if they are compressed. This has happened both in relation to the flat rate elements in the the 1973/74 statutory policy (£1+4%; 40p thresholds), and in relation to the TUC £30 low pay target;

v there will be a higher level of unemployment in the 1975/76 pay round. This will undoubtedly have an effect on some private sector settlements and, as stated in Annex A, it is taken into account in the forecast. It is difficult to be sure what effect it will have on the general level of pay settlements however and especially on those in the public sector. Experience suggests that the part of the pay scene where pay drift (positive or negative) is strongest and the impact of the level of demand on employment is greatest is that part of the engineering and construction industries where pay is mainly determined by plant or site bargaining.
The Pay Options: Option 1: TUC Guidelines only

9. The contribution which this policy would make to the reduction of the rate of inflation would depend on whether the guidelines were in the end stricter than in this round and whether they were more faithfully observed. The current price forecast assumes a continuance of the present guidelines but implies a smaller excess over the RPI increase than hitherto in the early settlements of the new pay round.

10. Recent public statements by some TUC leaders and the discussions in the TUC Economic Committee, as reported, imply a recognition of the need for a more explicit norm, which would allow less room for latitude in interpretation; and of the possibility that that norm might have to be below the level which would give general compensation for the cost of living. It remains to be seen whether the General Council and Congress will find it possible to agree on a norm consistent with the kind of price objective discussed in paragraph 7; and whether some major unions would dissociate themselves from such a norm. Annex C shows the effect which various flat rate norms of the kind suggested by Mr Jack Jones would have on prices, if fully observed. A flat rate of £8 would be a little above a 15% norm, but while more favourable to the low paid would probably have less chance of observance by unions representing skilled and white collar workers.

11. The advantages of a "guidelines" policy would be:

i. continuity of Government policy;

ii. limited Government commitment. Responsibility for pay restraint continues to lie with the TUC and Government policy is less directly at stake in pay conflicts;

but

iii. even if the TUC find it possible to take a stricter line than in 1974-75, and remove some of the escape routes, it is difficult to have any confidence that there will be sufficient observance in 1975-76. Overseas opinion is likely to remain sceptical;
iv this policy is not in itself an assurance that industrial conflict will be avoided. It is at least as easy to have disputes over high figures as over lower ones. Avoidance of conflict could mean acceding to progressively higher bids.

v this policy could well mean settling for a limited contribution only from incomes policy to meeting our economic difficulties. It is in effect a decision to rely more on other policies of restraint which, in present economic circumstances, already bear a heavy load.

Option 2: Non-statutory with no norm

12. i A White Paper might say that as part of a national campaign to reduce the level of inflation to 10\% by late 1976 pay settlements would need to be lower, and indeed below the level of RPI compensation;

ii there would be no published norm or guiding light, though the target would indicate the general area for settlements. There would be case by case decisions in the public sector and an appeal for much lower settlements in the private sector. There would be a determination to resist industrial action and refuse financial provision for excessive settlements in the public sector but the policy would permit flexibility to accommodate groups too powerful to resist;

iii there would need to be firm central control of pay negotiations in the public sector and comparability either within the round or with the previous round would have to be rejected.

13. The pros and cons of this policy are discussed in paragraphs 16 and 17 below.

Option 3: Non-statutory with a norm

14. i. A White Paper would promulgate a norm related to, say, a 10\% inflation target for autumn 1976;

ii the norm would be applied by appeal, perhaps with CBI support in the private sector; and by Government action or influence (including financial sanctions) in the public sector. Because
there is a norm, the need for full central control of negotiations is somewhat less than in Option 2;

iii comparability would have to be set aside if its results conflicted with the norm.

15. The nearest precedent for Option 2 is the N-1 policy of the Conservative Government of 1970-72. The precedents for Option 3 are Sir Stafford Cripps' wage standstill of 1948-50; Mr Selwyn Lloyd's pay pause and guiding light of 1961-62; and Lord George Brown's "Declaration of Intent" of 1964-66. The first and last rested on agreement with the TUC, the second did not.

16. The advantages of Options 2 and 3 are:­

i they meet the demand for a new and determined Government initiative to tackle the inflation, without resort to a statutory policy;

ii in differing degrees, they permit more flexibility than in a statutory policy. A few settlements inconsistent with the inflation target or the norm can be accommodated, provided they do not set a pattern and thus destroy the policy;

iii they are aimed first at the public sector but, especially in the circumstances of 1975-76, it is in the public sector that the struggle with pay inflation will be won or lost. It is right that the Government should make whatever changes are needed in the management of the public sector to achieve the result;

but

iv a non-statutory policy has to be established by example, with whatever risk of confrontation at the beginning of the pay round that involves. It implies a decision to enforce against the local authority and NHS manuals in November/December 1975 settlements well below the year-on-year RPI increase;
v as a counterpart to the fact that they permit more flexibility, these policies give less assurance to those to whom the policy is first applied that it will be applied even-handedly to others. This increases the risks of acquiescence for union leaders and thus the likelihood of resistance;

vi these policies are exposed to accusations of discrimination against the public sector. In Government-led voluntary policies, the Government inevitably appears to act more as employer and paymaster than as Government. The Government has to suspend public sector pay institutions: pay research, the review bodies and arbitration for public sector pay. It has to apply the policy as rigorously as it can in the public sector before it can demonstrate that the private sector will also comply. If arbitration continued for the private but not the public sector, that would be both a serious loophole and a source of grievance;

vii if it were thought that the non-statutory policy would fail and that a statutory policy would then succeed it, that could create forestalling pressure on the non-statutory policy.

17. As between Options 2 and 3, Option 2 seeks to provide both for greater flexibility in relating settlements to market needs (recruitment, profitability etc) and greater room for manoeuvre by the Government. The counterpart of that is however great uncertainty about how it will be applied in the private sector and a greater need to assert central control of local authority and nationalised industry pay negotiations, with whatever resistance that entails. The N -1 policy, which had some similarities, produced in 1972 much of the disparity between public sector groups (teachers, nurses, the Post Office) which led to the special catching up increases in 1974. The absence of a norm might also mean that until such a policy established itself, it would have less impact on overseas opinion.

Option 4: Guidelines or norm with monitoring and delaying powers

18. This policy, which requires legislation, would be similar to that reflected in the Prices and Incomes Bill of 1966 when it was first introduced. Its advantages would be:—
i it stops short of requiring pay increases by statute to comply with a norm, and does not make it illegal for employers to pay, provided the prenotification etc requirements are complied with. Free collective bargaining continues;

ii it might be possible to present this option as "giving teeth to the TUC guidelines", provided the guidelines were in themselves regarded as adequate;

iii flexibility (and its counterpart risks) remains;

but

iv in legislating the Government incurs much of the criticism associated with a statutory policy; and statutory delays, like a statutory (or a non-statutory) policy, could be challenged by industrial action;

v the need to resist most excessive settlements at the end of the delaying period remains if the policy is to carry conviction. This option does not remove the problem of enforcement. It might be necessary to recreate the equivalent of the MBPI to assist the Government in handling such cases. In fact, the difficulties of a case by case approach remain;

vi it might be expected that, as in 1966, this option would prove to be a step on the way to a statutory policy.

Option 5: Statutory policy with a norm

19. The precedents are 1966-68 and 1972-74. Both policies had an initial year or more of acceptance. The advantages are:-

i an unreserved commitment by the Government, with such advantage as that may have in convincing unions settling early in the round that others will be similarly treated; and in convincing external opinion of the Government's determination to tackle the inflation;
ii assurance that very few employers, and no major ones in either the public or the private sector, will disregard the law, so that the policy will, in particular, be effective in the private sector. This means even-handedness of treatment between public and private sectors and, provided the policy holds, uniformity of treatment within the pay round;

iii arbitration, pay research, the review bodies, independent pay action by local authorities and nationalised industries are all suspended for the period of control but without the appearance of a specific attack on, or singling out of, any of these institutions;

iv scope for promulgating a counter-inflation plan over say 2 years, as part of an economic strategy; with the possibility of a controlled relaxation of the pay controls in the second year subject to safeguards devised and negotiated in the first;

but

v the TUC would be bound to oppose a statutory policy (as they would a tough voluntary one). Only if there were a manifest crisis could we expect their opposition to be token or muted. The reaction of individual unions would no doubt also depend on the seriousness of the economic situation and the impact that was having on public opinion;

vi as in 1966 and 1972, a statutory pay control would mean a reversal of Government policy;

vii there is damage to the Government and to the credibility of the economy in any further failure to check pay inflation, whether it takes the form of inaction or of the breakdown of a new pay policy, statutory or non-statutory. If a new tougher pay policy, statutory or non-statutory, is destroyed by strike action or the threat of it, the ability of the Government to govern is called in question. The damage is however greater with a failed statutory policy not necessarily because the law itself is broken, but because Ministers have to use consent powers to adapt the law to the demands of particular groups.
How serious this is depends on the circumstances (e.g. after failure to resist a strike successfully) in which consent powers have to be used.

20. Crucial questions which arise on a statutory policy, but arise also mutatis mutandis on a tough non-statutory policy, are:

i is there a reasonable chance in the period October 1975 to July 1976 of the traditional honeymoon period/grudging acquiescence for a statutory policy as in 1966-67 and 1972-73 or not? Would it for example be challenged at the outset by the local authority manuals and if so, could they be successfully resisted?

ii is there a chance that the miners would acquiesce as in 1973, or alternatively that, with the aid of a Ministerial safety-valve power in the Act (like that used by the present Government in March 1974) an out-of-line miners' increase could be isolated?

21. Annex D contains a note about enforcement under a statutory policy.

Types of Norm

22. Annex C contains notes on different types of norm, and a table showing the impact these norms would have on the rate of inflation in 1976. The table suggests that a 15% norm (or a flat rate of £8) is the highest which would have any chance of yielding a 10% inflation rate by September 1976. (A "mixed" equivalent would be £4 plus 7½%). It might well prove insufficient.

17 June 1975
ASSUMPTIONS UNDERLYING THE PRICE FORECAST AND FACTORS WHICH MIGHT CHANGE IT

Assumptions

1. The more important assumptions underlying the price forecast are as follows:

   i. Pay settlements in the 1975-76 pay round are assumed again to be in the range 25%–30%. On the one hand the pay round will start in October/November 1975 against a background of a 25% year on year rate of inflation, compared with about 17% in 1974; and the going rate at the end of the current round will be in the range 25%–30%. On the other hand, unemployment will be rising and there will not be the once-for-all adjustments following the exit from the statutory policy which occurred in the autumn of 1974;

   ii. The effective sterling exchange rate is forecast to fall in two steps of 5% to 29½% below Smithsonian. The forecast in fact assumes that the first step would take place in July 1975 and the second in January 1976. In fact the rate is now already 26% below Smithsonian, a fall of nearly 7% from the starting point of the forecast;

   iii. After including the effects of the forecast sterling depreciation, food import prices are assumed to rise at 8% over the period the first quarter of 1975 and the first quarter of 1977. Import prices of manufactured goods are assumed to rise at 15% per annum and other non-food import prices at 8% per annum;

   iv. Nationalised industry prices are forecast to add 2½% to the RPI in 1975-76 and 1½% in 1976-77;

   v. Local authority rents are assumed to increase on average by 45p a week in 1975-76 (which is the assumption Ministers are making for subsidy purposes). In 1976-77 they are assumed to rise in line with consumer prices;

   vi. Since the basis of the forecast is "existing policy", there is
OECD COMPARATIVE INFLATION FORECASTS

Consumer Prices
1. An OECD forecast is available up to the first half of 1976. The figures show percentage increases on the corresponding half year of the preceding year (eg 1976 first half on 1975 first half).

<table>
<thead>
<tr>
<th></th>
<th>USA</th>
<th>Germany</th>
<th>Japan</th>
<th>France</th>
<th>Italy</th>
<th>Canada</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>75(1)</td>
<td>9.8%</td>
<td>6.2%</td>
<td>12.1%</td>
<td>12.9%</td>
<td>21.4%</td>
<td>12.7%</td>
<td>19.4%</td>
</tr>
<tr>
<td>76(1)</td>
<td>5.9%</td>
<td>5.8%</td>
<td>9.0%</td>
<td>9.2%</td>
<td>11.7%</td>
<td>9.1%</td>
<td>16.4%</td>
</tr>
</tbody>
</table>

Wholesale Prices
2. Forecasts of the rate of increase in domestic wholesale prices, year on year, are as follows:-

<table>
<thead>
<tr>
<th></th>
<th>USA</th>
<th>Germany</th>
<th>Japan</th>
<th>France</th>
<th>Italy</th>
<th>Canada</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974</td>
<td>22.2%</td>
<td>13.6%</td>
<td>26.6%</td>
<td>29.1%</td>
<td>35.8%</td>
<td>20.7%</td>
<td>24.6%</td>
</tr>
<tr>
<td>1975</td>
<td>10.7%</td>
<td>2.5%</td>
<td>8.9%</td>
<td>10.6%</td>
<td>18.2%</td>
<td>9.0%</td>
<td>22.0%</td>
</tr>
<tr>
<td>1976</td>
<td>5.6%</td>
<td>1.2%</td>
<td>7.9%</td>
<td>7.4%</td>
<td>12.9%</td>
<td>9.1%</td>
<td>17.8%</td>
</tr>
</tbody>
</table>

Increases in Unit Wage Costs in Domestic Currencies
3. The following table shows year-on-year changes in unit wage costs for the UK and 6 competitor countries. They are not corrected for appreciation (Germany) or depreciation (UK) of the respective currencies since the purpose is to show unit labour cost increases throughout the period. It follows that they do not measure relative competitiveness, though the increases in 1975 and 1976 give some indication of what may happen to competitiveness in that period.

4. The figures for 1975 and 1976 are tentative and preliminary. Some of the high unit costs for 1975 (eg for the US) reflect the expected decline in output and the low ones for 1976 the effect of a recovery of output. Not too much weight should be put on the individual figures. The general picture is however clear. 1973 (a year of pay controls) shows up as the best year of the run for the UK for relative wage inflation. 1974 was a bad year. 1975 looks a better year in relation to the US (because of the fall in output there), but not in relation to Germany; and 1976 looks very bad indeed.

5. It may be right to allow for some time lag in effects in competitiveness eg 1973 costs affecting the first half of 1974 and so on.
<table>
<thead>
<tr>
<th>Year</th>
<th>% Change</th>
<th>Canada</th>
<th>USA</th>
<th>Japan</th>
<th>Germany</th>
<th>France</th>
<th>Italy</th>
<th>Neth. Belux</th>
<th>Total</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972</td>
<td>3.9</td>
<td>1.7</td>
<td>4.6</td>
<td>3.8</td>
<td>1.6</td>
<td>5.2</td>
<td>0.3</td>
<td>2.6</td>
<td>2.9</td>
<td>8.6</td>
</tr>
<tr>
<td>1973</td>
<td>4.4</td>
<td>2.8</td>
<td>5.1</td>
<td>5.6</td>
<td>10.3</td>
<td>15.7</td>
<td>3.1</td>
<td>10.2</td>
<td>6.2</td>
<td>8.6</td>
</tr>
<tr>
<td>1974</td>
<td>6.2</td>
<td>6.7</td>
<td>31.1</td>
<td>10.3</td>
<td>13.4</td>
<td>21.4</td>
<td>15.0</td>
<td>12.0</td>
<td>13.9</td>
<td>18.6</td>
</tr>
<tr>
<td>1975</td>
<td>7.7</td>
<td>18.0</td>
<td>24.3</td>
<td>5.9</td>
<td>17.0</td>
<td>22.5</td>
<td>19.0</td>
<td>12.5</td>
<td>15.5</td>
<td>20.7</td>
</tr>
<tr>
<td>1976</td>
<td>8.5</td>
<td>3.1</td>
<td>3.7</td>
<td>2.9</td>
<td>7.3</td>
<td>9.5</td>
<td>8.6</td>
<td>8.9</td>
<td>4.6</td>
<td>17.8</td>
</tr>
</tbody>
</table>
TYPES OF NORM AND THEIR RPI EFFECTS

The attached table shows the effect on the current price forecast of substituting pay settlements at the levels stated for the present assumption of settlements in the 25% to 30% range.

2. 15% norm. This is self explanatory. Part of the argument for it would be that it took account of the expected decline in the rate of inflation over the ensuing year (with a 10% target, a decline from say 25% in October 1975 to 10% in October 1976). A single percentage norm would be closest to normal bargaining practice. But it would leave the RPI in 1976 Q3 only a little under 12%, with the risk of higher figures if the outturn were worse on other elements of the forecast.

3. 10% + 5%. This would give 10% at normal settlement date plus 5% six months later. Like the more severe alternative 5% + 10%, it aims to reduce the impact of a 15% pay increase on prices by splitting the norm, rather than by reducing the 15% total.

4. Indexation (\frac{1}{2} RPI) and 5% plus full indexation. The first of these is very severe indeed. It involves giving no increase at the normal operative date, so that for example local authority manuals would say in the autumn of 1975 that they were being asked to miss a complete year's pay increase under conditions of 25% inflation. Thereafter it would give percentage (or if desired flat rate) increases equivalent to \frac{1}{2} of the RPI increase in each quarter at the end of that quarter.

5. 5% plus full indexation is more generous, and roughly equivalent in impact to 5% + 10%. There would be a 5% increase at normal settlement date, plus indexation payments on a 1% for 1% basis quarterly in arrear.

6. Indexation tailors increases more closely to the cost of living, but it is vulnerable (as were thresholds) to an unexpectedly bad outturn on prices. There is also the risk that it will become
embedded in the negotiating system and will be treated as a "floor" or automatic entitlement in a post-control period, with bargaining on top. Denmark and Belgium seem to have been trying to modify or eliminate their pay indexation systems for anti-inflationary reasons recently.

7. Flat rate norms (£6, £8, £10). A £6 flat rate would have to be justified as designed to protect the low paid (20% of the present TUC target of £30 a week). An £8 flat rate is equivalent in its effects to a 15% norm. Higher flat rates come nowhere near achieving the suggested objective. A £12 flat rate would be equivalent to the current Treasury forecast.

8. The great trouble with flat rates is that they risk resistance from unions representing skilled, white collar or managerial workers, as well as from better paid manual workers like the miners and those in electricity supply. They also store up pressure on differentials for the immediate post-control period. The 1973-74 controls used mixed flat rate/percentage norms (£1 + 4%; 40p thresholds; 7% or £2.25) but this was enough to generate big post-control increases to pull out differentials. The £30 TUC target had similar effects. The attempt to use the policy for income redistribution, rather than achieving this through the tax/benefit system, adds seriously to the strains on it. Under a non-statutory system in particular the risks of non-compliance seem notably greater with a flat rate than with a percentage norm.

9. Non-statutory or Statutory. In general these norms could be associated with a guidelines policy, a non-statutory policy with a norm, or a statutory policy. But the more severe norms would have little chance of general observance outside a statutory policy (and might of course lead to defiance within it). A split norm would hardly work outside a statutory policy. And according to the nature of the policy one would have to discount the RPI effects to a greater or lesser degree to take account of the likelihood of non-observance. This would apply particularly to a "guidelines" norm.
ENFORCEMENT IN A STATUTORY PAY POLICY

1. The heart of a statutory pay policy is that it is illegal for employers to pay more than a specified increase; or more precisely, that it is illegal for an employer to pay an increase without pre-notifying it and if the controlling authority then objects, it becomes illegal to pay the increase. The question then arises whether it is necessary or desirable to protect employers from pressure by employees or groups of employees to break the law by conceding out of line increases.

2. In the Prices and Incomes Act 1966 and again in the Counter Inflation Acts 1972 and 1973 provisions were included making it an offence for Unions or "organisations of workers" to put strike pressure on employers to break the law. Prosecutions could be undertaken only with the consent of the Attorney General and penalties were fines, not imprisonment. The fines were primarily payable out of union funds, not individual pockets. In fact the 1972 and 1973 Act powers were never used against a group of workers, or an individual worker. But in theory it would have been possible for a really determined would-be martyr to get himself or his union fined and eventually court imprisonment by committing contempt of court in refusing all forms of payment.

3. What really matters however is whether a policy is successfully resisted by strike action or the threat of it. If strike action is avoided or defeated and the policy stands, it is not really a central issue whether the union concerned, or part of it, is also prosecuted. The 1973 experience, when the prosecution powers were never used, confirms this. The statutory sanction operates primarily on employers who in practice do obey the law, especially if they are substantial and important public companies. So normally do the vast majority of unions and workers.
4. A tax penalty. The Treasury have nevertheless explored with their legal advisers the question whether it would be practicable to have a pay control under which:

i it was illegal for the employer to pay an excessive increase, but

ii the matching deterrent on employees and unions was not to make it an offence subject to a fine to pressurise an employer into an excessive payment: but to provide that the whole of an excess payment would be taxed away.

5. The Treasury's conclusion however, in the light of the advice of the Treasury Solicitor, is that such a system would not be workable. Before the tax or penalty could be levied on employees the liability to it would have to be clearly established: that is, it would have to be established in law that the employer had committed an offence by paying an out-of-line increase. This means that the tax could not be collected until the employer had been convicted in the Courts and (if he used them) had exhausted all the channels of appeal - a process that could take months. A long interval could therefore elapse between the pay settlement and the imposition of the penalty, and this interval would greatly weaken the credibility of the penalty and its deterrent value. The longer the money was in payment, the more difficult it would be to take it away; and recovery of past over-payments might anyway be impracticable, eg because of job changes.

6. Secondly, there would be great administrative difficulty in determining the amount of the tax liability for each individual employee. How much benefit a particular employee derived from the excessive increase would vary not only according to how the settlement applied to different grades and groups, but according to the number of hours worked, sickness, unemployment, change of job and other factors. All this would provide copious material for appeals, and it is hardly conceivable that assessment could be left to employers and all forms of appeal denied. These are the difficulties associated with any attempt to tax increases in pay. Taken with the point in paragraph 5, they seem to rule out this particular approach.
### RPI EFFECTS OF PAY NORMS

#### (1) New year-on-year RPI increase

<table>
<thead>
<tr>
<th></th>
<th>1976 Q1</th>
<th>1976 Q2</th>
<th>1976 Q3</th>
</tr>
</thead>
<tbody>
<tr>
<td>i.</td>
<td>15% norm</td>
<td>19.3</td>
<td>14.6</td>
</tr>
<tr>
<td>ii.</td>
<td>10% + 5%</td>
<td>18.9</td>
<td>13.7</td>
</tr>
<tr>
<td>iii.</td>
<td>5% + 10%</td>
<td>18.6</td>
<td>12.8</td>
</tr>
<tr>
<td>iv.</td>
<td>Indexation</td>
<td>18.2</td>
<td>12.2</td>
</tr>
<tr>
<td>v.</td>
<td>5% plus full '76 indexation</td>
<td>18.7</td>
<td>12.9</td>
</tr>
<tr>
<td>vi.</td>
<td>£6 flat</td>
<td>19.1</td>
<td>14.1</td>
</tr>
<tr>
<td>vii.</td>
<td>£8 flat</td>
<td>19.3</td>
<td>14.7</td>
</tr>
<tr>
<td>viii</td>
<td>£10 flat</td>
<td>19.6</td>
<td>15.5</td>
</tr>
</tbody>
</table>

#### (2) Change in (1) from post-Budget forecast

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>-0.8</td>
<td>-1.8</td>
<td>-2.7</td>
</tr>
<tr>
<td></td>
<td>-1.2</td>
<td>-2.7</td>
<td>-4.0</td>
</tr>
<tr>
<td></td>
<td>-1.5</td>
<td>-3.4</td>
<td>-5.5</td>
</tr>
<tr>
<td></td>
<td>-1.9</td>
<td>-4.2</td>
<td>-6.6</td>
</tr>
<tr>
<td></td>
<td>-1.4</td>
<td>-3.5</td>
<td>-5.6</td>
</tr>
<tr>
<td></td>
<td>-1.0</td>
<td>-2.3</td>
<td>-3.6</td>
</tr>
<tr>
<td></td>
<td>-0.8</td>
<td>-1.7</td>
<td>-2.7</td>
</tr>
<tr>
<td></td>
<td>-0.5</td>
<td>-0.9</td>
<td>-1.4</td>
</tr>
</tbody>
</table>

#### (3) New quarter-on-quarter RPI increase

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2.2</td>
<td>4.0</td>
<td>2.1</td>
</tr>
<tr>
<td></td>
<td>1.9</td>
<td>3.5</td>
<td>1.7</td>
</tr>
<tr>
<td></td>
<td>1.7</td>
<td>2.9</td>
<td>1.1</td>
</tr>
<tr>
<td></td>
<td>1.5</td>
<td>2.7</td>
<td>0.7</td>
</tr>
<tr>
<td></td>
<td>1.7</td>
<td>3.0</td>
<td>1.0</td>
</tr>
<tr>
<td></td>
<td>2.0</td>
<td>3.7</td>
<td>1.7</td>
</tr>
<tr>
<td></td>
<td>2.2</td>
<td>4.0</td>
<td>2.1</td>
</tr>
<tr>
<td></td>
<td>2.4</td>
<td>4.5</td>
<td>2.6</td>
</tr>
</tbody>
</table>
18 June 1975

CABINET

CONTINGENCY PLANS FOR THREATENED RAIL STOPPAGE

Memorandum by the Secretary of State for the Home Department

1. The Civil Contingencies Unit, under my chairmanship, has been keeping closely in touch with developments over recent weeks with a view to identifying at an early stage the difficulties that might arise if the projected strike by the National Union of Railwaymen (NUR) takes place. The purpose of this memorandum is to tell my colleagues where we stand with our contingency plans and to seek their approval of several decisions which must be taken by Friday of this week.

2. I attach a summary by officials which shows what the effect of a rail stoppage would be on the main essential supplies and services, and the action which would be necessary to ease the difficulties which are foreseen. The broad conclusion to which this summary points is that a national rail strike would not begin to bite hard on essential services during the first month or so. There are, however, the following difficulties which arise immediately on which action has to be taken this week:

   a. Railway passenger and freight services. The British Railways Board (BRB) will need to tell the public how the rail services will be run down at the weekend before the stoppage is due to take place so that railway users can adapt their plans accordingly. Publicity will need to be issued early on Friday at the latest.

   b. London commuters. The Metropolitan Police, in consultation with the Department of the Environment, have made plans to deal with a greatly increased flow of road traffic into London. Publicity about these plans should also be issued on Friday morning if it is to have widespread effect.

   c. Ferry services. All British Rail Ferries will cease to operate on Sunday evening, and although British Rail carry rather less than half the cross-Channel traffic, this will still affect seaborne traffic to the Continent. The BRB would therefore like to give the public due warning of probable effects of a stoppage of these services.
If the strike does take place statements will need to be made by the BRB and the Metropolitan Police about their contingency plans to deal with its effects, and it would not in my view be provocative if these statements were made this week. There need be no reference to the Government's attitude in the publicity that is issued, which need not prejudice any negotiations that may still be taking place between the BRB and the NUR at the end of the week. I therefore recommend that the Railways Board and the Metropolitan Police should be told to go ahead with the issue of publicity any time from midday on Thursday onwards.

3. About a quarter of oil deliveries are moved by rail at some stage. A number of essential users, including hospitals, the food industries, community services and public transport services obtain their oil supplies from rail-fed terminals, and to protect the interests of these consumers in the event of an extended strike, the Secretary of State for Energy has powers to issue a Direction to the companies who own the rail-fed terminals requiring them to reserve their stocks for priority users. The Direction operates by permitting the supply of motor fuel and oil fuel only for purposes specified in a detailed schedule. The issue of a Direction early on would safeguard oil stocks for priority users probably for a 12 week period; but the longer the issue of a Direction is delayed, the shorter would be the duration of the time that the stocks would last. I recommend that the Cabinet should agree now that the Secretary of State for Energy should issue a Direction as soon as he judges that oil stocks should be safeguarded in this way. It may be necessary to tighten up the application of the Direction by excluding certain manufacturing processes from the schedule of authorised purposes; but I would seek the approval of my colleagues should any fundamental point of policy be involved.

CONCLUSION

4. I invite my colleagues -

   a. To take note of the need for public statements this week by the British Railways Board and the Metropolitan Police about their contingency plans to deal with the effects of a strike.

   b. To consider whether any statement should be made in Parliament before the end of this week about the Government's contingency plans.

R H J

Home Office

18 June 1975
### SUMMARY BY OFFICIALS OF EFFECTS OF RAIL STOPPAGE AND MITIGATING ACTION NECESSARY

<table>
<thead>
<tr>
<th>INDUSTRY/SERVICE</th>
<th>EFFECTS</th>
<th>MITIGATING ACTION</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Oil supplies</td>
<td>See paragraph 3 of paper</td>
<td>Issue of Direction to safeguard stocks for priority users</td>
<td></td>
</tr>
<tr>
<td>Coal supplies</td>
<td>i. Distribution by rail from pithead stocks, including 'merry-go-round' to power stations will cease</td>
<td>Essential for Department of Industry to monitor industrial scene and to establish Regional contact points which will need to be made public</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ii. Generation of electricity unaffected for 10 weeks; major industrial consumers unaffected for 6-7 weeks; steel production at risk earlier</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ferry services</td>
<td>i. British Rail ferry services will cease to operate, but independent and foreign ferries will not be affected and should with some rearrangement, be able to cope with demand</td>
<td>BHB to notify industry and travelling public of changed schedules</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ii. No problems for Scottish Islands or Ireland. Channel Island problems likely to be overcome</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commuters</td>
<td>i. Alternative travel arrangements by road will be necessary</td>
<td>Guidance already issued by CSD on allowances for accommodation. Metropolitan Police to publish traffic handling plans. DOE to advise on campaign to ease commuter travel</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ii. Arrangements must be made for essential staff overnight accommodation</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>iii. Traffic congestion</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Postal services</td>
<td>i. Parcel post suspended except for local delivery</td>
<td>CSD to examine exploitation of IDS and use of Security Express</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ii. Letter post will have to go by road in hired commercial vehicles and Post Office vans (UPW likely to agree to handle mail diverted to road transport.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>iii. Problems for Customs and Excise with VAT and for Post Office with National Giro</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Newspapers</td>
<td>Delivery of national papers by road outside London banned by SOCAT; but provincial daily and evening papers already reach 70% of the population and should continue to do so since they are normally carried by road.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
NOTE TO CABINET

EFFECT OF PAY NORMS

Note by the Chancellor of the Exchequer

1. I was asked to circulate to Cabinet a note about the effect on take-home pay, unemployment and demand of the adoption of pay increase norms at 10 per cent, 15 per cent and 25 per cent.

2. Take-home pay. The effects on real take home pay (that is, pay adjusted for prices) after tax at present rates for a married couple at \( \frac{3}{2} \) average, average and \( 1\frac{1}{2} \) times average earnings, are shown at Annex A.

3. Unemployment and demand. The following figures show what norms of 10 per cent and 15 per cent would add to the level of unemployment compared with the present forecast. A 25 per cent rate of pay increase would be so close to that already assumed in the forecast as to make little difference to what is forecast for unemployment or demand.

<table>
<thead>
<tr>
<th>Norms</th>
<th>Unemployment change by 1976 Q3</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>+20,000</td>
</tr>
<tr>
<td>15%</td>
<td>+12,000</td>
</tr>
</tbody>
</table>

4. The impact on demand of 10 per cent and 15 per cent norms would be as follows:

<table>
<thead>
<tr>
<th>Norms</th>
<th>Change at 1975-76 prices</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>-£400 m</td>
</tr>
<tr>
<td>15%</td>
<td>-£250 m</td>
</tr>
</tbody>
</table>

D W H

Treasury Chambers

18 June 1975
REAL POST-TAX INCOME OF MARRIED COUPLE
WITH NO DEPENDANT CHILDREN
(1970/71 = 100)

<table>
<thead>
<tr>
<th></th>
<th>10%</th>
<th>15%</th>
<th>25%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>⅓</td>
<td>⅔</td>
<td>⅓</td>
</tr>
<tr>
<td>1975 Q II</td>
<td>107.9</td>
<td>107.0</td>
<td>106.5</td>
</tr>
<tr>
<td>1976 Q III</td>
<td>107.8</td>
<td>105.3</td>
<td>104.3</td>
</tr>
</tbody>
</table>

Note:
"average" in this table means average earnings for an adult male manual worker.
1. This paper sets out the recommendations of the Queen's Speeches and Future Legislation (QL) Committee for next Session's programme. The problem facing the Committee has been that the inclusion of all the Bills with strong claims for a place in the programme would require much more parliamentary time than is available. Our recommendations involve holding in reserve a considerable number of highly desirable Bills to which the responsible Ministers rightly attach great importance; but for the reasons indicated below we have thought it essential to put forward a programme of realistic size, tailored to the parliamentary time available.

The 1974-75 Session

2. Last Autumn we embarked upon the heaviest programme of legislation which Parliament has seen for many years. I warned Cabinet then that we were setting ourselves an over-large legislative target. The result has been -

   a. the House of Commons has had to sit late night after night - an average of 2 hours after 10.30 pm during the Session - imposing the quite intolerable strain on Government supporters which the Chief Whip described in Cabinet on 15 May (CC(75) 24th Conclusions, Minute 1);

   b. both Houses will have to sit for an extended spillover of some 4 weeks starting after the Party Conferences, otherwise we shall lose a considerable number of major Bills;
c. even so we shall fall short of our published legislative target, with some major Bills either not published (eg Development Land Tax) or having to wait until next Session to make progress (Aircraft and Shipbuilding Industries);

d. the fulfilment of our programme is placed at the mercy of the Opposition in both Houses - without co-operation in the Lords we have no hope of completing this Session the major Bills still in the Commons; and it is not going to be easy to get them through their Commons stages early enough to give them a fair chance in the Lords.

3. The Lord Privy Seal and I will do our very best to complete the remaining stages in both Houses of Government Bills now in progress. But the position is now excessively tight, and there can be no guarantee against further casualties. An extension of this Session which delayed the start of the new Session by more than one or two weeks would not be a feasible way out of these difficulties. It would cut down the time available next Session, delaying the introduction or reintroduction and passage of major Bills and substantially reducing the size of next Session's programme; the extension would have to be for several months if it were necessary to fit in a major Autumn Finance Bill.

The Size of the 1975-76 Programme

4. It is against this background that the QL Committee have considered the size of next Session's programme. We are firmly of the view that a repetition of the difficulties experienced this Session, and in particular of the great strain which the present overcrowded programme imposes upon our own supporters, must be avoided. This object is of higher priority, in our view, than the inclusion in the programme of Bills which, however desirable on political or other grounds, it is not vital to enact next Session. There are indeed positive arguments for keeping some attractive legislation for the third Session of this Parliament. The programme which the Committee accordingly recommends is estimated to take up fully the parliamentary time available in an average Session (which means that a slightly late start this November
will have to be made up by reduced time spent in Recesses in 1975). This programme allows no slack for unforeseen contingencies or to accommodate further casualties from this Session. Therefore further Bills can be added to the Programme category only if other Bills are removed from this category in order to make the necessary room and to prevent any net addition to the parliamentary time required.

The Content of the 1975–76 Programme

5. The programme recommended by the QL Committee is set out in the Appendices to this paper. Bills have been divided into the following categories -

**Appendix I:** Essential Bills, all of which must be enacted next Session because powers or finance would otherwise run out;

**Appendix II:** Contingent Bills, which may become essential and move into Category I;

**Appendix III:** Programme Bills, comprising those important Bills which the Government intends to enact next Session. For the reasons mentioned above, this category can only accommodate Bills the enactment of which is **vital** in 1975–76. But one point should be mentioned: two Bills (Bail and Development Board for Rural Wales) are included only on the condition that a Second Reading can be obtained in the House of Commons without the need for additional floor time.

**Appendix IV:** Reserve Bills, which would have been strong candidates for places in the programme if there were room. It may be possible for some of these Bills to be brought forward if there is parliamentary time and if they are ready. Whether authority can be given for them to be drafted will depend in each case upon instructions being ready and on whether drafting capacity can be spared from Bills of higher priority.

**Appendix V:** Scottish Grand Committee Bills, in order of priority.

3
Appendix VI: Other Bills, suitable for Second Reading Committee procedure or for introduction by a Private Member. These Bills do not qualify for the Programme or Reserve categories; the Appendix is attached for information as some of them may reach the Statute Book in 1975-76.

6. A considerable number of other Bills was bid for by departmental Ministers, but they are not mentioned in the Appendices as they do not have sufficiently high priority to warrant consideration for next Session.

7. I invite the Cabinet to agree -

   a. that next Session's programme must be of realistic size;
   b. that the categorisation of Bills should be as in the Appendices;
   c. that the list of Programme Bills should be as in Appendix III - or, if Bills are added to the list, other bills must be removed to leave a programme of the size now proposed.

ES

Privy Council Office

30 June 1975
<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Armed Forces</td>
<td>MOD</td>
<td>To continue, and amend where necessary, the Naval Discipline Act 1975 and the Army and Air Force Acts 1955</td>
<td>under 50</td>
</tr>
<tr>
<td>2(a) Energy Supply and Conservation</td>
<td>Energy</td>
<td>To provide permanent powers for the United Kingdom to fulfil its obligations under the IEA, and to provide for the enforcement of energy conservation measures</td>
<td>14</td>
</tr>
<tr>
<td>2(b) Amendment of Gas Act 1972</td>
<td>Energy</td>
<td>To make permanent existing temporary relaxations on the gas industry’s statutory obligations to supply industrial users</td>
<td>Short</td>
</tr>
<tr>
<td>3 Coal Industry</td>
<td>Energy</td>
<td>To increase the NCB’s borrowing limits; to provide financial assistance to the pension scheme and the Redundant Mineworkers’ payment scheme; to provide enabling powers to protect the coal industry against short-term fluctuations in prices of competing fuels</td>
<td>6-8</td>
</tr>
<tr>
<td>4 Iron and Steel</td>
<td>Industry</td>
<td>To extend BSC’s borrowing limit; to increase the Secretary of State’s power over the steel industry and to provide for a statutory Consumers’ Council</td>
<td>6-8</td>
</tr>
<tr>
<td>5 Northern Ireland (Emergency Provisions) Act (Amendment)</td>
<td>NIO</td>
<td>To amend the 1973 Act and to make provisions to deal with terrorism and subversion in accordance with the Gardiner Report</td>
<td>15</td>
</tr>
<tr>
<td>Title</td>
<td>Department</td>
<td>Purpose</td>
<td>Length in clauses</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>------------</td>
<td>--------------------------------------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>6 National Loans Fund (Northern Ireland)</td>
<td>NIO</td>
<td>To increase the statutory limit on borrowings from the National Loans Fund in respect of Northern Ireland</td>
<td>1</td>
</tr>
<tr>
<td>7. Prices</td>
<td>DPCP</td>
<td>To provide for the replacement of powers in Part II of the Counter-Inflation Act 1973</td>
<td>Fairly Short</td>
</tr>
<tr>
<td>8 Civil List</td>
<td>Treasury</td>
<td>To amend the 1972 Civil List Act and to authorise increases from votes</td>
<td>3-4</td>
</tr>
<tr>
<td><em>(a) OECD Financial Support Fund</em></td>
<td>Treasury</td>
<td>To enable the United Kingdom to participate in the OECD Financial Support Fund</td>
<td>2-3</td>
</tr>
<tr>
<td><em>(b) International Monetary Fund</em></td>
<td></td>
<td>To enable the United Kingdom's IMF quota to be increased</td>
<td>2-3</td>
</tr>
<tr>
<td>Title of Bill</td>
<td>Department</td>
<td>Purpose</td>
<td>Length in clauses</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>------------</td>
<td>-------------------------------------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Agriculture (Miscellaneous Provisions)</td>
<td>MAFF</td>
<td>To provide additional funds for the Agricultural Mortgage Corporation; to wind up the Sugar Board and to permit metrication</td>
<td>up to 20</td>
</tr>
<tr>
<td>Fishery Limits</td>
<td>MAFF</td>
<td>To extend fishing limits to 200 miles, and to give effect to EEC fisheries policy if necessary</td>
<td>10</td>
</tr>
<tr>
<td><em>United Kingdom Voluntary Safeguards Under Non-Proliferation Treaty</em></td>
<td>Energy</td>
<td>To Implement the UK/EURATOM/IAEA Safeguards Agreement</td>
<td>Short</td>
</tr>
<tr>
<td>Vehicle Regulation and Taxation</td>
<td>DOE</td>
<td>To change the basis of vehicle taxation</td>
<td>12</td>
</tr>
<tr>
<td>Anguilla</td>
<td>FCO</td>
<td>To make provision for the separation of Anguilla from St Kitts-Nevis</td>
<td>3</td>
</tr>
<tr>
<td>Privy Council Appeals (Australia) Abolition</td>
<td>FCO</td>
<td>To abolish appeals from Australian State courts to the Privy Council</td>
<td>6</td>
</tr>
<tr>
<td>Rhodesia</td>
<td>FCO</td>
<td>To provide for a settlement of the Rhodesia problem</td>
<td>up to 30</td>
</tr>
<tr>
<td>Prevention of Terrorism (Temporary Provisions)</td>
<td>HO</td>
<td>To re-enact the provisions of the Prevention of Terrorism (Temporary Provisions) Act 1974</td>
<td>13</td>
</tr>
<tr>
<td>Northern Ireland Constitution</td>
<td>NIO</td>
<td>To make constitutional provisions for Northern Ireland</td>
<td>not known</td>
</tr>
<tr>
<td>Regional Employment</td>
<td>Treasury</td>
<td>To reform the RJP</td>
<td>10</td>
</tr>
</tbody>
</table>

* Suitable for Second Reading Committee procedure
### LEGISLATIVE PROGRAMME 1975-76

#### III BILLS RECOMMENDED FOR INCLUSION IN THE PROGRAMME

<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Devolution</td>
<td>Privy Council</td>
<td>To establish elective assemblies for Scotland and Wales</td>
<td>long</td>
</tr>
<tr>
<td>2(a) Parliamentary Pensions</td>
<td>CSD and Privy Council</td>
<td>To improve MP's pensions arrangements</td>
<td>20</td>
</tr>
<tr>
<td>(b) Public Offices (Salaries)</td>
<td>CSD</td>
<td>To link C and AG's and PCA's salaries to those of Permanent Secretaries</td>
<td>2-4</td>
</tr>
<tr>
<td>3 Education (Miscellaneous Provisions)</td>
<td>DES</td>
<td>To require local authorities to introduce comprehensive education; to make provisions relating to school leaving dates, milk and transport</td>
<td>short</td>
</tr>
<tr>
<td>4 Dockworkers' Employment</td>
<td>DH</td>
<td>To extend and improve the Dock Labour Scheme</td>
<td>20-25</td>
</tr>
<tr>
<td>5 Nuclear Power Stations (Financial Arrangements)</td>
<td>Energy</td>
<td>To authorise Government to share with CEGB and SSEB the extra costs and risks of introducing SHWR stations</td>
<td>3</td>
</tr>
<tr>
<td>6 Oil and Gas Fired Power Stations (Restrictions of Fuel)</td>
<td>Energy</td>
<td>To implement EEC directives for Government approval of construction of power stations using natural gas or petroleum products</td>
<td>3</td>
</tr>
<tr>
<td>7 Agricultural Tied Cottages</td>
<td>DOE</td>
<td>To give security of tenure to occupiers of agricultural tied cottages</td>
<td>20</td>
</tr>
<tr>
<td>8(a) Drivers' Hours and Records</td>
<td>DOE</td>
<td>To bring United Kingdom drivers' hours into line with EEC regulations</td>
<td>2</td>
</tr>
<tr>
<td>(b) Minimum Driving Age etc</td>
<td>DOE</td>
<td>To alter the minimum driving age, in accordance with EEC regulations</td>
<td>2</td>
</tr>
</tbody>
</table>

Bills underlined are Manifesto or Queen's Speech commitments.
<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 Road Traffic</td>
<td>DOE</td>
<td>To relate bus and car licensing provisions to assist rural transport</td>
<td>5-10</td>
</tr>
<tr>
<td>10 Official Information (Franks)</td>
<td>HO</td>
<td>To replace section 2 of the Official Secrets Act</td>
<td>short</td>
</tr>
<tr>
<td>11 Police Complaints Procedure</td>
<td>HO</td>
<td>To establish a Commission with power to influence action taken in pursuance of complaints</td>
<td>6</td>
</tr>
<tr>
<td>12 Race Relations</td>
<td>HO</td>
<td>To strengthen the powers and machinery for dealing with race relations</td>
<td>50-60</td>
</tr>
<tr>
<td>13 Bail</td>
<td>HO</td>
<td>To reform bail procedures</td>
<td>10</td>
</tr>
<tr>
<td>14 Aircraft and Shipbuilding Industries</td>
<td>Industry</td>
<td>To take the aircraft and shipbuilding industries into public ownership</td>
<td>55</td>
</tr>
<tr>
<td>15 Post Office (Giro)</td>
<td>Industry</td>
<td>To provide for a capital reconstruction, financial objectives and widening of the banking powers of Giro</td>
<td>10</td>
</tr>
<tr>
<td>16 Trustee Savings Banks</td>
<td>Treasury</td>
<td>To provide for the expansion of TSB banking services</td>
<td>40</td>
</tr>
<tr>
<td>17 Development Land Tax</td>
<td>Treasury</td>
<td>To impose a tax on development values realised from land</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>(Inland Revenue)</td>
<td></td>
<td>+10</td>
</tr>
<tr>
<td>18 Development Board for Rural Wales</td>
<td>WO</td>
<td>To establish a Board to promote the co-ordinated development of rural Wales</td>
<td>20</td>
</tr>
</tbody>
</table>

*To be included in Queen's Speech without commitment to legislate
Bills underlined are Manifesto or Queen's Speech commitments
* Place in programme dependent upon Second Reading Committee procedure
* Place in programme dependent upon Welsh Grand Committee procedure or use of Welsh day for Second Reading
### LEGISLATIVE PROGRAMME 1975-76

#### IV RESERVE BILLS

<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public Lending Right</strong></td>
<td>DES</td>
<td>To establish public lending rights for authors</td>
<td>6</td>
</tr>
<tr>
<td><strong>Construction Industry Contracts (The Lump)</strong></td>
<td>DOE</td>
<td>To set up a statutory Construction Industry Manpower Board</td>
<td>under 5</td>
</tr>
<tr>
<td><strong>Direct Labour Organisations</strong></td>
<td>DOE</td>
<td>To extend local authorities' powers to operate direct labour organisations</td>
<td>short-medium</td>
</tr>
<tr>
<td><strong>Landlord and Tenant</strong></td>
<td>DOE</td>
<td>To remedy anomalies in the law dealing with leasehold reform and service charges</td>
<td>3-4</td>
</tr>
<tr>
<td><strong>Local Government (General Powers)</strong></td>
<td>DOE</td>
<td>To incorporate clauses from local acts in general law</td>
<td>40-50</td>
</tr>
<tr>
<td><strong>Maplin Development Authority Dissolution</strong></td>
<td>DOE</td>
<td>To dissolve the Maplin Development Authority and to withdraw planning permissions</td>
<td>6</td>
</tr>
<tr>
<td><strong>New Towns (Miscellaneous Provisions)</strong></td>
<td>DOE</td>
<td>To transfer housing etc from new towns to local authorities.</td>
<td>short</td>
</tr>
<tr>
<td><strong>Ports</strong></td>
<td>DOE</td>
<td>To bring ports into public ownership and to establish a National Ports Authority</td>
<td>80</td>
</tr>
<tr>
<td><strong>Rent (Student Lettings)</strong></td>
<td>DOE</td>
<td>To provide for registered lettings to students to be excluded from Rent Act protection</td>
<td>5</td>
</tr>
<tr>
<td><strong>Town and Country Planning</strong></td>
<td>DOE</td>
<td>To implement the Dobry report on planning procedures</td>
<td>70</td>
</tr>
</tbody>
</table>

*Bills suitable for Second Reading Committee procedure

Bills underlined are Manifesto or Queen's Speech commitments
<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 Nurses</td>
<td>DHSS</td>
<td>To implement the 1972 Briggs' report on the training of nurses</td>
<td>80</td>
</tr>
<tr>
<td>12 a. Occupational Pension Scheme (Registration etc)</td>
<td>DHSS</td>
<td>To regulate the conduct of occupational pension schemes</td>
<td>13</td>
</tr>
<tr>
<td>12 b. Social Security Amendment</td>
<td>DHSS</td>
<td>To make miscellaneous changes in arrangements for national insurance and supplementary benefits</td>
<td>Short</td>
</tr>
<tr>
<td>13 Private Practice</td>
<td>DHSS</td>
<td>To abolish paybeds in NHS hospitals and to regulate the development of private practice</td>
<td>Short-medium</td>
</tr>
<tr>
<td>14 Conspiracy</td>
<td>HC</td>
<td>To limit the penalties for conspiracy</td>
<td>Short</td>
</tr>
<tr>
<td>15 Representation of the People (Service Voters)</td>
<td>HC</td>
<td>To amend the provisions relating to the electoral registration of service voters</td>
<td>6</td>
</tr>
<tr>
<td>16 Co-operative Development Agency</td>
<td>Industry</td>
<td>To establish a Co-operative Development Agency</td>
<td>10</td>
</tr>
<tr>
<td>17 Administration of Justice</td>
<td>Lord Chancellor</td>
<td>To implement the Phillimore Report on contempt of court and the Payne Committee's recommendations on the transfer of High Court judgments to the County Court, and to make miscellaneous improvements</td>
<td>30-35</td>
</tr>
<tr>
<td>18 Congenital Disabilities</td>
<td>Lord Chancellor</td>
<td>To implement the Law Commission's Report on Injuries to Unborn Children</td>
<td>6</td>
</tr>
<tr>
<td>19 Exemption Clauses</td>
<td>DPCF</td>
<td>To limit the avoidance of civil liability for breach of contract and negligence</td>
<td>20</td>
</tr>
</tbody>
</table>

Bills underlined are Manifesto or Queen's Speech commitments.
## LEGISLATIVE PROGRAMME 1975-76

### IV RESERVE BILLS (continued)

<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair Trading (Amendment)</td>
<td>DPCP</td>
<td>To make miscellaneous amendments to the Fair Trading Act</td>
<td>30</td>
</tr>
<tr>
<td>Weights and Measures (Amendment)</td>
<td>DPCP</td>
<td>To make changes relating to imperial and metric weights and measures, and to extend consumer protection</td>
<td>6</td>
</tr>
<tr>
<td>Civil Aviation Act 1971 (Amendment)</td>
<td>Trade</td>
<td>To provide policy guidance to the Civil Aviation Authority</td>
<td>Under 10</td>
</tr>
<tr>
<td>Companies Accounts, Returns and Registration</td>
<td>Trade</td>
<td>To improve the law relating to the accounts, information and registration of companies</td>
<td>25-30</td>
</tr>
<tr>
<td>Insolvency</td>
<td>Trade</td>
<td>To amend the law relating to bankruptcy</td>
<td>15</td>
</tr>
<tr>
<td>Merchant Shipping</td>
<td>Trade</td>
<td>To ratify the International Convention on liability for Carriage by Sea and to deal with other merchant shipping matters</td>
<td>up to 100</td>
</tr>
<tr>
<td>Patents</td>
<td>Trade</td>
<td>To amend patent law and to enable the United Kingdom to join the Patent Co-operation Treaty and Patent Conventions</td>
<td>100</td>
</tr>
</tbody>
</table>

* Bills suitable for Second Reading Committee procedure

* Bills underlined are Manifesto or Queen's Speech commitments
<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Electricity</td>
<td>30</td>
<td>To extend the borrowing powers of Scottish Electricity Boards</td>
<td>3</td>
</tr>
<tr>
<td>(Borrowing Powers) (Scotland)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Education</td>
<td>30</td>
<td>To implement the proposals of the Houghton Report relating to negotiating machinery for teachers' pay</td>
<td>12</td>
</tr>
<tr>
<td>(Scotland) (Amendment)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Freshwater Fisheries (Scotland)</td>
<td>30</td>
<td>To improve and control public trout fishing rights</td>
<td>10</td>
</tr>
<tr>
<td>4 Crofting Reform</td>
<td>30</td>
<td>To reform the crofting tenure system</td>
<td>23</td>
</tr>
<tr>
<td>(Scotland)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Complaints against the Police</td>
<td>30</td>
<td>To introduce an independent element to the investigation of complaints against the police</td>
<td>6</td>
</tr>
<tr>
<td>6 Registration of Title to Land</td>
<td>30</td>
<td>To introduce a system of registration of title</td>
<td>50</td>
</tr>
<tr>
<td>(Scotland)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 Marriage</td>
<td>30</td>
<td>To modernise the law of marriage</td>
<td>50</td>
</tr>
<tr>
<td>8 Licensing (Scotland)</td>
<td>30</td>
<td>To reform the liquor licensing laws</td>
<td>100</td>
</tr>
<tr>
<td>9 Damages for Injuries Causing Death</td>
<td>30</td>
<td>To implement the Law Commission Report on Damages for Injuries Causing Death</td>
<td>14</td>
</tr>
<tr>
<td>(Scotland)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 Fatal Accidents and Sudden Death Enquiries (Scotland)</td>
<td>30</td>
<td>To amend the Fatal Accidents etc Acts of 1895 and 1906</td>
<td>11</td>
</tr>
</tbody>
</table>

Bills underlined are Manifesto or Queen's Speech commitments
<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gun Barrel Proof</td>
<td>MOD</td>
<td>To amend the Gun Barrel Proof Act 1868 to enable the United Kingdom to become a member of the Permanent International Commission for the Proof of Small Firearms</td>
<td>5</td>
</tr>
<tr>
<td>Offshore Operations Liability for Pollution</td>
<td>Energy</td>
<td>To ratify the Autumn 1975 Convention on compensation for damage for pollution</td>
<td>2</td>
</tr>
<tr>
<td>Ancient Monuments Amendment and Archaeological Areas</td>
<td>DOE</td>
<td>To modernise existing ancient monuments legislation and to provide opportunities for archaeological investigation prior to development</td>
<td>25-30</td>
</tr>
<tr>
<td>Endangered Species (Restriction of Imports and Exports)</td>
<td>DOE</td>
<td>To consolidate existing law and to ratify the March 1973 Convention on International Trade</td>
<td>14</td>
</tr>
<tr>
<td>Transport of Perishable foodstuffs</td>
<td>DOE</td>
<td>To ratify the Convention on the Transport of Perishable Foodstuffs</td>
<td>15</td>
</tr>
<tr>
<td>Housing (Miscellaneous Provisions)</td>
<td>DOE</td>
<td>To make miscellaneous amendments in housing law</td>
<td>20</td>
</tr>
<tr>
<td>Burial</td>
<td>DOE</td>
<td>To provide machinery for maintaining and managing non-local authority cemeteries</td>
<td>5</td>
</tr>
<tr>
<td>Diplomatic Privileges (Special Missions)</td>
<td>FCO</td>
<td>To implement the UN Convention on the Privileges of Special Missions</td>
<td>20-30</td>
</tr>
<tr>
<td>State Immunity</td>
<td>FCO</td>
<td>To amend the law on immunity and to ratify a Council of Europe Convention on State Immunity</td>
<td></td>
</tr>
<tr>
<td>Title of Bill</td>
<td>Department</td>
<td>Purpose</td>
<td>Length in clauses</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Crimes against Internationally Protected Persons</td>
<td>FCO</td>
<td>To ratify the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons</td>
<td>5</td>
</tr>
<tr>
<td>Colonial Stock Act 1877 (Amendment)</td>
<td>FCO</td>
<td>To amend the Colonial Stock Act 1877</td>
<td>2</td>
</tr>
<tr>
<td>Foreign Compensation</td>
<td>FCO</td>
<td>To take over and distribute Tsarist assets in the UK</td>
<td>3</td>
</tr>
<tr>
<td>Extradition</td>
<td>HO</td>
<td>To modernise the law governing extradition</td>
<td>30</td>
</tr>
<tr>
<td>Criminal Appeal Act (Amendment)</td>
<td>HO</td>
<td>To remedy a defect in section 2 of the Criminal Appeal Act 1968</td>
<td>1-2</td>
</tr>
<tr>
<td>Domestic Proceedings</td>
<td>HO</td>
<td>To implement the Law Commission's recommendations on matrimonial proceedings in magistrates courts</td>
<td>30-50</td>
</tr>
<tr>
<td>Forgery and Counterfeit Currency</td>
<td>HO</td>
<td>To modernise and codify the law on forgery and counterfeit currency</td>
<td>19</td>
</tr>
<tr>
<td>Conversion and Detinue</td>
<td>Lord Chancellor</td>
<td>To implement the Law Committee's Report on Conversion and Detinue</td>
<td>5</td>
</tr>
<tr>
<td>Rentcharges</td>
<td>Lord Chancellor</td>
<td>To give effect to the Law Commission's Report on the extinction of rentcharges</td>
<td>10-15</td>
</tr>
<tr>
<td>Cinematograph Films</td>
<td>Trade</td>
<td>To provide for payments by the British Film Fund Agency to the National Film Finance Corporation, and for grants from the NFFC to persons associated with film production</td>
<td>short</td>
</tr>
</tbody>
</table>
### VI OTHER BILLS (continued)

#### (ii) Bills possibly suitable for offering to a Private Member

<table>
<thead>
<tr>
<th>Title of Bill</th>
<th>Department</th>
<th>Purpose</th>
<th>Length in clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Youth and Community</td>
<td>DES</td>
<td>To implement proposals from the review of the Youth Service</td>
<td>5-7</td>
</tr>
<tr>
<td>Medical Act (Amendment)</td>
<td>DHSS</td>
<td>To implement the Morrison Report</td>
<td>4-5</td>
</tr>
<tr>
<td>Control of fireworks</td>
<td>DPCF</td>
<td>To improve control over the sale and use of fireworks</td>
<td>6-8</td>
</tr>
<tr>
<td>Presumption of Death (Scotland)</td>
<td>S0</td>
<td>To implement the Law Commission Report on presumption of death</td>
<td>20</td>
</tr>
<tr>
<td>Solicitors (Scotland)</td>
<td>S0</td>
<td>To provide for lay representation on disciplinary tribunals</td>
<td>20</td>
</tr>
<tr>
<td>Divorce (Scotland)</td>
<td>S0</td>
<td>To reform the law relating to divorce and aliment</td>
<td>15</td>
</tr>
<tr>
<td>Stock Account</td>
<td>Trade</td>
<td>To enable the Stock Exchange to introduce a new settlement and stock trawler system</td>
<td>Under 10</td>
</tr>
</tbody>
</table>

Bills underlined are Manifesto or Queen's Speech commitments
CABINET

1975 REPORT FROM THE SELECT COMMITTEE ON THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

Note by the Lord Privy Seal

My colleagues will wish to see the attached reply to the Report from the Select Committee on the Parliamentary Commissioner for Administration, Session 1974, which has been agreed by the members of the Legislation Committee. It is to be published as a White Paper on Wednesday 2 July 1975.

S

Civil Service Department

1 July 1975
Report from the Select Committee on the Parliamentary Commissioner for Administration

Session 1974

Observations by the Government
INTRODUCTORY

This White Paper contains the Government’s response to a number of comments and recommendations in the Select Committee’s Report, Session 1974.

DELAY IN REPAYMENTS OF TAX

2. In paragraph 3 of their Report, the Committee refer again to the question of the allowance of interest on delayed repayments of income tax and estate duty and the statement by the Chancellor of the Exchequer on 26 March 1974 foreshadowing provisions in his second Finance Bill on this subject. As the Committee are aware, provisions relating to interest on repayments of estate duty (and capital transfer tax) were included in that Bill. As promised by the Paymaster General on 13 November 1974 (Hansard, Vol. 881, No. 16, Col. 538), provisions in relation to income tax and corporation tax are included in the 1975 Spring Finance Bill.

REMISSION OF TAX

3. The Committee indicate in Paragraph 12 that they will expect the income limits governing tax remission in cases of official error to be kept under review. The Government will keep these limits under review.

REIMBURSEMENT OF AGENTS’ FEES

4. In paragraph 15 of their Report, the Committee express the view that it is unjust to the taxpayer for no allowance to be made where, exceptionally, a serious error on the Inland Revenue’s part compels a taxpayer quite needlessly to incur costs. The Board of Inland Revenue will consider allowing some recompense in the circumstances envisaged in the Report.

PENSIONS INCREASES FOR PERSONS LIVING ABROAD

5. In paragraph 6 of their Report the Committee propose to keep under review the decision of successive Governments not to make pensions increases available to persons living abroad in countries with which there are no reciprocal arrangements. The Government has reviewed the matter again in connection with the April 1975 uprating of pensions and its policy remains as explained to the Committee last year.

AWARD OF INDUSTRIAL WIDOW’S PENSION

6. The Government confirm that if further medical evidence were to become available about the pathological relationship between pneumoconiosis and the degeneration of other organs, cases such as that described in paragraph 16 of the Committee’s report would be looked at again. To date no new evidence of this kind has been produced.
ACCESS BY PRISONERS TO TYPEWRITERS

7. In paragraphs 22–24 of their Report the Committee draw attention to the circumstances in which prisoners might have access to typewriters. Acknowledging the changes would tend to add to the burdens of the prison staff, the Committee nonetheless express the hope that the Home Office's review of the existing arrangements would result in a considerable discretion being given to governors. The Committee also consider that particular consideration should be given to prisoners who have already been accepted as a non-security risk by being transferred to an open prison.

8. The Home Office are continuing their review. The current instructions are being re-examined and fresh ones will be issued in due course. For reasons explained in the Home Office evidence to the Committee, a change of present practice is not free from difficulty. There are control as well as security problems involved in permitting wider access and it seems unlikely that revised arrangements foreseeable within existing resources could result in any large scale changes. But the Committee's views will be borne in mind as the review proceeds. In the meantime the existing provision for governors to seek headquarters' permission to allow the use of a typewriter where the submission of particular typewritten documents is essential eg by prisoners conducting their own case or appeal or studying for academic qualifications, is continuing to operate.

LIVING AWAY FROM HOME ALLOWANCES

9. In paragraph 27 of their Report, the Committee ask to be kept informed of the progress of the inter-departmental consultation about the variations in living-away-from-home allowances and express the hope that these consultations will lead to the elimination of anomalous discrepancies. Information about the various schemes in operation which make provision, amongst other things, for the payment of living-away-from-home allowances has been collated and analysed to ascertain the extent and nature of the differences between the schemes. On the basis of this analysis, the issues raised by the Commissioner are being further considered and a report will be made to the Committee.

LOCAL COMMISSIONERS FOR ADMINISTRATION

10. In commenting, in paragraph 34, on the change in arrangements for dealing with cases which involved local government and central government (and possibly also concerned the Health Service Commissioner) the Committee hope that the involvement of more than one Commissioner will not result in unco-ordinated and widely differing judgments. The Government share the hope that the provision which has been made for collaboration and consultation between the Commissioners in the preparation and presentation of their reports will ensure that the different aspects of joint cases of this kind are handled in a uniform way, while preserving the separate independence of the various Commissioners concerned. As the Committee observed in paragraph 32, the fact that the Parliamentary Commissioner is an ex officio member of both the English and Welsh Commissions should greatly assist consultation between Commissioners.
HEALTH SERVICE COMMISSIONER

11. In paragraphs 39-41 of their Report the Committee refer to the recommendation by the Davies Committee set up to consider hospital complaints procedure in England and Wales that investigating panels should be established by the regional health authorities in England and by the Welsh Office in Wales. The Select Committee call attention to the dangers of overlapping and confusion that a multiplicity of avenues and remedies for complaints might cause. The Government is still considering the report of the Davies Committee which made many important and far reaching recommendations; no decisions have yet been reached. They agree that it is important that complaints procedures should be as simple and easy to understand as possible, and will take this into account in reaching decisions on the report of the Davies Committee.

12. The Government note that in paragraphs 45-47 of their Report the Committee draw attention to the wider responsibilities of the Welsh Office and the Scottish Home and Health Department arising from the absence of a regional health service tier and that the Committee have invited the Health Service Commissioner to report to them in due course on the procedural points arising out of these difficulties.

13. The Government note that in paragraph 49 of their Report the Committee invite the Health Service Commissioner to include in his Annual Report summaries of completed cases in some number, including all those where some follow-up might be advisable and on which the Committee might wish to take further evidence because of procedural or other defects revealed. In taking any such evidence the Committee will doubtless wish to safeguard the anonymity of individual cases.
CABINET

NEW PARLIAMENTARY BUILDING

Memorandum by the Secretary of State for the Environment
and the Lord President of the Council

1. This paper seeks to clarify policy on the future of the new Parliamentary building. A background note (Annex A) is attached.

2. A decision is needed urgently. Messrs Spence and Webster, who have no other major commissions and have built up a design office on the assumption that they would be fully committed on the new Parliamentary building, need either i, to be told that further work on the scheme is to be undertaken, which would involve at least £400,000 over the next two years; or ii, to be paid off. Under the competition, they would get £8,000 plus payment for work done under their present limited commission. But we recommend they also receive reimbursement for commitments they can show were entered into for the purpose of the new Parliamentary building. Payment would be subject to an overall limit of £100,000 which was the figure provided for in 1973 for developing the brief.

3. The order of cost of the building and associated works is at least £30 million at current prices. This does not include the cost of the site. Now, when economy in building programmes is being urged on local authorities and others, we cannot expect a scheme for MP's accommodation of this order of expense to begin in the foreseeable future; nor would it be reasonable to authorise another £400,000 on preparatory work for it. On the other hand, there are still 138 Members without a proper office; further infilling in the Palace itself is unacceptable (both financially and aesthetically); and the new Parliamentary building site, acquired at a cost of £6.6 million, is partly empty and the buildings on it, because of the uncertainty, are deteriorating.

4. We consider it inevitable that the Spence-Webster building should be indefinitely postponed. This would be on financial grounds and imply no architectural judgment, since the design was selected as a result of a competition and endorsed by the House of Commons and the Royal Fine Art Commission, although objected to by the Greater London Council. The
scheme would, in any case, have needed modification for reasons no fault of the architects, notably security requirements not envisaged when the competition was arranged.

5. Indefinite postponement of the Spence-Webster scheme is not enough. Other possibilities are:-

a. Offer to rehabilitate the Norman Shaw South building for Parliamentary purposes. It could accommodate 81 MPs, 81 secretaries and 38 House of Commons staff. Rehabilitation to Norman Shaw North standards is estimated to cost £1$\frac{1}{4}$-£1$\frac{3}{4}$ million and could be completed within two years of a decision. Although not within the site of the new Parliamentary building as such, Norman Shaw South would have to be demolished to make way for the new underground station envisaged in the conditions of the architectural competition. However the advantage of using Norman Shaw South in the near future seems worth the risk of having to demolish it later if Spence-Webster or something similar were revived.

b. Invite the Services Committee to consider, in consultation with the Department of the Environment, other possibilities for additional accommodation for MPs on the new Parliamentary building site. The scope of any study to be carried out by the Department of the Environment, which might include some flexibility with the area to the north, would be agreed with the Services Committee. A summary of the possibilities for rehabilitation of buildings on the eastern part of the site is given in paragraphs 10-13 of Annex A.

c. Investigate the possibility of adapting part of the Speaker's Residence for Members.

6. We invite our colleagues to agree that:-

i. On financial grounds, further expenditure on planning the Spence-Webster building should not be authorised.

ii. The Spence-Webster scheme should be indefinitely postponed.

iii. Messrs Spence and Webster should be appropriately paid off.

iv. The Services Committee should be invited to consider Norman Shaw South and the other possibilities noted above for the early provision of the minimum essential Parliamentary accommodation on the Bridge Street site and possibly in the Speaker's Residence.
v. These decisions should be announced as soon as possible in terms of the draft statement (Annex B) and a decision whether or not to debate the accommodation problem taken later in the light of the House's reactions.

AC ES

Department of the Environment

7 July 1975
NEW PARLIAMENTARY BUILDING: BACKGROUND MATERIAL

THE PARLIAMENTARY BACKGROUND

1. On 25 June 1973 the House of Commons voted for the construction "in due course" of a new Parliamentary building on the site bordered by Bridge Street, Parliament Street, Derby Gate and the Embankment. They also approved by 208 votes to 144 the adoption of Messrs Spence and Webster's competition winning design.

2. The House was informed that there would be no expenditure on the building during 1973/74 or 1974/75 but (Hansard Column 1267) that the plans might be developed in the period to April 1975. Accordingly Messrs Spence and Webster were given a limited commission, to cost no more than £100,000 fully to establish the clients' brief. It has however been impossible to make further progress in the absence of clear instructions from the House. On 21 March 1974 the Minister of State for Urban Affairs said that the present Government had reached no decision about the building (Hansard Column 142). Subsequent similar questions were answered in similar terms until 29 January 1975 when the Lord President promised a statement as soon as possible.

THE SPENCE AND WEBSTER BUILDING

3. The building would provide 450 single rooms for Members and ancillary offices, social and recreational accommodation linked by an underground corridor to the Palace of Westminster. Amenities would include a swimming bath, sauna bath, library, restaurant, television studios and a public concourse. A Podium would accommodate shops and other public amenities.

4. The site cost £6.6m. The order of cost of the building and ancillary works is at least £30.0m at current prices.
5. The private tenants on the Bridge Street site are entitled to 9 months notice to quit their premises pending demolition. The major work then would be the construction of a new Underground Station on the site of the Norman Shaw South Building. If a firm decision to proceed were reached now the pre-tender documentation could be completed in time for this to begin towards the end of 1977 with a probable completion date late in 1983.

PLANNING CONSIDERATIONS

6. The Greater London Council who consider that the parliamentary building should have been designed together with the proposed Government office development between Derby Gate and Richmond Terrace have consistently opposed the height, mass and proposed alignment of the Spence Webster building. Their views were rejected by the Services Committee in 1972 and by the House in June 1973. They know that normal planning arrangements cannot apply where the client is Parliament itself but have continued to press their arguments. Their co-operation is needed both for the London Transport works and the links under Bridge Street with the Palace of Westminster.

WHITEHALL PLANNING

7. The design and timing of the parliamentary building has important implications for the proposed Government development immediately to the north which would provide up to 1,200 office places. The two designs should be compatible and the two buildings would probably share centralised cooling, heating and electrical power plant. An earlier assumption that service access to the basement area of the parliamentary building would be by ramps from Richmond Terrace is no longer valid since Richmond Terrace and Norman Shaw North are being retained; but alternative means of access will have to be agreed if the planning of both schemes is not to be frustrated. An important minor requirement is to find an alternative long term home for the Whitehall Post Office at Parliament Street - if no early provision for it can be made in the Spence/Webster building.
Implications of Abandoning the Construction of the New Parliamentary Building

8. Should the construction of the new parliamentary building be abandoned, improved facilities for the House will still be needed. Existing facilities are:

<table>
<thead>
<tr>
<th></th>
<th>Single Rooms</th>
<th>Double Rooms</th>
<th>Treble Rooms</th>
<th>Desk Rooms etc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palace of Westminster</td>
<td>182</td>
<td>140</td>
<td>15</td>
<td>159</td>
</tr>
<tr>
<td>2 Abbey Garden, 4/7 Old Palace Yard, 3 Dean's Yard</td>
<td>11</td>
<td>12</td>
<td>9</td>
<td>64</td>
</tr>
<tr>
<td>Norman Shaw North</td>
<td>50</td>
<td>78</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Total: 243, 230, 24, 223, 720

9. The number of Members in Desk Rooms etc can now be reduced to 138, but accommodation for secretaries and other staff is still a major problem. The Speaker has recently indicated that it might be possible for some accommodation in his house to be made available to Members. This offer has been welcomed, and the possibilities are being investigated. 20 Members might be provided for in this way. Further infilling within the Palace would be very costly and aesthetically controversial: future schemes would cost £80-£150 per square foot, compared with £30-£36 for building new government offices in central London and £52 for the Spence-Webster building.
10. Other possibilities are:

a. rehabilitation of Norman Shaw South on the lines of Norman Shaw North. This would within 2 years of a decision provide for 81 Members in single or double rooms, 81 secretaries and 38 staff at an order of cost of £13-£13½m.

b. rehabilitation of some or all of the other buildings on the Bridge Street site to Norman Shaw North standards. A recent review indicates that the following additional accommodation could be provided within 5 years of a decision:

<table>
<thead>
<tr>
<th>Building</th>
<th>Estimated accommodation (single or double rooms)</th>
<th>Order of cost £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>St Stephen's House</td>
<td>79 MPs: 83 secs 98 Others</td>
<td>2½ - 3</td>
</tr>
<tr>
<td>Palace Chambers</td>
<td>110 MPs: 111 secs 147 Others</td>
<td>3 - 3½</td>
</tr>
<tr>
<td>1 &amp; 2 Bridge Street</td>
<td>53 MPs: 50 secs 27 Others</td>
<td>2 - 2½</td>
</tr>
</tbody>
</table>

c. rehabilitation of buildings to the extent compatible with that for a 5 year occupation as Civil Service offices.

11. Adoption of any of the above alternatives would involve rehousing up to 300 civil servants and giving notice to 26 tenants. The civil servants are presently located as in the following table (there are none in 1 and 2 Bridge Street). At an average of £12,590 a head alternative accommodation in Central London would cost, for the first five years:

<table>
<thead>
<tr>
<th>Building</th>
<th>No of civil servants</th>
<th>Rehousing £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norman Shaw South</td>
<td>99</td>
<td>0.8</td>
</tr>
<tr>
<td>St Stephen's House</td>
<td>65</td>
<td>0.6</td>
</tr>
<tr>
<td>Palace Chambers</td>
<td>129</td>
<td>2.3</td>
</tr>
<tr>
<td></td>
<td>293</td>
<td>3.7</td>
</tr>
</tbody>
</table>

The bulk of this expenditure could be saved if Palace Chambers were excluded from the scheme for MPs.
12. The Services Committee considered the rehabilitation of all these buildings and Norman Shaw North early in 1973 when the order of cost was £2.05m for 5 years' tenure and £4.1m for 20 years. They considered that the exercise would be uneconomical and they and the House voted in favour of the Spence-Webster building.

13. Only Norman Shaw South has sufficient architectural merit to justify indefinite retention. If it were indefinitely retained the Spence-Webster building could never be built but it would be possible to design an alternative building or a building on the rest of the site. If only Norman Shaw South (and, say, St Stephen's House) were rehabilitated for MPs the problem of rehousing the civil servants would be considerably eased.

14. The Treasury points out that any expenditure beyond that comparable with keeping three buildings in use for civil service purposes for another 5 years (alternative 10c) would appear to be inconsistent with the Government's expenditure priorities as set out in Cmd 5879 (Public Expenditure to 1978-79).

15. These issues would all have to be studied in detail if the Spence/Webster scheme is abandoned.
DRAFT STATEMENT ON ACCOMMODATION FOR MEMBERS

1. The House will recall that on 25 June 1973, two Motions were approved – the first being in favour in principle of a new Parliamentary building in due course, and the second in favour of the particular design for the building by Messrs Spence and Webster. The House was informed by the Rt Hon Member for Lowestoft, as the Leader of the House, that no expenditure on the new building would be incurred before 1 April 1975, but that the intervening period would be used to develop detailed plans.

2. We have now had to consider whether in the present economic circumstances, and at a time of need for stringent economy in expenditure, it would be right to commit further significant public expenditure on a project whose order of cost is now at least £30m, excluding site costs already incurred. The Government's conclusion is that it would be unrealistic in present circumstances to hold out the prospect of a new Parliamentary building in the foreseeable future. Nor do we think in these circumstances that further public expenditure, which might cost up to £3m, to enable Messrs Spence and Webster to continue to develop their plans, could be justified.

3. We propose accordingly that the architects' commission should be terminated immediately and that they should be fairly compensated. This decision is taken reluctantly and on financial grounds. I would like to take this opportunity of thanking the architects for the unremitting and distinguished work which they have done over the past two years in extremely difficult circumstances, and to say how sorry I am personally that it should end in this way.

4. Against this background the Government fully recognises the
added urgency and importance of examining other means of improving the accommodation available to Members, bearing in mind also the consideration currently being given to facilities for backbenchers by the Select Committee under the chairmanship of the Hon Member for

5. Considerable progress has, of course, already been made, and since 1967 some 210 extra rooms have been provided to accommodate about 350 Members. This includes the recent conversion of Norman Shaw (North), where, in addition to 89 new rooms for 128 Members, accommodation has been provided for some 130 secretaries and also for a number of supporting services. Infilling within the Palace has contributed 101 rooms occupied by 160 Members; and Mr Speaker has recently indicated that it might be possible for some accommodation in the Speaker's Residence to be made available to Members. I have welcomed this offer and we are urgently investigating the possibilities. Useful additional accommodation has also been provided in Abbey Gardens and Dean's Yard. I believe that the standard of the new accommodation, particularly that in Norman Shaw (North), has proved generally acceptable to Members.

6. If the House agrees, I think the best way of making further progress in present circumstances would be the adaptation of existing buildings on the Parliamentary Building site. I have particularly in mind Norman Shaw (South) which, subject to the need to rehouse properly the present occupants, could provide further accommodation for about 80 more Members and a similar number of secretaries within two years of the date of decision. There are other possibilities for housing up to 240 Members and as many secretaries by rehabilitating existing buildings (St Stephen's House; Palace Chambers; 1 and 2 Bridge Street). Rehabilitation could be achieved within five years.
of a decision to begin. There is also the possibility of some limited re-building within the site. All this requires consideration in detail and we must, in formulating proposals, have regard to the need to limit public expenditure at the present time.

7. The Government will submit proposals to the Services Committee as soon as possible, and if the House so wishes these will include the very early conversion to the use of Members of the Norman Shaw (South) building. Progress beyond this depends very much on the resolution of our financial problems, but subject to this we would also be prepared in principle to consider the conversion of at least one of the other buildings on the site.