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237 - Wages Policy: the Public Sector. Memorandum by the Chancellor of the Exchequer and the Minister of Labour and National Service.
238 - Wages Policy: National Health Service. Memorandum by the Secretary of State for Scotland and the Minister of Health.
239 - Compulsory Acquisition: Compensation. Memorandum by the Minister of Housing and Local Government and Minister for Welsh Affairs.
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248 - Federation of Rhodesia and Nyasaland. Memorandum by the Secretary of State for Commonwealth Relations.
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MEMORANDUM BY THE PRESIDENT OF THE BOARD OF TRADE

In my memorandum on the proposed comprehensive tariff Bill (E.A. (57) 81), I undertook to circulate during September a paper on the question whether or not the Bill should re-enact the substance of the mandatory provisions in the present law for the exemption from duty of Commonwealth goods. (For convenience I refer to these provisions below as the "statutory bar").

1. I have so far deliberately refrained from asking my colleagues to consider this issue, since I thought it desirable that we should reach a conclusion in the light of all the most recent developments affecting trade relations with the Commonwealth. It is now however a matter of urgency that we should give the draftsman instructions on this matter if the Bill is to be ready for introduction at the opening of the new Session in November.

2. Whatever decision we may reach may give rise to controversy in Parliament. It is clear to me, however, that in this country at least, there will be more controversy if we continue a statutory bar than if we drop it.

3. In the annex to this paper I have tried to set out as objectively as possible the main arguments for and against the retention of any statutory bar in the new legislation. The essential point is that the 1932 legislation imposed a general charge on all imports, and goods subject to this charge were not shown in the tariff. Since there was no comprehensive list of duties, it was not possible to show in the tariff that duties would not be charged on Commonwealth goods. With this type of tariff structure, there was no alternative to some form of statutory bar. The tariff to be introduced under the Bill will list all goods with separate columns showing the duty position for foreign and Commonwealth imports; and a statutory bar will thus be superfluous.

4. My own view is that, in relation to the independent Commonwealth at least, we should certainly not re-enact the statutory bar in any form. We should, however, make it clear in advance to Commonwealth Governments and subsequently to Parliament that it is not the intention to make any change in the duty-free treatment of Commonwealth goods as a result of the dropping of these mandatory provisions. The structure of our legislation affects neither our policy nor our commitments.

5. My reasons for reaching the conclusion in the foregoing paragraph are:—

(a) it is quite unnecessary (and indeed inappropriate) to tie our hands in domestic law to carry out the duty-free obligation to Commonwealth countries for which over a substantial field of goods our agreements with independent Commonwealth countries still provide;

(b) the fact that we have mandatory provisions of this kind in our law inevitably means that Commonwealth Governments put less value on duty-free entry guarantees to them in our existing agreements or in securing any such guarantees in any future negotiations. Our negotiating position is thus seriously weakened;

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(c) our present duty-free entry commitments to independent Commonwealth countries vary and have been modified from time to time. We have, for example, no contractual duty-free entry obligation to Pakistan, and we are now committed to accord free entry to Australia only for goods in which Australia has an active trade interest. To include in the Bill a provision which covered variety and changing emphasis of these commitments would be misleading and largely meaningless and could only be in the form of a requirement that duties should not be charged on Commonwealth goods when agreements currently in force precluded them.

7. I recognise that the position of the dependent colonies is rather different since the United Kingdom stand in a different relationship with those territories, and so long as they remain dependent there would presumably be no question of formal trade agreement negotiations with them. In practice, however (since we should obviously not discriminate against the colonies in favour of the independent Commonwealth) the colonies enjoy the benefit of our duty-free entry commitments to independent Commonwealth countries, in so far as the commodities which the colonies produce are covered by these commitments. While a statutory bar for the colonies would be possible, it would mean reaching a decision on the treatment of colonies which become independent. This problem, while not insuperable, illustrates the difficulty of making any general statutory provision of this kind for a heterogeneous and developing group of territories.

8. Finally, I would expect the confirmation in new tariff legislation of mandatory duty-free entry rights for any part of the Commonwealth to be more controversial than its omission from a tariff structure in which (unlike the present structure) it is demonstrably unnecessary. I feel, therefore, that even in relation to the colonies we should not include any form of statutory bar in the new Bill. In that event we shall, of course, have to make it quite clear to Parliament that no change in our existing policy is involved.

9. I invite my colleagues to agree that the draft Bill should not include mandatory provisions for the duty-free entry of Commonwealth (including colonial) goods.

D. E.

Board of Trade, Horse Guards Avenue,
London, S.W. 1,
10th September, 1957.
ANNEX

SUMMARY OF ARGUMENTS FOR AND AGAINST MAINTAINING A "STATUTORY BAR" IN NEW TARIFF LEGISLATION

Arguments for Maintaining a "Statutory Bar"

1. We shall in general want to present the Bill as a recasting in comprehensive and simplified form of existing tariff legislation which does not materially affect the duties which are in practice imposed or the policies which determine their variation. To drop the "statutory bar" would appear to be inconsistent with this general approach and might give rise to disproportionate controversy.

2. In view of the prospective Free Trade Area negotiations Commonwealth (including colonial) Governments might be suspicious of any legislative change in the United Kingdom which appeared to prejudice access to the United Kingdom market.

3. The colonies cannot negotiate trade agreements with the United Kingdom and (notwithstanding any undertakings given to them about this matter) they would be bound to feel that they would be losing a real safeguard if the statute contained no continued guarantee of duty-free entry.

4. Although we have always in the past resisted pressures from domestic industry for the imposition of duties on Commonwealth goods on the grounds that this would be contrary to our policy and have not made much play with the argument that we do not have the necessary powers in our legislation, it would obviously be more difficult to resist domestic pressures in the future if we had dropped the statutory prohibition.

Arguments against Maintaining a "Statutory Bar"

1. With a tariff written in Brussels Nomenclature form there will no longer be any technical need—as there was in 1932—to make provision in the Bill that duties are not to be charged on Commonwealth goods. This will be covered in the new tariff by writing "nil" in the Commonwealth column against each heading where Commonwealth goods are now duty-free.

2. Existing legislation already recognises the principle that certain duties may be charged on the goods of the independent Commonwealth. Moreover, some protective duties (e.g., the silk and McKenna duties) are already charged, mostly at preferential rates, on all Commonwealth (including colonial) goods. The "statutory bar" is therefore not an absolute but a qualified prohibition and would be quite inappropriate in a Bill which is designed to provide a common structure for all protective duties, including those to which the "statutory bar" does not apply at present.

3. Independent Commonwealth countries have safeguarded their position as regards duty-free entry to the United Kingdom in their trade agreements with the United Kingdom. It is illogical and undesirable to give statutory force to such agreements which automatically limit our freedom to impose duties on Commonwealth goods. Whilst the colonies do not enjoy these contractual rights, they do afford some protection to the colonies since it would be inconceivable that we should discriminate against them in favour of any independent Commonwealth country; though this point is valid only to the extent that the commodities which the colonies produce may be covered by our commitments to independent Commonwealth countries, whereas the present "statutory bar" is unqualified in its application to the colonies (unlike its application to the independent Commonwealth).

4. The combination of our obligations under the G.A.T.T. not to increase preferences and of the existing statutory provision that duties shall not be imposed on Commonwealth goods in effect places a ceiling on a very large part of our protective tariff (including goods in which the Commonwealth has no active trade interest). If we had no statutory provisions dealing with duty-free entry we would have freedom to adjust, where necessary, those tariffs on which we have no specific commitments to foreign countries and where there is no active Commonwealth trade interest.
CABINET

PROPOSED I.B.R.D. LOAN FOR THE NUCLEAR POWER PROGRAMME

Memorandum by the Minister of Power

The Chancellor of the Exchequer's memorandum (C.(57)199) confirms me in my belief that we would be ill advised to pursue the possibilities of a loan for our nuclear power programme from the International Bank on the lines suggested.

2. The Chancellor's recent discussion with the President of the Bank makes it clear that no loan would be forthcoming unless we were prepared to invite market participation from Wall Street. I think the Economic Policy Committee were right in the view they took last July that there should be no participation by Wall Street (E.A.(57)23rd Meeting, Item 2).

3. The President of the Bank seems to have made it clear to the Chancellor that it is our nuclear power programme, and that programme alone, that the Bank would be interested to help finance. This confirms my view that for various reasons the United States would like to get their fingers in our nuclear programme and that we should resist such overtures as being unwelcome to the people of this country.

4. The President of the Bank however, though he "made it plain that he contemplated a continuing programme of dollar finance", seems not to have committed himself in any way which might give us confidence that really significant sums would be made available towards financing our programme. In any case I understand that there would be no chance of obtaining a Bank loan towards financing the first power stations in our programme and no advantage to us could therefore accrue during the next two years though we should start incurring unpopularity as soon as it became known that we were seeking aid from the Bank and Wall Street.

5. I am all for encouraging investment in our industries from outside the sterling area where such investment would provide not only finance but business prestige, know-how (technical and marketing) and access to export markets where foreign currency could be earned. The Esso Oil Company is a good example of the advantage to us of such investment. But the proposed loan to our nuclear programme would bring us no such advantage, and it would involve us in a continuing commitment to repay dollars for many years to come.

Ministry of Power, S.W.1.

11th September, 1957.
11th September, 1957.

CABINET

HIRE-PURCHASE RESTRICTIONS

Memorandum by the President of the Board of Trade

I do not agree that a tightening of hire-purchase restrictions would make any worthwhile contribution to relieving the present situation. At the same time it would have very adverse effects on the industries making the goods affected.

2. In my view the restrictions are not nearly so effective in combating inflation as has been claimed. Sales on hire-purchase account for barely 2½ per cent of consumer expenditure (in 1956 £300 millions out of £13,400 millions). Even in the case of new cars only one in five is bought on hire-purchase. Moreover any serious check on total expenditure caused when the control is imposed or tightened is short-lived, since the fall in sales of controlled goods is soon offset by a shift in spending to other goods and services. The United States, after an exhaustive survey of the subject, have rejected hire-purchase control as an economic weapon.

3. Hire-purchase control has been an easy instrument to operate, but it is a blunt one. It is in practice a discriminatory, not a general, control. It interferes with production plans and often hampers export efforts by raising unit costs of production. Frequent changes in the prescribed terms - and there have been four in the past two years, the last as recent as 29th May - aggravate these obstacles, and yet another, and drastic, change would be bitterly resented by industry. For certain firms, and indeed for certain industries, the effect might be crippling.

4. It would also lead to a sharp rise in contraventions (there are over 40 prosecutions in hand at present) and encourage the development of other forms of consumer credit which cannot be controlled under existing statutory powers. Nor, of course, can department store credit accounts be restricted or bank overdrafts be made illegal. The criticism would be made that once more the poor man's credit system is being hit while the rich man's system is left alone. Finally, any action by the Government to increase the weekly hire-purchase instalments is likely to encourage the pressure for higher wages.

D. E.

Board of Trade, S.W.1.

11th September, 1957.
CABINET

ARAB STATES' BOYCOTT OF ISRAEL

NOTE BY THE CHANCELLOR OF THE EXCHEQUER

At its meeting on 16th July (C.C. (57) 52nd Conclusions, Minute 3) the Cabinet invited me to arrange for an examination to be made of the implications of the Arab boycott of Israel, and for consideration to be given to action which might be taken to mitigate the damage inflicted on our commercial interests. I attach a note which has been prepared by officials, with which upon economic grounds I am in agreement.

P. I.

Treasury Chambers, S.W. 1,
11th September, 1957.
ARAB STATES' BOYCOTT OF ISRAEL

NOTE BY OFFICIALS

Arab Boycott

1. In August 1952 the Arab League formally instituted an economic boycott of Israel and subsequently established a Central Boycott Committee to ensure its effectiveness. This Committee has sought to ensure that throughout the Arab States businesses are boycotted which have branch factories, assembly plants, general agents, or main offices in Israel; which grant the concession of the use of their name or give technical help and advice to, or are shareholders in, Israeli companies or firms; and which are associated with the Anglo-Israeli Chamber of Commerce or similar organisations, or have prominent Zionists on their Board of Directors. The Committee is continuing still further to increase the effectiveness of this boycott. An extract from the Committee's "Rules and Motives" is attached at Appendix A.

Effects on British Business

2. This boycott has resulted in serious inconvenience to British trade and some British businesses have incurred losses of trade and profits. Even more inconvenience and losses will be caused if the Israelis institute their threatened counter-boycott of firms complying with the requirements of the Arab boycott. Some businesses have had to waste much effort on combating rumours, possibly inspired by their competitors, that they were engaged on trade in Israel and therefore subject to the boycott. Eight British firms have been placed on the Arab League's black list but have decided to remain in Israel. Six British firms have given up some interest in Israel, and a further four have resigned from the Anglo-Israeli Chamber of Commerce in order to avoid the effects of the boycott. A further twelve firms who are threatened with boycott measures are now deciding whether to pull out also. (A list of these thirty companies is attached at Appendix B.) Our policy has been to refrain from advising British firms, including Shell, on the policy which they should adopt as a result of the boycott and to leave it to them to decide this on purely commercial grounds.

Effects on British Shipping

3. Arab countries deny normal facilities in their ports, i.e., for working cargo, bunkering and other services, to ships which have either called at an Israeli port during a voyage which included a call at an Arab port, or carried contraband (which covers almost any kind of cargo) to Israel on any previous voyage. In the normal course of trade in the Eastern Mediterranean, cargo liners would call at both Israel and Arab ports on the same voyage; but the Arab restrictions have forced British shipowners to separate the Israel from the Arab trades, with the result that their ships cannot be employed in the most economic way. British shipowners bear the brunt of these Arab restrictions because they have always provided most of the shipping services in this part of the world; nevertheless, Scandinavian and other foreign shipowners are similarly affected.

Effects on British Oil Interests

4. In 1948, before the boycott was formally instituted, the Arabs prevented oil flowing through the Haifa pipeline to the Haifa Refinery (which is owned by Consolidated Refineries which in turn is owned 50 per cent, by Shell and 50 per cent, by B.P.). Immediately this resulted in a loss of about 3 million tons of exportable products; but this loss has since been made good by the expansion of refinery capacity elsewhere and the introduction of additional capacity (tankers and pipelines) for transporting oil.

5. In December 1955 the Arab Oil Committee recommended that all Arab countries should send an ultimatum to Shell and Socony (an American company) stating that they should cease their commercial activities in Israel within six months. (B.P. was probably excluded from this ultimatum through ignorance of the fact that it has an equal share with Shell in the Haifa Refinery and in the marketing organisation in Israel, Shell Company of Palestine.) Under pressure from Saudi
Arabia, Socony decided to withdraw from Israel within two years. Shell and B.P. have recently decided to follow suit and dispose of their marketing organisation to a buyer with no interests in the Arab States. They have taken this decision because their marketing organisation in Israel is relatively unprofitable and would require considerable further investment of capital which could be more profitably used elsewhere. They have not yet taken a decision on the disposal of the Haifa Refinery which has recently been losing about £200,000 a year as a result of the price arrangement made by the Government of Israel and the fact that it can only operate at about 25 per cent. capacity. Any decisions which Shell and B.P. may take on their operations in Israel will not have any serious direct economic consequences for the United Kingdom’s oil trade, since these operations are insignificant in relation to Shell and B.P.’s total trade. Nevertheless they may adversely affect Anglo-Israeli trade in general by shaking the Israelis’ confidence in the willingness of British firms to maintain their connections with Israel.

Counter Measures

6. Her Majesty’s Government have protested to the Arab States against the principle of the boycott, and have repeatedly stated that they can neither accept nor condone it. Her Majesty’s Government have likewise made several attempts to organise joint protests on the part of ourselves, other European countries and the United States. These attempts have proved ineffective because, unlike the United Kingdom, other countries are not in the difficult position of having exporters with major interests both in the Arab States and in Israel, and therefore prefer no action to be taken.

7. The ineffectiveness of our general protests has in fact tended to confirm the Arabs in their belief that we cannot beat their boycott; and they regard the protests as prompted more by sympathy for Israel than by purely commercial motives. Even where we protest against the boycott of an individual firm, we can do nothing effective unless the firm has either been falsely accused of activities liable to boycott or is prepared to abandon those activities. It can be assumed that the United States, who are courting the goodwill of those Arab States well-disposed to the West, and are having their difficulties with Saudi Arabia, will be more than ever reluctant to join in or take the lead in further protests against the boycott; and, without their support, effective measures cannot be taken.

Conclusion

8. In these circumstances, any unilateral attempt on our part to oppose the boycott would do more harm than good, and we should restrict our efforts to helping individual firms who may fall foul of the Boycott Committee.
APPENDIX A

EXTRACT FROM THE MEMORANDUM "ISRAEL BOYCOTT: RULES AND MOTIVES"
PUBLISHED BY THE PRINCIPAL OFFICE OF ISRAEL BOYCOTT FOR THE ARAB LEAGUE

1. To stop foreign capital from flowing in Israel, and induce people domiciled there to leave the country.

   It is well known that Israel is in need of foreign capital, to create and/or improve its industries to the point of controlling the markets of the Middle East. It has tried using the influence of the Jews abroad over all the big companies and banks to attract foreign capital, especially American. It succeeded in the beginning to attract some companies to build some industries and factories in Israel and to have some other companies distribute their products to all countries of the Middle East. The danger became clear to the leaders of the Boycottage as this would help fulfill Israel's aim. Drastic and strict measures were taken to stop that danger. The Boycott Liaison Officers took several important decisions which highly affected the position and hence certain foreign companies refrained from working with Israel and others had to close their branches and industries there. These decisions were as follows:—

Importing the products of and dealing with the following companies are strictly prohibited.

   (i) Foreign companies having branch factories in Israel.
   (ii) Foreign companies having assembly plants in Israel: this applies also to companies who have Agents grouping their products there even if it were for the Agents' own account.
   (iii) Foreign companies who have General Agents or Main Offices for the Middle East in Israel.
   (iv) Foreign companies who grant the concession of the use of their name to Israeli companies.
   (v) Foreign companies, firms or institutions, public or private, who are shareholders in Jewish companies or firms.
   (vi) Foreign companies who give technical help and advice to Jewish firms.

   In order that the companies, might not contend their ignorance of the above decisions, the Ministries of Foreign Affairs in the Arab countries transmitted the above decisions to the foreign Embassies in the Arab-countries as well as to Arab Embassies in the foreign countries so that they may inform all the foreign companies who have any arrangement with Israel, contravening with the said decisions, to choose one of the two ways:—

   A.—Either to continue having their branches in Arab-countries and close their branches in Israel.
   B.—Or to see their products boycotted and branches closed in the Arab countries should they insist to continue working in Israel.

   In order that the result of the above two ways be fruitful to Arab countries, the Boycott leaders requested to give every possible help and the necessary exemptions to the foreign companies who comply with the Boycott decisions by closing their branches and factories in Israel and moving them to the Arab countries. Most of these countries complied with the above requirements and the result was very useful to the Arab countries. The Boycott Head Office suggested to the Arab countries in its report for the second half of 1953—to study the possibility of making an Arab Economical Organisation which draws the attention of the foreign companies that their economical deals with Israel are of limited results, whereas its economical relations with any of the Arab countries have a far better effect and their results are satisfactory to all Arab countries. The difference between the local Jewish market concentrated in one small country and the large size of the Arab markets could be attractive to the foreign countries which will encourage the foreign companies to work with the Arab countries.
APPENDIX B

ARAB EMBARGO CASES

I.—Firms on the “Black List” and not intending to give up their interest in Israel
   (i) W. Jessop and Sons Ltd.
   (ii) Pilot Radio.
   (iii) Hollander Hyams Ltd.
   (iv) Borchard Lines Ltd.
   (v) Samuel Osborn and Co., Ltd.
   (vi) Metal Box Co.
   (vii) Harris Miller and Co.
   (viii) Marks and Spencer.

II.—Firms who have liquidated investment or given up other interest in Israel to free themselves from the Embargo
   (i) Steel Bros.
   (ii) Shell Oil.
   (iii) Waterman Pens.
   (iv) Mulford and Co., (Levant).
   (v) Philco (Great Britain) Ltd.
   (vi) Fullers Earth Union Ltd.

II.—Firms threatened with boycott because of membership of the Anglo-Israel Chamber of Commerce and have resigned membership
   (i) I.C.I. Ltd. (Mr. Lubin resigned membership.)
   (ii) G.E.C. Ltd. (Mr. Gamage resigned membership.)
   (iii) Leylands Motors Ltd.
   (iv) Co-operative Wholesale Society.

IV.—Firms threatened with boycott and negotiating
   (i) Nahum Holdings Ltd.
   (ii) United Services Manufacturing Co., Ltd.
   (iii) Medo Chemicals Ltd.
   (iv) David Turkie and Sons.
   (v) Geo. Kaufmann Ltd.
   (vi) Scholl Manufacturing Co.
   (vii) Ruston and Hornsby Ltd.
   (viii) Jensen and Nicholson Ltd.
   (ix) Israel Industrial Agencies.
   (x) Unilever Ltd.
   (xi) B. Elliot and Co.
   (xii) I.C.I. Ltd.
SUPPLEMENTARY PENSION SCHEMES

MEMORANDUM BY THE MINISTER OF PENSIONS AND NATIONAL INSURANCE

The Cabinet on 2nd August (C.C. (57) 61st Conclusions) invited me to arrange for the preparation of detailed proposals for a supplementary pensions scheme on a graduated basis on the alternative hypothesis of the inclusion and exclusion of a contracting-out provision.

2. This task has involved (i) working out a State system of graduated pensions, and (ii) the incorporation therein of contracting-out provisions. I am much indebted to the Board of Inland Revenue and the Government Actuary for their help in working out these proposals, with which I should make it clear that the Treasury have not been associated. There has also been consultation on technical matters with representatives of the Life Offices and of the Association of Superannuation and Pension Funds.

3. I attach as Appendix A to this paper a description of a State graduated pensions scheme, without contracting-out provisions, and as Appendix B a description of contracting-out provisions suitable for incorporation in the scheme set out in Appendix A. At Appendix C is a comparison of the income and expenditure of the National Insurance Fund under the alternatives set out in the preceding Appendices and under the proposals, an outline of which was annexed to C (57) 165.

REASONS FOR CONTRIBUTION STRUCTURE SELECTED

4. One of the main difficulties which appeared on close examination of the scheme attached to C (57) 165 was the proposal to apply graduation below the "cross-bar," so as to diminish contributions, as well as above it so as to increase them. The effect would have been that in 1960 the contributions for workers whose earnings were below £11 a week in the case of a man would be reduced in varying degree below the level to which they will be raised next February under our forthcoming legislation, and in some cases below even the present level. In order, however, to prevent the contributions of workers on the lowest levels of earnings falling below even those of contributors in Class 3 (non-employed), it would have been necessary for such employees (but not their employers) to be compelled after the end of the financial year to pay the amount needed to bring the pension element in the annual total of contributions up to the standard rate for the non-employed.

5. It would clearly be very difficult to justify to Parliament and to the contributors increasing contributions by 2s. a side in the Bill to be introduced next session when at the same time putting forward proposals which, in 1960—the earliest date the scheme can be introduced—would provide in the case of lower paid workers for contributions at a lower level. The increased contribution to be provided for in next Session's Bill will be far from popular, and its only defence,
i.e., that it is necessary if increased pensions are to be provided, would be vitiated if we were ourselves to say that from 1960 onwards there was no need for lower paid workers to contribute so much. Clearly strong pressure would develop against the proposed 17s. 6d. contribution in the first Bill, particularly against the employee’s share.

6. Nor is it possible to disregard the political and administrative complications involved in collecting from lower paid workers the balances required to bring their contributions up to the Class 3 level for the year, which to them would be very substantial sums. This would involve substituting for this purpose the direct collection from them of arrears by my Department for the comparatively painless expedient of deduction by their employers. The difficulties of doing this in the case of low paid workers who normally live from week to week need no emphasis. Nor would it be easy to justify exacting an additional contribution from these workers which would not be matched by a contribution from their employers. A further disadvantage was that, although these workers’ superannuation position would be safeguarded as a result of the lump sum contribution to bring their annual total up to Class 3 level, the fact that their weekly contribution in Class 1 was below standard involved their receiving sickness and unemployment benefit at below the standard rate, and it would appear in some circumstances below even existing levels.

7. For these reasons I therefore arranged for my officials to work out a graduated scheme (Appendix A) providing for a flat rate of contribution at the level to be indicated by next Session’s Bill, i.e., 17s. 6d. for an adult male in Class 1 and proportionately for other categories up to and at the cross-bar with graduation above that level only. The National Insurance element in this 17s. 6d. contribution would be divided equally between employer and employee and the existing unequal shares of the Health Service contribution would then be added. In the result, the employee’s share of the total minimum contribution of 17s. 6d. would be very slightly reduced, and the employer’s share very slightly increased, from the proposals in next Session’s Bill, but this could be justified by saying that in the general reform it had been thought right to divide the contribution for all the insurance benefits of the employed class with employers. As 8 per cent of earnings (4 per cent, a side) the figure proposed in C. (57) 165 produces 15s. 10d. (the amount of the minimum contribution excluding the Health Service element) at a wage of approximately £10, I have placed the cross-bar at £10 and retained the proposed £15 ceiling.

8. To charge contributions of less than 17s. 6d. for employed men and proportionately for other categories of contributors, as proposed in C. (57) 165 would reduce the revenue of the National Insurance Fund by £130 millions a year in 1960–61.

OTHER CONSIDERATIONS AFFECTING CHOICE OF SCHEME

9. The case for the plan outlined in C. (57) 165 depended to a great degree on the buoyant reaction of the contribution income under that plan to conditions of rising earnings and productivity, and the figures there given assumed, in particular, that the ceiling of £15 a week up to which graduated contributions were charged, and the £8 a week limit above which graduated pension began to be earned, would be moved up pro rata, without any corresponding increase in basic benefit rates. Even if this latter assumption were accepted—and I regard it as unrealistic, particularly in view of the size of the surpluses shown—these proposals, like the earlier ones, would be bouyant in respect of increased earnings, whether due to inflation or increased productivity, though of course this would be confined to the income from the graduated portion of the contribution. On the more realistic assumption that basic benefit rates would in fact have to be increased from time to time (though not necessarily in direct proportion to earnings) the consequence will be that the flat rate minimum contribution under the proposals outlined in Appendices A and B to this paper will be increased also, with corresponding adjustment of the ceiling up to which graduated contributions are paid. Under these proposals the reaction of the contribution income to increased earnings would then not be much less buoyant than that under the plan previously circulated to the Cabinet. In order, however, to afford a basis of comparison, all the figures given in Appendix C assume that earnings and benefit rates remain stable and, therefore, those in the last three columns differ from those in C. (57) 165.
10. Taking the broader view, building a graduated contributory pensions scheme on the pre-existing flat rate base, without erosion of that base, enables us if we wish to preserve—for some years at any rate—a clear distinction between the basic flat rate scheme which is subsidised (by Exchequer supplement and by deficit financing) and implicitly guaranteed against large rises in the cost of living, and the graduated superstructure where unsubsidised and unloaded contributions will be wholly applied on an actuarial basis to the supplementary pensions. I suggest that there are cogent reasons, quite apart from the need for sensible contracting-out arrangements, why we should wish to establish and preserve this distinction. Any scheme such as that contemplated in C. (57) 165 which merges the basic and the graduated elements of State insurance, so that part of the graded contributions has to be appropriated away from graded pensions and in aid of the flat rate pension, is a substantial step in the direction of the Labour Party Plan conception of a complete merging of the finances of State insurance, in which the higher-paid worker subsidises the lower and the State subsidises the lot and guarantees both the basic and the graded pension against inflation. There seems to me to be a serious danger that we thereby precipitate that further step (viz. the guarantee of the graded as well as the basic pension against inflation) which, by evincing a Government surrender to the forces of inflation, would remove the last psychological barriers to runaway inflation. If so, this is too high a price to pay, particularly at this juncture, for the dubious fiscal advantages such a scheme might in certain conditions have over that put forward with this paper. This latter has undoubtedly the advantage in the shorter term. Its yield in contributions is immediately greater and would benefit substantially although not perhaps equally by increases in earnings. Moreover, it would leave the way open in future for the Government, uncommitted, to move either in the direction of a greater merging of the basic and graded State pensions, or not, as the then circumstances might dictate. There is also the related point that the necessity for increasing the flat rate contribution whenever pension rates are raised imposes a measure of social discipline which would be lacking from the scheme envisaged in C. (57) 165. It must be borne in mind that any scheme in which income reacts sharply to highly inflationary conditions must, without the sort of restraint which is imposed by the flat rate contribution, positively provoke claims for higher pensions by reason of the large excess of income over expenditure which can be generated by such conditions and which pensioners know to be available.

11. The decision to charge a minimum contribution has very important effects on the finances of the scheme. An overload towards back service will then be paid by all contributors and in total the income of the scheme will be considerably increased. The Exchequer contribution would remain at one-seventh of the basic National Insurance contribution instead of at one-fifth, as suggested in the earlier plan. No overload would be charged on the graduated contributions which thus become capable of presentation as a fully actuarial contribution yielding value for money. The new scheme will have the advantage of appearing to be a supplement to the existing scheme instead of a substitute for it.

QUINQUENNIAL CONTRIBUTION INCREASES

12. I have considered whether it would be appropriate in view of the contribution arrangements proposed above to impose regular quinquennial increases on the rate of contribution towards liquidating the back-service liabilities of the flat-rate scheme. In this context increases on the minimum contribution and increases on the graduated contribution present different problems. To increase the graduated contribution without any corresponding return in pension entitlement would be open to objection in that after the first five years it would no longer be possible to claim that the return for the graduated contribution was value for money. There is the further point that persons covered by contracting-out schemes would either have to be made to pay after the first five years a small graduated contribution under the State scheme for which they received no benefit, or would be excused the extra contribution and so avoid a subvention to their flat rate benefits which they ought to pay in common with persons fully in the State scheme. It seems to me preferable for these reasons not to impose quinquennial increases on the graduated contribution. The same objections do not apply to regular increases on the minimum contribution; there is indeed a precedent for this in the decennial increases of contributions without increase of benefits laid down under
the original Contributory Pensions Act of 1925. The scheme in Appendix A therefore provides for four equal increases in the minimum National Insurance contribution at quinquennial intervals, each of which would involve an increase in the minimum contribution of sixpence a side.

**SCOPE AND BASIS OF GRADUATED BENEFITS**

13. The proposals in the Appendices provide for graduated long-term benefits, i.e., superannuation, widowhood over 60, and long-term invalidity (which is, in effect, a premature retirement pension), but retain at flat rates short-term benefits and benefits for widows under 60. There is an obvious distinction between long-term benefits for permanent conditions and short-term benefits which are intended, in the main, to act as a stop-gap. The graduation of sickness and unemployment benefits would raise administrative problems, but the main justification for leaving them at a flat rate is that the new scheme would essentially be one for enabling improved pension provision to be made and that, accordingly, the whole of any graduated contribution which could be reasonably exacted from contributors should be devoted, in the present economic and demographic outlook, to provision for old age. Further, assignment of part of the graduated contribution to short-term benefits might increase expenditure from the Fund in the early years of the scheme by up to £40 millions a year. A further complication is that to make current benefit depend on earnings in a necessarily fairly remote past period would introduce a further fortuitous element into benefit calculations. There is also the risk of pressure for the introduction of graduated benefits into comparable aspects of the Industrial Injuries scheme with a further reaction on war pensions. I recognise that the T.U.C. attach importance to the idea that all the benefits of National Insurance—short-term as well as long—should be on the same basis, and that consequently the Labour Party may be expected to produce plans for relating the short-term benefits also to earnings. But the reasons I have given convince me that we should not attempt to compete in this field.

14. The proposals in the Appendices also do not provide any benefit above the standard rate for those widows under 60 who qualify for benefit under the present National Insurance Scheme—broadly those with children and those widowed when over 50. My reasons here are not so much the cost, which would be fairly small, but the difficulty of incorporating “value for money,” which I think should be the basis of the graduated contributions and benefits, with the rule which has been deliberately adopted in relation to widows under 60 in National Insurance of pensioning only those who are prima facie unlikely to be able to compete in the employment field. I am driven to the conclusion that unless this principle, which has now found wide acceptance, were abrogated (at considerable expense), it is not possible to graft strictly insurance supplements on to the present National Insurance provisions for widows under 60.

15. The principle that above the level of the standard subsistence provision it is appropriate for contributors to receive no more, but no less, than a broad actuarial return for their contributions involves a scale of benefits with no weighting against the young entrant and with a large number of steps or possible rates of benefit according to the contributor’s average earnings and age at entry. Illustrations of such a scale are included in Appendix A.

**FINANCIAL RESULT OF ABOVE PROPOSALS**

16. The result of all these proposals which, for the reasons set out above, I believe to be sound would be, however, to produce a surplus in the first year of the scheme of about £140 millions.

**FURTHER MODIFICATIONS OF SCHEME**

17. This would ensure that the introduction of contracting out would not endanger the finances of the scheme. In our earlier discussions reference was made to a guess that contracting out might perhaps at the outset reduce the revenues of the scheme by as much as £50 millions a year, though this would, of course, ultimately be offset by a corresponding reduced liability for pensions. Apart,
however, from these considerations, a reduction of £50 millions a year in immediate revenues would still leave the scheme in its new form in surplus in the first year and for a few years subsequently. The figure of £50 millions is necessarily speculative, particularly for the future, and my discussions with those experienced in this field have revealed a body of opinion which considers it an excessive estimate at any rate for the earlier years. In view of this a constant allowance of £50 millions loss of revenue due to contracting out has been made in the appropriate Tables in Appendix C.

18. It is also possible, without occasioning financial difficulty, to make a further departure from the proposals in C. (57) 165. In that paper it was assumed that the option under the existing scheme under which married women in employment can come into insurance or not as they wish would be withdrawn. If we were starting de novo I think there would be much to be said for this proposal to avoid offering an option which is not easy to justify in logic. But married women have had this option since the beginning of the present National Insurance scheme. There would be difficulties in withdrawing it at the moment at which, under the new proposals, their husbands' contribution might be being increased. I propose, therefore, to leave this option in being. This would reduce the surplus on the Fund by a further £50 millions a year. This still leaves a surplus in the early years comparing favourably with a scheme starting from a lower base of contributions.

19. It will be seen from line 9 of Appendix C that this partially graduated scheme with contracting out is at all points substantially more favourable to the Exchequer than the earlier outline plan.

20. A further effect of these proposals is to make the whole of the contributions under the graduated part of the scheme available for additional superannuation provision. At the maximum this leaves a contribution of 4s. a week available for superannuation and associated long-term benefits as compared with 2s. 10d. under the earlier scheme. As a result the maximum additional pension for a single person comes to 60s. a week on top of the basic 50s. or £5 10s. a week in all—£7 married—against 35s. a week on top of the same basic figure, or £4 5s. a week in all—£5 15s. married—under the earlier scheme.

21. The provisions with respect to contracting out are fully set out in Appendix B. As the result of further consideration and of discussions with the outside interests above mentioned, it is clear that it is practicable to provide the right to contract out on this basis in respect of future as well as of existing schemes. Not only would it be unfair and discouraging to initiative to refuse this privilege to future schemes, but to attempt to do so would also involve much practical difficulty. For example, it sometimes happens that an existing scheme is substantially remodelled and put on a new basis. This may be advantageous to all concerned but the result is something which is strictly a new scheme. It would be quite impossible to refuse the right to contract out to such a scheme if otherwise eligible.

GENERAL POLICY CONSIDERATIONS

22. The proposals contained in Appendices A and B, though involving an increase in administrative complexity and demands on staff as compared with the present National Insurance scheme, are practicable. For the reasons which I gave to the Cabinet on 2nd August (C.C. (57) 61st Conclusions, Minute 4), to which I adhere, I regard the proposals in Appendix A by themselves as unacceptable on grounds both of principle and of practical politics.

23. While the proposals as modified by those in Appendix B do not offend as seriously, by reason of their inclusion of contracting out, against the principles of our Party, I should be less than frank with my colleagues if, in submitting them to the Cabinet, I did not make it clear that, though in my view they represent the best way of giving effect to a State graduated scheme, they remain politically unattractive. It is not possible in any State scheme of this character to avoid comparison with the Crossman plan, and we should be deceiving ourselves if we thought that in comparison with that plan these proposals would exercise much popular appeal.
24. The Grossman plan, with all its obvious defects, does promise ultimately half pay on retirement in the long run to the worker in the middle range of earnings. For example, a worker whose average weekly earnings throughout life are £12 a week would retire when the Crossman scheme has reached full fruition on £7 a week. A worker on £20 a week similarly would receive over £9 a week. The present plan offers a pension of £7 a week at the maximum at the end of a full working life. Nor is it possible to distinguish these proposals from those in the Crossman plan on the basis that they make greater use of the principles of free enterprise. They cannot but look like “Crossman and soda.”

25. The modest nature of these proposals derives from the dilemma which faces a Conservative Government in extending well above subsistence level a State-administered scheme of National Insurance. We all of us desire to keep any graduated State scheme as small an animal as possible, both because we dislike intruding further than we must into the sphere of private enterprise and because we fear the extension of State liability, and consequently the field of political pressure, any higher up the pension scale than is necessary.

26. The original proposals for a graduated scheme were not put forward by my Department nor primarily as a measure of social reform, but, in my view, derived from the natural desire of the Treasury, which we all share, to see some improvement in the financial outlook of the National Insurance scheme. The outlook for that scheme has, however, sometimes been exaggerated, inter alia, through the basing of forecasts on unduly pessimistic assumptions as to the rates of unemployment. As however the case for a State graduated scheme is in large measure based on financial considerations, the decision to introduce one will be largely affected by whether it is worth while to introduce an unpopular Bill in 1957/8 in order to improve the condition of the National Insurance Fund for a few years after 1960. For administrative reasons it is not possible to introduce graduated contributions before that year.

27. On the new basis of the 17s. 6d. contribution to be introduced at the beginning of February, 1958, under next session’s Bill and with the current level of unemployment, the deficit on the National Insurance Fund falling on the Exchequer (exclusive of the £127 millions Exchequer Supplement to contributions) is not likely to exceed £170 millions in 1966/67. In view of the great increase in the number of retirement pensioners forecast over the next few years, though large, this is not necessarily an unmanageable or alarming figure. And it may well prove an underestimate. It is worth recalling that the Government actuary in 1946 forecast the total cost to the Exchequer of National Insurance in 1958 as £191 millions. Despite or perhaps because of the intervening inflation it is now forecast as £137 millions.

28. On the other side of the account the Exchequer will from this month onwards be obtaining an extra £40 millions making £80 millions in all towards the cost of the National Health Service from the contributors to the National Insurance Fund. In these circumstances a total cost to the Exchequer of the order indicated in the middle sixties need not necessarily cause us at present very great excitement, particularly when account is taken of the increasing national revenue which the massive investment of recent years entitles us to expect. It is also worth noting that if provision for the old, the sick and the unemployed were not made through a contributory scheme it would have in practice to be made in other ways involving a larger direct Exchequer charge, e.g., by way of national assistance.

29. While therefore in accordance with the Cabinet decision I submit proposals for State graduated schemes of National Insurance, and while the one in Appendix B is, by reason of its incorporation of contracting out, one which it may well be possible to induce the present House of Commons to accept, I would not wish to leave my colleagues under the impression that in my judgment it amounts on either political or social policy grounds to an effective alternative to Crossman. Such an alternative would in my view have to be based on a greater reliance on a modern approach to the duty of employers towards their employees (such as is already accepted in respect of one in every three) and a greater use of the mechanism of free enterprise.

J. A. B.-C.

Ministry of Pensions and National Insurance, W.C. 2,
16th September, 1957.
APPENDIX A

Particulars of Proposed Graduated Scheme (excluding provision for contracting-out)

1. The following is an outline of a scheme on the principles of the preceding note.

Coverage

2. The present universal National Insurance coverage for flat rates would be retained. Minimum contributions would continue to be payable by all persons employed, self-employed, and non-employed, covered by the present scheme at the appropriate flat rates then ruling. Such contributions would give title to the present range of benefits at the standard rates. In addition, "employed" persons and their employers would each be liable to a contribution of 4 per cent. of that slice of earnings lying between the amount to which the minimum contribution is related and a ceiling. This graduated contribution would give title to additional pension benefits. The National Health Service contribution would be added, as at present, to the whole National Insurance contribution for collection purposes, but would not enter into the financial structure of National Insurance.

Contributions

3. Minimum contributions.—These would be the total weekly rates for National Insurance purposes (excluding the National Health Service contribution which would retain its present unequal distribution between employer and employee) ruling after the approaching increase in benefit rates. This minimum National Insurance and Industrial Injuries contribution would be divided equally between employer and employee, involving a very slight reduction in the employee's share as it will be in next Session's Bill and a corresponding increase in the employer's share. This is due to a redistribution of the incidence of the charge for maternity and death grant on an equal basis instead of placing a greater share of the cost of these minor benefits on the employee.

The following table shows the result:—

<table>
<thead>
<tr>
<th></th>
<th>MEN</th>
<th></th>
<th></th>
<th>WOMEN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Employee</td>
<td>Employer</td>
<td>Total</td>
<td>Employee</td>
</tr>
<tr>
<td>N.I.</td>
<td>7 11</td>
<td>7 11</td>
<td>15 10</td>
<td>6 5⅔</td>
</tr>
<tr>
<td>N.H.S.</td>
<td>1 4½</td>
<td>0 3½</td>
<td>1 8</td>
<td>1 0⅓</td>
</tr>
<tr>
<td>Total minimum contributions</td>
<td>9 3½</td>
<td>8 2½</td>
<td>17 6</td>
<td>7 6</td>
</tr>
</tbody>
</table>

5. The above contributions would then continue to represent the contributor's traditional share of the actuarial contribution appropriate to an entrant at age 16 for the standard benefits, together with an overload towards back-service, and would be payable at all levels of earnings subject to rules about employments which are subsidiary or too inconsiderable to attract insurance.

Graduated Contributions

6. The graduated contribution of 4 per cent. a side would begin to be payable on weekly earnings from employment (but not self-employment) above the figures of £10 for men and £8 for women at which approximately the total minimum National Insurance contribution equates with 8 per cent. of earnings. This contribution would be payable on the slice of earnings up to a ceiling of £15 a week in the case of men and £13 a week in the case of women. The maximum weekly contribution for the employee, including National Health Service, would thus be
13s. 3d. in the case of men and 11s. 6d. in the case of women. Of these maxima, 4s. in each case represents the graduated portion of the contribution, and 1s. 4d. (1s. 0d. for women) the Health Service contribution.

Benefits

7. The short-term benefits of National Insurance—sickness and unemployment—widows’ benefits for widows under 60, Industrial Injuries benefits, and the minor benefits of National Insurance (maternity benefit, guardian’s allowance, and death grant) would remain at flat rates in return for the appropriate flat-rate contribution. The graduated contribution would give title to additional benefits on retirement (including premature retirement owing to breakdown in health) on an actuarial basis. A minimum of five years’ contributions would be required; persons reaching pension age within five years after the scheme began would receive a refund of the graduated contributions paid by them and their employers unless they continued in employment, in which case they would begin to be entitled to a graduated addition to their ultimate pension on completing five years’ graduated contributions. The pension payable above the standard rate (plus increments for deferred retirement, if any) would be determined on an actuarial basis by the graduated contributions paid and date of entry into the scheme. The following Table gives illustrative examples based on the assumption that the person concerned retires at age 65(60) but subject to adaptation if he continues to work after reaching that age.

**Table II**

Examples of graduated pension in respect of contributions above the minimum.

**MEN**

<table>
<thead>
<tr>
<th>Age last birthday at start of scheme</th>
<th>Employee’s contribution per £1 of earnings above £10 a week</th>
<th>Additional pension per £1 of average earnings above £10</th>
<th>Maximum additional pension (£15 average earnings)</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>94 d.</td>
<td>12 s. 0 d.</td>
<td>60 s. 0 d.</td>
</tr>
<tr>
<td>17-19</td>
<td>94 s.</td>
<td>11 s. 0 d.</td>
<td>55 s. 0 d.</td>
</tr>
<tr>
<td>20-22</td>
<td>94 t.</td>
<td>10 s. 0 d.</td>
<td>50 s. 0 d.</td>
</tr>
<tr>
<td>23-25</td>
<td>94 u.</td>
<td>9 s. 0 d.</td>
<td>45 s. 0 d.</td>
</tr>
<tr>
<td>26-28</td>
<td>94 v.</td>
<td>8 s. 0 d.</td>
<td>40 s. 0 d.</td>
</tr>
<tr>
<td>29-31</td>
<td>94 w.</td>
<td>7 s. 0 d.</td>
<td>35 s. 0 d.</td>
</tr>
<tr>
<td>32-34</td>
<td>94 x.</td>
<td>6 s. 0 d.</td>
<td>30 s. 0 d.</td>
</tr>
<tr>
<td>35-37</td>
<td>94 y.</td>
<td>5 s. 0 d.</td>
<td>25 s. 0 d.</td>
</tr>
<tr>
<td>38-40</td>
<td>94 z.</td>
<td>4 s. 0 d.</td>
<td>20 s. 0 d.</td>
</tr>
<tr>
<td>41-43</td>
<td>94 aa</td>
<td>3 s. 0 d.</td>
<td>15 s. 0 d.</td>
</tr>
<tr>
<td>44-46</td>
<td>94 ab</td>
<td>2 s. 0 d.</td>
<td>10 s. 0 d.</td>
</tr>
<tr>
<td>47-49</td>
<td>94 ac</td>
<td>1 s. 0 d.</td>
<td>5 s. 0 d.</td>
</tr>
<tr>
<td>50 and over</td>
<td>94 ad</td>
<td>See note</td>
<td>See note</td>
</tr>
</tbody>
</table>

**WOMEN**

<table>
<thead>
<tr>
<th>Age last birthday at start of scheme</th>
<th>Employee’s contribution per £1 of earnings above £8 a week</th>
<th>Additional pension per £1 of average earnings above £8</th>
<th>Maximum additional pension (£13 average earnings)</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>94 d.</td>
<td>11 s. 0 d.</td>
<td>55 s. 0 d.</td>
</tr>
<tr>
<td>17-18</td>
<td>94 s.</td>
<td>10 s. 0 d.</td>
<td>50 s. 0 d.</td>
</tr>
<tr>
<td>19-20</td>
<td>94 t.</td>
<td>9 s. 0 d.</td>
<td>45 s. 0 d.</td>
</tr>
<tr>
<td>21-22</td>
<td>94 u.</td>
<td>8 s. 0 d.</td>
<td>40 s. 0 d.</td>
</tr>
<tr>
<td>23-25</td>
<td>94 v.</td>
<td>7 s. 0 d.</td>
<td>35 s. 0 d.</td>
</tr>
<tr>
<td>26-28</td>
<td>94 w.</td>
<td>6 s. 0 d.</td>
<td>30 s. 0 d.</td>
</tr>
<tr>
<td>29-31</td>
<td>94 x.</td>
<td>5 s. 0 d.</td>
<td>25 s. 0 d.</td>
</tr>
<tr>
<td>32-34</td>
<td>94 y.</td>
<td>4 s. 0 d.</td>
<td>20 s. 0 d.</td>
</tr>
<tr>
<td>35-37</td>
<td>94 z.</td>
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<td>15 s. 0 d.</td>
</tr>
<tr>
<td>38-40</td>
<td>94 aa</td>
<td>2 s. 0 d.</td>
<td>10 s. 0 d.</td>
</tr>
<tr>
<td>41-43</td>
<td>94 ab</td>
<td>1 s. 0 d.</td>
<td>5 s. 0 d.</td>
</tr>
<tr>
<td>44-46</td>
<td>94 ac</td>
<td>See note</td>
<td>See note</td>
</tr>
<tr>
<td>47-48</td>
<td>94 ad</td>
<td>See note</td>
<td>See note</td>
</tr>
</tbody>
</table>

Note.—Persons who are within 5 years of pension age at the start of the scheme will have the option of going on in work for at least 5 years and having the appropriate pension, or taking a refund at 65(60).
8. Assuming introduction of the scheme in the financial year 1960–61, the first graduated pensions would come into payment in 1965 at a maximum rate (where earnings had averaged at the ceiling or above since the scheme began) of 55s. 0d. a week single, of which 5s. 0d. would represent the graduated element. After twenty years, the graduated element would be producing maximum additions of 15s. 0d. a week (single) to the standard rate and the maximum graduated addition of 60s. 0d. a week for single men would be reached early in the next century.

Married Women
9. The present right of a married woman in employment to opt out of her share of the contribution would continue in respect of the whole of her share of the National Insurance contribution (apart from that portion allocated to Industrial Injuries) and including the graduated portion, if any. Employers would remain liable for their share of the contribution including the graduated portion to prevent, as at present, discrimination between employees.

Financial Structure and the Role of the Exchequer
10. The Exchequer would supplement the flat rate contributions as at present, the supplements being at the existing rate of one-seventh of the total contribution. There would be no Exchequer supplement in respect of the graduated contributions.

11. Provision would also be made in the legislation for increasing the minimum contributions for National Insurance purposes (i.e., 15s. 10d. for employed men and 12s. 11d. for employed women) by equal stages at four quinquennial intervals until they represented 5 per cent, each of earnings of £10 and £8 a week. Each of these stages would involve an increase of 1s. 0d. on the minimum National Insurance contribution divided equally between employer and employee. The product of these increases would be applied towards meeting the emerging deficit on the flat rate pension. There would be no increases in the graduated contributions for this purpose.

12. At the beginning there would, on the above financial basis, be a surplus in the N.I. Fund of expenditure over income (including the Exchequer Supplement to contributions of £217 millions) amounting to about £88 millions.

Administration
13. The collection of contributions related to earnings—whatever the scheme—by means of the existing stamped card method would be uneconomical because of the immense variety of stamps that would be required, and inconvenient to employers. Verification and enforcement of the exact liability would present difficulties and the high value of the stamps that would be needed in the upper ranges is open to security objections. The alternative of direct collection of contributions from employers at intervals by the Ministry of Pensions would mean duplicating, in large measure, collection machinery already operated by the Inland Revenue. Preliminary examination has shown that, with some expansion of staffs, particularly during the transitional stages, a contribution of the kind under consideration could be collected by the Inland Revenue machinery in parallel with P.A.Y.E. The clerical work for employers would be balanced—perhaps more then balanced—by the relief from the work of buying and affixing stamps. There would also be relief of Post Office counter space and staff, and on the Stationery Office in security printing.

14. The great majority of contributors (some 20 million out of 24 million) are within the scope of P.A.Y.E. For the remainder and possibly for some special classes within P.A.Y.E. stamped cards would have to be retained. Those affected would be those liable only to flat rates of National Insurance contribution, mainly the self-employed and the non-employed.

15. As under any graded scheme, new problems of enforcement would emerge and a review of existing methods of inspection would have to be undertaken, possibly resulting in some addition of staff.

16. Problems would arise in connection with workers who have more than one employer in a week and whose earnings in total came above £10 a week. In some respects such persons are comparable to self-employed persons.
17. Important statistical material, used in particular by the Government Actuary and by the Ministry of Labour, is based on the present system of collecting National Insurance contributions. Methods of ensuring that this would continue to be available under a graduated scheme are under examination but should not present insuperable difficulties.

APPENDIX B

Adaptations and Additions required to the Outline in Appendix A to allow for contracting-out

1. This Appendix gives an appreciation of the way in which a system of contracting-out from the graduated part of the scheme outlined in Appendix A would operate.

2. The basic contributions under the scheme would remain compulsory for all employers and employees (except married women) but where application was made in respect of an occupational scheme, whether existing at the change-over or developed after it, and it was adjudged to satisfy certain conditions, the graduated part of the contribution under the national scheme, varying according to earnings up to a maximum of 4s. 0d. a week on each side would be excused in full.

Registration of Schemes

3. The examination of schemes submitted for approval would involve both technical and broad judicial considerations. For this reason, as well as to avoid any suggestion that approval was open to political influence or a desire to conserve the revenues of the National Insurance Scheme, the function of examining present and future schemes and issuing certificates of exemption would be entrusted to an independent Registrar of Pension Schemes who would be a statutory official broadly comparable to the Registrar of Friendly Societies and would have the necessary technical advice for evaluating schemes. Contracting-out would be allowed only on an application by the employer, possibly in association with the authorities or trustees controlling the scheme, and would have to be in respect of all the scheme's members. Individual members would not have the right to apply for exemption or to opt out of any certificate of exemption granted, but it would be a requirement that any employer making an application should give reasonable notice of his intention to do so to the members of his scheme, so that any differences could be resolved by the ordinary process of industrial negotiation.

4. In considering applications for exemption, the Registrar would apply the following main conditions, which would be embodied in legislation. The conditions relate to (1) equivalency of the occupational scheme to the State scheme's graduated portion; (2) solvency of the occupational scheme; (3) preservation of pension rights acquired under the occupational scheme.

Equivalency—Contribution and Benefits

5. Under this head the employer making application would have to show:

(a) Either—

(i) That the total weekly contributions by him and his employees together to the occupational scheme were not less, in relation to each employee, than the maximum graduated contribution to the State scheme—i.e., 8s.;

or—

(ii) That the overall long-term benefits of the occupational scheme were at least equal to the graduated benefits of the State scheme.
That the employer is legally liable to provide or has provided—

Either—

(i) Contributions corresponding in value to at least half the maximum graduated contribution under the State scheme;

or—

(ii) At least half the cost of long-term benefits on the whole equivalent to the graduated benefits of the State scheme.

5. Test (a) is the crucial test of equivalency. Test (b) is designed to prevent the approval of schemes (they are not thought to be common) for which the employer does not contribute at least the proportion he would contribute under the State scheme with its Fifty/Fifty distribution. The need for alternative bases of comparison under each test arises from the variety of occupational schemes which will be encountered. A simple comparison in relation to minimum contributions would clearly be the simplest to administer, and the alternative is provided to cater for non-contributory and partially contributory schemes which can only be compared satisfactorily on a benefit basis, and certain other types of scheme where a contribution comparison would yield an unfair result. It would not be applied where a scheme succeeded on contributions alone.

Solvency

7. The condition as to solvency would be deemed satisfied in the case of statutory schemes, and those insured with Life Offices (in respect of whom safeguards operated by the Board of Trade already apply). No such safeguards at present apply to self-administered schemes, and there is perhaps a case on broad merits for introducing such safeguards quite apart from the need for them which must arise if employers operating such schemes are given the right to contract out of the graduated portion of a State scheme. Furthermore, while approval for exemption would not imply any form of underwriting by the State of the relevant benefits of an occupational scheme, it is desirable to prevent the development of unsound schemes.

8. The Registrar would therefore need to satisfy himself, in respect of non-insured and non-statutory schemes, not only, as indicated above, that it was a bona fide scheme for providing pensions, but that it was financially sound and was so constituted as to be likely to remain so. This requirement could be met by showing that the scheme was funded in respect of at least the portion put forward as equivalent (see paragraph 5 above) or, if this were not the case, that the employer was legally liable to make payments sufficient, with the employees’ contributions, if any, to keep the scheme solvent on that basis. The Registrar would also receive periodic returns (e.g., audited accounts) showing the financial state of approved schemes, and so be enabled to exercise a degree of supervision over their continued soundness.

9. The administration of rules on the above principles would raise some complex problems, which will need further careful study.

Preservation of Pension Rights

10. Since rights to the graduated pension under the State scheme would be quite independent of any change of employment, an occupational scheme which was approved as an alternative to the State scheme, would be required to make satisfactory provision that if a member changed his employment his acquired pension rights should be preserved at any rate up to the equivalent of what the contributions excused could have acquired during a corresponding period of membership of the State scheme. The need to provide at least this measure of transferability is independent of the more general considerations (e.g., mobility of labour) which have been suggested, in the Phillips Report (paragraph 318) and elsewhere as making it desirable that pension rights should be transferable to a greater degree than they are at present.

11. There are two broad methods of preserving pension rights—the paid-up policy, and the transfer of a lump sum representing accrued rights from one fund to another—but highly technical problems are involved and the exact provision for the preservation of minimum rights will need close study with the actuarial profession, the insurance industry, and those operating privately administered
schemes so as to create as little disturbance of schemes as possible. In certain cases an undertaking by the employer to purchase accrued rights in the State scheme in respect of a past period of exemption for employees who left might be allowed as an alternative to a paid-up policy (or other form of transfer)—e.g., where the period of service in the occupational scheme had been comparatively short. It would thus be possible to allow employers to require a minimum period of service before permitting pension rights as such to vest in an employee—a normal provision where such vesting is a feature of the scheme. To purchase such rights in the State scheme the employer would be permitted to apply appropriate parts of any refund of contributions which would normally have been made on change of employment.

12. Approval would not be given to a scheme which had less than a minimum membership, say, of 5. It is desirable to exclude in this way the very large number of “schemes” approved for purposes of tax relief and applying to one individual only or a very small number of individuals in the higher income ranges. These are not, in the ordinary sense of the term, “occupational pension schemes.” There is also the point that if these “special deferred pay” schemes were not excluded, there would be pressure for individual exemptions on personal grounds apart from occupational schemes (e.g., in respect of private insurance policies).

13. A decision by the Registrar of Pension Schemes to refuse an application for a certificate of exemption might aggrieve not only an employer but groups of members of the scheme. This in the present climate of public opinion suggests for further consideration the provision of a right of appeal against the Registrar’s decision not to approve a scheme.

**Enforcement**

14. It is envisaged that the Registrar would have an official part to play in the enforcement machinery of the State scheme. All employers with certificates of exemption would, as part of the continuing condition of solvency, be required to satisfy the Registrar periodically that the appropriate contributions (or equivalent financial subventions from the employer) were being paid into the occupational scheme. Where such evidence was not forthcoming, the Registrar would be under a duty to make appropriate enquiries and, in default of satisfaction, to cancel the certificate and report the situation to the appropriate Department so that it could begin to collect graduated contributions under the national scheme.

**Transitional Period**

15. The initial work of approving, and in many cases adapting, all the existing schemes in respect of which application for exemption was made (which might run to some thousands) might be heavy, and even assuming that the additional technical staffs needed could be collected and trained within two years, it would be wrong to count on this initial work being completed before the assumed commencing date of April 1960. If the issue of provisional certificates of exemption—which could lead to serious subsequent difficulties—was to be avoided, it is necessary to contemplate the collection of the State contributions in full, and subsequent refunds to occupational schemes which established the right to exemption. Where satisfactory arrangements for preservation of pension rights could not at once be built into schemes otherwise approvable, approval might be allowed if an undertaking to purchase equivalent rights in the State scheme for individuals who left during the transitional period was given.
## APPENDIX C

Estimated income and outgo of National Insurance Fund under various plans. Present level of unemployment and earnings is assumed throughout

<table>
<thead>
<tr>
<th></th>
<th>Under Graduated Plan without contracting out</th>
<th>Under Graduated Plan with contracting out (See Note 2 below)</th>
<th>Under Plan outlined in C. (57) 165</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Contributions from Insured Persons and Employers</td>
<td>999</td>
<td>1,052</td>
<td>1,195</td>
</tr>
<tr>
<td>(2) Transfers to N.H.S. and I.L.</td>
<td>141</td>
<td>141</td>
<td>141</td>
</tr>
<tr>
<td>(3) Available for National Insurance (1)-(2)</td>
<td>858</td>
<td>911</td>
<td>1,054</td>
</tr>
<tr>
<td>(4) Exchequer Supplements less I.L. transfer</td>
<td>127</td>
<td>127</td>
<td>127</td>
</tr>
<tr>
<td>(5) Interest (National Insurance only)</td>
<td>50</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>(6) Total Income of National Insurance Funds (3)+(4)+(5)</td>
<td>1,035</td>
<td>1,088</td>
<td>1,231</td>
</tr>
<tr>
<td>(7) Expenditure of National Insurance Funds</td>
<td>947</td>
<td>1,064</td>
<td>1,317</td>
</tr>
<tr>
<td>(8) Excess of Expenditure over Income (7)-(6)</td>
<td>88 (surplus)</td>
<td>24 (surplus)</td>
<td>86 (surplus)</td>
</tr>
<tr>
<td>(9) Total cost of National Insurance to Exchequer (4)+(8) Above the line</td>
<td>127</td>
<td>127</td>
<td>213</td>
</tr>
<tr>
<td>Overall</td>
<td>39</td>
<td>103</td>
<td>213</td>
</tr>
</tbody>
</table>

### NOTES.

1. The estimates of contribution income contained in the Table appended to C. (57) 165 were on a basis of a substantial and continued increase in the level of earnings and did not allow for any corresponding increases in benefit rates. As indicated in paragraph 9 the above figures assume earnings constant at their April, 1957 level.

2. It is assumed that the inclusion of an option to contract out of the graduated part of the contribution, in the case of persons participating in approved occupational schemes, would lead to loss of contribution income of about £50 millions a year, which is equivalent to 4½ million contributors. (See paragraph 17).
SECRET
C. (57) 206
20th September, 1957

CABINET

BETTING AND GAMING BILL

MEMORANDUM BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT
AND LORD PRIVY SEAL

At their meeting on 30th July (C.C. (57) 59th Conclusions, Minute 3), the Cabinet invited me to circulate the draft heads of clauses for a Betting and Gaming Bill. This is to be found in the Appendix to this paper.

Registration of Bookmakers

2. The proposals in the Appendix follow the Royal Commission's Report and are unlikely to be controversial.

Off-the-course Betting

3. No provision is made for a statutory financial contribution to be made to horse-racing from off-the-course betting.

4. I propose that the problem of factory runners should be dealt with by making no change in the present law. The collection of bets in a place of work is not at present unlawful provided that it is not carried out from a fixed position, and there is no prohibition on the payment of commission by bookmakers to their runners. This proposal involves the rejection of the Royal Commission's recommendation that the payment of remuneration by bookmakers to their agents should be prohibited. This proposed prohibition has been criticised on the grounds that it would be unpopular with workers and unenforceable. I think this criticism is well-founded.

The critics have proposed an alternative scheme for the licensing of runners. I think that this would present great difficulties in practice; and I cannot as at present advise intent or devise any scheme that would give formal legal recognition to a system under which an employee can use his employer's time and premises for his own private business. The implications for industrial relations and discipline would be unfortunate.

My proposal to leave things as they are will not please the anti-gamblers; but in my view either of the proposed remedies would be worse than the disease, such as it is. This is a controversial matter within our Party ranks. I can find no measure of agreement there.

Pool Betting on Horse-racing

5. This part raises no major point of controversy.

Gaming

6. The proposals of this part do not exactly follow the recommendations of the Royal Commission, which have been found to be impracticable in some respects. The proposals will be controversial only in matters of detail.

52282
Other Recommendations of the Royal Commission

7. The Royal Commission made two recommendations affecting greyhound racing which need not, at this date, be implemented. The first was a proposal designed to reduce the opportunities for attendance at greyhound tracks on more than two days a week in large urban areas. The Ministerial Sub-Committee of the Home Affairs Committee which considered the Commission's Report in 1953 advised against its adoption. The second recommendation was that, to prevent excessive profits by track owners, there should be a reduction in the proportion of stakes on the totalisator which may be retained by the owner where the total stakes exceed a specified amount. This recommendation has become academic on account of the fall in profits which has occurred since the Report was issued. The omission of these two recommendations may be mildly controversial.

Scotland

8. It is intended that the Bill should apply to Scotland and I understand that some of the provisions in the Appendix will require adaptation to suit Scottish conditions, though no major differences between the two countries are envisaged.

Conclusion

9. I have done as my colleagues requested and circulated the heads of a Bill. I await comment, without entering into the merits or demerits of introducing legislation.

R. A. B.

Home Office, S.W.1,
18th September, 1957.
I.-REGISTRATION OF BOOKMAKERS

1. Bookmakers who operate on their own account (except certain special classes who are already subject to statutory control) will be required to register with the local justices.

2. The justices will be required to refuse an application for registration if:
   (a) the applicant is under 21 years of age; or
   (b) the applicant has not resided in Great Britain for six months; and will be given discretion to refuse an application if:
   (c) the applicant is not, in their opinion, a fit and proper person to be a bookmaker; or
   (d) he has been convicted within five years of his application of an offence involving fraud or dishonesty, or a serious offence against the betting laws committed after a prescribed future date.

3. A court which convicts a registered bookmaker of an offence involving fraud or dishonesty or a serious offence against the betting laws committed after the prescribed date will be empowered to cancel his registration and to disqualify him from making a fresh application for a period of up to five years.

4. There will be a right of appeal against refusal to register or cancellation of registration.

5. It will be an offence for a registered bookmaker knowingly to employ a person who has been refused registration under 2(c) or (d) above or whose registration has been cancelled under 3 above, or a person under the age of 18.

II.-OFF-THE-COURSE BETTING

6. The existing law (the Betting Act, 1853) makes it an offence to use premises either:
   (a) for betting with persons resorting thereto; or
   (b) for receiving money in advance in respect of bets (cash betting).

7. Exceptions will be made to this general prohibition to permit:
   (a) cash betting by post; and
   (b) the establishment of licensed cash betting offices (betting shops).

The maximum penalties for keeping a betting shop without a licence and for street betting will be increased.

Betting Shops

8. The types of betting which may be carried on at betting shops will not include pool betting other than pool betting on horse races by means of a totalisator operated by or under the authority of the Racecourse Betting Control Board (i.e., it will exclude football pools).

9. The licensing authority for betting shops will be the local justices. An application for a licence will be in respect of named premises and the procedure for application will include public advertisement. Licensing authorities will be required to consider each application at a public hearing at which objections will be heard. Licensing authorities will not be allowed to grant a licence in respect of premises unless they have separate access for the public direct to the street. But otherwise the licensing authorities will have complete discretion whether to grant an application, having regard to the questions (a) whether the premises named in the application are suitable for the purpose, and (b) whether there are already
sufficient licensed premises in the neighbourhood. This will be expressed as general
guidance as to how the authorities' discretion should be exercised, without fettering
it. Licences will be renewable annually at the discretion of the licensing
authorities. There will be a right of appeal against refusal to grant or to renew a
licence.

10. During the first year, licensing authorities will be required to give
preference to applications from existing bookmakers.

11. The following conditions will have to be observed in connection with the
conduct of licensed betting shops:—

(a) They must close on Sundays, Christmas Day and Good Friday and at such
hours on other days as may be prescribed by regulations made by the
Secretary of State.

(b) No member of the public shall be permitted to remain inside the premises
longer than is reasonably necessary for the purpose of effecting a betting
transaction (i.e., no loitering).

(c) No person apparently under the age of 18 may be admitted.

(d) No seats may be provided for members of the public.

(e) Winnings may not be paid during racing hours.

(f) The licensee must exhibit such notices in such form and at such places as
may be prescribed in regulations made by the Secretary of State and
these regulations may also impose restrictions on the other notices
which may be exhibited.

(g) Neither the licensee nor any person employed by him in the premises
may encourage any person to bet; or make any announcement by
word of mouth regarding the odds offered in forthcoming races or the
winners of races except in reply to a request; or make such information
available to any member of the public present in the licensed premises
by any other means except in the form of a notice permitted by the
regulations.

(h) No member of the public may be allowed to use any doorway except
one which provides direct access to the street;

(i) The premises when open for betting must not be used for any other
purpose.

III.-POOL BETTING ON HORSE RACES

12. The powers conferred on the Racecourse Betting Control Board under
the Racecourse Betting Act, 1928, will be extended to enable them to operate
totalsators off the course and to establish betting shops (subject to the obtaining
of licences as described above). It will be forbidden for any person other than
the Board or a person authorised by them to conduct pool betting on a horse race;
or to accept any bet to be made on a horse race by means of a totalsator.

13. The Board's powers to support its existing objects (the improvement of
breeds of horses, the advancement and encouragement of veterinary science and
education and the improvement of the sport of horse racing) will be extended in
various respects; they will in particular be empowered to participate in the
management of the National Stud (in furtherance of a scheme discussed by the
Home Affairs Committee in 1956).

IV.—GAMING

14. The existing law applicable to gaming (except that dealing with gaming
debts) will be repealed and replaced by a scheme on the following lines.

15. Gaming will be defined as the payment of money or money's worth for
the opportunity to win money or money's worth by the playing of games, other
than games of pure skill and athletic sports.
16. It will be an offence for a person to be concerned in the organisation of gaming which does not conform with the following requirements:

(a) The rules of the game must be such that no inequalities between the chances of the persons participating in the game will result from them.

(b) All the money or money's worth staked by the persons participating in the gaming as it proceeds must be returned to those of them who are successful (i.e., none must be taken by a non-participant).

(c) No payment may be exacted for the right to participate in the gaming except in one or other of the circumstances set out below, provided in every case that the payment must not vary in accordance with the size of the stakes for which the game is played:

(i) under the conditions of section 4 of the Small Lotteries and Gaming Act, 1956 (which are the conditions recommended by the Royal Commission as being suitable for the conduct of whist drives for charity);

(ii) where all the participants are members of one society established and conducted for purposes not connected with gaming, wagering or lotteries, or their guests;

(iii) where all the participants are members of one society not established and conducted for purposes of private gain or of any commercial undertaking, or their guests;

(iv) where all the participants are members of one society established for the purposes of playing the games of bridge or whist, or their guests, and the gaming is confined to the playing of these games.

17. The present law forbidding gaming in licensed premises will be preserved.

18. Gaming in any street or public place will continue to be forbidden.

19. Gaming machines will be forbidden in any place to which the public have access, whether on payment or otherwise. (Elsewhere, gaming machines will be subject to the general rules set out in paragraph 16 above.)

20. An exception to the general prohibition on commercial gaming set out in paragraph 16 will be made where the gaming takes place:

(a) in a permanent funfair or amusement arcade which is licensed for gaming by the local authority; or

(b) as part of a travelling fair; or

(c) incidentally to an entertainment such as a bazaar, sale of work or fete:

but the gaming must comply with the following requirements:

(a) the amount of the entrance fee for any game must not exceed 1s. 0d.;

(b) no prize may be offered or awarded that is of greater value than 40s. 0d. in kind or 6d. in cash; and

(c) prizes may only be provided at the expense of the management.
CABINET

USE OF CARS TO TAKE VOTERS TO THE POLL

MEMORANDUM BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

1. Section 88 of the Representation of the People Act, 1949, restricts the number of cars that may be used on behalf of a candidate to take voters to the poll at a Parliamentary election. The 1944 Speaker's Conference on Electoral Reform, on whose recommendations much of the present electoral law is based, rejected the idea of such restriction, but the Labour Government introduced it in the Representation of the People Act, 1948, in response to Back Bench pressure and in the face of vigorous objection by the Conservative Opposition.

2. There is a strong feeling in the Conservative Party that the restriction should be abolished. Resolutions to this effect have been tabled at Party conferences and meetings of the Central Council of the National Union since 1952, and were carried at the Party Conference in 1955 and at the Central Council last March, and in a letter to me earlier this year the Chairman of the Party referred to “ever-growing criticism in the Party as to why action is not being taken.” A number of resolutions have again been tabled for this year’s Party Conference.

3. Before the 1955 Party Conference my predecessor submitted a Memorandum (H.P. (55) 58) to the Home Affairs Committee expressing the view that there was an overwhelming case for action by the Government to repeal the restriction, but that it might be advisable to deal first with amendment of the law about redistribution. The Committee (H.P. (55) 11th Meeting, Minute 5) took the view that, although on merit there were strong arguments in favour of repealing the restriction, the balance of advantage lay against raising an issue certain to create political controversy, and that it would be best to concentrate at the Party Conference on obtaining information on how the restrictions were in fact working in practice and to defer reaching any further conclusions until this had been done. My predecessor spoke to this effect at the 1955 Party Conference.

4. Subsequently the Central Office forwarded a report on abuses of section 88 at the last General Election based on statements from constituency agents. Out of 178 constituencies from which replies were received there was evidence of the law being broken by the Socialists in 63 cases, by Conservatives in 9, by Liberals in 6, and by both or all Parties in 47. It was stated that the existence of the restrictions led to suspicion and recriminations between the Parties, and one instance was recorded where “the Socialist supporters from candidate downwards were protesting vehemently against the present law and were saying how ludicrous it was.” At the North Lewisham bye-election this year the Conservative agent stated that some 20 cars were used by the Socialists in contravention of the section.

5. It is clear that there is a strong case for repealing section 88 on the ground that it cannot be effectively enforced and is widely disregarded, thus bringing the law into contempt. Against this there is the argument, to which my predecessors have drawn attention, about the need to avoid establishing a process of altering electoral law whenever there is a change of Government and to keep it as far as possible out of the arena of Party strife. I should be the last to minimise the force
of this argument; but the fact remains that the present restriction was introduced by the Government of the day contrary to the recommendation of the Speaker's Conference and to the strongly-expressed views of the official Opposition; and it is clear that many of our supporters find it very difficult to understand why the present Government allow to remain on the statute book a provision without merit and of shabby antecedents.

6. I have considered whether—if my colleagues think that the section should be repealed—the repeal could be included in the proposed legislation on redistribution. This would give the Bill a strongly controversial character and would probably destroy any prospect of dispassionate discussion of the law about redistribution. Moreover the two subjects are quite distinct, and to include both in the same Bill would so enlarge the scope of the Bill as to incur a risk of amendments on such matters as election expenses and election propaganda. This is to be avoided, so that if there is to be legislation to repeal section 88 it should take the form of a separate Bill confined to that purpose.

7. If we decide to repeal section 88, ought we to tell the Opposition Leaders of our intention to do so—either when informing them of our final proposals as regards redistribution or separately? On the whole, I think that it would be advisable to do so as a matter of constitutional propriety, notwithstanding that, in view of what happened in 1948, it would not lie in the mouths of the Opposition Leaders to complain if we did not give them any warning.

8. In the light of these considerations—with which the Secretary of State for Scotland agrees—I seek the approval of my colleagues to the following points:

(1) We should introduce legislation to repeal section 88 and,
(2) We should inform the Opposition Leaders that we intend to do so.

R. A. B.

Home Office, S.W. 1,
11th September, 1957.
1. Together with the Chief Whip we have now held the further discussion with the Leaders of the Opposition Parties authorised by the Cabinet last autumn (C.M. (56) 70th Conclusions, Minute 5) on our proposals for amendments of the House of Commons (Redistribution of Seats) Act, 1949. A note of the discussion is annexed.

2. Our conclusions on the points raised in the discussion are as follows:

**Intervals Between the Reviews of Constituencies**

3. We are satisfied that section 2(3) of the 1949 Act is wide enough as it stands to enable a Commission to recommend major alterations of individual constituencies in exceptional cases between general reviews; and we recommend that the Opposition Leaders should be informed that in the Government’s view no further clarification is needed.

**Basic Number of Constituencies**

4. No further action is needed.

**County and Borough Constituencies**

5. We recommend that the Opposition should be informed that the Government adhere to the view that the question of weighting must be left to the good sense of the Commissions, and that it is not practicable to set out a formula in the Rules.

**Membership**

6. We do not think that Mr. Gaitskell’s proposal that one member of each Commission should be nominated by the Prime Minister and one member by the Leader of the Opposition is acceptable, if only because, as Mr. Grimond pointed out, this would inevitably lead to claims for similar representation by other Parties. We see no objection, however, to Mr. Gaitskell’s compromise proposal that appointments should be made in agreement between the Parties: in fact, his proposal should assist in securing acceptance of the Commission’s recommendations by the House. The Minister of Housing and Local Government, who appoints one member each to the English and Welsh Commissions, agrees, provided it is understood that he would continue to appoint people with a knowledge of local government—because of the link between local government and parliamentary boundaries.

7. We therefore recommend that the Opposition Leaders should be informed that the Government accept this proposal subject to the proviso above.

52243
Composition of the Commissions

8. We adhere to the view endorsed by the Cabinet last autumn that the Speaker should continue to be the Chairman of the Commissions. He has reaffirmed his willingness to do so.

9. The Speaker also expressed the view, before the recent discussions with the Opposition Leaders took place, that there was no particular need for the Deputy Chairmen to be Judges. The system has, however, worked well in Scotland and, with a view to reaching the greatest possible measure of agreement with the Opposition Parties, we think it would be desirable to provide that all Deputy Chairmen should be Judges. The Lord Chancellor would much prefer that the office should be held by a Member of the Bar of not less than 15 years standing, but he does not feel able to oppose the suggestion if the Parties in the Commons are agreed.

10. We therefore recommend that, subject to the Speaker's acquiescence, the Opposition should be informed that the Government accept this proposal.

11. We recommend that the Opposition should be informed that the Government confirm the provisional agreement reached at the meeting that the Registrars-General and the Director-General of Ordnance Survey should serve as assessors and not, as at present, as members.

12. As regards Mr. Griffiths' suggestion, we agree that the knowledge and experience of the national agents of the Parties would be useful to the Commissions. We do not think, however, that it would be desirable for the national agents to be given the close and continuous association with the Commissions which would result from their serving as assessors. We think the point could be met on the lines suggested in paragraph 111 of the 1942 Report of the Vivian Committee on Electoral Machinery namely that, in addition to local hearings, each separate Commission should sit under its Deputy Chairman "to hear any representations from the Chief or National officers of the principal Party organisations with respect to the provisional proposals." We recommend that the Opposition should be informed that the Government are prepared to see that this suggestion is implemented.

13. The necessary amending legislation ought to be introduced as soon as possible so that it can be passed as far in advance as may be of the next General Election and before the present law operates to require the Commissions to start another general review.

14. We therefore propose that, subject to further consultation with the Speaker on the question of Deputy Chairmen (see paragraphs 9 and 10 above) we should write to the Opposition Leaders on the lines indicated in paragraphs 3, 5, 7, 10, 11 and 12 above, and say that, subject to any further comments they may have, the Government propose to introduce the necessary legislation as soon as Parliamentary time permits.

15. We seek our colleagues' authority to proceed accordingly.

R. A. B.
J. S. M.

13th September, 1957.
CONFIDENTIAL

ANNEX TO C. (57) 208

NOTE OF MEETING HELD ON 16th MAY AT THE HOUSE OF COMMONS

PROPOSED AMENDMENT OF HOUSE OF COMMONS (REDISTRIBUTION OF SEATS) ACT, 1949

Present:
The Right Hon. R. A. Butler, M.P.
The Right Hon. J. Maclay, M.P.
The Right Hon. E. R. G. Heath, M.P.
The Right Hon. H. T. N. Gaitskell, M.P.
The Right Hon. J. Griffiths, M.P.
Mr. Herbert W. Bowden, M.P.
Mr. J. Grimond, M.P.

Mr. Butler said that the purpose of the meeting was to consider certain proposals for the amendment of the House of Commons (Redistribution of Seats) Act, 1949, which his predecessor had communicated to the Opposition Parties last year. There had been agreement on a considerable part of the proposals put forward, and he suggested that the discussion should be directed to those points on which there was some difference of opinion.

Intervals between Reviews of Constituencies

Mr. Butler said that the Government scheme was that reports of the Boundary Commission should be submitted at intervals of not less than 10 and not more than 15 years, instead of the present period of not less than 3 and not more than 7 years. Both the Opposition Parties in commenting had felt that while this was generally acceptable there should be some provision for dealing with special cases at rather shorter intervals than 10–15 years. The Labour Party had suggested that if the electorate of a constituency rose above 80,000 or fell below 40,000 an “interested authority,” or not less than 100 electors in the constituency, should be entitled to require the Boundary Commission to consider adjustments.

Mr. Butler did not feel that the Government could accept this proposal. There were constituencies in Wales and Scotland where the electorate must necessarily remain below 40,000 for geographical reasons. The Government were not in favour of having a detailed statutory specification of the circumstances in which constituencies must be reconsidered. The Redistribution Rules in the original Act of 1944 had provided that the electorate of a constituency should not vary from the electoral quota by more than approximately one-quarter of the quota. When the Boundary Commission started their first general review in 1946 they found that this requirement gave rise to so much dismemberment of constituencies and local protests that the then Government abolished it in 1947 in the House of Commons (Redistribution of Seats) Act, 1947.

Mr. Gaitskell said that he and his colleagues were not tied to the figures of 80,000 and 40,000, but they did think that there ought to be a workable provision for review in exceptional cases in which circumstances had changed between the general reviews.

Mr. Grimond said that Mr. Clement Davies had expressed the same view and he agreed with it.

52256
Mr. Butler pointed out that section 2(3) of the House of Commons (Redistribution of Seats) Act, 1949, empowered Commissions to make recommendations affecting particular constituencies between general reviews, but hitherto this power had only been used to adjust constituency boundaries to local authority boundaries.

It was agreed that the Government would give consideration to the question whether there was any need to clarify the point that the Commissions could recommend major alterations in exceptional cases under this power.

Basic Number of Constituencies

Mr. Butler said that the Labour Opposition had suggested that the number of constituencies should be increased from 613 to 625 and that in their view this followed from the Government's proposals on electoral quotas. He explained that the Government did not consider this to be consequential upon their plans, since the proposal was to take the average electorate of each of the three countries and not of Great Britain. This would give 618 seats as now.

Mr. Bowden said that provided the Government were satisfied that the total number of constituencies would remain at 618 this meant that there would be no conflict with Rule 1 of the Redistribution Rules. They did not wish to press this point.

County and Borough Constituencies

Mr. Butler said that the Labour Opposition had suggested that the Rules should be amended to avoid the present general disparity between county and borough constituencies. The Government's view was that this was a matter which had to be left to the good sense of the Commissions. The problem of geography made it impossible to have electorates of the same size in the counties as in boroughs, and he did not think that a satisfactory mathematical formula could be found for the necessary "weighting."

Mr. Gaitskell said there was not likely to be agreement between the Parties on this point. The Labour Opposition could only hold themselves free to criticise or seek to amend any proposal which the Government might put forward when they had it in precise terms.

Composition of the Commissions

Mr. Butler said that the last point was the composition of the Commissions. The Labour Opposition had proposed that the Chairmen of the Commissions should be High Court Judges in England and Wales and persons of similar judicial standing in Scotland and Northern Ireland. Mr. Gaitskell said that this was not intended in any way as a criticism of the present Speaker but the Speaker of any party had been a politician. The Chairmanship was a judicial function and should be exercised by someone with the qualifications and experience of a judge.

Mr. Butler said that the Government were anxious to retain the Speaker as Chairman and the Speaker was, he understood, willing to continue to be Chairman. There was no other way of securing the same degree of guidance and experience for the Commissions as could be obtained by having the Speaker as Chairman.

Mr. Gaitskell said that the question of the Chairmanship was part of the general question of the composition of the Commissions. He and his friends did not think the present arrangements satisfactory. It was desirable to recognise the realities of the situation, and a proposal that one member should be nominated by the Prime Minister and one by the Leader of the Opposition seemed to meet this. They should not be members of Parliament but persons of standing and repute like Heads of Colleges.

Mr. Grimond said that if there were any question of representation he would have to press for representation of the Liberal Party and there would no doubt be others.

Mr. Butler said that it had seemed desirable to the Government to remove the Commissions from the direct impact of political differences as much as possible. The Vivian Committee of 1942, on whose recommendations the present constitution of the Commissions was based, had considered the question of political
representation and had pointed out that, apart from the difficulty of maintaining a fair balance of political opinion, political members would find it impossible to divest themselves of their party allegiance, with the result that there would be frequent deadlocks or majority decisions which would go far to deprive the Commissions' recommendations of any inherent validity or authority.

Mr. Gaitskell said that he knew the history but still thought that present arrangements were not satisfactory. He pointed out that the members were appointed by Ministers. Could this not be done in agreement between the parties? This might form the ground for a compromise. Mr. Butler promised to consider this.

On the question of the Chairmanship, it might prove possible to make a compromise on the basis of the Scottish system by which a judge was appointed Deputy Chairman and Mr. Maclay said that this had worked well in Scotland.

The meeting then considered the question of assessors. It was agreed that the Registrar-General and the Director-General of Ordnance Survey could well be assessors to the Commissions. Mr. Griffiths said that the Labour Party would like to propose the appointment of assessors with political experience—for example, the National Agents whose experience and knowledge would be very useful.

It was agreed that the Government would consider their proposals further in the light of the discussion and would consult again with the Opposition parties.
CABINET

THE ECONOMIC SITUATION

Memorandum by the Chancellor of the Exchequer

As agreed by the Cabinet at the meeting on 12th September, a group of Ministers under my chairmanship has been examining what measures could best be taken to achieve that adjustment in the balance of supply and demand which is now necessary and how the Government’s policy could best be presented (C.C.(57) 67th Conclusions, Minute 2).

Limitation of Public Investment

2. In C.(57) 195 I proposed that we should aim at keeping the level of public investment within a total of £1,500 millions in each of the years 1958/59 and 1959/60, and calculated that that would require a cut of about 10 per cent or £320 millions off the programmes shown in the annex to that paper. Annex A shows the revised figures for investment in those two years which have either been agreed or proposed for discussion with Departments. The Minister of Transport has not felt that any reduction should be made in the expenditure on roads planned for those two years, nor does he think it wise to reduce the investment of the airways corporations, but he has accepted an adjustment of £20 millions in each year in the programme for the British Transport Commission; the Minister of Power has undertaken a reduction of up to £76 millions over the two years in the programme for the fuel and power industries; and the Minister of Housing has agreed to accept a cut in the public housing rate of from 120,000 to 100,000 houses in England and Wales by 1959/60.

3. These and other smaller cuts to be demanded elsewhere already produce a total in striking distance of the target mentioned in C.(57) 195. But on present form the required total of adjustment would not be secured in 1958/59 and perhaps not in 1959/60. In addition, some of the proposals recorded in the provisional score sheet may not prove in the event fully achievable. In order to be sure of hitting the target, further adjustments of at least £20 millions over the two years would be necessary. Some contribution towards these may be obtained from the programmes still to be discussed with Departments and from programmes such as water and sewerage, in respect of which no saving has been assumed so far, but it may be necessary in the event for Ministers to consider the possibility of further savings in major sectors. Reductions in the housing programmes show the quickest returns, but still further to reduce the housing figures will raise some serious issues.
4. Control of the supply of money to the private sector would have far reaching results and is of crucial importance. The Government are at present armed with no effective powers for this purpose and are dependent upon the co-operation of the banks. I have asked them to hold their advances during the next year at the average level for the last twelve months. It may well be however that the measures that the banks are able to take will not prove sufficient and I must warn my colleagues that it may be necessary to seek statutory powers to ensure adequate control of credit. The management of the credit base is of course already the subject of enquiry by Lord Radcliffe's Committee. But the present situation is too urgent to allow us to await its report and we must consider now what further steps should be taken, if need be. For this purpose I have asked the Economic Secretary to preside over a small working group from the Treasury and Bank of England who should call in such expert advice from outside as may be necessary. No publicity will be given to these discussions.

Building Control

5. The severity of the cuts proposed in the public housing programme raises the question whether it would not be politically embarrassing to permit private investment to continue in the miscellaneous section covering other than housing and industrial development, for example garages and petrol stations. It was however the general view when we discussed it in our group that there would be even greater objection amongst the Government's supporters to the re-imposition of a physical control of which they were glad to see the end. A licensing system, if statutory authority were given for it, would anyhow be slow to operate and if it were effectively to bite upon the type of development which I have in mind would inevitably be pretty complex. It should in any case not be necessary if we can really gain control of the supply of money in the private sector. For these reasons we have concluded that such a control need not be instituted, at any rate at this stage.

Hire-purchase

6. For much the same reason we have concluded that further restriction on hire-purchase credit would not really be worth while. The objections against any further variation in the hire-purchase terms have been set out by the President of the Board of Trade in C,(57) 203. Further restriction would be superfluous if a really effective restriction of credit were secured at the source by a reduction of bank advances, and if we failed to secure this it is doubtful whether additional hire-purchase restrictions would do much to stem the tide.

Presentation

7. We have agreed upon a draft Press statement in the terms at Annex B. It is for consideration whether I should issue this on my own behalf or whether it should go out as a Government statement.
8. I should propose to see the financial Press in a series of interviews on Wednesday, 18th September prior to the issue of the statement on 19th September. The President of the Board of Trade and I are also proposing to give advance information to the Federation of British Industries of the terms of the statement. The Minister of Labour will take similar action with the British Employers' Confederation and the Trades Union Congress. The Minister of Power will see the Chairmen of the nationalised industries.

F.T.

Treasury Chambers, S.W.1.

16th September, 1957
ANNEX A

All figures at September, 1956 prices

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Savings on programmes in Annex to C.(57) 195

(Col. A. - Col. B.) 99 203

Both years together 302

Target 320

Column A contains figures of programmes as in Annex to C.(57) 195.

Column B figures are the figures agreed with Departments or provisionally proposed by the Treasury. The adjustments in brackets have not been discussed with the Departments, except for electricity and housing, where the figures reflect the offers of the responsible Ministers, subject to settlement of the Scottish element in them.
1. The Government are determined to maintain the internal and external value of the pound.

2. The readjustment last month of the exchange rate for the French franc generated a wave of speculation among the world's leading currencies, in which sterling has been heavily involved. I wish categorically to emphasise the determination of the Government to maintain the existing exchange rate parity of $2.80 to the pound. They consider that this parity is right, and that the evidence of the United Kingdom balance of payments and trading figures support this view. They have no intention of changing this parity either by moving to a new fixed point, or by allowing the margins to widen.

3. The internal and external value of our money cannot be sustained unless we as a nation pursue the right policies at home. It will not be possible to check the rising cost of living and maintain the worth of sterling if we try to spend more or live better than our resources allow. Steps have been taken and are being taken to limit current civil and defence expenditure. But a limitation of the Government's current expenditure is not enough.

4. I said in the House of Commons on 25th July that "it may well be necessary to re-phase some programmes" in the field of public investment and that the Government would "not hesitate to make the necessary adjustments". The Government have accordingly decided upon certain further steps in relation to both public and private spending. Their object is to ensure that the supply of money and the pressure of demand do not exceed the man-power and resources which are in fact available.

5. In the first place, the Government propose to hold down the total of investment in the public sector which would otherwise have risen substantially during the next two years within the level attained this year. This includes the sum of investment by Government Departments, by local authorities and by nationalised industries. Particulars of the adjustments which will be necessary for this purpose will be given when Parliament resumes its sittings in October.

6. Similar restrictions are necessary in the private sector. The Government are determined to control the supply of money in this sector and are prepared to take for this purpose any necessary measures or any additional powers that may be needed.

7. Meanwhile they propose that the average level of bank advances during the next twelve months should be held at the average level for the last twelve months. I have informed the bankers of this requirement.

8. There can be no remedy for inflation and the steadily rising prices which go with it which does not include, and indeed is not founded upon, a control of the money supply. So long as it is generally believed that the Government are prepared to see the necessary finance produced to match the upward spiral of costs, inflation will continue and prices will go up.
9. The Government recognise that these measures will be distasteful, and not least to the Government; but they are necessary. These measures are necessary. They will mean that programmes of development in both the public and private sectors will take longer to fulfil. Nevertheless the actions are in the Government's judgment inevitable if we are to halt the rise in the cost of living and defend the value of our money. They will be pressed to such lengths as may prove necessary to achieve these ends.
CABINET

RECENT EVENTS IN GHANA

Memorandum by the Secretary of State for Commonwealth Relations

In view of the public interest aroused, my colleagues may like to have the story up to the present.

2. On 30th July, the Ghana Government made deportation orders against two members of a Moslem opposition party in Kumasi (Ashanti) and against the (African) deputy editor of the Accra "Daily Graphic", a subsidiary of the "Daily Mirror". It was generally understood that the Government wished to deport the first two because of anti-Government activities in Ashanti, and the third for constant Press criticism of the Government.

3. The two Moslems, who had been born in Kumasi, contested the deportation orders on the ground that they were Ghana citizens and therefore not liable to deportation; the deputy editor of the "Daily Graphic", who was born in Sierra Leone, obeyed the order against him. These deportations, and particularly that of the newspaper man, gave rise to Press criticism in various countries, and to a protest by the Commonwealth Press Union; Dr. Nkrumah's reply was that the freedom of the Press in Ghana "is not endangered in any way".

4. The Ashanti Divisional Court met in due course in Kumasi (where considerable tension was reported to exist) to consider the Moslems' appeal against the deportation orders against them. After Mr. Geoffrey Bing, Q.C., arguing for the Ghana Government, had given an assurance that they would not be actually deported pending an investigation of their claims to citizenship, the (British) Judge discharged an injunction previously granted against the deportation orders, and the two men were brought down to Accra and placed in custody in prison. Ten days later, amid hostile demonstrations, the Ghana Government put rapidly through the Ghana National Assembly a special Bill enabling the Minister of the Interior to deport the two men from Ghana, without appeal; and they were immediately deported to Nigeria. The reasons given by Dr. Nkrumah in the Ghana Parliament for this action were inter alia that violence had taken place in Kumasi during the first Court hearings, that the good faith of the Judge had been impugned and that the situation would have to be dealt with by other methods.
5. Meanwhile, Mr. Ian Colvin of the "Daily Telegraph", who had been in Kumasi covering the Court proceedings for his paper, had included in his report which appeared in the "Daily Telegraph" on 13th August the following paragraph -

"'British judgment bad', shouted one toga-clad Moslem to me, tapping his face to signify a blind eye in Mr. Justice Smith. 'Give us back our Gold Coast. Down with Ghana' shouted another."

6. The Ghana Government (who are evidently most resentful of critical comment that has appeared in the United Kingdom Press - ranging from the "Tribune" to "The Times" - about the deportations) warned Mr. Colvin on 19th August that he was not to leave Ghana, and next day applied for a writ of attachment against him, charging him with contempt of court. Similar writs were issued against the editors of an Opposition paper in Kumasi, the "Ashanti Pioneer".

7. On 10th September, the contempt of court proceedings opened in Accra. Mr. Christopher Shawcross, Q.C. appeared for Mr. Colvin, as well as for the "Ashanti Pioneer", and Mr. Geoffrey Bing, who had just been appointed Attorney-General to the Government of Ghana, for the Crown. On 12th September, the Court accepted Mr. Shawcross's contention that, as the proceedings in respect of which the alleged contempt was committed took place in the Divisional Court at Kumasi, the Accra Court had no jurisdiction. Mr. Shawcross also obtained an award of 250 guineas costs for Mr. Colvin. On 14th September Mr. Colvin and the "Daily Telegraph" filed writs in Accra claiming damages apparently for "unlawful detention, unlawful conspiracy, malignant prosecution and slander" from Mr. Bing, the Minister of Justice, the (British) Chief of Police and also Dr. Nkrumah.

8. After the failure of the Government's proceedings in Accra against Mr. Colvin, Mr. Shawcross flew to Nigeria to see the two Moslem deportees. Mr. Colvin was warned that further proceedings were contemplated against him and that he would be apprehended if he tried to leave the country. He was shortly afterwards served with summonses to appear in the Kumasi Court on Friday, 20th September to answer a charge (under Section 394 of the Ghana Criminal Code) that he had published his report "with intent to excite popular prejudice" against the authorities responsible for the first deportation orders. After the summonses had been served, the (European) Chief of Police told Mr. Colvin that he could go to Nigeria on an assurance being given that he would return to Ghana on Tuesday, 17th September. This assurance was given and he was permitted leave.

9. Up till this stage, the United Kingdom High Commissioner in Accra, Sir Ian Maclellan, had, on my instructions, refrained from intervening in the matter. So far as we were aware, the Ghana Government were acting within their legal rights and none of the parties had requested help from United Kingdom Government agencies. But on 16th September, it was reported in the Press that Mr. Krobo Edusei, the Ghana Minister of the Interior, had given orders, "in order to maintain peace and stability in the country", that Mr. Shawcross was not to be permitted to re-enter Ghana. I thereupon instructed the High Commissioner to express concern to the Ghana Government and to ask for the facts of the matter and for any views about it that they might like to make known to us. The Press was also informed of these instructions.
10. Before receiving these instructions, Sir Ian Maclellan saw the Acting Prime Minister of Ghana on the afternoon of 16th September (Dr. Nkrumah has been away on holiday for the last week or two). Mr. Botsio spoke with considerable feeling about the attitude of the United Kingdom Press and of B.B.C. comment, and was clearly much incensed by Mr. Shawcross's attempt to bring Dr. Nkrumah into the matter by seeking a writ against him. He also handed the High Commissioner a formal note which pointed out that, in the view of the Ghana Government, a condition attaching to the privilege that United Kingdom lawyers might be admitted to practise in Ghana was that they should not attempt to make use of the Courts of Ghana for attacks upon the integrity of Ministers and the propriety of laws passed by the Ghana Parliament. (I attach, at Annex A and B, copies of this note and of a reply to it which I have instructed the High Commissioner to deliver.) The High Commissioner has commented to us that Mr. Shawcross had overplayed his hand and turned the case into a political affair and that the position was exacerbated by seeking damages from Dr. Nkrumah personally; this action, according to Sir Ian Maclellan, was likely to rally support to the Ghana Government and to give colour to their belief that it was the "Daily Telegraph's" settled policy to denigrate a newly independent Commonwealth country.

11. It has also been reported that writs against Dr. Nkrumah and other Ghana authorities, similar to those issued in Ghana, have been applied for in London on behalf of the "Daily Telegraph" and of Mr. Colvin. The "Daily Telegraph" have instructed Mr. Colvin not to return to Ghana until further orders, despite his undertaking to return to Accra by 17th September; they are now bringing him to London for consultations. It is understood that Mr. Shawcross has informed the Bar Council that when he returns to this country he intends to submit a report on Mr. Bing with a view to their instituting an enquiry into alleged action by him in perverting the course of justice in Ghana and in deceiving the Court in Kumasi. Mr. Shawcross has also cabled to the Commonwealth Parliamentary Union urging Ghana members to reverse the decision of their Government and even going so far as to solicit support from Nigerian Parliamentarians. And finally Mr. Shawcross proposes publicly to test Ghana's ban upon him by making an attempt to regain admission to-day.

12. We have certainly not heard the last of this affair. The Ghana Government are clearly much offended at the actions of Mr. Shawcross and at the attitude of the United Kingdom Press and the "Daily Telegraph" in particular. They have acted badly in shutting out Mr. Shawcross. Increasing misgivings about the way things are going in Ghana are being expressed in this country. On the other hand Mr. Shawcross, justifiably outraged by the behaviour of Mr. Bing, seems to have conducted his case with a strong political flavour, and to have been most unwise, politically speaking, to serve a writ on Dr. Nkrumah who was absent for most of the relevant period. Moreover, the "Daily Telegraph's" application for a writ in London, if granted and not withdrawn, will presumably make it impossible for Dr. Nkrumah to pass through London on his way to the United Nations shortly without being involved in legal proceedings.

13. I shall be reporting to Cabinet as the case develops.

H.

Commonwealth Relations Office, S.W.1.

18th September, 1957
ANNEX A

TEXT OF NOTE OF 16TH SEPTEMBER FROM THE GOVERNMENT OF GHANA

Her Majesty's Government in Ghana wish to make clear to Her Majesty's Government in the United Kingdom the conditions upon which citizens of the United Kingdom who are not citizens of Ghana are permitted to practise law in Ghana.

It was the practice when the Gold Coast was a Colony of the United Kingdom for members of the English, Irish and Scottish Bars and for solicitors from the United Kingdom to be admitted to practise in Ghana despite the fact that the members of the Ghana Bar who are also members of the Bar in the United Kingdom are not permitted to practise as barristers in other parts of Africa under British control.

The Government of Ghana hope that it will be possible to continue the practice by which persons who are not Ghanaian citizens can be admitted on a visitor's permit in order that they may appear in the Courts of Ghana.

It is, however, naturally a condition of this privilege that any person to whom it is accorded will behave with due respect to the Government and the constituted authorities of Ghana. It would be destructive of the good and close relations which at present exist between the United Kingdom and Ghana if United Kingdom citizens came from Britain and attempted to make use of the courts of Ghana for attacks upon the integrity of Ministers and the propriety of laws passed by the Parliament of Ghana.

The Government of Ghana avails itself of the opportunity of renewing the assurances of its highest esteem.

ANNEX B

TEXT OF REPLY WHICH THE UNITED KINGDOM HIGH COMMISSIONER IN ACCRA HAS BEEN INSTRUCTED TO DELIVER

Her Majesty's Government in the United Kingdom wish to thank Her Majesty's Government in Ghana for their note of 16th September about the admission of citizens of the United Kingdom who are not citizens of Ghana to practise law in Ghana.

2. The United Kingdom Government have not commented and have no desire to comment on any matter which is the domestic concern of an independent Government. However as the Government of Ghana in the fourth paragraph of their note have expressed the view that the Courts of Ghana should not be used for attacks upon the integrity of Ministers and the propriety of laws passed by the Parliament of Ghana, the United Kingdom Government feel obliged to comment that the usual course is for the Courts themselves to take any action which they deem appropriate to
prevent any lawyer from using their facilities in a manner which they consider to be improper. In these circumstances the United Kingdom Government must express their regret that the Ghana Government should have deemed it necessary by administrative action to prevent an United Kingdom lawyer who has already been admitted to practice in the Ghana Bar from returning to Ghana to continue the defence, on which he was already engaged, of an United Kingdom citizen accused before the Ghana Courts.

3. The United Kingdom Government share the hope of the Ghana Government that it will be possible to continue the facilities under which lawyers from the United Kingdom are admitted to practise in Ghana. They warmly reciprocate the desire of the Ghana Government that the good and close relations which exist between the two countries shall be fully maintained.
OLD-AGE PENSIONS

NOTE BY THE SECRETARY OF THE CABINET

I was instructed by the Cabinet on 19th September (C.C. (57) 70th Conclusions, Minute 1) to prepare a statement setting out the various proposals for further Government action in relation to pensions and the arguments for and against each.

I.

THE EXISTING FLAT-RATE SCHEME

2. By way of preface, and for purposes of comparison, it may be useful to summarise the essential features of the existing flat-rate scheme.

3. In each year the cost of benefits to existing beneficiaries (retirement and widows' pensions; sickness and unemployment benefit, &c.) is met in the first instance from contributions in respect of existing contributors. Since the number of pensioners is rising steeply, there is at any given level of benefits an inevitable rise in the Fund's expenditure with no corresponding increase in the Fund's income. There is in fact no fixed relation between the Fund's annual income and expenditure. If there is a surplus (and there has been one every year up to now), it is not paid into the Exchequer but is retained in the Fund and invested in Government securities. When the deficit emerges, as it will in 1958-59, it has to be met from Votes—this is called the Exchequer deficit—or by realising securities now held in the National Insurance Fund, a process which on any substantial scale would be inflationary.

4. Compulsory contributions are made to the Fund by employers and employed, self-employed and non-employed persons, and for each of these classes by the Exchequer. The Exchequer contribution, which is borne on Votes, is called the Exchequer supplement. The amount of the total contribution is fixed by an actuarial calculation, but is not nearly as much as would actuarially sustain the benefits, because they are paid in full even though no sufficient charge is or can be made for “back service” due to late entry and periodic rises in the benefit rate.

5. Benefits have throughout been related, but not in any precise fashion, to the concept of subsistence, although that concept is capable of progressive modification as standards of living generally improve. The forthcoming increase in pensions to 50s. (single) and 80s. (married) will set the level in real terms higher than at any previous time.

6. An important feature of the scheme is the “contributory principle,” i.e., the benefits are payable only to those who have contributed to a prescribed extent, and are then payable as of right.

7. Another important feature is that an increase in benefits is always accompanied by an increase in contributions. This imposes a measure of social discipline. The fact that the contribution does not represent an insurance contribution in the true sense is well understood by informed opinion, but the actuarial calculations by which it is supported have an important presentational advantage.
NEW PROPOSALS: THE THREE MAIN POSSIBILITIES

8. The three main sets of proposals which have been put forward for further Government action are identified in this paper as—

(a) The June plan.
(b) The September and May plans (the September plan being a development of the May plan designed to help to meet the problem of the Exchequer deficit).
(c) The August plan.

The essential features of each of these plans are summarised in the following paragraphs.

The June Plan

9. (a) This plan is based on the following principles:—

(i) The National Insurance Scheme on its present flat-rate basis, but at the new higher levels, would continue to be regarded as the right extent of compulsory provision at the present time.
(ii) Beyond that the development of supplementary pension provision would be left to the voluntary processes of industrial bargaining and personal thrift; but the Government would create an independent statutory Corporation, which would act on a commercial basis as an insuring agency with a "common carrier" liability in order to facilitate supplementary provision for groups of employees which have not yet been reached effectively by the private sector (e.g., persons employed in small businesses and in casual, migratory or part-time employment).
(iii) Those who insured with the Corporation would have their pension rights preserved on change of employment. This might help to encourage employers to provide the same facility in their own occupational schemes.

(b) The public exposition of this plan could also draw attention to the existing powers conferred on the Minister of Pensions by Section 27 of the National Insurance Act, 1946, to approve and to enforce against recalcitrant employers or workers pension schemes negotiated in any industrial group by the two sides of industry.

(c) This plan could, but need not be, associated with a provision bringing private pension schemes under the same measure of financial supervision as at present applies to insurance companies.

The May and September Plans

10. The essential features of the May plan are:—

(a) A statutory obligation would be laid upon employers to make a minimum supplementary pension provision for their employees in respect of a specified amount of earnings above the level for which the basic flat-rate State pension would be regarded as sufficient provision.

(b) This obligation could be discharged by an employer either by contribution through an occupational scheme which satisfied certain prescribed minimum requirements or by contribution to an independent State-sponsored Corporation (the "back-stop") which would be responsible for the management and investment of its own funds and the payment of its own benefits.

(c) The employer, in the discharge of his minimum obligation, would have a statutory right to recover up to a specified proportion of the minimum contribution from the employee.

11. The essential features of the September plan are:—

(a) It would preserve the concept of the May plan of the statutory obligation on the employer and his right to discharge it by making satisfactory provision for the employee through the private sector.
In order, however, to meet the emerging financial deficit in the National Insurance Fund, it would substitute the State and the National Insurance Fund (i.e., State supplementary insurance) for the State-sponsored independent Corporation of the May plan but would preserve the right of the employer to discharge his obligation through an approved occupational pension scheme.

Subject to this right of contracting out, it would provide for the levy, over and above the flat-rate levy for the basic scheme, of contributions of 4 per cent. from employers and employees in respect of earnings between £10 to £15 per week (£8 to £13 for women). There would be no Exchequer supplement to these contributions.

Additional pensions above the standard National Insurance rate would be payable in respect of these graded contributions on a strictly actuarial basis which would give no more and no less than value for money without weighting in favour of older entrants. Illustrative figures showing rates of contribution and benefits (including the flat-rate contributions and benefits) are given in Appendix A.

For contracting out, occupational schemes would have to satisfy certain conditions, viz.,

(i) Contributions and benefits at least equivalent to those under the State supplementary insurance.
(ii) Preservation of these equivalent pension rights on change of employment by their members (transferability).
(iii) Solvency.

Self-employed persons would not be eligible to participate in the State supplementary insurance.

The surplus of income from graded contributions over gradually maturing liabilities for supplementary pensions would provide relief to the Exchequer against emerging deficits on the basic flat-rate scheme. This income would rise automatically with earnings, whether due to inflation or increased national wealth, but would diminish to the extent that approved occupational schemes developed. Further relief might be provided by provision to increase the basic flat-rate contribution by 6d. a side at intervals of, say, five years.

The August Plan
12. The essential features of this plan are:

(a) It would supersede the flat-rate basis of the present National Insurance Scheme.

(b) Employers and employees would be required to contribute 4 per cent. each in respect of all earnings up to £15 a week for men (or a lower figure for women). Self-employed persons might be required to contribute either a flat rate or 6¼ per cent. of earnings. There would be a minimum rate of contributions for all, including non-employed persons.

(c) The Exchequer would contribute at a rate of 2 per cent. of all earnings up to £8 a week (or a lower figure for women).

(d) The basic pension benefit would no longer be at a flat rate. It would be at a standard rate of 50s. (60s. married), but this standard would be increased within restricted limits by graduated benefits related to contributions in respect of earnings over £8 a week. Illustrative tables giving rates of contribution in respect of employed workers and rates of benefit are given in Appendix B. The figures of benefits in that Appendix include a measure of weighting of pensions in favour of older entrants to the scheme.

(e) The income of the scheme would rise automatically with increased earnings, whether due to inflation or increased national wealth. Provision might be made to increase the rate of percentage contributions by ½ per cent. a side at intervals of five years.

(f) The Exchequer contribution would be wholly devoted to the standard rate of benefit, and would in effect be made available to subsidise the benefits of contributors in inverse ratio to the level of their earnings.
SECRET

(g) It would be for decision whether graduated benefits would be provided for sickness and unemployment, on a basis similar to graduated pensions.

(h) There would be no provision for contracting out on the part of those participating in occupational pension schemes.

General comment

13. The three plans summarised above reflect different approaches to the problem. The June plan is limited to encouraging voluntary action—though its adoption need not prejudice the possibility of further compulsory action at a later stage. The other plans adopt the concept of compulsion to ensure that additional pension provision is made for those higher-paid workers who can reasonably be expected to contribute towards pensions higher than the standard set by the flat-rate scheme. The September and May plans approach the problem on the basis that this provision should supplement a continuing flat-rate pension, which would still be regarded as the basic provision; they leave employers to choose whether this supplementary provision should be made through the private sector or the State. The August plan adopts a different approach, whereby the basic provision would be financed by full graduation of contributions and would itself include a limited degree of graduation of pensions above the minimum flat rate. Under this plan the whole of the compulsory provision would be made through the State.

III

GENERAL POLICY CONSIDERATIONS

14. Ministers may find it convenient to consider first the following general questions of policy:

(a) Should the area of State compulsion be extended, on grounds of social policy, to provide pensions for higher-paid workers at a higher level than under the existing flat-rate scheme? If so, how far should such compulsory extension go?

The May, September and August plans would extend the area of compulsion: the June plan would not. It has been argued on the one hand that some compulsory extension of the present statutory obligation is desirable as a measure of social reform. On the other hand it has been argued that extended compulsory saving may not be generally popular.

(b) Should the financial structure of the basic State scheme be changed?

The August plan would wholly remodel the basic scheme. The September plan would leave it unchanged, but would reinforce the finances of the basic scheme by appropriating for that purpose the surplus of income from the new graded contributions over the gradually maturing liabilities for supplementary pensions.

Neither the May plan nor the June plan would make any difference to the finances of the present flat-rate scheme.

(c) What are the inflationary implications of extended compulsory savings?

The June plan would have no such implications. The inflationary implications of the September and August plans would be determined by the immediate changes they would make in contributions at the time of their introduction (in 1960–61), by which time the inflationary effects of next Session's increase in flat-rate contributions will already have been fully worked out.

As regards employees' contributions, the reduction of contributions for lower-paid workers under the August plan might be obscured, from the point of view of wage claims, and attention might rather be focussed on the additional contributions required under either scheme in respect of higher-paid workers. These additional contributions would be greater under the September plan than under the August plan, but the effect in the former case would be mitigated through the use made of the provision for "contracting out." Thus, the effect of the two schemes on wage claims might not be widely different.
As regards employers’ contributions, the August plan would leave the total more or less unchanged at the outset. Under the September plan they would be increased by the additional graduated contributions in respect of higher-paid workers. From this point of view, therefore, the September plan would be more inflationary than the August plan, through its effects on the costs of production of those firms or undertakings which had not previously contributed to occupational schemes on the full scale which would in future be required.

(d) What impact would State action have on existing and future occupational schemes? And what effect would the different plans have on the nature and extent of State responsibility in the field of pensions (and other benefits)?

The June plan would have little effect.

The effects of the September and August plans are discussed in paragraphs 21–24 below, where the conflicting opinions are set out.

IV

COMPARISON OF THE THREE MAIN PLANS

The June Plan

15. This plan, if adopted, would be put forward in opposition to the Crossman plan rather than in competition with it. Ministers will wish to consider whether it goes far enough to meet the political demand for improved pension provision.

They will also note that it would do nothing of itself to relieve the finances of the existing scheme by providing an expanding source of revenue—a although it would not prejudice other methods of dealing with the financial problem if they were thought socially and politically desirable.

On a lower plane, it must be noted that the role of the State Corporation would present difficulties. Its administration costs might be higher than those of the Life Offices because, unlike theirs, its clientele would consist largely of casual or migratory workers or workers in small undertakings. This difficulty might be mitigated or removed by administrative assistance from the State machine (e.g., the advice of the Government Actuary and the record keeping and other facilities of the Ministry of Pensions and National Insurance). The question whether the investments of the Corporation Fund should be confined to gilt-edged securities would also pose problems.

16. On the other hand the plan has the following advantages:—

(a) It would avoid the inflationary impact of additional compulsory contributions.

(b) By recognising that supplementary pension provision is really part of “wages and conditions of employment” it would place firmly on the Trade Unions the responsibility for negotiating for improvements in supplementation as part of the improvement of the conditions of their members.

(c) It would limit the sphere of State responsibility in social security to basic needs and would avoid any possibility of State responsibility for making good any fall in the real value of supplementary benefits.

(d) Psychologically, it would encourage rather than discourage personal responsibility and providence as against reliance on the State.

(e) It is the only scheme which cannot be represented as a miniature version of the Labour Party’s plan.

(f) It would present the least administrative problems.

(g) It could be launched (i.e., the Corporation could be set up) more easily and more quickly than any of the other schemes.

(h) It could be put forward as a constructive contribution at this juncture, but not necessarily as a final solution, and would thus afford time and opportunity for the testing of opinion and demand.

A VARIANT OF THE JUNE PLAN

17. A variant of the June plan has been envisaged involving departure from the voluntary principle of that plan to the extent of taking power to impose compulsion on a body of employers where the majority of their workers, having
failed to negotiate a scheme of which they were prepared to pay half the contribution involved, applied for this to be done.

This may be thought to represent a slightly more positive approach to the problem which retains some, though not all, of the advantages of the June plan. It would impose its own difficulties, particularly in connection with the identification of the groups of workers and majorities concerned. It might be held also to constitute a direct interference with the freedom of industrial negotiation.

The August and September Plans

18. If the June plan should be considered insufficient to meet the social requirements, and the May plan insufficient to meet the financial requirements, the choice may rest between the August and September plans.

Timing

19. Neither of these plans could be introduced before 1960. For the more complicated September plan delay beyond that date might be desirable.

Financial aspects

20. Both plans are designed to provide substantial assistance towards the prospective problems of the Exchequer. The relative advantage from this point of view of one plan rather than the other would depend on a number of variable factors. These include (i) the extent to which productivity and real incomes will rise in future years; (ii) the extent of “contracting out” under the September plan both at the outset and subsequently; (iii) whether or not pre-arranged quinquennial increases in contributions are in fact provided for under either plan; and (iv) whether or not graduation of sickness and unemployment benefits is included as a feature of the August plan. In view of the variety of possible assumptions which could be made concerning these points, it is not possible to produce tables showing with any degree of precision the financial out-turn to be expected under the two plans, especially after the earliest years.

It can however be said that the August plan, which is designed to bring in at the outset not much more contribution income than the forthcoming 17s. 6d. flat rate, would on reasonable assumptions about the continuing growth of productivity and real earnings provide an automatic and progressive growth of income. The aim of the plan is to keep the finances in balance year by year. Given an expanding economy, it should be possible to get reasonably near to this objective for many years to come.

The September plan would provide an immediate substantial increase in income, through additional graduated contributions. The size of this increase would depend on the extent of “contracting out,” but it would probably put the Fund initially into surplus. With any growth thereafter in the size and number of approved occupational schemes, the initial increase in income would be reduced; but, given increasing productivity, the per capita yield of the graduated contributions in respect of those remaining in the State scheme would automatically grow. The total increase in income resulting from increasing productivity would be smaller than under the August scheme, because fewer people would be paying graduated contributions, and because these contributions would be charged on a narrower band of earnings. Nevertheless, the income from graduated contributions under the September plan should initially extinguish, and for a long time thereafter substantially diminish, the emerging Exchequer deficit under the flat-rate scheme.

The September Plan

21. Those who prefer the September plan adduce the following arguments in support of it:

(a) It represents a constructive piece of social reform based on the concept that the duty to make reasonable provision for occupational pensions, to supplement the basic flat-rate pension, should rest primarily on the employer and not the State and that the time has come to make this duty a statutory obligation.

(b) It is designed however to preserve as far as possible an important role for the private sector in the development of occupational pension schemes.
(c) It does this, not only by providing that the statutory obligation may be discharged through the private sector, but by laying down conditions (for contracting out) designed to promote the development of occupational pension schemes along lines which are more in accord with modern needs. "Transferability," or preservation of pension rights on change of employment, is desirable in the interests of greater mobility of labour; and some supervision of privately administered schemes from the point of view of solvency is desirable for the protection of members. Development by the private sector along these lines is the only way in the long run of preserving for it a major role in pension provision and avoiding wholesale encroachment in this field by the State.

(d) Although the necessity for these adaptations will seem difficult or troublesome to the private sector, criticism from that quarter on that account need not be politically embarrassing to the Government. Ministers will not wish to appear to have produced a scheme to the specifications of the life insurance companies. Moreover, these difficulties could probably be eased, and the desirable developments better encouraged, by allowing a delay of two or three years between the promulgation of the statutory obligation and the bringing of the scheme into operation.

(e) The plan recognises that supplementary pensions for a large number and variety of mobile or casual workers, employees of small employers, &c., cannot readily be provided by private insurance, and it provides a State facility to meet their needs.

(f) The plan, by providing that the graded contributions to the State should accrue to the National Insurance Fund (out of which the benefits would ultimately be payable), creates an immediate source of income for that Fund which should initially extinguish the Exchequer deficit and for a long time thereafter substantially reduce the deficits foreseen under the existing scheme.

(g) The plan bases itself on the flat-rate benefits and contributions as they will be after February 1958 — recognising inter alia the very great political difficulty of defending these contributions if the new scheme forecast any reduction of the minimum contributions by employees.

(h) The plan limits the risks inherent in any extension of the role of the National Insurance Fund beyond flat-rate benefit at near-subsistence level. This is the present concept of basic benefit and it connotes the fullest degree of State responsibility, carrying with it the concepts of universal compulsory contributions, supplemented by Exchequer contributions and supported by State guarantees, explicit or implicit, to meet the emerging deficits and to maintain the purchasing power of the benefits. The plan limits the risk by preserving a clear distinction between the basic flat-rate benefits and the graded pensions for which the Fund would be responsible, thus reaffirming unequivocally the principle that the fullest measure of State responsibility is confined to basic flat-rate requirements and that State insurance beyond that is to be confined to supplementary pensions on strictly commercial lines giving no more and no less than value for graded contributions.

22. The principal objections raised against this plan are stated as follows:

(a) There are serious disadvantages in so large an extension of the scope of compulsory provision. It would be inflationary: representatives of the Life Offices have indicated that they would be opposed to it: and it might not be popular either with employers or with workers.

(b) It renders necessary a provision for "contracting out," which requires an elaborate apparatus for controlling occupational schemes. There are many thousands of these. Virtually none of them would at present satisfy the conditions laid down, and the employers concerned would be reluctant to make them do so. Unless therefore they were willing to pay in full under both their occupational scheme and the enlarged State scheme, thousands of employers, public and private, would have to decide either to adapt their scheme so as to satisfy the conditions for contracting out or to cut their scheme back so as to make room for the State scheme and render contracting out unnecessary. Much friction
would be caused, and occupational schemes (present and future) might well be stunted. The problems for the schemes in the public services and nationalised industries—particularly the statutory ones—would be specially awkward. The contracting-out provision gives no freedom of choice to the individual employee, and it would not remove the opposition to the plan which must be expected from the private sector.

The August Plan

23. Those who favour the August plan adduce the following arguments in support of it:

(a) This plan starts from the proposition that the present flat-rate scheme is unsatisfactory, not merely because it supports a standard of benefit which is under constant political pressure, but because of the high level and regressive effect of the flat-rate contribution and the inevitability of heavy Exchequer deficits—difficulties which are intensified every time it becomes necessary to increase benefits.

(b) Its aim is to find means of combining social progress with financial soundness by providing a structure which would support, more satisfactorily than the present one, new and higher standards of universal provision.

(c) The key to the plan is the introduction of a graduated contribution. This would fall more equitably on employees than a flat-rate contribution, and would obviate the complaints which some employers make about the undue cost of employing part-time workers. It would also ensure that, as earnings and productivity rose, the Fund's income would be automatically increased. It would therefore make an attempt to bring the Fund's income and expenditure into balance by providing at the outset no more income than was required, and in future years a growth of income to set against the inevitable growth of expenditure.

(d) It would also provide a measure of self-financing towards the cost of further increases in benefits.

(e) The plan recognises that requirements in old age vary according to the pensioner's financial circumstances during work, and therefore provides for a small amount of graduation in the basic old age benefit. But it keeps this graduation within narrow limits, so as not to encroach unduly on the private sector.

(f) Representatives of the private sector have indicated that they would not be opposed to a scheme on these lines. There would be no room in a universal scheme of this kind for "contracting out," just as there is no room for "contracting out" in the present universal scheme.

(g) The plan would set no new problems for occupational schemes. It would leave them undisturbed, without any new compulsion or control.

(h) The graduated contribution means inevitably that some would pay more and some less than the flat rate. But all those who paid more would get an additional benefit, and a graduated contribution would reduce the impact of contributions on wage claims.

(i) An Exchequer supplement would remain; but, instead of being spread evenly over all contributors, it would be concentrated where it is most needed—on supporting the benefits of the lowest paid. The better off the contributor, the less the support he would get from the Exchequer.

(j) The plan maintains the contributory principle: it does not maintain the actuarial connection between the rate of benefit and the rate of contribution. It substitutes for this the concept that by Government decision a fixed percentage of current earnings, up to a prescribed level, is devoted year by year to the needs of the retired. The money available for these social benefits would therefore be related to the level of the nation's productivity—i.e., in crude terms, to what the country as a whole could afford.

24. The principal objections urged against the August scheme are stated as follows:

(a) By providing for substantial increases in contribution by the higher-paid worker, without provision for contracting-out, it would at once threaten private occupational schemes. Many firms already operating or about to establish such schemes would drop them, employers and workers
being unwilling to pay both private contribution and National Insurance contribution on this scale. State action would thus extensively displace private insurance.

(b) It abandons the well-defined and established safeguard that the universal State scheme (carrying State subsidies and implicit guarantees against inflation) is confined to benefits at a uniform flat rate near subsistence level. It thus opens up the way, under inevitable political pressures, to unlimited enlargement of State responsibility for wage related benefits, with consequent enlargement of public concepts of the duties of the State, which would be highly inflationary, and with consequent elimination of private occupational insurance, which, because of the absence of contracting-out, would have had neither the chance nor the compulsion to adapt itself for survival.

(c) The loading of the scheme against higher-paid workers would strike them as inequitable and thus aggrieve an influential section of workers.

(d) The scheme does not recognise the very great political difficulty of proceeding with the forthcoming increase in the flat-rate National Insurance contribution for two or three years if it is to be reduced substantially for lower-paid workers at the end of that period.

(Signed) NORMAN BROOK.

Cabinet Office, S.W.1,
10th October, 1957.
APPENDIX A
THE SEPTEMBER PLAN

I.—Contributions (including N.H.S.)*—

<table>
<thead>
<tr>
<th>Weekly earnings</th>
<th>Employee</th>
<th>Employer</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>£10 and below</td>
<td>9</td>
<td>8</td>
<td>17</td>
</tr>
<tr>
<td>£12</td>
<td>10</td>
<td>9</td>
<td>20</td>
</tr>
<tr>
<td>£15 or more</td>
<td>13</td>
<td>12</td>
<td>25</td>
</tr>
</tbody>
</table>

II.—Benefits (for men)*—

<table>
<thead>
<tr>
<th>Average weekly earnings</th>
<th>Age on entry†</th>
<th>Total pension</th>
</tr>
</thead>
<tbody>
<tr>
<td>£10 or less</td>
<td>Immaterial</td>
<td>50</td>
</tr>
<tr>
<td>£12</td>
<td>39-42</td>
<td>58</td>
</tr>
<tr>
<td>£15 or more</td>
<td>39-42</td>
<td>70</td>
</tr>
</tbody>
</table>

* The figures above represent contributions and benefits for men. For women both would be substantially lower owing to the lower minimum contributions for women, their lower pension age, and longer expectation of life.

† The graduated element in the pension would be related actuarially to contributions paid in respect of the individual from entry to pension age. The examples given are selected from a possible table on this basis.

APPENDIX B
THE AUGUST PLAN

I.—Contributions (including N.H.S.)—

<table>
<thead>
<tr>
<th>Earnings</th>
<th>Employee</th>
<th>Employer</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>£6</td>
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<td>4</td>
<td>9</td>
</tr>
<tr>
<td>£8</td>
<td>5</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>£10</td>
<td>7</td>
<td>9</td>
<td>16</td>
</tr>
<tr>
<td>£15 or more</td>
<td>12</td>
<td>12</td>
<td>24</td>
</tr>
</tbody>
</table>

Note.—

For women, the upper limit of earnings on which contributions would be payable would be lower than for men. £13 has been suggested.

II.—Benefits (for men)*—

<table>
<thead>
<tr>
<th>Average weekly earnings</th>
<th>Age on entry†</th>
<th>Total pension</th>
</tr>
</thead>
<tbody>
<tr>
<td>£8 or less</td>
<td>Immaterial</td>
<td>50</td>
</tr>
<tr>
<td>£10</td>
<td>18-30</td>
<td>60</td>
</tr>
<tr>
<td>£15</td>
<td>30-30</td>
<td>75</td>
</tr>
</tbody>
</table>

Note.—

* For women, the lower pension age and longer expectation of life would mean that the graduated additions to the standard rate would be substantially less.
17th September, 1957

REDUCTION OF HOUSING PROGRAMME: ENGLAND AND WALES

Memorandum by the Minister of Housing and Local Government

Socially and politically the tenderest spot for attack in the Government's anti-inflation policy is likely to be its implications for local authority housing. It may be helpful to the Cabinet, therefore, to have before them the basic housing figures for England and Wales.

2. The output of houses in the public sector has already been falling steeply since the peak year of 1954, as is shown by the figures of houses under construction at 31st July in each year:

<table>
<thead>
<tr>
<th>Year</th>
<th>Houses Under Construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>194,000</td>
</tr>
<tr>
<td>1955</td>
<td>157,000</td>
</tr>
<tr>
<td>1956</td>
<td>150,000</td>
</tr>
<tr>
<td>1957</td>
<td>132,000</td>
</tr>
</tbody>
</table>

I expect completions in the calendar year 1957 to be of the order of 125,000, which will be a fall of 40 per cent from 1954 (215,000).

3. I have offered to cut the programme of starts to 100,000 houses in each of the years 1958/59 and 1959/60.

4. Of this 100,000, about 10,000 will be needed for the twelve new towns; I could not slow down the housing development there (which of course is closely linked with the industrial growth) to a substantially lower figure. This will leave 90,000 for local authorities.

5. For local authorities, slum clearance is now the first priority. Our election manifesto in 1955 said: "We shall root out the slums at an increasing pace, and aim to rehouse at least 200,000 people a year from them! To achieve this aim, some 65,000 "slum clearance" houses a year are wanted. In addition, about 10,000 houses a year are needed for houses for incoming workers in expanding industrial areas, and for essential "overspill" building under town development schemes. At most, therefore, some 15,000 out of the 100,000 houses would remain for meeting general needs.

6. The housing shortage is still so acute in a number of areas that the authorities are finding it essential to go on building for general needs, even though they get no Exchequer subsidy. To insist that general needs building should be screwed down to 15,000 a year in order to enable slum clearance (which does not increase the total number of dwellings) to reach 65,000 a year would in all likelihood evoke strong protests from the local authorities which still have acute housing shortages in their areas. They could, and no doubt would, argue that they were the better judges of local needs, and that if they thought it right to go on building for general needs at no cost to the Exchequer, rather than for slum clearance with Exchequer grant, they should not be prevented from doing so.
7. In the context of the Rent Act, where additional dwellings obviously help more to mitigate our difficulties than the replacement of slums does, it would in my judgment be extremely difficult to resist this argument. We are likely therefore not to be able to achieve within this Parliament the aim of rehousing 200,000 people a year from the slums, although, but for these necessary cuts in the housing programme, I previously had good hopes of attaining it in 1958.

H.B.

Ministry of Housing and Local Government,
S.W.1.,

16th September, 1957.
CABINET

MEETING OF COMMONWEALTH FINANCE MINISTERS

MEMORANDUM BY THE CHANCELLOR OF THE EXCHEQUER

I attach two reports by officials:—

(a) a brief on the Commonwealth trade talks (Annex A);
(b) a brief on the United Kingdom/Canada trade talks (Annex B).

2. The first of these papers is a general brief in the main based on decisions already taken by my colleagues in the Cabinet but I should like to direct their attention particularly to paragraphs 9 and 10 dealing with the location, timing and the level of any Commonwealth Economic Conference.

3. The second of the papers is a report on how the bilateral discussions with Canada might be conducted in the light of the advice we have received from Ottawa of the reception of the proposals for a Free Trade Area put to Canadian Ministers by the Minister of Agriculture, Fisheries and Food.

P. T.

Treasury Chambers, S.W. 1,
17th September, 1957.
ANNEX A

BRIEF BY OFFICIALS ON COMMONWEALTH TRADE TALKS

PART I

Introduction

This brief covers general Commonwealth trade questions and related matters which are to be discussed at the Ottawa meetings of Commonwealth Finance Ministers. Matters relating to Anglo-Canadian trade are dealt with in a separate brief.

2. Mr. Diefenbaker has publicly expressed a wish to see Commonwealth trade increased and has put forward a proposal for a Commonwealth Economic Conference in 1958. In a Memorandum (Annex A to C. (57) 187), the Canadian Minister of Finance has listed topics which might be considered at such a conference. At the Mont Tremblant meetings, the Canadians hope to seek the agreement of other Commonwealth Governments that a Commonwealth Economic Conference be held in 1958 and to have preliminary discussion on certain subjects mentioned in the Canadian Memorandum.

3. This brief therefore deals first with the line to be taken on the holding of a Commonwealth Economic Conference in 1958. The subsequent part summarises our views on the matters on which the Canadians have suggested there should be substantive discussion at the Ottawa meetings. The final part summarises the Working Group's conclusions as to the suitability of the various topics suggested by the Canadians for inclusion on the agenda of a Commonwealth Economic Conference.

PART II

The question of a Commonwealth Economic Conference

4. The Canadian Memorandum proposes for discussion a wide range of miscellaneous topics. These topics and our reactions to them are summarised in paragraphs 16–25 below. It seems unlikely, in the light of past experience, that a Conference with so heterogeneous an agenda would yield useful results.

5. Nevertheless, we should not adopt a negative attitude to the proposal, particularly as there is no certainty that the Anglo-Canadian trade talks will show positive results. The new Canadian Administration are well-disposed towards us; and if we and the rest of the Commonwealth appeared to rebuff their initiative they might encounter serious domestic political difficulties. Since the war, Canada has tended, in the economic field, to move away from the United Kingdom towards the United States. This has been due to her being the only Commonwealth country outside the sterling area, and the discrimination against her in the trade and payments field which that has entailed; and also to the increased strength of the United States economy. Convertibility and the ending of discrimination will do much to remove this. And the present situation offers the kind of opportunity of arresting this trend which may not recur for a long time. Misunderstanding of our attitude would be likely to arise both in this country and in Canada, particularly as we are at the moment taking a leading part in the negotiations for closer economic association with Europe.

6. There would in any case be advantage in the context of the negotiations for the European Free Trade Area if we were known to have under consideration arrangements which might appear to provide some alternative course. Moreover, whether the European Free Trade Area negotiations are completed next spring or have failed, a Commonwealth Economic Conference might be desirable shortly afterwards to examine the implications.

7. At the meeting of Finance Ministers, therefore, we should adopt a positive attitude. If the general feeling of the meeting is favourable to the idea of a Conference, we should take the lead in endorsing it, subject to adequate preliminary preparations by a meeting of senior Commonwealth officials early in 1958. If, on
the other hand, other Commonwealth Finance Ministers show that they are not attracted by it, we should seek to rescue the Canadian authorities from embarrassment by suggesting:

(a) that a special meeting of senior Commonwealth officials should be held early in 1958 to discuss (i) the developments in the European negotiations, and (ii) the whole range of Commonwealth economic problems. This meeting could advise Commonwealth Governments whether there appeared to be need for a Commonwealth Economic Conference or for some other gathering of Ministers; and would in effect be the first of the annual meetings of senior officials which has been recommended;

(b) that in fact it may well prove desirable to have a meeting of Commonwealth Ministers in 1958 to consider the implications for the Commonwealth of whatever may result from the European Free Trade Area negotiations.

8. In the brief regarding the European Economic Community and Free Trade Area, the related proposal is also made that there should be meetings of Commonwealth High Commissioners in London to keep the European negotiations under review. We envisage this proposal being put forward as a separate proposition in connection with the discussions on the European Free Trade Area negotiations.

The location, timing and level of a Conference

9. If it is decided that there should be a Commonwealth Economic Conference in 1958, the question will arise of where and when it should be held and at what level. It is important that the Conference should be held in a centre which is convenient to reach and where full services can be provided. The Government of whatever country holds the Conference will no doubt provide the Chairman and will inevitably share substantially in the responsibility for ensuring that the Conference is a success. As this report shows, the material for a Conference at present looks somewhat thin and we would, therefore, not favour having the Conference in London if it can be avoided. We think that as the Conference was a Canadian proposal it would be appropriate that it should be held somewhere in Canada (not necessarily in Ottawa) and this would enable Mr. Diefenbaker to take the Chair. We do not know whether the Canadians will wish to have the Conference before or after their Elections which might well be in the summer of 1958. A Conference in the spring or early summer would be an inconvenient time for many Commonwealth Finance Ministers. Experience has shown that some date between the end of September and January is the most convenient time. If it is not agreed that the Conference be held in Canada it may become difficult to avoid holding it in India, especially if it is to be in the autumn, because it is proposed that the Bank/Fund meetings should be held next year in Delhi. This might prove embarrassing for us because it would involve an Indian Chairman and would lead to a tilt towards the theme of development and pressure for some form of financial assistance to India. Therefore we should try to steer discussions away from this suggestion. We should be prepared in the last resort to offer to have it in London.

10. We have also given some preliminary thought to the level at which this Conference should be held. In 1952 the Commonwealth Economic Conference was a Conference of Prime Ministers. Given the likely agenda for the present Conference if it developed we think it should be rather a Conference of Finance Ministers and Ministers of Trade and Commerce. This would not prevent Mr. Diefenbaker from presiding if the Conference were held in Canada. There is a precedent for this. Mr. Menzies presided over the Conference of Commonwealth Finance Ministers held in Sydney in January 1954.

PART III

Topics which the Canadians wish to discuss at Mont Tremblant

11. The Canadian Minister of Finance has suggested that there should be some preliminary discussion during the meetings at Mont Tremblant on United States commercial policy, wheat, dairy products, and United States action on lead and zinc. The line we should take on these items is discussed below.
United States Commercial Policy

12. The Canadian Memorandum suggests that Commonwealth Finance Ministers should review together the various ways in which their countries are affected by developments of United States Commercial Policy, including actions taken under the Trade Agreements Act, surplus disposal operations and other policies and programmes of the United States bearing upon trade. It also states that Canada, and no doubt other Commonwealth countries too, will be holding discussions with the United States on a number of trade problems, and it would be helpful to each of them to know in advance the views of their fellow members of the Commonwealth. The United Kingdom Government have for long followed a policy of keeping other Commonwealth Governments closely informed about our dealings with the United States Government in matters of commercial policy, including in particular any proposals for the acceptance by the United Kingdom of surplus agricultural commodities under United States Aid programmes. We have been at pains to give other Commonwealth Governments an opportunity of commenting. We would welcome a similar exchange of information and consultation by other Commonwealth Governments and agree that there should be an exchange of views on these topics at Mont Tremblant. The United Kingdom's main interest is in the field of United States tariff policies. Publicity about discussions of United States commercial policies would need careful handling as it could be embarrassing to appear publicly to be discussing them.

Wheat

13. The Canadian Memorandum says that the Canadian Government has no intention of becoming a weak seller in the wheat markets of the world but is nevertheless prepared to give consideration to the use of a portion of its present wheat surplus to enlarge the scale of assistance now being made available to Commonwealth countries under the Colombo Plan. The Canadians' idea is presumably to sell wheat to India and Pakistan at the rupee equivalent of their normal selling price which would not have the effect of dragging down the world prices of wheat. Moreover, such reduction in Canada's surplus stocks of wheat as might be achieved by these means would to some extent ease the pressure on the Canadian authorities to relax their normal selling price. The scheme would therefore tend in the direction of maintaining the price of Canadian wheat, although in so far as it caused Canadian wheat to replace Australian wheat, it might have a lowering effect on the latter. However this may be and despite our interest which is in somewhat lower wheat prices it will be difficult for us to question any proposals on the lines sketched above because they would be of undoubted value to the food situation in India and Pakistan, which could in some circumstances endanger their political stability, and to their balance of payments.

Dairy Products

14. The Canadian Memorandum says that Canada, like most major producers, must make some special provision in regard to the major dairy products; that this will involve in the future, as in the past, restrictions upon imports, and that Canada would like to be able to make arrangements with other Commonwealth countries that would ensure them of an equitable share of imports. There is no direct United Kingdom interest in this item. It indicates Canadian readiness to discuss with Australia and New Zealand the possibility of allowing some imports of these products and in these circumstances we should avoid "taking sides." At present, Canada allows no imports of butter or Cheddar cheese; poultry was brought under control in July this year and dried skimmed milk is similarly threatened.

United States action on lead and zinc

15. In paragraph 14 of their Memorandum the Canadians say that they would like to discuss with other members of the Commonwealth the compensatory arrangements which they might seek in the event of the United States imposing new duties on imports of lead and zinc. The Canadians probably suggested this matter for discussion at a time when they thought the imposition of new United States duties on imports of lead and zinc was imminent. It now appears, however, that no increase in the duties is likely until March or April 1958. Further, if imposition of the new duties is postponed, the United States Government will probably have, or be about to get, by the middle of next year, tariff-reducing powers and the
administration may well seek Canadian agreement to compensation for the increased duties on lead and zinc being provided by way of reductions in the United States tariff. If, however, agreement could not be reached in this way it would still be open to the Canadians to take retaliatory action under the G.A.T.T. If there is discussion on retaliatory measures we should suggest that additional tariffs should be imposed on goods which Canada imports generally from the United States and of which the United Kingdom is the only other important supplier. The brief suggests that “machinery n.o.p.” is the obvious candidate, although in the annex to the brief a number of alternative, but much less significant, items are listed.

PART IV

Summary of suitability of topics suggested by the Canadians for inclusion on the Agenda of a Commonwealth Economic Conference

16. We have now been able to examine the proposals contained in the Canadian Memorandum in some detail. This examination has not led us to change our initial reactions which were that it does not appear to provide a satisfactory basis for a Conference.

17. Certain topics appear definitely unsuitable in our opinion. For example, a review of the price of gold, while of interest to South Africa, would be unlikely to lead to any useful conclusion (if for no other reason than that the United States would not be represented at the Conference) and might well cause undesirable speculation in the money markets. Discussion of tax treaties would be too technical for a Conference of this kind and we do not think that there are any outstanding problems of sufficient importance in this field. We do not think there is scope for useful discussion of trade in uranium and we are most anxious to avoid discussion, at present of security safeguards against the diversion of fissile materials to military use, about which there is disagreement between the Canadians and the Indians. Similarly discussion of shipping matters might well lead to Australia, New Zealand and Canada “ganging up” on the United Kingdom and it would be much more satisfactory if problems of freight rates could be settled by normal commercial negotiation between the parties concerned. Another topic which may prove unsuitable is Commonwealth telecommunications.

18. The Canadians’ Memorandum also suggests a number of topics for discussion under the general heading of Commonwealth investment and development. We would welcome a Canadian statement saying that they agree in principle to associate themselves with the United Kingdom Government in giving economic and financial aid to the West Indies. Whilst we would generally welcome any increased aid which Canada or other more developed Commonwealth countries could give to the less developed members, such as Ghana or the West Indies, there are dangers in discussing problems of aid between the donors and the recipients, particularly in multilateral discussions. For our part, given our need for heavy investment at home, it must be very doubtful whether we can increase our investment in the Commonwealth at present. New organisational or institutional arrangements will not produce additional capital and we should try and avoid being put under pressure to do more than we are at present. Given this position we could not contribute much to discussions on these matters at a Commonwealth Economic Conference.

19. In the general field of increased Commonwealth trade (as distinct from bilateral matters between the United Kingdom and Canada) the Canadian Memorandum lists a number of topics of interest primarily to the Commonwealth producer countries (e.g., wheat and wheat disposals, Q.R. on dairy products) on which we have a somewhat conflicting interest as a consumer country. We could not take the lead in such discussions and would have to watch our position and interests carefully. Paragraph 16 of the Canadian Memorandum, while stating that Canada is not proposing a new system of tariff preferences, or of restrictions against Commonwealth countries, says that the Canadians would be glad to engage in discussions relating to tariff adjustments. We think that the Commonwealth will generally support the Canadian view on the undesirability of any new system of preferences and indeed their attitude to new Commonwealth trading arrangements in general. In the past, Australia and New Zealand have been the strongest supporters of Imperial Preference, but in our trade negotiations last year with Australia, the question was how far we could maintain existing preferences.
Inter-Governmental arrangements for expanding Commonwealth trade would involve, on our side, strengthening the protection given in our market to Commonwealth food and raw materials; on the side of the rest of the Commonwealth it would involve larger margins of preference for United Kingdom goods.

20. Discrimination in favour of Commonwealth countries has generally been by means of tariff preferences; it could also be achieved by the use of quotas or by bulk purchase. But these courses would cut across our existing commercial policy and our international obligations. All of them would raise practical difficulties:—

(a) Both the United Kingdom and the rest of the Commonwealth would thereby injure the trade of foreign countries and have to face retaliation.

(b) Increased discrimination in favour of the Commonwealth would be certain to raise a political outcry in the United States.

(c) Europe could not be expected to tolerate a free trade area in manufactures accompanied by increased preference for Commonwealth foodstuffs.

21. There remains the danger of a split in the Commonwealth because nothing suggests that the Asian members would back increased preference and South Africa has always been lukewarm about giving us worthwhile preferences. No Commonwealth country would lightly reject an offer of increased preference in the United Kingdom market but most seem unlikely to be prepared to give us much in return.

22. It is in any event improbable that the Commonwealth would be prepared to enter into new preferential trading arrangements unless the United Kingdom was prepared to limit her domestic agricultural support. It is the high level of our own agricultural production which, more than any other single factor, has harmed Commonwealth trade in foodstuffs with the United Kingdom, and the extent to which this is based on price support has alarmed the Commonwealth. In pressing us to enter into some limitation of our agricultural support the Commonwealth would be united and indeed would be urging on us the same course that Europe will urge on us in the coming months during the free trade area negotiations. If some such course were regarded as politically tolerable it might be possible to secure Commonwealth trading arrangements which would help our export trade substantially. But we have not explored these possibilities further in this memorandum.

23. It seems to us therefore that there is little prospect of launching any major change in Commonwealth trade policy. If unexpectedly anything emerges, it would be advantageous in terms of our negotiations in Europe to keep it alive and under examination. It might have a salutary effect on our European partners if they thought we had in prospect a new Commonwealth Trade policy. But despite this possibility, it would not in our view be useful to set up continuing discussions of Commonwealth Trade policy, if there were no substance behind the proposals under examination.

24. In discussion of trade matters, however, we should welcome any proposals for increased trade between other Commonwealth countries and Canada, which would tend to improve the sterling area’s balance of payments with the dollar area. The Canadian Memorandum suggests that trade could be increased if Commonwealth Government tenders were open to suppliers in other Commonwealth countries. As far as we are concerned, neither Commonwealth nor foreign countries are excluded from tendering for Public Works Contracts, although no special arrangements are made to ensure that they are given an opportunity to put in their bids, and in practice they may find it difficult to do so. Balance of payments considerations and the protection of United Kingdom industry are taken into account in the placing of Government contracts and operate with other commercial considerations to the exclusion of overseas contractors. If the Canadians put forward proposals to remove such restraints as restrict at present the placing of Commonwealth contracts in the cheapest Commonwealth market, we should express ourselves as ready to consider them. But there will be balance of payments problems and we should have to take into account the possible reaction of the United States against United Kingdom tenderers for public works there if there were to be any question of appearing to discriminate against the United States in the placing of United Kingdom contracts.

25. We have also mentioned in paragraph 7 above, proposals for improved Commonwealth liaison, which envisage annual meetings of senior Commonwealth
Officials. We consider that, whatever is decided about a Commonwealth Economic Conference, this proposal should be put forward. If, however, it is decided to hold a Conference, we do not envisage any formal announcement of new arrangements for Commonwealth liaison before the Conference takes place.

PART V

Conclusion and summary

26. For these reasons the Canadian memorandum does not provide a satisfactory basis for a Conference. Several topics seem definitely unsuitable and the consideration of others is unlikely to lead to useful results. Moreover, it is not very appropriate to have a Conference to consider a long list of diverse items, most of which do not amount individually to very much. If it is agreed at Mont Tremblant that there should be a Commonwealth Economic Conference, it would seem desirable to secure that the terms of reference agreed for the preliminary meeting of senior Commonwealth officials are such as to enable them to take account of any suggestions that may be made at Mont Tremblant and select both from them and from the Canadian memorandum two or three principal issues.

27. Possible subjects for an agenda would be: —

(i) The course or outcome of the negotiations for a European Free Trade Area, including discussion of the implications of the European Common Market for the Commonwealth.

(ii) United States commercial policies and the disposal of surplus agricultural products.

(iii) World trade and payments problems arising from the German position and possible developments in the United States economy and their implications for the sterling area.

(iv) Commonwealth development and investment (to which we should have to agree as an item for the agenda if this were pressed on us).

(v) Developments within the sterling area may prove to call for discussion by the time the Conference meets but it would be premature to make any mention of this at the Mont Tremblant meetings.

28. To sum up—

(a) the Canadian memorandum does not provide adequate material for a successful Commonwealth Economic Conference (paragraphs 16 to 25);

(b) we should however adopt a positive attitude to the Canadian proposal for such a Conference. If the general feeling of the meeting is favourable to the idea of a Conference, we should take the lead in endorsing it, subject to adequate preliminary preparations by a meeting of senior Commonwealth officials early in 1958. If, on the other hand, other Commonwealth Finance Ministers show that they are not attracted by it, we should seek to rescue the Canadian authorities from embarrassment by suggesting—

(i) that a special meeting of senior Commonwealth officials should be held early in 1958 to discuss the developments in the European negotiations, and the whole range of Commonwealth economic problems. This meeting could advise Commonwealth Governments whether there appeared to be need for a Commonwealth Economic Conference or for some other gathering of Ministers; and would in effect be the first of the annual meetings of senior officials which we contemplate;

(ii) that in fact it may well prove desirable to have a meeting of Commonwealth Ministers in 1958 to consider the implications for the Commonwealth of whatever may result from the European Free Trade Area negotiations;

(c) we suggest that, if there is a Conference, it might consider the European Free Trade Area negotiations and the implications of the European Common Market for the Commonwealth; world trade and payments problems; developments in the United States Economy and, if necessary, investment and development;

(d) if there is to be a Conference, we must ensure that agreement is reached that there should be adequate prior consultations between Commonwealth officials to secure that as far as possible an agenda is agreed upon which would result in a successful Conference.
BRIEF BY OFFICIALS ON ANGLO-CANADIAN TRADE TALKS FOR THE OTTAWA MEETINGS

Report by Officials

Officials have considered what advice to give Ministers in the light of telegrams from Ottawa Nos. 835, 840, 841, 842, 843 and 854 reporting on the outcome of the discussions held in Canada by the Minister of Agriculture on the proposal for a Free Trade Area between the United Kingdom and Canada, together with the attached note of Sir Frank Lee's talk with the Governor of the Bank of Canada.

2. In the first place, we advise against pressing the adoption of these proposals further on Canadian Ministers at the time of the Ottawa discussions; such a course would seem fruitless, at any rate for the present. We suggest that Ministers might take the line that when Mr. Diefenbaker suggested the 15 per cent. switch he had put up an imaginative proposal. We had replied in kind in suggesting the possibility of developing a Free Trade Area between the United Kingdom and Canada; this was a far-reaching proposal which could have transformed the trading and economic relationships between the two countries, and we would have liked at least to have it fully examined by officials. It is now up to them to say what alternative proposals they have in mind for bringing the two countries into closer economic relationship. It will be necessary to discuss with the Canadians what should be said publicly about our suggestion of a Free Trade Area. It is clear that it cannot be kept confidential and the prospect of publicity may help us to keep the question open.

3. The next question is whether in these circumstances the proposals outlined in paragraphs 16 to 18 and 24 of Annex B of C. (57) 187 should be put to Canadian Ministers. In brief these proposals are for a timed commitment to remove discrimination over say two or three years in return for Canada undertaking, in one form or another, to make a substantial contribution to the United Kingdom gold and dollar reserves. The advice given by Sir Frank Lee (telegram 842, paragraph 3) and by our High Commissioner in Ottawa (telegram 843, paragraph 5) is that these proposals should not at present be put to Canadian Ministers. We endorse these recommendations. Our High Commissioner says (telegram 843, paragraph 2 (4)) that the Canadian Government have deliberately decided to concentrate on a Commonwealth Economic Conference and we believe that, if we have given support to their proposals for a Conference, they will be more ready than they appear to be at present to talk bilaterally to us when they have got this idea out of their system either as a result of failing to secure a Conference or as a result of the Conference failing to achieve very much. All our advice therefore is that this proposal should not be pressed on the Canadians at present. That is not to say that the course of events at Mont Tremblant may not make it possible to bring the subject up in bilateral discussion in one way or another and we suggest that the Delegation should have discretion as to whether they raise the question and, if so, in what form.

4. The proposal is one which, after preliminary discussion with the Canadians, might become a subject for a Commonwealth Economic Conference, if one is held. The fortification of the reserves is certainly a matter of Commonwealth interest and the Canadians will be interested in the removal of discrimination by other members of the Commonwealth as well as by ourselves (though except in the case of Australia there is not a great deal of discrimination left in the Commonwealth). If the agenda for a Commonwealth Conference looks thin, as it seems to us may well be the case, it would be possible at a later stage, just prior to the official consultations to prepare for the Conference, for us to launch this idea to the Canadians as something which might take an important place in the agenda if they were willing to go forward with it; and at such a time, when the Canadians were concerned lest their Conference was a failure, they might be more receptive to the proposal. But no decision on this need be taken now.

5. In these circumstances, while we shall no doubt be pressed by Canada to speed up the removal of quantitative restrictions, the right course would be to continue to take the line which has been taken over the last few years. This line
is that it is our policy to remove discriminatory restrictions as soon as we are able
do so. The timing and order of the removal is a matter for us to decide though
we are always prepared to take Canadian views into account. We are, however,
under great strain and cannot afford to take risks. The stronger our position
becomes—particularly as a result of expanding our markets in North America—the
better are the prospects of our being able to remove discrimination more quickly.
To this we might add that anything which can be done by Canada to strengthen
our position will enable us to proceed with the process of dismantling discrimination
more rapidly.

6. The remaining items on the agenda for Anglo-Canadian Trade talks are
somewhat thin. They are outlined in paragraphs 20 to 23 of Annex B of C. (57) 187.
They may be summarised as:

(a) Canada to send to the United Kingdom a mission of Canadian industrialists
under the leadership of a Canadian Minister;
(b) the issue of directives by the Canadian Government to secure the shift of
central Government purchases to the United Kingdom and action by
them to influence the course of purchases by Crown Corporations,
Provincial Governments and Municipalities;
(c) some modest agreement in the field of tariffs by which the Canadians would
bind the existing position in the tariff field where this would be of value
to us and where in return they would no doubt expect some limited
removal by us of quantitative restriction on our imports from Canada.
(This would have to be on a non-discriminatory basis as between Canada
and the United States.)

7. It seems improbable that any communiqué following on the discussions
with Canadian Ministers can be very substantial. It will be necessary to bring out
that this has been the first stage in continuing negotiations. There should be
mention of whatever can be achieved in the way of Government directives in
Canada and of discussions about tariff preferences, on which it will be possible to
say that we are keeping in touch with the Canadians. There could also be mention
of any Trade Mission which it is proposed to send to this country. Finally,
whatever is agreed to be said about the Free Trade Area proposal will go in
the communiqué. On their return from Canada Ministers will probably need to
demonstrate that the size of the 15 per cent. switch is such that it could not be
quickly achieved and indeed could hardly be achieved in the foreseeable future
without some definite stimulus to United Kingdom—Canada trade calling for action
(by Canada) rather than for exhortation of exporters (by us).

8. We therefore recommend that:

(a) Ministers should not press further the Free Trade Area proposal at present
but should deal with it on the lines suggested in paragraph 2.
(b) The proposals for fortification of the reserves by Canada and the timed
commitment to remove discrimination by us should not be pressed on
the Canadians but the Delegation should have discretion as to whether
and in what form they should be put forward if the matter comes up in
one way or another during the discussions. The time for these proposals
may come later, in the context of a Commonwealth Conference, but this
need not be decided now. (Paragraphs 3 and 4.)
(c) If pressed to remove discrimination, Ministers should say that it is our
policy to do this but the timing is for us. Anything which strengthens
our position will help us to speed up the process. (Paragraph 5.)
(d) We should tell the Canadians that the Diefenbaker proposal for a
15 per cent. switch was imaginative and that we had replied in kind
with our proposals for a Free Trade Area. The initiative now lies with
them. We should secure the best arrangements we can for Government
directives in Canada and in the field of tariffs, together with anything
they offer in the way of a Trade Mission. These should not call for any
great return offers on our part. (Paragraphs 2, 6 and 7.)
NOTE OF A TALK WITH THE GOVERNOR OF THE BANK OF CANADA

1. After dinner last night Mr. Coyne took me aside and said that he particularly wanted to impress two things on me.

2. The first was that we (i.e., the United Kingdom Government) "must give these people time." It would be a great mistake to expect Canadian Ministers to be ready to take far-reaching decisions at the present juncture, or to be disappointed at their failure to do so. Ministers still had to organise themselves into a coherent and effective team, to learn to work with officials, and to reconcile political declarations with practical realities. They were almost inconceivably inexperienced. He urged that the United Kingdom Government should make full allowance for this and should not for instance give any impression publicly that the Canadian Government was not fulfilling expectations which they might have aroused. That would be harmful to relations between the two countries and would "set back the clock," in the sense that a Government which was certainly very well disposed towards the United Kingdom and anxious to co-operate fruitfully with us would feel that the United Kingdom had been unreasonable in expecting early and concrete action when the Government here still had to find its feet. I said that that was all very well, but that after all Mr. Diefenbaker had aroused expectations in the United Kingdom by spontaneous statements about plans for the diversion of trade and so on, and our Ministers would certainly be asked what was going to happen about them. Mr. Coyne said that he fully realised that there was a difficult public relations problem here, and that was why he had spoken to me as he had done. He repeated that in his view Canadian Ministers could not be expected to make far-reaching decisions at this time. Indeed he did not himself believe, despite Mr. Diefenbaker's statements, that Canadian Ministers would be prepared, even when they had had more time, to take any really "heroic" measures of economic re-alignment with the United Kingdom or the Commonwealth. Mr. Diefenbaker's statement reflected a real but sentimental wish for such a re-alignment. It was most doubtful, however, whether the Government would in practice do more than to make minor adjustments in say tariffs, and to give general encouragement to United Kingdom exporters.

3. Mr. Coyne then turned to his second point. He said that he had been greatly interested to hear from Mr. Rasminsky of our proposal for a United Kingdom/Canada Free Trade Area. He could not believe for one moment that this would be a starter: the difficulties with Canadian industry would be too formidable. But he recognised that it was a most imaginative concept and one which was a logical consequence of Mr. Diefenbaker's original declaration. There was nothing "bogus" about it, whereas he felt that some other suggestions which had been made from time to time were bogus in that they did not begin to conform with the realities of the United Kingdom/Canadian relationship. I said that I did not understand what he meant by "bogus" suggestions. Mr. Coyne said that he was thinking, for instance, of the suggestion that Canada might join the Sterling Area. I said that I did not think that that idea was being put forward seriously by anyone at the present time. Mr. Coyne agreed, but said that some suggestions were being mooted which were not unlike it. For instance, he went on, he had heard of a suggestion (he did not say from whom) that Canada might hold part of its reserves in sterling. That he would frankly regard as a "bogus" arrangement: it could not conceivably be in the interests of Canada to enter into any such arrangement, since holding part of its reserves in sterling would not really fulfil any real Canadian needs. The only objective would be to strengthen the United Kingdom reserves: if that were the purpose in view it would be much better and more realistic to do it by means of a long-term loan. There would be nothing bogus about that and, speaking for himself, he would certainly not wish to exclude the possibility of such a loan.

I deliberately avoided being drawn into discussion on all this. I did, however, think it right to say at one point that, if Canada were to hold part of its reserves in sterling, that would, as Mr. Coyne himself had implied, surely be a striking act of faith by the Canadian Government and people in sterling and in the abiding bonds...
between the United Kingdom and Canada. Surely, I said, a loan, precisely because it was designated as a loan, would not have the same psychological effect; it seemed to me conceivable that it might tend to weaken sterling rather than to strengthen it. It was pretty clear, however, that Mr. Coyne regarded this as rather fancy stuff, and he returned to his plea that we should avoid “bogus” suggestions and, if there were any question of a need to strengthen sterling further, this should be done by means of a long-term loan.

4. Mr. Coyne said that if I had seen any Press reports implying that his relationship with Mr. Fleming was being difficult I was to disbelieve them. He had a very high view of Mr. Fleming and his contacts with him had been easy and cordial.

F. LEE.

Office of the High Commissioner for the United Kingdom,
Earnscliffe,
Ottawa.
10th September, 1957
CABINET

NATIONAL INSURANCE REFORMS

MEMORANDUM BY THE CHANCELLOR OF THE EXCHEQUER

In considering the Minister's paper (C. (57) 205), we must not lose sight of the wood for the trees. I shall therefore try to limit my comments to the broad issues.

2. On August 2nd the Cabinet had before them a graduated scheme which had been considered by the Ministerial Committee (call it the "August scheme"): they asked the Minister to arrange urgently for an alternative to be prepared which could suitably include provision for contracting out. He recognises (rightly, I am sure) that contracting out could not suitably be provided in the "August scheme"; his paper shows that to achieve this he has had to make big changes. He advises that the result (call it the "September scheme") is "politically unattractive" and does not amount "on either political or social policy grounds to an effective alternative to Crossman."

The September Scheme

3. I agree with these strictures. It is not really a graduated scheme at all. On the contrary, it perpetuates the flat-rate scheme, with only one material change—the figure of 17s. 6d. a week (including "overload"), to which we agreed that the total contribution must be increased next year in the interim Bill, is to be further increased by 12s. every five years until it reaches 21s. 6d.—still levied as a flat rate all round—without any increase in benefits. To this is added a separate scheme (with "contracting out") for graduated contributions and benefits on earnings between £10 and £15, the additional contribution ranging up to 8s. The new income from this scheme would be used to reinforce the flat-rate scheme until it has to be used for the new emerging cost of the graduated benefits.

4. To levy a flat 17s. 6d. contribution, plus an additional graduated contribution, and apply all this income to the flat-rate scheme, would of course make a temporary improvement in its finances. But I must agree that it would be very unpopular; and it would produce a new, though postponed, emerging cost of considerable dimensions.

5. Nor does the scheme really provide for "contracting out," if that means freedom for the individual to decide for himself whether to sign on for the graduated benefits or not. The Minister is doubtless right in advising that the proposals in his Appendix B represent the best terms on which contracting out could be arranged. But let us consider their effect.

6. The self-employed man cannot sign on; the employed cannot sign off, unless his employer proposes it. This the employer can do only if his own scheme complies with certain conditions (the Mineworkers' scheme, for example, is too small to qualify), and if he is willing to undergo certain controls. If the employer does sign off, all his employees are compulsorily "out," including any who want...
to stay in: otherwise, all his employees are compulsorily "in," including any who want to get out. The complications and controls which all this entails, as described in the Minister's Appendix B, are indeed impressive.

7. If half those who are now covered by occupational schemes prove in practice to be "out," the initial loss of income is put at £50 millions a year. (The saving in expenditure is not material for 20 years or so.) No one knows how much contracting out would actually happen. If it is made easy, the loss is heavy: if it is made difficult, why do it at all? But whatever the initial loss, it is bound to increase—unless of course occupational schemes cease to grow (they are growing fast at present). The Minister's figures make no allowance for this.

8. The Minister has seen representatives of the private sector—the Life Offices and the Association of Pension Funds. The Life Offices, who are unlikely to be keen on any graduated State scheme, have nevertheless said that they would tolerate a scheme on the lines of the August scheme, and that they did not want contracting out of a scheme of that size. They also indicated that they would oppose the September scheme on account of its size, even if contracting out were allowed. If the latter scheme were reduced in size to approximately that of the former, the Life Offices would still not want contracting out. The Association of Pension Funds also expressed no enthusiasm for contracting out in practice—perhaps because it means introducing considerable State control of the private sector.

9. So the new proposals would please no one. A mere continuation of the flat-rate scheme would gain us no credit either. We must therefore turn again to the scheme we considered on August 2nd.

The August Scheme

10. It is important to be clear about the principles of this scheme and the new social conception which it embodies. I have set these out in Appendix A. In Appendix B I have given my reasons for thinking that the scheme would make it easier to defend the interim Bill.

11. It seems to me that these proposals represent a new and imaginative approach to the problem, and are not without political attractions. Once the new principle is grasped—see Appendix A—of a basic benefit no longer entirely uniform but nearly so, the question of contracting out does not arise, and we are spared its inevitable complexities and frictions. We should also avoid the opposition of the private sector, and any new State control of it. Above the level of the graduated basic benefit everyone would retain their existing freedom to make further provision, through the private sector or otherwise, to any extent desired. This seems to me to be wholly in accord with Conservative principles.

12. The scheme thus gives us something new on which we can stand in combating the Labour plan. The question I have to consider is whether it is financially sound. The figures in the Minister's Appendix C do not give a realistic picture of its probable out-turn, largely because, as the Minister explains, they are framed on the basis that the level of earnings between 1960 and 1980 will be static at the level reached early this year (before this summer's wage-round of 5 per cent.).

13. It is clear that if we assume a static economy and a static social policy, a graduated scheme shows little, if any, advantage over a flat-rate scheme of roughly the same size. But if we are to assume both economic and social progress, a graduated scheme clearly offers the better alternative. The full financial picture of the August scheme depends on the settlement of about half a dozen detailed features within the scheme's broad principles. These include the treatment of married women and of short-term benefits, and a final decision on the rate of contribution. I would hope that it can be kept as low as 8 per cent. without any subsequent increases, even to meet increased benefits. In the short time available (my officials and I saw the Minister's suggestions for the first time last week-end) I have not been able to form my own conclusion about all these details. But I understand that even if they are all settled in a manner unfavourable to the scheme's finances, it is reasonable to expect that the scheme will be in balance in its first year, while in 1966-67, by which time an increase in benefits will almost certainly be needed, a surplus should be available which would help to finance it.
Conclusion

14. I therefore recommend that the Cabinet should now—

(i) Take a firm decision in principle in favour of the August scheme;
(ii) direct that the work of the Departments concerned should be immediately concentrated on clearing up its detailed provisions;
(iii) ask for the matter to be brought again before the Cabinet in, say, a fortnight’s time.

P. T.

Treasury Chambers, S.W. 1,
17th September, 1957.
APPENDIX A

PRINCIPLES OF THE ORIGINAL GRADUATED SCHEME

1. The scheme recognises for the first time that the necessary basic provision for a man's old age varies with his financial status during his working life. At the bottom it provides a pension which for the married man in the lowest earnings-range is half-pay or better. (It is 80s.—half of £8 a week.) The variation upwards is kept within narrow limits so as not to impinge upon the proper scope of the private sector.

2. It also recognises that the extent to which people ought to receive supplement from the Exchequer for their basic benefit also varies with their financial circumstances. It therefore charges, for the new graduated basic benefit, a new graduated contribution: for the least well-off it is smaller, and for the most well-off it is greater, than a flat-rate contribution would have to be. The Exchequer supplement is concentrated where it is most needed—viz., those worst off. Lower earners receive a considerable Exchequer supplement; higher earners receive progressively less; some receive none at all.

3. The contribution is put at 8% on earnings up to £15, with an Exchequer supplement of 2% on earnings up to £8. The yield would increase with rising earnings, but the rate should, preferably, remain constant (though a small increase may be necessary after a few years).

4. If the value of money changes, increased benefits will be needed. To provide finance for these increases, the figures of £8 and £15 would be adjusted so as to keep their value constant in real terms. The scheme thus provides a measure of self-financing for enhanced social benefits without any inflation of the rate of contribution. Adjustments of this kind would not be offensive to the private sector.

5. A fixed percentage of earnings to be set aside for old age, sickness and unemployment benefits (providing also a modest contribution to the cost of the Health Service) represents a new principle in this country. If it is accepted that the real level of those benefits depends on the real yield of this percentage—i.e., on the productivity of the earning population—a new political approach and a new form of social discipline become possible.

APPENDIX B

EFFECT OF GRADUATED SCHEME ON THE DEFENCE OF THE INTERIM BILL

1. The flat-rate contribution of 17s. 6d. to be introduced next year is a heavy one. It is a measure of the difficulty of financing any social advance in this field through the flat-rate system. It is regressive in effect, bears hardly on the lower-paid, including part-time earners, and leads to complaint from employers about the cost to them of employing married women or old-age pensioners part-time. Nor can we disguise the fact that it includes a considerable element of "over-load."

2. It will be difficult to defend, but it will be much easier if we can do so on these lines. The Government recognise that this is not the best way of financing the increase in benefits which we all want to see—i.e., an increase in real terms to a new standard. For that purpose a graduated scheme is necessary, which will put contributions on a fairer basis. Unfortunately this cannot be introduced till 1960; the Government were therefore faced with the alternatives of deferring the new standard or of financing it meanwhile on a flat-rate basis. They have chosen the latter.

3. The Government believe that this is the right course, despite the present economic difficulties. But unhappily it does mean that for the intermediate two years a heavy flat-rate contribution must be levied on everyone.

4. But this is only temporary. The year 1960 offers the prospect of reduced contributions from those least able to afford them—indeed, from most people whose earnings are less than the present average. There will be increased contributions from the higher-paid, but they will get an additional benefit. No one will pay a higher contribution without also getting a higher benefit, but plenty of people will pay a lower contribution without getting a lower benefit, and some will pay a lower contribution and get a higher benefit too.
MEMORANDUM BY THE SECRETARY OF STATE FOR COMMONWEALTH RELATIONS

I think my colleagues may like to have the following account of events since my memorandum C. (57) 210 of 19th September.

2. On 18th September, Mr. Shawcross flew to Accra from Lagos and was refused admittance to Ghana; he returned immediately to Lagos. In the light of representations from the High Commissioner in Accra and of other developments, I decided that the United Kingdom reply to the Ghana Government's Note should be delivered in a rather milder form than that given in Annex B of C. (57) 210. The text of the Note as delivered is now attached at Annex A. When communicating it to the Ghana Government, the High Commissioner was instructed to stress that we had been, and would be, scrupulously careful to avoid any apparent interference in Ghana's domestic affairs, and also to emphasise the distinction which we draw between administrative action to exclude Mr. Shawcross, and the alternative procedure (which would have been adopted in this country) of leaving it to the Court itself to prevent any abuse of its facilities and maintain discipline among advocates appearing before it. The High Commissioner handed the reply to the Acting Prime Minister of Ghana on 21st September, and reports that their talk was entirely amicable; the only point which Mr. Botsio made was to query the ability of the Court, in the circumstances of Ghana, to overawe eminent barristers from overseas.

3. The Court at Kumasi met on 20th September for the criminal proceedings against Mr. Colvin (paragraph 8 of C. (57) 210). Mr. Colvin, was not, of course, present, the Daily Telegraph having instructed him to return to London. His Counsel asked for an adjournment of 28 days, and the Court granted this, over-riding some rather perfunctory protests by the Crown.

4. Dr. Nkrumah returned to Accra on 22nd September and summoned an early Cabinet meeting. On 24th September he announced in a broadcast that the proceedings against Mr. Colvin were being dropped; but that in view of the circumstances surrounding recent events, neither Mr. Shawcross nor Mr. Colvin would be allowed to re-enter Ghana until some time had passed and a sense of proportion had been restored. Dr. Nkrumah went on to stress that the Ghana Government could not allow lawyers, especially from abroad, to use the Ghana Courts for political purposes. Extracts from Press reports of Dr. Nkrumah's statement are attached at Annex B.

5. The Daily Telegraph has to-day announced that the writs issued against Dr. Nkrumah and other Ghana authorities will be withdrawn.

6. It is heartening that Dr. Nkrumah has agreed to counsels of moderation and I think we can regard his statement as being as satisfactory as could reasonably be expected in the circumstances. It is to be hoped, too, that the whole episode, with the embarrassing publicity for Ghana which it has involved, may leave an educative effect. And now that the charges against Mr. Colvin have been dropped and the writs withdrawn, we may hope that the whole affair will be allowed to blow over. Dr. Nkrumah did not say that the case against the Ashanti Pioneer...
was being dropped; and it is reported in the Press than the Ghana Government have announced the substitution of another Judge for the present Acting Chief Justice, who found against the Government on the question of competence in the contempt of Court proceedings in Accra (paragraph 7 of C. (57) 210). It is therefore much too early to assume that the Ghana Government’s internal policy has radically changed. But we may reasonably hope that the episode will have opened Dr. Nkrumah's eyes to the difficulties in which he is likely to be involved by Mr. Edusei and Mr. Bing.

Commonwealth Relations Office, S.W. I.
25th September, 1957.

ANNEX A

Text of Reply to Ghana Government Note of 16th September delivered by the United Kingdom High Commissioner in Accra on 21st September

Her Majesty’s Government in the United Kingdom wish to thank Her Majesty’s Government in Ghana for their Note of 16th September about the admission of citizens of the United Kingdom who are not citizens of Ghana to practise law in Ghana. The United Kingdom Government fully share the hope of the Ghana Government that it will be possible to continue the practice by which lawyers from the United Kingdom are admitted to plead in the Courts of Ghana.

2. The United Kingdom Government have no desire to comment on any matter which is a domestic concern of an independent Government. Nor of course do they wish to express any views upon issues before the Courts.

3. However in the fourth paragraph of their Note the Government of Ghana state the conditions which they would expect any United Kingdom lawyer practising in Ghana to observe. In this connection the United Kingdom Government express the hope that any attempt to abuse the facilities of the Court by any such lawyer, would be dealt with as appropriate by the Court.

4. The United Kingdom Government warmly reciprocate the desire of the Ghana Government that the good and close relations which exist between the two countries should be fully maintained.

ANNEX B

Extracts from Dr. Nkrumah’s broadcast on 24th September (as reported in the Press)

Since my return from holidays I have reviewed recent events which have focused international attention on this country.

As I have said before, I understand this world interest in our affairs, for we appreciate the importance of what is happening in Ghana to the rest of Africa, and that our performance in self-government can have a direct bearing on events in other parts of this great continent.

I feel that some of the comments have shown an understanding of our problems, and a genuine desire to help.

There have been other examples, however, where criticism has been ignorant or malicious, in some cases both, and clearly intended to embarrass the Government of Ghana and to make our task still more difficult.
The first duty of a Government is to govern, hence the preservation of our internal security is paramount, it is imperative. I wonder if those abroad who have criticised us fully appreciate this problem in Ghana, where we have to deal with a complex relationship of feudal, tribal and other factors, and where we have to fight against inspired rumours and vicious misrepresentations. It is obvious that we are dealing with conditions quite unlike those in many other countries. Thus we must adopt methods appropriate to the problems we have to solve, and still preserve the basic rights of the individual.

It has been rumoured that the Government has a list of people it intends to deport. This is not so but I have emphasised again that the Government is determined to preserve law and order and will not tolerate subversive activities in any form. My Government will not hesitate to act if unlawful or subversive, and I repeat the words, unlawful and subversive, methods are used to undermine it. Let me give a practical example of this.

We have taken every step to see that public opinion is fully informed by way of Radio Ghana relays of B.B.C. news bulletins and editorial opinions from the British Press and through the Ghana News Agency, which relays a Reuter’s service to all Ghana newspapers. The judiciary is unfettered. The most recent African appointments to the Bench include two former politicians who were very active members of the Opposition parties. The latest appointment to the Ghana Appeal Court is an English Queen’s Counsel who was a former member of the General Council of the Bar in the United Kingdom.

When the international Press and radio comment on our affairs, I hope that they will keep facts such as these in mind. I hope that they will constantly strive to increase their understanding of our problems. I also hope they will appreciate the responsibilities which face us, a new nation working in an almost blinding limelight of world publicity, and I renew a plea which I made publicly to the world Press in London a few weeks ago. Do not apply to us standards of conduct and efficiency which are often not attained in your own countries. It is this form of hypocritical criticism which I believe does more to arouse anger and resentment than anything else.

As to recent court proceedings, the only important issue now outstanding is the charge pending against Mr. Colvin of the Daily Telegraph in the magistrates court. The Attorney-General has informed me that in the present circumstances he does not propose to continue these proceedings.

This decision means that it will not now be necessary for Mr. Colvin to return to this country. As a consequence, the question of Mr. Christopher Shawcross or any other lawyer coming to Ghana to defend Mr. Colvin will not arise.

In view of the circumstances surrounding these events the Government of Ghana has decided that it would be in the best interest of all concerned not to allow these two gentlemen to re-enter Ghana until some time has passed and a sense of proportion has been restored.

I wish to stress, however, that any lawyer who fulfils the conditions imposed by our laws as to entry into Ghana and admission to our Bar will always be welcome in Ghana.

What the Government cannot accept is that legal proceedings are conducted in such a way that they amount to improper interference in the political and internal affairs of Ghana. My Government cannot allow lawyers, especially from abroad, to use the courts of Ghana for political purposes. If we were to allow this it would destroy the concept of justice which we are trying to strengthen, namely, that the courts are above politics and that judges in Ghana should not be involved in political issues.
CABINET

THE QUEEN'S SPEECH ON THE PROROGATION OF PARLIAMENT

NOTE BY THE LORD CHANCELLOR

I circulate for the consideration of the Cabinet, a draft of The Queen's Speech on the Prorogation of Parliament which has been prepared by the Committee on The Queen's Speeches.

K.

House of Lords, S.W. 1.
3rd October, 1957.
SPEECH ON THE PROROGATION OF PARLIAMENT

A few days ago I returned to London with My Dear Husband on the conclusion of a short stay in Canada and a visit to the United States. It was a great joy to Me to have this opportunity to see again My People in Canada, to open the Canadian Parliament and to renew My personal experience of that great and developing Commonwealth country. I was also very happy, at President Eisenhower's invitation, to pay a second visit to the United States, and, during My stay, to meet members of the United States Government, Congress and the Supreme Court. Everywhere I received a most warm and friendly welcome. My visit has further convinced Me that the ties which bind our peoples are strong and enduring.

2. I shall always retain the happiest recollections of the visits which I paid with My Dear Husband to France, Portugal and Denmark, and the moving reception extended to us by the peoples of those countries.

3. My Dear Husband and I were deeply grieved at the death of King Haakon the Seventh of Norway, who held a special place in the hearts of My People. Our sympathy goes out to the members of His family and to the whole Norwegian people.

4. I recall with pleasure the reception accorded to Me and My Husband by the Secretary-General and by the General Assembly of the United Nations in the course of My visit to New York this month. My Government have continued to co-operate in the work of the Disarmament Commission of the United Nations and have joined in putting forward practical proposals for an international agreement on conventional and nuclear disarmament.

5. My Ministers have welcomed the continuing progress being made within the North Atlantic Treaty Organisation and Western European Union in strengthening the defence of the Atlantic Community and in broadening the scope of European co-operation.

6. After the cessation of hostilities between Israel and Egypt and the establishment of an effective United Nations force, United Kingdom Forces were withdrawn from the Suez Canal area. My Government have thereafter continued their efforts to bring about a just settlement of the dangerous situation in the Middle East.

7. My Government welcome the Joint Resolution of the Congress of the United States, designed to promote peace and stability in the Middle East, and the decision of the United States Government to participate in the Military Committee of the Baghdad Pact.

8. In view of the long-standing ties of friendship between Muscat and Oman and the United Kingdom, My Government took prompt action in response to a request from the Sultan for armed assistance in quelling a rebellion in his dominions. No losses were sustained by the small number of United Kingdom troops engaged.

9. It gave Me great pleasure to meet the Prime Ministers and other representatives of Commonwealth countries who were in London at the end of June. In their discussions they reviewed all the major international questions of the day which were of common concern to their countries and affirmed that in the interests of world peace and security they would continue to work for increased co-operation between nations.

10. During the year Acts were passed as a result of which Ghana and the Federation of Malaya have become independent Members of the Commonwealth. I wish the peoples of these new Member countries all happiness and prosperity;
and I welcome their admission to the United Nations. I was much gratified at
the cordial reception extended to My Dear Uncle, His Royal Highness The Duke
of Gloucester, and My Dear Aunt, Her Royal Highness The Duchess of Kent,
who represented Me at the celebrations in the Federation of Malaya and in Ghana
respectively. United Kingdom Forces, together with Forces from other
Commonwealth countries, are continuing to support the Army of the Federation
of Malaya in the campaign against the terrorists.

11. The Nigeria Constitutional Conference which was held in London in
May and June has led to the establishment, under the chairmanship of the
Governor-General, of an All-Nigerian Council of Ministers with a Federal Prime
Minister, and to the grant of Regional self-government in the Eastern and Western
Regions. An Order in Council has been made providing for the establishment
of the Federation of the British West Indies.

12. My Ministers have made progress in discussing the proposals for the
closer association of Malta with the United Kingdom, while in Cyprus they have
continued their unremitting efforts to reach a peaceful solution of the problems
involved.

13. My Ministers have announced plans for reorganising My Armed Forces
at home and overseas. Compensation terms and resettlement plans for those
officers and men whose service will be prematurely terminated have been published.
A new Naval Discipline Act has been passed.

14. A successful series of nuclear trials was carried out in the Pacific Ocean.

15. My Government have approved a redeployment and expansion of the
information services overseas, with greater emphasis on films for television and
the teaching of English abroad.

Members of the House of Commons

16. I thank you for the provision which you have made for the public services.

My Lords and Members of the House of Commons

17. My Government have entered into negotiations in the Organisation for
European Economic Co-operation for the establishment of a Free Trade Area in
Europe.

18. Provision has been made for more effective long-term assurances to
agriculture and for assistance in the modernisation of farms in the United Kingdom.
New provision has also been made for the development of the pig industry in
Great Britain.

19. Legislation has been passed providing further assistance for the white
fish and herring industries and for the modernisation of the fishing fleet.

20. [My Ministers have appointed a Committee of Inquiry into the fishing
industry.]

21. An Act has been passed to amend the law of homicide and to limit the
scope of capital punishment.

22. I have given My Assent to legislation to enable effect to be given to the
four international conventions which provide for protection for the victims of war.

23. Legislation has been enacted amending the Rent Restrictions Acts and
providing for a minimum period of notice for the termination of residential lettings.
A measure has been enacted to revise Scottish housing subsidies and to facilitate
the movement of population from overcrowded areas in Scotland.

24. The law relating to rating and valuation in England and Wales has been
amended.

25. An Act has been passed providing for the payment by all insured persons
of a special weekly National Health Service contribution.

26. Provision had been made for reorganising the electricity supply industry
in England and Wales.
27. A measure has been enacted permitting the imposition of countervailing and anti-dumping duties on goods imported into the United Kingdom.

28. An Act has been passed to impose a levy on exhibitors of cinematograph films, and to continue certain other provisions, to assist British film production.

29. I have assented to an Act to extend the right of redress for damage caused by subsidence resulting from coal mining.

30. Improvements have been made in the provisions for elderly and seriously disabled war pensioners.

My Lords and Members of the House of Commons

31. I pray that the blessing of Almighty God may attend you.
CABINET

THE QUEEN'S SPEECH ON THE OPENING
OF PARLIAMENT

Memorandum by the Lord Chancellor

I circulate for the consideration of the Cabinet a draft of The Queen's Speech on the Opening of Parliament which has been prepared by the Committee on The Queen's Speeches. Sentences in square brackets refer to proposals which have not yet received final policy approval.

2. I must draw the attention of my colleagues to the implications of this draft in terms of the legislative programme. As the Home Secretary indicated in his memorandum C.(57) 132 of 30th May about the 1957-58 session, the time likely to be available for legislation will be about fifty-five days. This allocation of time must cater not only for the Bills foreshadowed in The Queen's Speech but also for the other Bills known to be essential (i.e., those Bills in List A of the Annex to C.(57) 132 which are not mentioned in the Speech), for certain of the contingent Bills indicated in List A.1 of the Annex to C.(57) 132, and perhaps for additional Bills of major policy such as the Betting and Gaming Bill and, possibly, a Bill on Administrative Tribunals deriving from the report of the Franks Committee.

3. The Bills foreshadowed in the draft Speech are liable to absorb practically the whole of the fifty-five days. The Cabinet should realise, therefore, that the total programme which we contemplate is still overloaded; and, before the text of the Speech can be finally settled, we must seek to decide, as rapidly as possible:

(a) Whether we propose to introduce an Agricultural Holdings Bill as well as a Slaughterhouses Bill, or are content to rest on only one of these. (The draft Speech at the moment includes both.)

(b) Whether we intend to commit ourselves to introducing legislation to replace emergency powers in relation to land by permanent statutory provisions.

(c) Whether the pensions legislation next session is to be confined (as the draft Speech provides at the moment) to a relatively simple Bill to increase benefits and contributions under the National Insurance scheme or is to comprise also a more comprehensive reform of the whole pensions system.
(d) Whether we intend to introduce a Betting and Gaming Bill. (The Home Secretary has circulated a memorandum on this subject - C. (57) 206).

(c) Whether we propose to introduce legislation about child welfare and adoption.

(f) Whether we wish to introduce legislation to implement any of the Franks Committee's recommendations in the next session or whether, as the Home Secretary suggested in C. (57) 132, the Bill for this purpose should stand over until 1958-59.

K.

House of Lords, S.W.1.

3rd October, 1957.

THE QUEEN'S SPEECH ON THE OPENING OF PARLIAMENT

My Lords and Members of the House of Commons

1. I look forward with great pleasure to the visit which I shall pay with My Dear Husband to the Netherlands.

2. My Ministers will continue to work in the closest co-operation and consultation with the other members of the Commonwealth in all matters of common concern. In their relations with the United States of America, the countries of Europe and the other countries with which the United Kingdom is associated in regional organisations, My Government will be guided by the need to strengthen further the bonds of friendship and collaboration which already exist.

3. My Government will continue to give wholehearted support to the United Nations and to any measure designed to render the Organisation more effective. An international agreement on disarmament will remain an important objective of their policy.

4. My Ministers will maintain their efforts to promote a settlement of the many grave problems of the Middle East and an increase in the prosperity of the peoples of the area. They will continue to press for the restitution of British property in Egypt and for proper compensation where this is due.
5. Legislation will be laid before you to give effect to certain recommendations of the Conference held in April 1957 regarding the future Constitution of Singapore.

6. My Ministers will continue to seek a just and lasting solution of the problems of Cyprus, in conformity both with the rights of the local communities and with the interests of the United Kingdom and our Allies.

7. My Government will pursue their discussions, which have already made considerable progress, with a view to completing detailed plans for the closer association of Malta with the United Kingdom.

8. A measure will be laid before you to define further the scope of the Colonial Development Corporation and to increase its borrowing powers.

9. The re-organisation of My Armed Forces will be pressed forward, and the conditions of service will be improved.

Members of the House of Commons

10. Estimates for the public services will be laid before you in due course.

My Lords and Members of the House of Commons

11. My Ministers are resolved to take all steps necessary to maintain the value of our money, both internally and externally, to strengthen our balance of payments and to fortify our reserves, which are also those of the whole sterling area.

12. Insert reference to recent discussions between Commonwealth Finance Ministers and forthcoming Commonwealth Economic Conference. My Ministers will increase their efforts to reinforce the economic ties between this country and the other members of the Commonwealth. They will continue their negotiations for the establishment of a Free Trade Area in Europe.

13. Legislation will be introduced to extend the period during which the nationalised industries and undertakings may obtain advances from the Exchequer.

14. A Bill will be introduced to revise and simplify existing legislation relating to the customs tariff.

15. A measure will be laid before you to establish a Conservancy Authority for Milford Haven to regulate the increased maritime traffic which should result from the projected development of this important harbour.

16. You will also be invited to approve legislation to provide for the reconstruction of the roads at Hyde Park Corner and Marble Arch and along the eastern side of Hyde Park in order to relieve the congestion of traffic at those places.
17. My Ministers will continue to give the support to agriculture and fishing that is necessary for achieving maximum economic production.

18. Legislation will be introduced to end the disciplinary powers exercisable in relation to husbandry and estate management by the Agricultural Ministers in Great Britain, and to modify, in the interests of efficient farming, current provisions relating to the tenure of agricultural holdings, thus increasing the opportunities for young and progressive farmers to become tenants of farms.

19. You will be invited to approve a Bill to regulate the licensing and provision of slaughterhouses in England and Wales and to secure improved standards for their structure and equipment.

20. A measure will be introduced to strengthen and improve the existing powers for the carrying out of agricultural drainage schemes in Scotland.

21. My Ministers will continue their efforts to improve the economic prosperity of Scotland and to encourage the diversification of Scottish industry.

22. Legislation will be laid before you to provide for a re-organisation of local government in England and Wales; to make adjustments in the rating system, including a further measure of rating of industry; and to provide for general grants to local authorities in substitution for many of the grants in aid of individual services. Separate legislation will be introduced making similar provision for Scotland in regard to industrial rating and the introduction of a general grant.

23. A measure will be introduced to reform the composition of the House of Lords.

24. You will be invited to approve legislation for the revocation of certain emergency powers relating to land and their replacement so far as necessary by appropriate statutory provisions.

25. A Bill will be introduced to make better provision for the care and disposition of public records.

26. Comprehensive legislation will be introduced to amend the law relating to the adoption of children and to provide for the supervision of those who take children into their care for payment.

27. My Ministers will continue to give close attention to the problems of the treatment of offenders. Practical prison reform will be combined with a programme of research, and consideration will be given to a review of the machinery of justice and the penal system.

28. A Bill will be brought into make further provision for the rehabilitation, training and resettlement of disabled persons.
29. Proposals will be laid before you to increase the rates of benefit and contribution under the National Insurance Scheme; and the pensions of those disabled in war and of war widows will be increased. [? Add reference to more comprehensive proposals.]

30. Other measures will be laid before you in due course.

My Lords and Members of the House of Commons

31. I pray that the blessing of Almighty God may rest upon your counsels.
EUROPEAN FREE TRADE AREA AND THE ORGANISATION FOR EUROPEAN ECONOMIC CO-OPERATION

NOTE BY THE PAYMASTER-GENERAL

The attached memorandum by officials is designed to serve as a general negotiating brief for the United Kingdom representatives at the meeting of Ministers of member countries of the Organisation for European Economic Co-operation which is to be held in Paris from 16th to 19th October to discuss the European Free Trade Area project.

2. I comment on the note in my memorandum C. (57) 222.

R. M.
EUROPEAN FREE TRADE AREA: MEETING OF ORGANISATION FOR EUROPEAN ECONOMIC CO-OPERATION MINISTERS—GENERAL STEERING BRIEF

MEMORANDUM BY OFFICIALS

The Chancellor of the Exchequer has proposed to his Ministerial colleagues on the Council of the Organisation for European Economic Co-operation (O.E.E.C.) that they should meet in informal session in the middle of October for approximately three days.

Objective

2. Our object at the meeting must be to get the negotiations started without further loss of time and to get such machinery established as will give us a reasonable hope that they will be successful.

3. It will not be possible in such a gathering to resolve the major problems; neither is it necessary to seek this. But it will be necessary that all serious participants feel satisfied as a result of the meeting that there is a reasonable chance of countries coming together on their major, as distinct from their marginal, requirements to an extent which will make successful negotiations possible.

The Agenda

4. Ministers will have for consideration the report by the Chancellor of the Exchequer, attached at Annex A, and the reports of the Chairman of the three Working Parties. Paragraphs 2 and 3 of the Chancellor's report in effect create the agenda for the first part of the meeting; they list the problems as they have appeared in the discussions so far:

A.—(i) Scope of the Free Trade Area Convention.
   (ii) Origin and content qualification of goods.
   (iii)—(1) Institutions of the Free Trade Area
   (2) Relation between the obligations of the members of the Free Trade Area and of the Six Powers.
   (3) Arrangements for the close working together of the Institutions of the Free Trade Area and the European Economic Community.

B.—Foodstuffs.

C.—(i) Problems of the “peripherals.”
   (ii) Additional capital requirements.

5. Separate briefs on each of these items have been prepared. That on foodstuffs is being submitted separately to the Cabinet. The others are available for use by Ministers, but a summary of them is attached at Annex B. It will be desirable for all the main participants to indicate their views on these questions; indeed, it is on this exchange of views that all participants will be able to judge whether it is worth while going forward. We have not thought that it would be helpful to list here in detail the precise points on all these subjects which will be of concern to us and to other countries. But in general it can be said that the United Kingdom will be concerned in particular with the nature of the comments of the Six on the points raised in Section A. On these questions some members may take up rigid positions which we would be unable to accept, in which case a position of deadlock would be reached. But provided no inflexible positions were taken and there was a reasonable prospect of further discussion resolving the differences, negotiations could proceed. The Six and other countries, particularly Denmark, will be concerned with the nature of the United Kingdom’s comments on Section B (foodstuffs).
The Outcome of the Negotiations

6. The various briefs on particular topics indicate that, to meet both the United Kingdom requirements and the preoccupations of other countries, the final outcome of the negotiations, if they are successful, will be a "package" deal. The possible elements of such a deal could be:

(a) A Free Trade Area Convention providing for the removal of tariffs and quotas on industrial goods and the necessary rules of competition, &c., intimately connected therewith.

(b) Special arrangements for coal and steel, whether within or outside the Convention, to be decided later.

(c) Something on agriculture, probably a "European Agreement for Agriculture."

(d) Draft decisions of varying content about some of the matters dealt with in the Treaty of Rome which do not directly concern the limited Free Trade Area Convention or the Agreement for Agriculture (e.g., invisibles, labour, &c.).

7. Precisely where the line between (a) and (d) should be drawn will be a matter for detailed negotiation.

8. In considering the future procedure and the negotiating machinery it is necessary to have this general structure in mind.

Future Procedure

9. At the best the result of this discussion at the Ministerial meeting in October will reveal very wide divergences of opinion on these questions but, at the same time, will give a reasonable prospect that the negotiations can be successful. In this event the meeting can proceed to establish future machinery. Our objective here will be the establishment of a special Free Trade Area Committee. All members will be able to sit on this body and it will have the responsibility for the whole range of negotiations; it will be concerned not only with drawing up the Free Trade Area Convention but also with directing the work on agriculture and any other matters which it may be preferable to deal with in the existing O.E.E.C. organisation rather than in the Free Trade Area Convention, e.g., invisibles and manpower. It will also be responsible for working out how members of the O.E.E.C. organisation who do not feel able to accept the full obligations can be associated with the Free Trade Area.

10. The range and difficulty of the matters to be discussed and settled in the special Free Trade Area Committee are such that, if possible, the members should be represented by Ministers, though not necessarily by the normal Ministerial delegates to O.E.E.C. For some countries this will not be possible; for Switzerland it would be constitutionally impracticable. But we should not encourage countries whose part in the negotiations will be critical, such as Denmark, to appoint officials as their normal negotiators.

11. The special Free Trade Area Committee, if its creation is agreed on, will appear naturally a piece of machinery to assist the Chancellor in the role, given him as Chairman of the Council last February, to co-ordinate and direct all negotiations and discussions arising out of, or connected with, the preparation of a Free Trade Area. But though it may be desirable for him to attend its meetings occasionally—and when he does he will as Chairman of the Council naturally preside—it will be necessary to provide a regular chairman. Although there are inevitably some disadvantages in having the chair, since it is not always easy to defend a difficult national position there, it is doubtful whether there will be the necessary drive unless the United Kingdom has it. It will therefore be desirable, if possible, that the Paymaster-General be nominated chairman.

12. The special Committee will need subordinate bodies, working parties, &c. It should have power to create these, and the existing Working Parties 21, 22, and 23, which at present depend on the Council, should be made subject to the direction of the special Committee so that all the threads may be pulled together in one place.
13. We cannot count on negotiations in a seventeen-country Committee being rapid; indeed, if it cannot be reduced and some smaller steering group developed we cannot expect a successful outcome to the negotiations. Ideally, we should like to obtain agreement at the October meeting to the formal constitution of such a group. But it does not seem likely that such agreement can be reached in October, and unless there is an unexpected change we should not take any steps to secure it during the October meeting. We should leave the special Free Trade Area Committee to work, expecting that the need for the smaller group will then become apparent. Moreover, the powers given to the Chancellor, as Chairman of the Council, last February to consult whom he thinks fit will remain unimpaired, and may provide the means of creating a smaller group to deal with the crucial issues.

14. The formal recognition in the negotiating machinery that all the questions referred to in paragraph 9 above, and in particular agriculture (which will have been discussed as one of the problems mentioned in the Chancellor's report), will have to be dealt with together even though they form part of separate legal instruments may well appear to the Continental countries as a significant move forward by the United Kingdom. We hope this will be sufficient to launch the negotiations. There are dangers in this. Unless the United Kingdom has made quite clear what it cannot do in the agricultural field, there is a risk that the creation of this machinery might precipitate serious political difficulties within the United Kingdom and even in the Commonwealth. On the other hand, if the United Kingdom indicates only the things that it cannot do and does not indicate the general lines of what it is prepared to consider, there may not be agreement in the Council to go forward with the negotiations. This problem is dealt with in detail in the separate brief on agriculture.

The Risk of Deadlock

15. It may be that after the exchange of views on the points set out in the Chancellor's message there will not be any reasonable ground on the basis of the various statements made that the negotiations can be successful. This could happen if we thought that the French statement on the sort of Free Trade Area they could accept was so unreal and unsatisfactory as to give little chance of ever reaching agreement, or if other countries considered our statement on foodstuffs to be an inadequate basis for negotiation. In this event, it appears now to be preferable that the meeting be adjourned rather than that the procedural device of creating the special Free Trade Area Committee be used to break the deadlock. It would not be desirable to set up the special Free Trade Area Committee if it was certain to run immediately into a deadlock which we had failed to break at the October meeting. It would be better to adjourn the meeting and by diplomatic means, including smaller Ministerial meetings and visits, to seek to move forward rather than to create a new Committee before there is any prospect that it can do useful work.

Recommendations

16. We recommend that, if the statements at the October meeting give reasonable hope that negotiations can be successful, we should seek to reach agreement on the following points:

(1) The negotiations should cover—

(a) The Free Trade Area Convention (and provision for coal and steel).
(b) An Agreement for Agriculture.
(c) Other matters not falling within (a) and (b) but which it is desirable to settle at the same time.
(d) Methods of association of members who feel unable to accept all the obligations of the Free Trade Area Convention.

(2) The co-ordination and direction of all these matters should be entrusted to a special Free Trade Area Committee composed of Ministers, or exceptionally officials, from all member countries.

(3) The Paymaster-General should be chairman of the special Committee.
(4) The special Committee should be authorised to set up new inter-
Governmental bodies without further reference to the Council, and
should take over direction of the existing Working Parties 21, 22 and 23.
(We should take care to ensure that the terms of reference under which
the special Committee is set up do not inhibit in any way the prospect of
securing the later establishment of a smaller steering group.)

ANNEX A

FREE TRADE AREA NEGOTIATIONS

REPORT TO O.E.E.C. BY THE CHANCELLOR OF THE EXCHEQUER, JULY 1957

It became clear some time ago, for reasons well known to all of us, that the
Working Parties set up in O.E.E.C. to hammer out the problems of creating a Free
Trade Area would not be able to move as fast as some of us had hoped when
Ministers last met in O.E.E.C. in February. I therefore asked the Chairmen of
the three Working Parties to make personal reports to me on the state of the work.
I am arranging for these reports to be circulated to members of the Organisation.
I, and I am sure all my colleagues, are most grateful for the work which these three
gentlemen have done for us both in their labours in the Working Parties and in
preparing these reports. It quite clearly emerges from these documents that,
despite the decision we took last February to enter into negotiations, we have not
yet been able to tackle some major issues, on which the discussions have shown
that we are widely divided: there is far from a community of view among us as
to what kind of Free Trade Area we want.

2. The first essential point on which there must be general agreement is, do
we accept as our objective the creation of a Free Trade Area? I have been much
encouraged in my discussion with a number of Ministers to find that they do feel
that it is in the best interest of Europe that we should succeed in our endeavour to
complement the Customs Union by a Free Trade Area to maintain wider
co-operation and avoid division. I hope that we shall all keep this essential need
continuously in mind during the negotiations: we shall not be successful unless we do.

3. What are the major points on which we must at least move together a
little if negotiations are to have any prospect of success? They appear to me to
be the following:

A.—(i) In general, what should be the scope of the Free Trade Area
Convention? We are all agreed that if a Free Trade Area is to
succeed there will have to be continued co-operation, and indeed
further progress, in many fields other than the removal of tariffs
and quotas. But we are not clear on how to do this. Should we
seek in the Convention to deal specifically with all those matters
relevant to a Free Trade Area which fall within the Treaty of
Rome? Or, alternatively, should we deal in the Convention only
with tariffs, quotas and other essentially related matters such as
rules of fair competition while we provide at the same time for
continued work and where necessary take new decisions for
further progress in other fields of economic co-operation in
O.E.E.C.?

(ii) So far as the movement of goods is concerned, do we accept that while
we all keep our own external tariff autonomy we should have
liberal rules for defining the origin and content qualification of
goods entitled to move freely within the Area?

(iii) We are all agreed that the Free Trade Area will require new
institutions and procedures, including voting procedures, which
may differ in important respects from those at present used in
O.E.E.C. It will be necessary to agree also on:

(1) what institutions and procedures, including voting procedures,
the Convention should provide for; and

SECRET
(2) what measures should be taken to relate the reciprocal obligations of the members of the Free Trade Area to those of the signatories of the Treaty of Rome;

(3) what arrangements should be made to ensure that the institutions established under the Rome Treaty and those of the Free Trade Area work closely and continuously together.

B.—On foodstuffs there are serious questions to consider. How far are the members of O.E.E.C., including the signatories of the Treaty of Rome, willing to agree now to enter into reciprocal arrangements with all or any of the members of O.E.E.C. about trade in foodstuffs including the removal of tariffs and quotas, similar to or identical with those proposed and envisaged by the Treaty of Rome? Some members have made it plain that they regard this as impossible. Are there other arrangements which members of O.E.E.C., including the Six, would be prepared to accept?

C.—(i) Certain members of O.E.E.C. have indicated their desire to be associated with the Free Trade Area while feeling unable to subscribe to the full obligations of members at least at the outset. It appears to me that until there is some general agreement on the questions in Parts A and B above these countries will not be able to state in detail how far they would require derogations from the ordinary rules of membership, nor shall we be able to see arrangements worked out for associating with the Free Trade Area members of O.E.E.C. who are not able to accept the general obligations.

(ii) Certain members feel that they will not be able to join or be associated with the Free Trade Area unless they have additional resources of external capital available to them to assist in their development and re adaptation. How far can this additional capital be made available? Are new institutional arrangements needed, and if so what arrangements would be appropriate?

4. I doubt whether we can reasonably ask officials to do much further work in Paris on these problems until they have been discussed at a meeting of Ministers. I should therefore like to make the following proposals for procedure in the immediate future.

5. Firstly, I think we should all of us in our capitals during the coming weeks give most earnest attention to these basic problems and consider what we can do to take account of the diverse positions of our partners.

6. Secondly, I suggest that we should meet together as soon as is practicable to consider all these problems. I believe that, given the diversities of view that exist now, we should regard this primarily as an informal meeting of Ministers. This would not prevent our meeting as a Council if we wish to conduct any formal business. At that meeting we should seek to take stock of the position, and consider by what methods and procedures the negotiations concerning the Free Trade Area should be conducted. I will very shortly make proposals on the date of such a meeting.

7. It will also be necessary to consider the negotiations which will be required to bring coal and steel within the Free Trade Area.

8. I am sure I do not need to emphasise the importance of the matters to which we set our hand last February. It will be a very serious day for Europe if we are not able to create a Free Trade Area as a complement to the European Economic Community established by the Treaty of Rome. We have made considerable progress in understanding the complexities of the problems and the attitudes of the various members. But it is clear that we shall not create a real and effective Free Trade Area as a complement to the Customs Union unless we are all determined to succeed and are all prepared for an intensive and continuous effort.

July 1957.
SUMMARY OF ADDITIONAL BRIEFS

This note summarises the proposed United Kingdom position on the subjects other than foodstuffs, mentioned in paragraphs 2 and 3 of the Chancellor's report (Annex A) and listed in paragraph 4 of the general steering brief. These are:

Scope of the Free Trade Area Convention.
Origin and content qualification of goods.
Institutions.
Relation between the obligations of members of the Free Trade Area and of the Six.
Arrangements for the close working together of the institutions of the Free Trade Area and the European Economic Community.
Problem of the "Peripherals."
Additional capital requirements.

More detailed briefs on all these subjects have been prepared for the use of the United Kingdom delegation to the October meeting.

Scope of the Free Trade Area Convention

2. Our original concept of an industrial Free Trade Area was of a Convention to promote freedom of trade in industrial goods, and which would deal with tariffs and quotas and such essentially related points as rules of competition and appropriate institutions, devised within the O.E.E.C. framework, to handle the necessary management functions. The Treaty of Rome establishing the European Economic Community is based on a very different concept. The Treaty deals with the whole range of economic policy and the Community is regarded primarily as an instrument designed to enable the Six to develop their resources in common.

(i) It is unlikely that we can negotiate the industrial Free Trade Area unless we are prepared to accept some commitments outside the field of tariffs and quotas and directly related matters. Some O.E.E.C. members—not only the Six—will wish to insist on accompanying commitments in other fields, e.g., for invisibles. Apart from the views which other countries will urge in negotiation, further examination has shown that it will probably be to our advantage to have some additional obligations in the fields of invisibles, establishment and services, either in the Convention or separately.

(ii) If we abandoned our original concept and set out to negotiate a Convention of wide scope, the natural model would be the Treaty of Rome, and we should be exposed to pressure to agree to the inclusion of subjects which we want to exclude. Further, we should be likely to alarm opinion both in the United Kingdom and in the Commonwealth.

(iii) The balance of advantage lies in maintaining the original limited concept of the industrial Free Trade Area, while at the same time being prepared to accept either obligations of substance, or else commitments to undertake further study, on some other subjects in O.E.E.C. outside the scope of the Convention. This need not rule out the possibility of including some such commitments in the Convention itself, if this proves desirable in the course of negotiation.

Origin and content qualification of goods

3. The problem of defining the origin of goods arises because in a Free Trade Area the external tariffs of member countries will normally differ, and third countries will therefore have an incentive to export to the whole of the Area via the member country with the lowest external tariff, to the detriment of member countries with higher tariffs. This difficulty can only be overcome by agreeing in advance the circumstances in which goods are to be regarded as having been produced within the Free Trade Area for the purpose of claiming entitlement to duty-free entry into other Area countries.
4. We are in favour of rules which would extend the benefits of the Free Trade Area to the bulk of trade passing between Member countries. Subject to one qualification, this would be achieved by our proposal that all goods should qualify for Free Trade Area tariff treatment if at least 50 per cent. of their value has been added in the Area. The qualification, which in our view is a vital one, is that certain listed basic materials imported in substantial quantities from outside the Area, e.g., non-ferrous metals, timber, paper pulp, petroleum, &c., should be deemed to be of Free Trade Area origin when calculating the Area content of goods made from those materials.

5. The difficulty is that some countries, notably France and Italy, at present have a policy of high tariff protection on basic materials, which they are unwilling to surrender. This is a question on which the Six could not agree before the signature of the Treaty of Rome. They have therefore postponed a decision on these items (List G of Annex I to the Treaty of Rome) until after the Treaty has come into force. If Germany and the Benelux countries continue to oppose a policy of high and effective tariff protection on these basic materials, there is no procedure under the Treaty to ensure that agreement is reached between the Six, in which case the existing tariffs on these materials will continue to be applied.

6. If the Six eventually agreed on a high level of tariff protection for basic materials, it would in practice be impossible for them to allow goods made in the Free Trade Area from materials produced outside the Area (e.g., zinc sheets made in the United Kingdom from Australian zinc) to qualify for free entry into the Customs Union.

7. It is recommended that the line to be taken by the United Kingdom on these questions should be as follows:—
   (i) We cannot agree to proposals—e.g., limited harmonisation of tariffs—which would make it necessary for us to treat the Commonwealth less favourably than Europe.
   (ii) We see serious objections to administrative procedures—e.g., a tax on the material content of goods imported into the Customs Union from the Free Trade Area—which would in effect concede to the Six the right to unilateral retention of tariffs.
   (iii) We want to see a reasonably low percentage of Free Trade Area content, combined with a satisfactory list of basic materials, agreed as the qualifications for Free Trade Area tariff treatment.
   (iv) There does not in practice appear to be any way in which to reconcile the retention of high tariff protection on basic materials in the Customs Union, or in any other Free Trade Area country, with the creation of an effective Free Trade Area covering the great bulk of intra-European trade in industrial goods. We must therefore express the hope that whatever the Six may decide to do about the common tariff on basic materials—on which it is not for us to advise them—they will not allow their decisions (or failure to take decisions) to prejudice the setting up of a Free Trade Area on the lines we have proposed, i.e., one involving acceptance of criteria of origin as in (iii) above.

(The French and Italians may argue that the 50 per cent. rule will lead to the import, via the low tariff countries such as Denmark, of cheap semi-manufactures (e.g., chemicals, machinery components and textiles) from outside the Area. Our view on this is that we are not prepared to accept in advance generally restrictive arrangements to cover hypothetical difficulties which in the end may not be serious. But we should be prepared to consider remedies if and when difficulties arose.)

Institutions

8.—(i) The United Kingdom proposal is for a Free Trade Area to be established within the framework of O.E.E.C., with such modifications of existing procedure and practice as may be necessary.
   (ii) The institutions should be headed by a Council of Ministers.
   (iii) It will be necessary to establish a body of officials to deal with the day-to-day management of the Free Trade Area. Such a body could be either:—
      (a) a Board of National officials; or
      (b) a Commission of international officials.
In either case its membership would need to be restricted to a small number. Our preference is for (a).

(iv) Whichever type of managing body were adopted, it should not have rights of initiative similar to those which the European Commission of the Six will possess. For all practical purposes the Council of Ministers of the European Economic Community can take no decision by majority vote except on the recommendation of the Commission. In the Free Trade Area we should not wish to accept any arrangement which limited the authority of the Ministers of the member countries to this extent. The Council of Ministers of the Free Trade Area should have power to take decisions either by unanimity or majority vote according to the subject matter, regardless of the recommendation made by the managing body.

(v) Unanimous voting should be the rule, except where the Convention expressly provides otherwise. But there will be a number of subjects, which must be precisely defined in the Convention, for which majority voting will be necessary if the Free Trade Area is to work satisfactorily. Examples of such subjects are approval of proposals for implementing specific obligations, where the details need to be worked out, and approval of derogations from precise obligations; majority voting would also seem appropriate for cases where countries are allowed to take action without previously consulting the organisation but are required to seek approval after the event. It will be necessary to insist on unanimity for altering the provisions of the Convention or for adopting obligations not defined in it but left for subsequent definition. Unanimity would also be appropriate for approving appointments to the managing body.

(vi) Detailed methods of voting need not be discussed at this stage.

Relation between the obligations of members of the Free Trade Area and of the Six

9.—(i) In the sphere of trade in industrial goods and materials we are prepared to accept international obligations and objectives comparable with those of the Treaty of Rome. In these fields our objective ideally would be a Free Trade Area Convention containing a set of rules binding on each individual signatory in relation to all other individual signatories, governing their relations with each other and prohibiting all discrimination between them.

(ii) Though we should get as near as we can to a Convention of this kind, it will almost certainly not be acceptable to the Six. It would imply superseding those parts of the Treaty of Rome which deal with the same topics as the Free Trade Area Convention and would seriously limit the powers of the institutions of the European Economic Community.

(iii) Although, therefore, we cannot expect to obtain a Convention which by its very nature avoids all danger of discrimination against United Kingdom traders in the field of industrial goods and materials, we must try to avoid such discrimination by two methods:

(a) On things which really matter to us the terms of the Free Trade Area Convention and of the Treaty of Rome must be effectively the same; that is to say, we must either adopt in the Convention the provisions of the Rome Treaty, or in any cases in which these provisions are seriously objectionable seek to write in acceptable provisions sufficiently precise to override the corresponding articles of the Rome Treaty and to bind the Six as signatories of the Convention.

(b) The administration of the rules of the Free Trade Area and of the European Economic Community, where they cover common ground, must be similar. In order to secure this object close co-operation between the Institutions of the Area and of the Community will be essential (paragraph 10 below).
(iv) The more the provisions of the Free Trade Area Convention limit the freedom of its members, the more the centre of power will move to the institutions of the Area. Contrariwise, the less the Convention limits the freedom of members of the Area, the more the centre of power will rest in the institutions of the European Economic Community, where we shall have no influence.

Arrangements for the Close Working Together of the Institutions of the Free Trade Area and the European Economic Community

10. (i) Council of Ministers.—We envisage that the supreme governing body of the Free Trade Area will be the Council of Ministers. The Treaty of Rome delegates important powers to the European Commission, but we should seek to secure that all major Powers in the Free Trade Area will be exercised by the Ministerial Council. Provided the Six are represented individually by their Ministers on the Council of the Free Trade Area, Ministers of the non-Six will have the maximum opportunity for ensuring that decisions are taken on a European, and not a "little Europe" basis.

(ii) Liaison between the Managing Bodies.—The Free Trade Area will have a managing body dealing with subjects similar to some of those dealt with by the European Commission, though its powers will be more restricted and it will cover a narrower range of topics. None the less the major questions will be dealt with by both. It will be desirable to ensure some common membership and close liaison arrangements.

(iii) Delegations.—The role of the national delegations will be important both in the Free Trade Area and in the European Economic Community. The normal contacts between delegations will facilitate the working out of similar solutions to problems in both organisations provided the delegations are in the same place. This is a strong reason for having both organisations in the same place. If they are it is almost certain that the national delegations of the Six to the European Economic Community will be the same as their delegations to the Free Trade Area. If they are not, then there will be no basis for contact between, for example; the United Kingdom delegation to the Free Trade Area and the German delegation to the European Economic Community.

(iv) Secretariats.—If there is to be effective co-operation between the secretariat of the two bodies, they must be in or near the same place. This will not only avoid duplication of staff, but will assist the development of common attitudes in both bodies.

Problems of the "Peripherals"

11. There are some O.E.E.C. member countries (Turkey, Greece, Iceland, the Irish Republic, and—though perhaps to a more limited extent—Portugal) who cannot, or think they cannot, accept the obligations of a Free Trade Area in full immediately. [For convenience these countries are commonly described as the "peripherals," but this term should not be used in public.] In general the less said at the October meeting about the problems of the " peripherals" the better. To the extent that it is necessary to discuss them, the following points might be made: the fourth would be better avoided, if possible:—

(i) The work so far undertaken in Working Party No. 23 of the Council is revealing the nature of the difficulties which face certain member countries. Those countries which have discussed their position in that Working Party are, we understand, now reviewing their judgment of what they could do in the light of the discussions.

(ii) If time is not to be wasted, it is important that study of this problem should go on concurrently with consideration of the possible rules and scope of the Free Trade Area so that means of meeting the difficulties of countries unable to accept the full obligations of a Free Trade Area can be considered against an established factual background when broad ideas on the basic rules of a Free Trade Area are sufficiently advanced.
It is generally assumed, and we do not dissent from this view, that some special arrangements will be needed to allow the association of certain countries with the Free Trade Area. We cannot now suggest either what they should be, or what institutional arrangements would be appropriate. The facts must first be established.

It has already been suggested that some countries might be required to comply with a slower time-table in dismantling their tariffs and quotas than others. We cannot now express a view on that. Until the broad lines of the basic obligations of the Free Trade Area are known we cannot make any progress on these questions.

Additional Capital Requirements

12. After the O.E.E.C. Council meeting in February the Chancellor, in setting the tasks for Working Parties 21, 22 and 23, added that special arrangements might be necessary for the consideration of other important questions such as the establishment of a Development (Investment) Bank for the Free Trade Area. He would make proposals later.

(i) It is important that at the October meeting the United Kingdom should not indicate antagonism to the whole idea of such a bank (although in fact we do dislike it). To do so might prejudice the chances of getting negotiations started. Without, therefore, saying anything which implies acceptance of the idea, we should take the line that at this stage we are able to make no firm judgment. The problem needs much further examination before any such judgment can be made.

(ii) As suggested by the Chairman of Working Party No. 23, it will be necessary for underdeveloped countries to explain just what additional finance they need, and why, and for these explanations to be examined carefully.

(iii) It will be desirable to examine the adequacy of existing institutions for mobilising and channelling development capital and the question whether the institution of the Free Trade Area calls for any modification of or addition to them. The United Kingdom is very ready to consider with other members of O.E.E.C. how best this could be done. (A proposal that such an examination might be conducted by the Managing Board of the European Payments Union, or by a special body on which that Board was represented, has already been canvassed informally by Sir H. Ellis-Rees with the Secretariat and the Chairman of Working Party No. 23. Both opposed the institution of any such examination until the studies of Working Party No. 23 were further advanced.)
CABINET

EUROPEAN FREE TRADE AREA: AGRICULTURE

NOTE BY THE PAYMASTER-GENERAL

The attached memorandum by officials sets out proposals which the United Kingdom representatives might make in the field of agriculture at the meeting of Ministers of member countries of the Organisation for European Economic Co-operation (O.E.E.C.) which is to be held in Paris from 16th to 19th October to discuss the European Free Trade Area project.

2. I comment on the note in my memorandum C. (57) 222.

R. M.

Office of the Paymaster-General, S.W. 1,
3rd October, 1957.
EUROPEAN FREE TRADE AREA: MEETING OF O.E.E.C. MINISTERS—AGRICULTURE

MEMORANDUM BY OFFICIALS

In preparation for the meeting of O.E.E.C. Ministers in October on the Free Trade Area we submitted to Ministers in August a memorandum on agriculture. This indicated what action we could take within the limits of existing policies and commitments to deal with the preoccupations of our partners in the Free Trade Area negotiations. That memorandum was discussed in Cabinet on 27th August (C.C. (57) 62nd Conclusions, Minute 1) and there was general agreement that the approach outlined should form the basis of further study.

2. This memorandum has been prepared in the light of that discussion. It proposes the line which we should take at the forthcoming meeting of O.E.E.C. Ministers in order to achieve our objective of getting the negotiations for an Industrial Free Trade Area effectively started.

3. We have borne constantly in mind that the further we move at the October meeting the less we have to play with in actual negotiation later on and the further we shall ultimately be pushed. We must clearly move in this matter, but we must not move one step further at this meeting than is absolutely necessary in order to start off serious negotiation on the Free Trade Area.

4. Any move which the United Kingdom makes must take account of:—
(a) The need for us to provide some quid pro quo on foodstuffs to Continental food exporting countries who open their markets for industrial goods to us.
(b) The need for those Continental food exporting countries who are not members of the Common Market to safeguard their interests in the markets of the Six Powers.

Formally this could be done in either of two ways:—
(i) There could be an Agreement (or Statute) for Agriculture along the lines of the provisions of the Treaty of Rome and therefore providing amongst other things for the elimination of tariffs and quotas and for a common agricultural policy decided ultimately by majority vote. To such an Agreement we could not subscribe. But we could offer to enter into some sort of formal association, providing machinery through which it would be possible for the United Kingdom in future to join in specific commodity arrangements for particular commodities.
(ii) There could be an Agreement (or Statute) for Agriculture setting up an institutional framework which would provide for the working out of precise obligations, though it would not necessarily involve any prior commitments. To such an Agreement we would subscribe so long as our freedom of action was not restricted by majority voting.

While in the end the practical results of these two methods might be much the same, it is pretty clear that the former approach (4 (i) above), offering no certainty of participation by the United Kingdom would be insufficient to break the log-jam in Paris.

5. We must therefore follow course 4 (ii). This means, at least, that we must declare our willingness to participate in the negotiation of an Agreement for Agriculture as a complement to the Free Trade Area Convention, which, though separate, would be signed simultaneously with it in O.E.E.C. It seems unlikely, however, that a simple declaration alone could satisfy Continental Europe that we meant business. At the same time, it would arouse grave disquiet in the minds of British farmers on the one hand and of the Commonwealth on the other, lest we were preparing to undertake obligations prejudicial to their vital interests. For these reasons, therefore, we must also be ready to give some idea of the scope of this Agreement and of the extent of the obligations we could contemplate, although we should aim to avoid detail.
6. Any satisfactory outcome of the October meeting is bound to provide for negotiations on agriculture pari passu with the negotiations on the Free Trade Area Convention. This may be played up as a great concession by the United Kingdom and for that very reason to cause disquiet in the United Kingdom and in the Commonwealth. Immediately after this meeting United Kingdom Ministers will be pressed to explain what they have agreed to, probably by means of Parliamentary Questions. The replies to those Questions must not only be satisfactory to domestic and Commonwealth opinion but they must also be compatible with, and not calculated to undo the good which will have been done by, our statements in Paris.

The Scope of an Agreement for Agriculture

7. At the October meeting we should propose (subject to the proviso made in (d) below), and should indicate the extent to which we ourselves should be prepared to subscribe to, an Agreement for Agriculture on the following lines:

(a) It would cover the whole range of policy affecting agricultural production and trade.

(b) It would provide institutional arrangements of a more positive character than those which exist at present for consultation, examination and justification of national policies on production and trade.

(c) It would contain rules for trade in agricultural products based on existing O.E.E.C. and General Agreement on Tariffs and Trade (G.A.T.T.) obligations.

(d) It could provide (if other countries wished it) for the elimination of tariffs and quotas on agricultural products over a definite period, but the United Kingdom would require a waiver in respect of tariffs.

(e) It would provide a framework of association in differing degrees and commodity by commodity with the institutions of the Six.

The United Kingdom Line on the Elements of the Agreement

General Policy and Institutions (paragraphs 7 (a) and (b) above)

8. We should in effect be proposing arrangements under which every aspect, internal and external, of United Kingdom policy and practice in the field of agriculture could be subject to discussion and examination, along with the policies and practices of other countries. We should emphasise that this would provide opportunities for making a real advance in the development of rational policies to the advantage of all. We should be very ready to co-operate with other members of O.E.E.C. in a full examination of how existing procedures might be improved and extended. We should have in mind, for example, confrontation of national policies in the light of annual reviews of production, efficiency and levels of production, and complaints procedures designed to enable members to lodge their complaints at an early and effective stage.

9. In saying that we are ready to accept more positive institutional arrangements, we are in effect agreeing to expose ourselves, along with other countries, to pressures greater than those which can be generated at the moment. The primary issue here is really the extent of the powers which should be exercised by the responsible institutions. The United Kingdom line would be that, so long as there is provision for unanimous decision, we are not averse from institutional arrangements of a more positive kind than those which exist at present and are ready to explore with other members what can be done to this end if that is the general wish. The question will no doubt also arise whether the necessary arrangements could best be achieved by modification of existing institutions in O.E.E.C. or the creation of new ones. We have an open mind on whether it would be better to adapt existing institutions or to create new ones within O.E.E.C.; this would be a matter for detailed negotiation. Though they are not matters on which we should take any initiative we could, if there were a general feeling in that direction, agree to consider provision for majority recommendations, i.e., recommendations which though not enforceable, would show clearly the strength of opinion; and we could adopt an open-minded attitude about the form of the managing body (i.e., Board or Commission) without prejudice to what might be best for the Free Trade Area.
Tariffs (paragraph 7(d) above)

10. If other members of O.E.E.C. wish the Agreement to include precise obligations for the progressive reduction and elimination of tariffs, we should not object provided it was clearly understood that we should not be able to accept such obligations and would have to have a waiver in respect of such provisions. We should, of course, not expect to benefit from tariff reductions made by others in pursuance of obligations in respect of which we had a waiver, e.g., United Kingdom exporters of confectionery would not benefit unless it proved possible to define agricultural products in a way which excluded manufactured foodstuffs. We should justify our need for a waiver on the well-known position, which we believe is generally accepted, that we cannot take action which would in any way prejudice the position of Commonwealth export of foodstuffs to our market.

11. We may well be pressed to agree to accept obligations to reduce and eliminate tariffs on items in which the Commonwealth has no significant interest. To this we should say that, while we are perfectly ready to discuss all aspects of our tariffs on foodstuffs in the context of what other countries may be willing to contemplate in this field, and indeed should welcome an opportunity of explaining the importance and extent of the Commonwealth interest, this willingness to take part in the discussion must not be interpreted as implying that we are prepared now to contemplate accepting any commitments in respect of our tariffs on foodstuffs in the Agreement for Agriculture.

Quotas (paragraph 7(d) above)

12. If other members desire that the Agreement for Agriculture should contain a firm obligation to remove all quotas on foodstuffs, the United Kingdom should make it clear that we stand by our existing obligations which we have with other members of O.E.E.C. under the Code of Liberalisation and the G.A.T.T. There are a very few cases where the removal of quantitative restrictions will be very difficult for us and we do not at present see how to do it. There may be cases where we, like other people, shall not be able to abolish quotas unless some alternative form of regulating the trade—a “managed market”—can be worked out, but in this we believe our position is no different from that of anybody else.

Association with the Managed Market of the Six (paragraph 7(e))

13. We would draw the attention of Ministers to the following points:

(1) The Six have assumed that it will be necessary to work out managed market techniques for at least some and probably most commodities pari passu with the abolition of tariffs and quotas. They have established machinery to enable them to do this.

(2) Other members of O.E.E.C. (e.g., the Danes) may feel likewise that they cannot contemplate obligations to reduce tariffs and quotas unless managed market techniques for all the commodities where they wish to protect their domestic production can be worked out.

(3) The Six will probably be unwilling to extend the benefit of their reduction of tariffs and quotas in the foodstuffs field to other members of O.E.E.C. unless they are prepared to participate in the working out of the managed market.

14. It follows that the United Kingdom line should be that we are not prepared to agree in advance to work out managed market techniques. We have grave doubts whether satisfactory schemes, schemes which are not more protective than the tariffs they would replace, can in practice be devised for all commodities where we and other countries wish to protect domestic production. That is why we cannot agree now to abolish tariffs even where there is no significant Commonwealth interest. But we are willing to examine the problem case by case as each commodity is discussed and an appropriate technique worked out, and if we find that it is advantageous or sensible for us to take part in such managed markets we shall be ready to do so. But this must all be in the future and there can be no commitment now. (There are some cases, e.g., apples and pears, where a managed market technique, covering not only Europe but the Commonwealth, may be the only satisfactory method of organising the trade.)
Membership of the Agreement

15. We do not want argument on whether a country should be allowed to join for agriculture if it does not also accept the Industrial Free Trade Area and any other obligations. The fact that the Agreement and the Free Trade Area Convention would be separate should help. Our line should be that the Agreement would be open to all O.E.E.C. members. We assume that in fact all members of the Free Trade Area would belong and we ourselves certainly would if it were of the kind outlined in paragraph 7.

Commodity Coverage of the Agreement

16. We have said hitherto that commodities in Chapters 1-24 of the Brussels Nomenclature must be excluded from a Free Trade Area. The implication therefore is that an Agreement for Agriculture would cover this range. The Treaty of Rome, however, has a somewhat different division, e.g., its agricultural provisions do not cover manufactured foodstuffs.

17. It will be necessary to examine further the problem of what, if any, provisions for tropical products should be included in the Agreement. A separate memorandum bearing on this question is being submitted to Ministers. The United Kingdom line on both these points should be that the precise scope of the new Agreement is a matter for detailed discussion in which we are ready to join.

Quid pro Quo for United Kingdom Waiver on Tariffs

18. If we receive a waiver on tariffs we shall certainly be pressed to make some statement regarding the continuance of a liberal United Kingdom import policy for foodstuffs. It would be undesirable to make any definite statement at the forthcoming meeting, but we might indicate that we were prepared to consider making some such statement if other countries so desired.

Action After the October Meeting of Ministers

19. If the Ministerial meeting in October is successful, negotiations will start almost immediately thereafter in the special Free Trade Area Committee which will have been established. Either in that Committee, i.e., between Ministers, or in the Working Party of officials dealing with agricultural questions, more detailed discussion of the content of the Agreement for Agriculture will take place.

20. While the proposal that an Agreement for Agriculture on the lines suggested in paragraphs 7 to 16 above will give a reasonable prospect of getting the negotiations started, it is possible that it will not be sufficient to secure final agreement to a Free Trade Area. It may be that for this further action on the "foodstuffs" sector will be needed. Whether such action should take the form of specific concessions on individual products to satisfy requests of particular countries or more generalised commitments, it will almost certainly call for some modification of existing policies. The Annex indicates the possible areas in which we might be pressed to make further concessions. No decisions are needed in this field yet.

Recommendation

21. We recommend that at the Ministerial meeting in the middle of October the United Kingdom should propose the negotiation of an Agreement for Agriculture on the lines elaborated in paragraphs 7 to 16 of this memorandum.
ANNEX

FURTHER STEPS IN AGRICULTURE

The proposed approach in C. (57) 188 was devised as the maximum offer which the United Kingdom could make consistently with present policy and commitments. The substance of the present covering memorandum is on the same basis. We cannot say whether concessions beyond those limits will be necessary.

2. The purpose of this Annex is to indicate the areas in which we might be pressed to make further concessions on agriculture, the changes in policy which these would involve and, very broadly, their likely effects. We do not recommend to Ministers that any such concessions should be decided upon now nor that any should be made at the mid-October O.E.E.C. meeting.

3. The areas in which we might be pressed are:

I.—Tariffs
   (a) Where there is little or no Commonwealth interest.
   (b) Where there is a real Commonwealth interest.
   (c) Other possibilities.

II.—Agricultural Policy
   (a) Adherence to a common European agricultural policy to be laid down in the Agreement for Agriculture, and to institutions empowered (as in the Rome Treaty) to work in due course by majority decisions.
   (b) Particular unilateral commitments on aspects of United Kingdom agricultural policy.

4. Because the core of a Free Trade Area Convention (as of the Treaty of Rome) is the elimination of tariffs it is reasonable to expect pressure to be particularly severe in this area. The notion of a comprehensive waiver for the United Kingdom from the tariff provisions of the Agreement for Agriculture will be most unpalatable to certain O.E.E.C. countries who will urge that there must be some multilateral obligation on tariffs, howsoever hedged.

5. In considering this question we have sharply to distinguish between the tariffs on the main farm products and those on horticultural products and fish. The main farm products are protected by the price guarantees, and the elimination of the few and small tariffs on these would mainly affect the Commonwealth. Conversely, the horticultural and fish tariffs are of much less interest to the Commonwealth, but are the home producers' principal protection. The Commonwealth argument is understood though not necessarily accepted in Europe. Pressure will be most severe in respect of the tariffs which wholly, or in the main, protect United Kingdom producers.

Domestic Considerations

6. The difficulty in reducing or eliminating tariffs of domestic interest (horticulture and fish) is mainly political, though the economic consequences for particular producers, as in the industrial sphere, could be severe. In so far as we could adopt arrangements of equivalent protective effect, the political and economic difficulty of reducing tariffs would be the less. The Treaty of Rome envisages the widespread use of alternative protective devices (e.g., minimum price arrangements, State and quasi-monopoly trading, &c.) during the transitional period and possibly thereafter. But such alternatives conflict sharply with our current general trade policies. Once we had embarked upon the techniques of the “managed market” there would be strong pressures from all suppliers at home and abroad to apply them widely to the detriment of consumers, to our cost structure, to the terms of trade and so to the balance of payments.
7. It may be convenient, as the proposed Agreement for Agriculture envisages, to consider particular arrangements, e.g., minimum price schemes for two or three horticultural items, but general commitments in this field which might involve not only import but production quotas, international producer "cartels," &c., would be very damaging. In any event, to limit the removal of tariffs by the United Kingdom to cases where alternative protection can be afforded would not be regarded as an equivalent. It would be much less far-reaching than the Rome Treaty in which the irrevocable commitment appears to be to remove the tariffs irrespective of whether a managed market can be organised or not.

Elimination of Tariffs where the Commonwealth Interest is Small

8. The area of possible action is limited. Even if the O.E.E.C. countries are prepared to grant us a waiver in respect of foodstuffs with a Commonwealth interest, they are most unlikely to give us unfettered freedom to say what those foodstuffs are. The total value of United Kingdom imports of "foodstuffs" from all sources (except the Channel Islands) in 1956 was £1,623 millions, of which O.E.E.C. countries accounted for £307 millions. Corresponding totals were £175 millions and £123 millions for those product groups where the Commonwealth interest might be defined as "small" on the grounds that it was under 10 per cent. of our imports of the particular products. (The Appendix gives details of our trade in the thirty items of the Brussels Nomenclature affected.)

9. Dried and salted meats (almost entirely bacon) account for about 58 per cent. of the O.E.E.C. interest: it should be noted that the question of the Exchequer subsidy will be a determining factor in deciding whether or not to remove the tariff on bacon. Fresh and chilled vegetables are the next largest item (£20.4 millions from O.E.E.C. countries), followed by fresh fish (£7.4 millions). Other items are small and a number of them are manufactured foods. This is, however, a purely statistical comparison: in some of these commodities Commonwealth countries might reasonably regard themselves as having a significant interest (e.g., Canada in bacon). Moreover, an item, or items, which are not in themselves large, may be of substantial importance in the trade of an individual Commonwealth country. On the other hand, there are commodities where the Commonwealth supplies more than 10 per cent., but where a change in existing arrangements would not cause them harm. If we decided to move in this field of tariffs, there would clearly have to be considerable discussion with the Commonwealth.

Tariffs where there is a real Commonwealth Interest

10. The Government have declared their intention fully to protect the Commonwealth position in the United Kingdom market. While this attitude is partly governed by our desire to maintain good relations with Commonwealth countries, it stems mainly from our wish to retain our preferences in Commonwealth markets.

Other Possibilities

11. In the tariff field there are two possible concessions which, though going beyond present policy, would have no adverse effect upon the Commonwealth, and but limited effect upon home producers. These are: (a) the binding, at their present ad valorem incidence, of all items in the United Kingdom agricultural, horticultural, and fish tariffs, which are of significant interest to other members of the Free Trade Area; (b) reduction of wine duties. The former would modify horticultural policy. Tariffs on these products are the counterpart of the guarantees on the main farm products and in principle therefore the possibility that tariffs may be increased is implicit in current policy. Any tariffs bound in the interest of European suppliers would similarly be bound for all other members of the G.A.T.T. Reduction of the duties on wines would help many European countries and would help the Commonwealth also, except Cyprus. But this would be expensive in terms of revenue, and would give rise to pressure on the duties for other alcoholic beverages; moreover, any commitment as to the level of such duties would prejudice our freedom of action in a field which is important for the raising of revenue.

Predictable Effects of Tariff Concessions

12. An essential point to bear in mind is that, over the whole field of tariffs, concessions, if made, are definite and their effects largely predictable. But the
consequences of concessions in the field of general agricultural policy, which are considered below (or of association with managed market techniques) will necessarily be impossible to evaluate in advance.

II.—Agricultural Policy

Commitments to a Common European Policy

13. This would imply in the last resort and after a period of years reaching a situation in which our farm support and price review policy and our food import policy would be subject to European majority vote—in the same way and to the same extent as French and German policies will be so limited under the Rome Treaty.

14. It is impossible to say what would be the ultimate economic effects of this, or its bearing on our trade with the Commonwealth: it would of course be a total reversal of policy and could hardly rank as a "concession."

Unilateral Commitments on Agricultural Policy

15. If the United Kingdom were given a waiver from the obligation to remove tariffs on foodstuffs the Europeans could reasonably press for some assurances about our food import and production policy. At the least they would want a guarantee that we would maintain our present liberal food import policy when they were removing their tariffs on our exports of industrial goods. The most we could say within present policies and commitments would be that it was not the aim of our domestic policies to increase uneconomically the United Kingdom's share of her own market. Such a general statement might be insufficient and we might then be pressed for a unilateral undertaking that would involve a change in our domestic agricultural policy.

16. Such an undertaking would probably have to take the form of a separate United Kingdom protocol to the Agreement providing for one or other of the following:

(a) An undertaking to reduce the level of the guarantees in total if total subsidy expenditure exceeded a certain amount (e.g., a specified total value, or proportion of national income, or proportion of the value of agricultural output).

(b) An undertaking to reduce the level of the guarantees in total if total production exceeded a certain amount (e.g., with the general aim of keeping output within a particular level or the United Kingdom share in total consumption of agricultural products within a particular level).

(c) Either in combination with (a) or (b), or alternatively to (a) or (b), a similar undertaking relating to specific commodities of European interest, e.g., eggs and pigmeat.

(a) and (b) above would clearly involve modification of the Government's obligations to home agriculture and consequent amendments of the Agriculture Acts of 1947 and 1957. Less modification or amendment would be involved if any undertaking were related only to a few commodities. The effect upon farm production would depend on the nature of the undertaking, but would not necessarily be damaging to the economy as a whole. The difficulty of moving in these directions would be of a major political character.

III.—Conclusions

17. It is, in our view, premature to attempt now to decide which of the more important of these courses might be contemplated. It is manifest that some would be more difficult than others, economically, politically or both—but the areas of difficulty are radically different. Nevertheless, if Ministers had to decide later on that a further major move must be made in order to retain the possibility of a Free Trade Area it would have to be in one or other of the directions indicated. In order to secure more room for manoeuvre in Europe, the choice must lie broadly between the acceptance of difficulties at home, and entering into difficult negotiations with the Commonwealth. If such a move were to be made there would not be time for a lengthy process of preparation of public opinion either here or in the Commonwealth.
<table>
<thead>
<tr>
<th>Item</th>
<th>Value of imports £’000</th>
<th>Tariff Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>O.E.E.C.</td>
<td>Commonwealth</td>
</tr>
<tr>
<td>02-06 Meat and edible meat offals, &amp;c., dried, salted, &amp;c.</td>
<td>71,740</td>
<td>1,685</td>
</tr>
<tr>
<td>03-01 Fish fresh, live or dead, chilled or frozen</td>
<td>7,725</td>
<td>680</td>
</tr>
<tr>
<td>03-02 Fish salted in brine, dried or smoked</td>
<td>346</td>
<td>31</td>
</tr>
<tr>
<td>03-03 Crustaceans and molluscs (not canned)</td>
<td>875</td>
<td>0</td>
</tr>
<tr>
<td>06-01 Bulbs, tubers, &amp;c.</td>
<td>3,741</td>
<td>108</td>
</tr>
<tr>
<td>06-02 Other live plants, &amp;c.</td>
<td>1,217</td>
<td>43</td>
</tr>
<tr>
<td>06-03 Cut flowers, &amp;c.</td>
<td>1,044</td>
<td>101</td>
</tr>
<tr>
<td>06-04 Foliage, branches, &amp;c.</td>
<td>198</td>
<td>15</td>
</tr>
<tr>
<td>07-01 Vegetables, fresh and chilled</td>
<td>20,354</td>
<td>2,177</td>
</tr>
<tr>
<td>07-02 Vegetables provisionally preserved in brine, &amp;c.</td>
<td>999</td>
<td>9</td>
</tr>
<tr>
<td>08-03 Figs, fresh or dried</td>
<td>273</td>
<td>0</td>
</tr>
<tr>
<td>08-08 Berries, fresh</td>
<td>156</td>
<td>7</td>
</tr>
<tr>
<td>08-11 Fruit provisionally preserved in brine, &amp;c.</td>
<td>219</td>
<td>0</td>
</tr>
<tr>
<td>08-13 Peel of melons and citrus fruit, &amp;c.</td>
<td>130</td>
<td>3</td>
</tr>
<tr>
<td>10-06 Rice</td>
<td>1,556</td>
<td>400</td>
</tr>
</tbody>
</table>
## Major Food Items in Which Commonwealth Interest Was Less Than 10 per cent. of the Value of 1956 Imports (continued)

(Notes: United Kingdom imports from Channel Islands excluded throughout)

<table>
<thead>
<tr>
<th>Item</th>
<th>Value of imports £'000</th>
<th>Tariff Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>O.E.E.C.</td>
</tr>
<tr>
<td>15:01 Lard and other rendered pig fat, &amp;c.</td>
<td>2,585</td>
<td>39</td>
</tr>
<tr>
<td>15-13 Margarine, &amp;c.</td>
<td>4,794</td>
<td>95</td>
</tr>
<tr>
<td>18-04 Cocoa butter</td>
<td>4,610</td>
<td>414</td>
</tr>
<tr>
<td>22-07 Fermented beverages other than beer, wines and spirits</td>
<td>153</td>
<td>0</td>
</tr>
<tr>
<td>23-05 Wine lees, argols</td>
<td>504</td>
<td>0</td>
</tr>
<tr>
<td>Miscellaneous (ten small items)</td>
<td>204</td>
<td>12</td>
</tr>
</tbody>
</table>
EUROPEAN FREE TRADE AREA: AGRICULTURE AND THE COLONIES

NOTE BY THE PAYMASTER-GENERAL

The attached memorandum by officials examines the implications for United Kingdom Colonies of the proposals in the field of agriculture set out in C. (57) 219, and suggests the attitude which should be taken in this regard by the United Kingdom representatives at the meeting of Ministers of member countries of the Organisation for European Economic Co-operation (O.E.E.C.) which is to be held in Paris from 16th to 19th October to discuss the European Free Trade Area project.

2. I comment on the note in my memorandum C. (57) 222.

R. M.

Office of the Paymaster-General, S.W. 1,
3rd October, 1957.
EUROPEAN FREE TRADE AREA: MEETING OF O.E.E.C. MINISTERS—
COLONIAL IMPLICATIONS OF THE UNITED KINGDOM PROPOSALS
ON AGRICULTURE

MEMORANDUM BY OFFICIALS

The present policy on the relationship between overseas territories and the
moves for closer economic association in Europe was arrived at following discussion
with representatives of our Colonial territories in March and April this year.
The results of that discussion were considered by the Cabinet on 6th May, 1957
(C.C. (57) 38th Conclusions, Minute 5).

2. The policy is in essence: —

(a) The exclusion of overseas territories from the industrial Free Trade Area
(though the Cabinet said they would be prepared to re-examine this
question in the light of developments at a later stage).

(b) A demand for mitigation of the damage done to Colonial interests by the
Treaty of Rome.

The mitigation to be sought will, broadly speaking, be an appropriate alleviation
of the tariffs to be charged by the Six on Colonial products coupled with
non-restriction of imports of Colonial produce in implementation of the "managed
market" provisions of the Treaty.

3. The acceptance of this policy by Colonial Governments was not, however,
uniformly enthusiastic. Apart from the special case of Hong Kong which was
ready and anxious to accept the full obligations of membership of the Free Trade
Area, several important African territories saw advantages, from the point of
view of maintaining and improving their present position in European markets,
in an alternative policy of including in the Free Trade Area Convention provisions
analogous to those in the Treaty of Rome associating the overseas territories of the
Six Powers.

4. In implementation of the policy in paragraph 2 above we have sent a
memorandum to the Six setting out the case for mitigation and have made it
clear to the Six and other European countries that we see considerable difficulties
in the inclusion of overseas territories in the Free Trade Area. The French
Government have given us to understand that if we wish to take this line they
would not oppose it, though they did not consider that our territories had a case
for "mitigation" or that we would find support from world opinion for this view.
The other members of the Six have reserved their position on the grounds that the
case for exclusion or inclusion of overseas territories cannot be properly assessed
until the shape of the proposed Free Trade Area is clearer. Some interest has been
shown by other members of O.E.E.C., particularly Denmark, in the inclusion of
overseas territories on the ground that it would provide access to the markets of
the French overseas territories for their exporters.

5. In coming to the view that overseas territories should be excluded, Ministers
had three considerations particularly in mind: —

(a) Inclusion would compromise our position as regards the exclusion of
foodstuffs from the Free Trade Area and might also affect our position
on the "peripherals."

(b) Inclusion, which would have to be optional for each of our Colonies,
would introduce a division in the Colonial Empire, those not wishing
to join also having their position in the United Kingdom market
prejudiced without securing any compensating advantages in the
European market.

(c) It would not be logical to admit to the Free Trade Area Colonies advancing
to independence, but to exclude such independent Commonwealth
countries as might wish to join. Apart from the difficulty of negotiating
a Free Trade Area of such potentially wide extent, admission of
Commonwealth countries would mean a serious erosion of the imperial
preference enjoyed by our exporters in independent Commonwealth
markets.

SECRET

52332
6. The new proposals for agriculture may well seem to some Colonies to weaken the force of our previous arguments on (a) and, therefore, lead to a revival of their interest in association as a means of protecting their exports of foodstuffs to European markets. We cannot at this stage say whether O.E.E.C. countries will accept our latest proposals, but even if they do the establishment of institutions for agriculture would not in itself help our Colonial Governments to by-pass the new preferences created against them by the Six and to that extent there would be no immediate necessity for any Colonies to seek association. It should be recognised, however, that the institutions envisaged might possibly be developed in a way which would provide Colonial Governments with an opportunity to develop discussions about the position of Colonial products in European markets and of maintaining and improving their position there. On the other hand, the considerations at (b) and (c) are as valid now as they were in April and (c) is becoming more of a live issue in that New Zealand is showing interest in being associated with economic integration in Europe.

7. On balance, therefore, we recommend that for the present we should maintain our position:

(a) that the Agreement for Agriculture, like the Free Trade Area, should be confined to Europe; and

(b) that we should continue to press for mitigation of the effects of the Treaty of Rome.

8. Circumstances may, however, be substantially affected in the next two to three months, particularly by what happens to our proposals on agriculture in O.E.E.C. and to our efforts to obtain mitigation.

9. No final judgment on the possibility of adequate mitigation will be possible, however, until the reaction of the world to the overseas territories clauses of the Treaty of Rome has been shown at the forthcoming Session of the General Agreement on Tariffs and Trade (G.A.T.T.). We should, of course, continue to press strongly for mitigation in those discussions. Furthermore we recommend that, if the course of discussions in the G.A.T.T. makes it necessary, political pressure should also be brought to bear on the Six, using the arguments set out in our memorandum on mitigation.

10. If by both these approaches mitigation cannot be achieved, or not achieved to a satisfactory extent, new measures will be necessary if we are not to fail in our responsibilities to the Colonies. What new measures would be appropriate might, however, depend on developments in the meantime in the discussions on agriculture in O.E.E.C. We cannot at this time foresee what those developments will be but it is important in the meantime not to take a position that would exclude tropical foodstuffs from the scope of the Agreement on Agriculture (paragraph 17 of the separate submission on agriculture is relevant in this context).

Recommendations

11. We recommend:

(1) for the purposes of the O.E.E.C. meeting we should maintain our position regarding the exclusion of dependent overseas territories from the Free Trade Area and the agricultural arrangements (paragraph 7);

(2) that we should continue to press for mitigation of the effects of the Treaty of Rome on our dependent overseas territories both in the G.A.T.T. and, if necessary, in other ways (paragraphs 7 and 9);

(3) that the position should be reviewed in two to three months' time in the light of developments (paragraph 10).

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CABINET

GENERAL AGREEMENT ON TARIFFS AND TRADE AND THE TREATY OF ROME

NOTE BY THE PAYMASTER-GENERAL

The attached memorandum by officials suggests the attitude which should be adopted by the United Kingdom representatives when the Treaty of Rome is examined at the Twelfth Session of the Contracting Parties to the General Agreement on Tariffs and Trade which begins in Geneva on 17th October.

2. I comment on the note in my memorandum C. (57) 222.

R. M.

Office of the Paymaster-General, S.W. 1,
3rd October, 1957.
EXAMINATION OF THE TREATY OF ROME IN THE GENERAL AGREEMENT ON TARIFFS AND TRADE

MEMORANDUM BY OFFICIALS

The Twelfth Annual Session of the Contracting Parties to the General Agreement on Tariffs and Trade (G.A.T.T.) starts in Geneva on 17th October, and may be expected to last for six weeks or two months. While there will be much other business, the major topic of the session will be the examination of the Treaty of Rome in the light of the relevant provisions of the General Agreement. The Contracting Parties will be meeting at Ministerial level for a few days beginning on 28th October; the President of the Board of Trade will then represent the United Kingdom. It is unlikely that there will be substantive detailed examination of the Treaty of Rome until after the Ministerial meeting.

2. We shall be meeting representatives of the other Commonwealth countries in London for a few days beginning on 10th October to discuss the handling of the Treaty of Rome at the session and other matters on the sessional agenda.

3. The General Agreement gives Contracting Parties the right to depart from the principle of most-favoured-nation treatment on which it is based in order to form customs unions or free trade areas, provided their proposals satisfy certain tests laid down in the Agreement. The task of the Contracting Parties at the session is to determine if the proposals of the Six Powers satisfy these tests. Since the G.A.T.T. is a treaty signed by the Contracting Parties defining rights and obligations, much of the argument will concern the precise interpretation to be given to its provisions.

4. In terms of the G.A.T.T. examination, the proposals of the Treaty of Rome fall into two parts:
   (i) the proposal for the creation of a customs union (and economic union) of the Six, and
   (ii) the proposal for the creation of what the Six claim to be a free trade area, consistent with G.A.T.T., comprising the Six as constituting an eventual customs union and the overseas territories.

5. The main questions to be considered in the G.A.T.T. will be:
   (a) Do the proposals of the Six for a free trade area embracing themselves and the overseas territories satisfy the G.A.T.T. tests for a free trade area?
   (b) Is what the Six aim to achieve as between themselves a customs union as defined in Article XXIV of the G.A.T.T. (the Article dealing with the formation of customs unions and free trade areas)?
   (c) Have the Six an adequate plan and schedule for achieving this within a reasonable time?
      Under both (b) and (c) the special provisions for agriculture in the Treaty of Rome will require special examination.
   (d) Are the proposals of the Six for the common tariff compatible with the tests in Article XXIV of the G.A.T.T.?

6. Treaty of Rome provisions for the association of overseas territories with the Six.—For us, a major question arising on the Treaty is whether the Contracting Parties can accept the claim of the Six that what is aimed at is a free trade area consistent with G.A.T.T. The Six will argue this strongly, but they are open to challenge particularly because of the opening the Treaty leaves for introduction of tariffs (and possibly other restrictions) to protect developing industries in the overseas territories against exports from the Six. If the Contracting Parties maintain that the arrangements cannot be regarded as satisfying the tests for a free trade area, but are, in effect, an extension of a preferential system, they would require a special waiver (by two-thirds majority) under Article XXV; and it could then be the objective to ensure that the Contracting Parties withheld the grant of the waiver until the Six had made concessions to mitigate the damage threatened to third countries including our own Colonies. Our Delegation should try to secure that it is agreed that the arrangements can be made compatible with the G.A.T.T. only by a special waiver on conditions such as those outlined above.
7. **Customs Union of the Six.**—On this, our direct interests are more limited. On the assumption that we negotiate a free trade area, it is the other members of the Commonwealth, and other outside countries, who have the major concern in the common tariff, and it is likewise those who have the major interest in the agricultural provisions, though parts of the common tariff are of concern to our Colonies and these might also be affected by the agricultural provisions. Other Commonwealth countries, however, will look to us for support in pressing their interests, and we shall need, throughout the session, to work in close collaboration with them and other countries sharing their interests.

8. **Plan and Schedule.**—In Paris we and others have criticised the plan and schedule of the Treaty of Rome for the elimination of internal tariffs and other restrictions in three stages on a number of grounds, of which the most important is the provision for the transition from the first to the second stage to be delayed. We propose that our Delegation should repeat the criticisms made in Paris, with the objective of securing that, if there were any delay in the smooth progress of the gradual abolition of internal tariffs and other restrictions, the Contracting Parties to the G.A.T.T. would have an opportunity to review the reasons for the delay.

9. **Agriculture.**—The provisions about agriculture in the Treaty of Rome are in general terms and the details remain to be worked out. Though it is for the countries which export agricultural produce to take the lead in criticising these provisions, our Delegation should try to secure arrangements whereby the detailed arrangements affecting agriculture, when they are elaborated, will be subject to review by the Contracting Parties.

10. **Common Tariff.**—As regards the common tariff, the test laid down in the G.A.T.T. is, in general terms, that the duties should not on the whole be higher than the general incidence of the duties applicable in the member-countries before the formation of the customs union. Its terms thus leave the Six considerable flexibility in the common tariff rates fixed for individual products, and outside contracting parties, with an interest in particular common tariff rates, may have to rely upon the negotiations which individual members of the Six will eventually have to undertake for the modification of their G.A.T.T. bindings where these are below the level of the proposed common tariff. There is also, however, the point that over an important range of products (amounting to about 20 per cent. of the external trade of the Six) the duties eventually to be levied against the outside world have still to be negotiated between the Six. These include a number of raw materials and semi-finished products where the eventual level of the common tariff bears closely upon the problem of defining origin in the free trade area negotiations in Paris. Our Delegation should, if they can muster enough support from other countries outside the customs union, try as far as possible to secure that all the duties are made known before the G.A.T.T. countries pronounce themselves as satisfied that the common tariff proposals of the Six conform with the tests of the G.A.T.T.

11. From a number of points of view it is in our interest that the Contracting Parties to the G.A.T.T. should move slowly rather than quickly in pronouncing upon the compatibility of the Treaty of Rome with the G.A.T.T. Our ability to press certain points in the Paris negotiations might be prejudiced if the Contracting Parties completed their examination of the Treaty of Rome too quickly. Whether the examination of the relevant provisions of the Treaty of Rome can be completed at the forthcoming session or whether it would need to be continued early next year cannot at this stage be foreseen with any certainty. If the Contracting Parties decide that the Colonial arrangements require a waiver under Article XXV, detailed negotiations for mitigation would almost certainly extend beyond the forthcoming session. We could not seek to lay down in advance a time-table for the examination of the Treaty of Rome. But as the work of the session proceeds, opportunities for arguing for delay may present themselves, and, while it would be politically undesirable for our Delegation at Geneva to have as their objective the prolongation of the discussions in the G.A.T.T., our Delegation could, without appearing to be obstructive, take advantage of these opportunities.

**Recommendation**

12. It is recommended that, in the talks with the Commonwealth which we shall be having before the G.A.T.T. session, we should aim to secure support for a policy on the lines set out in this paper, and that, subject to any points which may emerge from the Commonwealth talks, these objectives should guide our Delegation at the session.
CABINET

EUROPEAN FREE TRADE AREA

MEMORANDUM BY THE PAYMASTER-GENERAL

The Cabinet invited me on 27th August to arrange for officials to undertake further studies of agriculture in the context of the European Free Trade Area (C.C. (57) 62nd Conclusions, Item 1). These studies have now been carried out and the result is set out in C. (57) 219 which I have circulated separately. In addition, I have circulated two other papers also concerned with the OEEC meeting due to take place later this month under the chairmanship of the Chancellor of the Exchequer in Paris (C. (57) 218—General Steering Brief; C. (57) 220—Implications for Dependent Overseas Territories). I have also circulated a fourth paper (C. (57) 221) concerned with the attitude the United Kingdom should take when the Treaty of Rome is examined in the GATT.

2. These papers indicate the range of the problems that have to be faced. They are complicated and often formidable. In most cases it seems likely that solutions can be found by negotiation, though this may be a difficult and protracted process. But there are some issues on which complete deadlock may be reached, and which may lead to a breakdown in the negotiations. The two most difficult of these problems at present, namely the treatment of agriculture and questions of origin, I discuss below.

3. The Common Market Treaty has now been ratified by France and Germany. Ratification by the other four Powers—Italy and the Benelux countries—can be certainly counted upon and we must assume that it will be put into effect on 1st January next year. If its provisions are implemented in full by the Six countries—and we should be unwise to assume that they will not be—the European Economic Community will develop into a single unified economy of great strength. The consequences for our important trade with Europe, and the more far-reaching threat of competition from this economic giant throughout the world, must be of grave concern. But no less important is the danger that if the European Economic Community pursues narrowly restrictive policies, as in the absence of a Free Trade Area it is likely to do, the whole movement towards freer world-wide trade and payments, which is fundamental to our economic policies, will suffer a fatal setback.

4. It is considerations such as these that led the Commonwealth countries at the Mont Tremblant Conference to recognise that the establishment of a Free Trade Area is of vital importance to the United Kingdom. The European countries themselves recognise the dangers, though they do so in differing degrees, and it is this recognition, allied to the serious political implications of a Little Europe under German domination, that furnish the most helpful aspects of the negotiations.

5. There is a wide divergence still between our views and those of the Six. We regard the Free Trade Area as an extension of the type of co-operation between independent States achieved in the OEEC and we are thinking in terms of achieving the elimination of tariffs and quotas on the lines of the familiar OEEC process of liberalisation. This practical objective of abolishing tariffs and quotas, coupled with the establishment of a system of rules to ensure fair competition, is about the full extent of our concept of the Free Trade Area. The European Economic Community, on the other hand, is as much a political as an economic project. It is designed to achieve genuine unification of the economies of the Six countries and many of its most enthusiastic supporters regard it as part of the progress toward ultimate political unification. The Treaty provides for a
substantial surrender of national sovereignty in economic matters and it embodies in its provisions a carefully worked out balance between the economic interests of the various participants. Clearly it will not be easy to establish working arrangements between two economic systems based on such different principles. Yet we cannot subscribe to the European doctrines of integration; nor will they abandon the Treaty of Rome.

Agriculture

6. Here we have got ourselves into a false position. Our public attitude, to which we are committed, is that we cannot agree to include foodstuffs in a Free Trade Area. But the truth is that “Nobody asked you, Sir, she said.” The Six countries are not proposing genuine free trade in agricultural products, and most of their Governments would run a mile from any such suggestion. All of them protect their agriculture in some degree and intend to continue doing so. The change will be in the means and method of protection, tariffs and quotas being replaced by planned marketing, bulk buying on long-term contracts, and a general system of producers’ cartels with or without Government participation.

7. This, it seems, is what will in fact develop. But it is important to remember that the Rome Treaty provides (a) that tariffs and quotas must end after a defined transitional period, even if other arrangements have not been made, and (b) that Governments will surrender a degree of national sovereignty in these matters to an International Commission. Both these points will be pressed on us in the negotiations.

8. The Europeans are realists. They know we cannot abandon, or compromise on, the Commonwealth position, and, though they will grumble and haggle, in the end they will accept the fact. They will be less amenable about the protection of our own agriculture (and they know full well that they have a good deal of Commonwealth support in this). They do not expect us to drop all our barriers or to abandon our support policy—any more than they would themselves—but they feel that if they are to open their markets to our industrial products they must be able to show to their exporters of agricultural products something in the nature of a quid pro quo. Moreover, some provision must be made for the Danes, who will otherwise be totally excluded in practice from the marketing of agricultural products within the Rome Treaty area, to their very serious detriment.

9. In these circumstances I agree with the general line put forward in the officials’ paper; this follows the general outline in C. (57) 188 which was felt by the Cabinet on 27th August to offer the possibility of a solution. We should offer the maximum co-operation in European agricultural institutions short of the surrender of any sovereignty. We should offer in principle to abandon quotas over a period (we are committed to this already in any case) and we should be prepared to accept a provision for the elimination of all tariffs, subject to a waiver for the United Kingdom. This in practice amounts to very little more than we would do in any case. But if we advance the proposal against the background of our liberal import policy and stress the argument that while not including foodstuffs in the Free Trade Area we are, in fact, agreeing to greater agricultural co-operation in Europe, we should be able to get the negotiations going. I certainly seek no authority to go further at this stage, though in the annex to the paper on agriculture (C. (57) 219) there are some preliminary ideas about possible courses that we might have to take if we are forced to go further. I think we shall in any case be faced with a demand for some undertaking about the future trend of our agricultural policy to the effect that it will not become any more protective than it is at the present moment. Our recent experience, where our traditional suppliers of eggs have been completely excluded, and we have indeed become exporters ourselves, has made a deep impression and there is a genuine fear that we may pursue similar policies in other products. We may also find it necessary at some stage to make offers on individual products, perhaps for example on the wine duties. If such a situation appears to be developing I will consult my colleagues.

Problems of origin

10. Agriculture is the most difficult political problem. Questions of origin pose the toughest technical problem. The difficulty arises from the fact that the members of the Free Trade Area will not have a common tariff against countries outside the Area. British traders will be able to sell their goods for example, in
France in competition with French manufacturers, but in many cases the British manufacturers will have been able to obtain their raw materials duty-free whereas the Frenchmen will have had to pay the tariff charged by the members of the Common Market. The degree of difficulty which this problem will present in negotiation depends on the extent to which the Six countries propose to impose high tariffs on raw materials. It seems likely that the Germans, the Dutch and the Belgians will want to have low tariffs on imported raw materials, while the French, on the other hand, supported by the Italians, will wish to have high tariffs to protect home production. It is impossible to predict at this stage how matters will develop, but if the French should prove too intransient and their partners in the Six cannot persuade them to modify their attitude, the danger of a breakdown of negotiations is very real. If France wants to wreck the negotiations here is a simple way of doing it.

Dependent overseas territories

11. We are not out of the wood on this question yet. I am sure that we ought not at the moment to make any change in our present position. We should seek to have dependent overseas territories excluded from all these European arrangements and should negotiate to secure mitigation for the damage which our own territories would otherwise suffer through the operations of the Treaty of Rome. We should play our hand at the forthcoming GATT meeting with this policy in mind. But, as C. (57) 220 points out, we may have to think again about this later on this year, though we should be under no illusions as to the immense difficulties which any other course would present.

Prospects for negotiations

12. I cannot at the moment venture any assessment of the prospects for the negotiations. The Six countries have been attempting to achieve a common attitude but apparently they have not so far been successful. I am visiting Brussels, Bonn and Rome this week and as a result of these visits I hope to be able to give my colleagues the best assessment I can of the current attitude of the Six countries. So far as this country is concerned, the attitude taken by Industry, led by the Federation of British Industries, is thoughtful and helpful. The Trade Unions, though wary, have been remarkably ready to see both the dangers and the possibilities of the plan. It does not appear from the Labour Party Conference that the Opposition are likely to vary the attitude they have adopted to date, which is one of cautious approval. Finally, it is to be hoped that the attitude taken by the Commonwealth countries at Mont Tremblant, which was made public in the communiqué, will help to sustain our position in so far as public opinion in this country is concerned. Though there is undoubtedly a genuine political desire throughout Europe for the establishment of a Free Trade Area and the avoidance of a division in Europe, in the long run what will determine the issue is whether the genuine political desire for unity will be sufficient to outweigh both the real technical difficulties and the many serious political drawbacks for the various countries involved.

13. I have no exaggerated hopes of what can be obtained at the Meeting of the OEEC this month. We shall no doubt hear the various national positions stated. I hope we shall be able to obtain general agreement that a Free Trade Area should be established, though each country will qualify that hope with the proviso that its own essential conditions will have to be met. I also hope we shall be able to agree to set up some machinery so that negotiations can start in earnest. Beyond this we are unlikely to settle anything very much, but that will suffice as a start.

Conclusion

14. I recommend that we approve the proposals put before us by officials and in particular the following points:

(1) Paragraph 16 of the General Steering Brief (C. (57) 218).
(2) Paragraphs 7–16 of the paper on Agriculture (C. (57) 219).
(3) Paragraph 11 of the paper on Colonial Implications (C. (57) 220).
(4) Paragraphs 6–12 of the paper on the GATT (C. (57) 221).

R. M.

Office of the Paymaster-General, S.W. 1,
3rd October, 1957.
I invite the attention of my colleagues to the United States Memorandum of 20th June, in which Her Majesty's Government were requested to join the United States Government in submitting to the Co-ordinating Committee in Paris (Cocom) a joint proposal to reimpose the embargo on the export of copper wire to the Soviet bloc.

2. The attached paper by officials (to which a copy of the United States Memorandum is annexed) discusses the form which our reply should take, and subsequent action. In view of the difficult issues involved and the need for an early decision, I should like to discuss it with my colleagues in Cabinet on 7th October.

S.L.
EXPORTS OF COPPER WIRE TO THE SOVIET BLOC

Memorandum by the Strategic Exports (Official) Committee

Background

The lists of goods whose export to the Soviet Bloc is embargoed or otherwise under control have been drawn up by the Co-ordinating Committee in Paris by reference to certain agreed criteria, one of which is that control should be imposed on

"Materials ........ in which the Soviet Bloc has a deficiency which is critical in relation to its military capabilities and which it could not overcome within a short period."

This criterion covers not only items of immediate military application, but also materials required for strategic stockpiling.

2. In the light of this criterion, exports of copper from COCOM countries to the Soviet Bloc were placed under quantitative control in August, 1950, and under embargo in April, 1951. The criterion against which this course was agreed has not since been amended by COCOM.

3. Early in 1954, Ministers decided that the embargo lists should be reviewed with a view to the deletion from them of items whose strategic importance had diminished. They decided that copper in all forms should be deleted from the lists. These proposals were discussed with the United States who strongly opposed the deletion of copper. It was finally agreed in the course of discussions between Ministers in Washington that copper generally should remain on the embargo list, but that
copper wire (subsequently defined as of 6 mm. diameter and less) should be subject only to surveillance. Revised lists were then agreed in COCOM, and came into operation in August, 1954.

4. In 1955 a review was undertaken in Whitehall of policy on security controls on East/West trade in the light of revised strategic doctrine and planning assumptions for thermo-nuclear war. Ministers agreed that controls should in future apply only to:—

(a) Atomic Energy materials
(b) Defence equipment proper (including machinery specially designed for making it)
(c) Items involving important military "know-how"
(d) Specialised telecommunications equipment.

Our grounds for thinking that the time had come for further pruning of the COCOM Lists were outlined informally in 1955 to United States officials in Paris and in London and their reactions were unresponsive. In the light of the unsatisfactory outcome of the meeting of the Foreign Ministers in Geneva, it was decided not to pursue the question further pending settlement of the more urgent question of the China differential. During discussions with the Americans the lists prepared on the basis of the new proposals were not shown to them or discussed. These lists did not include copper in any form.

5. When the decision was taken to remove copper wire from the embargo list, we told the Americans that it was extremely unlikely that exports of copper wire of 6 mm. diameter and less would be large enough to frustrate the embargo of copper metal.
6. In fact, however, the Soviet Union and Poland have since imported copper wire on a very large scale. In 1956, for example, imports of copper wire from CCOM countries amounted to 85,000 tons which is equivalent to approximately one-fifth of estimated Soviet bloc domestic production of copper. Of this amount, about 53,000 tons was exported by the United Kingdom. In the absence of exports of copper wire there would have been almost no increase in Anglo/Soviet trade between 1954 and 1956, i.e. since the relaxation of some controls in 1954 as a result of the CCON review in that year. (In 1954, total United Kingdom direct exports to the U.S.S.R. were £10 million. In 1956 they had risen to £26 million, of which £15 million represented copper wire. In the same year an additional £4 million of copper wire was shipped by the United Kingdom to other countries of the Soviet bloc. In 1956, the only larger item in Anglo/Soviet trade was rubber, which, however, as a re-export is not included in the figures above.)

7. The Americans have repeatedly expressed their disquiet at these developments. In late 1956 they proposed joint discussions between Intelligence experts to establish the factual situation. The experts submitted a factual report to the two Governments in March, 1957. The figures quoted in this report showed that previous estimates of the domestic production of copper in the Soviet bloc had been too high, (for the year 1955 the difference between the two estimates was about 15 per cent), and that imports of copper wire from CCOM countries constituted a considerably greater proportion of the copper available, in the period 1954-56, to the Soviet bloc than had previously been believed. The report showed that even with the advantage of these imports the Soviet Union was having to draw on its strategic stock-pile of copper, and was able to meet its requirements of copper for military purposes only at the expense of
its civilian industry. Concurrently with the increase in imports of COCOM copper wire, earlier imports of Free World copper, some clandestine, declined, possibly as a result of more effective control.

8. If the criterion quoted above is held to be valid this report, which has been subscribed to by our experts, justifies the reimposition of control on copper wire; at least for so long as the gap between Soviet requirements and Soviet domestic production remains approximately as at present.

9. In an Aide Memoire dated June 20, 1957? (copy attached) the United States Government accordingly requested Her Majesty's Government to join them in submitting to COCOM a joint proposal for the reimposition of the embargo on copper wire.

Courses Open

10. In response to this United States request, Her Majesty's Government could:

(a) agree with the United States proposal, and join them in a joint approach to COCOM;
(b) return a flat negative;
(c) offer to discuss in COCOM the possibility of placing copper wire under quantitative control;
(d) offer to discuss with the United States (and Canada) a revision of the criteria on the lines mooted in 1955, and to consider action in respect of copper wire in the light of the outcome of those discussions.

These courses are discussed below. (It is worth noting that, if we first embark on (c) and fail, it may then be that much more difficult to fall back on (b)).

Acceptance of the United States Proposal.

11. From the point of view of Anglo-American relations, this is clearly the best course. We entered the recent
intelligence talks against the background of the existing criteria, although in our opening statement we did question their validity. If we do not accept the conclusion which, in American eyes, inevitably flows from the review, we may appear to the Americans to have entered into the review with reservations which we should at that time have expressed more explicitly. The Americans feel strongly on the subject of copper wire, and to accept their proposal would do much to restore the spirit of cooperation and goodwill in the field of the controls on East/West trade. There is little doubt that other COCOM member countries would follow a joint Anglo/American lead.

12. But against this must be set our commercial interests, certain domestic and Commonwealth political considerations, and our views on the validity of the criterion leading to the view that copper should be embargoed.

13. As stated above, copper wire is now our largest single export to the U.S.S.R., and, in the period 1954 to 1956 the only commodity in which direct trade increased substantially. The discontinuance of this trade might lead the Soviet Government to retaliate in some different field; and Soviet propaganda would attribute our decision to American pressure to which we had succumbed in spite of the patent interests of the British exporter. The Soviet Embassy could also be expected to use its contacts to make trouble in Parliament and elsewhere. An embargo would also involve a net loss to the sterling area as a whole (which is not to any significant extent a net importer or exporter of raw copper) which could be as much as the whole of the £19 million a year which the trade has represented. It would certainly be greater than the £3-4 million which the Americans have estimated as the likely net loss to the United Kingdom. Apart from this strictly United Kingdom interest, the loss of this trade would tend to depress free world demand for copper, and could therefore have serious consequences for the Federation of Rhodesia and Nyasaland.
The market price of raw copper has already fallen by more than half in the last eighteen months (£437 to £201 per ton) and for some time has stood below the level to which the Rhodesian budget is geared. Sir Roy Welensky at the recent Commonwealth Conference remonstrated about the United Kingdom proposal (now being put into effect) to sell 27,000 tons of raw copper from the strategic stockpile.

14. On the domestic front, the reimposition of the embargo would provoke an outcry from United Kingdom exporters which would rapidly be reflected on both sides of the House. Traders and others would have difficulty in understanding the need to reimpose the embargo. It would be argued that if copper wire is of such strategic value, the need to limit exports should have been foreseen earlier, particularly at the time when the Soviets were placing their big contracts for 1956 and 1957. Ministers have said in Parliament that we could not agree to any increase in the embargo lists unless this were justified on strategic grounds. The reimposition of the embargo on copper wire would not, if Ministers were convinced that the existing criteria were strategically justified, violate that undertaking, but it would certainly stimulate the campaign against the Soviet bloc controls which is already under way in Parliament.

15. The reimposition of the embargo would, however, have to be justified in Ministers' own minds by reference to the existing COCOM criteria. (These criteria are not public). In fact the Cabinet two years ago concluded that the existing criteria needed amendment, and
in particular the criterion which would justify the reimposition of the embargo on copper wire does not appear in the new proposals then agreed. Ministers might well feel difficulty in defending publicly a measure whose ostensible justification was not in their view valid.

**Total Refusal of the United States Request**

16. The arguments set out in paragraphs 11 to 15 above apply here in reverse, if the American request is flatly refused. Our commercial interests and the interests of free world copper producers, including the Federation of Rhodesia and Nyasaland, would be fully protected. A minimum of domestic political difficulty would arise. But on the other hand, our relations with the Americans on the subject of strategic controls would suffer severely, and the damage might extend into wider fields. It would seem to them that we were acting solely on selfish commercial grounds.

**The Possibility of Quantitative Control**

17. There is a certain logic in the idea of quantitative control. Indeed, at the COCOM meeting on February 3, 1955, the United Kingdom delegate stated that if future exports appeared to indicate the frustration of the embargo on copper metal, the United Kingdom authorities would be ready to discuss the matter again. It would be theoretically possible to arrive at a quota for exports of copper wire to the Soviet bloc which would leave room for substantial exports but would, nevertheless, be small enough, as long as the gap between bloc production and consumption of copper did not decrease, to necessitate continued withdrawals at the present rate from the Russian's stockpile. On the other
hand, it could equally be argued, and would no doubt be argued by the Americans, that if copper is strategic, we should completely discontinue our exports of wire in order to defer as long as possible the date when the Russians will have built up their stockpile to a level which they would regard as sufficient for embarking on major hostilities. If, therefore, we proposed quantitative restriction, the Americans would be likely to view our motives with suspicion but they could hardly refuse the suggestion or take offence.

18. But previous experience of the fixing of quotas indicates that to suggest quantitative control would be, at best, only a delaying device. Quantitative control for copper wire has been mentioned in COCOM but not discussed in detail. We did however, in 1954, suggest to Mr. Stassen that it would be sufficient if there was a review of the position if exports of copper wire reached a level of 50,000 tons a year. This did not satisfy the Americans and the matter was not pursued. If it is discussed again, the American attitude is likely to be even more rigid than in the past. It is not conceivable that any quota acceptable to the Americans would be large enough to preserve any substantial part of existing trade in copper wire, still less the United Kingdom share therein. Discussions on this subject in COCOM are therefore likely to result, probably quite soon, in deadlock, unless the United Kingdom were substantially to change its ground. A new solution would then again have to be sought.

Revision of the Criteria

19. The principal justification for our current exports of copper wire is in our view simply that the embargo on the export to the Soviet bloc even of raw copper is no longer justified and in the light of current strategic thinking and planning assumptions. There is, therefore, great attraction in the suggestion
that the fundamental criteria against which we judge the need to control exports of particular commodities should be revised and revised. If we are certain that our case is so strong that the Americans cannot but be convinced, we should clearly put it to them. But we cannot be sure that we will convince the Americans. There is a considerable body of opinion which maintains that it is not inevitable that thermo-nuclear weapons will be used in a future war. Admittedly, the N..T.O. Commanders, and the whole theory of the deterrent assume that, whether or not thermo-nuclear weapons were used by the enemy, the N..T.O. powers would have no option but to use them themselves. But it can be argued that in the event this may not happen. And the Americans, with their greater distances, and more dispersed economy are known to be devoting considerable energy to planning for the "post-initial" phase of a future war, i.e. the phase after the initial nuclear exchanges. Quite apart from this, it is impossible to be certain, even if the basic assumption of a short thermo-nuclear war is accepted, that the criteria emerging from Anglo/United States discussions would be such that the reimposition of an embargo on copper wire would be justified, and still less that in the course of negotiation on embargo lists copper or copper wire might not form one side of some kind of a bargain.

Although therefore this course has logical attractions, in relation not only to copper wire but to the controls generally, it will not necessarily safeguard our commercial interests in relation to copper.

Apart from this, the Americans will certainly be
disappointed if our response to a proposal put by them as the logical consequence of a joint study is merely to challenge the validity of the criteria. On the other hand, the Americans have been aware of our views since 1955 and expect us to revert to them sooner or later.

Interim Action

22. Unless we either accept or totally reject the American proposal, discussion of any alternative will be lengthy. Meanwhile, our exports of copper wire to the Soviet bloc under existing contracts continue at approximately the high 1956 rate, and the Board of Trade will be under pressure to issue licences for yet further transactions. We have to consider therefore not only how to proceed on the substance of the question, but what we are to do pending an agreed solution. Clearly it would be provocative, given the known strength of American feelings, to allow the trade in copper wire to continue completely unchecked; but also if we are to negotiate with the Americans on the propriety or level of copper wire exports, we would for purely tactical reasons, and apart from other considerations, not wish voluntarily to accept at the beginning of the negotiation substantial limitations on our freedom of action.

23. In this connexion the Board of Trade could not for obvious reasons agree to any voluntary diminution of our exports to the Soviet bloc if there was a risk that orders refused by the United Kingdom would merely be
taken up by other COCOM countries. On the other hand they would not wish us to put ourselves into a false position by advocating multilateral limitation of exports in advance of prospective discussion with the Americans with a view to revision of the existing criteria. They consider that if it is decided that we should seek revision of the criteria, the least unsatisfactory course which might be adopted as an interim expedient without seriously upsetting the Americans would be unilateral restriction of our exports to the bloc (including some provision for China) for any one year to the approximate level of our exports in the latter half of 1956 and the first six months of this year, i.e. about 65,000 tons.

Summary and Conclusions

24. (a) The recent joint Intelligence review has shown that if exports of copper wire from COCOM countries and particularly the United Kingdom continue at their present rate they will be frustrating the embargo on the export of copper metal.

(b) Under the existing COCOM criteria this leads inevitably to the conclusion that the embargo on copper wire should be re-imposed.

(c) From the point of view of Anglo/American relations this course is very strongly to be recommended.

(d) But Anglo/Soviet trade in copper wire has come to have substantial economic and political importance, and its discontinuance could have adverse effects on Anglo/Soviet relations and might cause them to retaliate in other fields, on the sterling area balance of payments, on world copper prices, and particularly on the economy of the Federation of Rhodesia and Nyasaland.

(e) We have to choose between two alternative "once-and-for-all" solutions, and two proposals for what might be prolonged discussions in COCOM.

(f) The "once-and-for-all" courses are complete acceptance
or complete rejection of the American proposal. The first is politically desirable and economically most objectionable; the second is economically desirable and politically most objectionable.

(g) The two longer term alternatives are to propose either quantitative control, or a review of the criteria. It is unlikely that agreement could be reached on quantitative control, and there is no guarantee that discussion of the criteria will ultimately produce conclusions acceptable to us. If we propose either of these courses, the Americans may well think that we are procrastinating or arguing solely to further our commercial advantage.

(h) Whatever course, other than complete rejection of the American proposal, is adopted, something will have to be done to stabilise or restrict the level of exports of copper wire to the Soviet bloc pending the full adoption of a new policy. But, unless purely nominal, such action cannot be unilateral.

25. The Ministerial Committee is asked to give a ruling on which of the courses suggested above should be adopted.
United States Memorandum.

As Her Majesty's Government is aware, the United States Government since late 1954 has been seriously concerned at the large volume of copper wire moving to the Soviet bloc from the West. It is felt that the acute copper shortages in the Soviet bloc, coupled with the evidence included in the recent joint findings of our Defence/Intelligence specialists that large quantities of copper are used for military purposes in the Sino-Soviet bloc, provide full justification for our concern.

There is no longer any basis for belief, as was represented by Her Majesty's Government in early 1955, that the level of copper wire exports to the Soviet bloc represent pent-up demand which will fall off. The demand for such wire has remained at a consistently high level which has, in the opinion of the United States Government, resulted in frustration of the embargo over copper. In our view, copper wire is nothing more than copper metal in another form.

The United States Government strongly feels, as the report made so clear, that copper wire exported to the Soviet bloc enables that area to overcome serious shortages which would otherwise hamper current Soviet military programmes.

In view of the strategic importance of copper and in the light of the joint United Kingdom-United States findings, the United States Government desires to propose in COCOM as soon as possible that copper wire and cable (covered and uncovered) be placed under embargo. In connexion therewith, the United States Government requests Her Majesty's Government to join it in submitting a joint proposal to COCOM to obtain this objective.
The specific re-definition the United States suggests is as follows:

**List I - Item 1650**

"(d) Copper and copper-base alloy semi-finished products, as follows: sheets, strips, plates, rods, redraw rods, pipe and tubing."

"(e) All copper and copper-base alloy, wire and cable (covered or uncovered) except insulated wire (single strand conductor) of a diameter of 0.014 inch (0.35 mm) or less."

(Note: This includes wire and cable (including coaxial cable) in which copper and/or copper-base alloy is either the sole or principal conducting material except for types of wire and cable covered by items 1524, 1525, and 1526.)

**List III - Item 3652**

Insulated wire (single strand conductor) of a diameter of 0.014 inch (0.35 mm) or less.
4th October, 1957

CABINET

CIVIL AVIATION: INDEPENDENT AIRLINES

Memorandum by the Minister of Transport and Civil Aviation

On 5th June, 1957, the Committee on Civil Aviation Policy agreed in principle to implementing recommendations made to me by the Air Transport Advisory Council for easing the restrictions hitherto imposed on the independent air transport companies in providing "Colonial Coach" air services to British territories overseas. I had asked the Council to review the existing arrangements following criticism of the Government earlier in the year for refusing to allow Hunting-Clan Air Transport to use their Viscount aircraft, instead of the older and less economic Vikings, on their Colonial Coach services to Africa.

2. One of the recommendations of the Council was that, on the existing Colonial Coach routes to East and Central Africa, Airwork and Hunting-Clan should be permitted immediately to substitute for their Vikings more modern aircraft, such as Viscounts and Hermes, provided these were fitted with the maximum number of seats. Airwork and Hunting-Clan have now made arrangements for introducing Viscounts on their services to Nairobi and Salisbury. They were hoping to start the service on 11th October.

3. As the Viscount is a comparatively short-range aircraft, the companies had made provisional arrangements to operate through Egyptian territory with a night stop in both directions at Luxor. They therefore applied for permission to make the necessary payments to the Egyptians in transferable sterling from the No. 1 Special Account - a total of approximately £1,600 per week is involved. The Foreign Office and the Treasury have not been able to agree to this request as the only payments at present allowed from this account are Suez Canal dues.

4. This is yet another blow to our policy of trying to encourage the private enterprise airlines. We have considered possible alternative ways of operating the route with Viscounts so as to avoid Egyptian territory, but I am satisfied that the proposal put forward by Airwork and Hunting-Clan is the only one at present feasible. There are both operational and commercial considerations involved. A major factor is the statutory limitation imposed in the interests of safety on the periods of continuous duty which may be undertaken by aircrew. The effect of this is that, if the Companies are to operate the service to Nairobi with only one night stop, there is no reasonable alternative to their using Luxor. Commercially a flight from Benina to Wadi Halfa avoiding Egypt is well beyond the economic range of the Viscount and would

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Egypt is well beyond the economic range of the Viscount and would involve the Companies in a loss of payload equivalent to about £2,000 revenue on each return flight.

5. I am satisfied, therefore, that the Companies have a strong case on operational and commercial grounds for their proposal to use Luxor as a night stop.

6. I do not, of course, suggest that the Colonial Coach services are in any way as important to the economy of the country as the shipping services through the Canal. But we cannot overlook the earlier criticisms of the Government on these Colonial Coach services and if we now refuse Airwork and Hunting-Clan permission to stop at Luxor, we shall in fact be nullifying the effect of the concession we made in June. I believe very strongly that we must try to do more for the independent airline companies and it would be most unfortunate if the one major concession we have been able to make were to be rendered ineffective by the Government's refusal to allow Airwork and Hunting-Clan to meet their expenses for the night-stop at Luxor.

7. I would, therefore, like to have the agreement of my colleagues to Airwork and Hunting-Clan being allowed to operate through Luxor, and, as an exceptional case, to the necessary expenditure being met from the No. 1 Special Account.

H.W.

Ministry of Transport and Civil Aviation, W.1.

4th October, 1957.
At our next Meeting, on Monday, 6th October, the Cabinet will have an opportunity to discuss the Party Conference, and particularly the line which Ministers speaking there should take on various aspects of our most pressing problem - I mean, inflation. It is particularly important that we should use the same terms, and follow Lord Melbourne's advice. This applies, of course, not only to speeches at the Conference, but in the country in the months to come.

2. People see the problem of inflation in the form of prices, or in the form of prices related to wages. Similarly, they want to know what our recent decisions mean in terms of wages related to employment.

3. On these three topics - prices, wages and employment - we must all speak clearly and consistently.

4. We must also speak realistically, and my colleagues might care to have the following points in mind:

Prices

5. Everybody has been encouraged to measure prices against the cost-of-living index. We cannot ignore the fact that this is almost bound to climb up two or three points over the next few months. The postal charges increases, some transport and other increases have still to work through from last season's wage round. Moreover, the working of the Rent Act will have an increasing effect on the index.

6. At any rate, until the Budget, there is no way of correcting this trend. We must therefore make it clear that our measures must be judged by the long-term results.

Wages

7. Apart from minor and exceptional cases (such as the doctors' claim) the Government has no power to stop wage increases, even in the nationalised industries. We cannot, in the last resort, prevent arbitration, and there must always be the danger of an unjustified award.
8. What we can do (indeed what we have done) is to decide that we shall not finance with new money any increase of wages that may emerge either from arbitration or from private agreement. We must make both the limit of our power, and our determination not to issue new money for this purpose, absolutely clear.

Employment

9. The measures we have adopted are the only real protection of full employment. Even the high degree of "full employment" which we have enjoyed can be maintained if wages and other incomes are matched by production. The exact way in which this is stated to the country is of the greatest importance. We must make it clear that while we will not finance inflation, we are not attacking employment. We are asking for a pause, not for a retreat.

H. M.

10, Downing Street, S. W. 1.

4th October, 1957.
C. (57) 226

5th October, 1957

CABINET

THE QUEEN'S SPEECH ON THE OPENING
OF PARLIAMENT

Memorandum by the Minister of Defence

Since I shall not be present when the Cabinet consider the Lord Chancellor's paper (C. (57) 217), I should like to say that it is, in my opinion, essential to retain the bracketed passage of paragraph 9 of the draft Speech, dealing with Service conditions, and to strengthen it by the addition of a reference to emoluments.

2. Recruiting for the Army and the Royal Air Force is alarmingly low. If we are to secure the immense increase needed to enable National Service to be ended, we must miss no opportunity to publicise our intention to improve both pay and conditions of service. Accordingly, I recommend that paragraph 9 of the Speech should be amended to read:

"The reorganisation of My Armed Forces will be pressed forward, and their emoluments and conditions of service will be improved."

This commits the Government only to the principle of a pay increase and does not of course pre-judge the amount.

D.S.

Ministry of Defence, S.W.1.

4th October, 1957.
The Commonwealth Secretary has arranged for a debate on House of Lords Reform to take place on a Motion by Lord Teynham, Chairman of the Independent Unionist Peers, on two days during the week of Tuesday, 29th October. During the debate Government speakers will disclose the proposals for reform approved in principle by the Cabinet on 16th May (C.C. (57) 41st Conclusions, Minute 2). In his absence abroad, the Commonwealth Secretary has asked me to obtain the views of the Cabinet on two outstanding matters connected with our proposals. Both of them have been the subject of a good deal of informal discussion during the past months and are almost certain to be raised during the debate.

A.—Hereditary Peeresses in Their Own Right
2. There are at present 22 hereditary Peeresses in their own right, of whom 5 hold Scottish Peerages only. In addition there are 20 other English Peerages which are capable of being held by a woman. Lord Home originally proposed not to deal with them in the Bill on the ground that it is strictly limited to the creation of life Peerages and that if we bring in hereditary Peeresses we shall be extending the hereditary principle. It is, of course, intended that the Bill should enable life Peerages to be conferred on women.

3. Lord Home and I have discussed this question again and we now consider that it will be difficult to defend the exclusion of hereditary Peeresses if the point is pressed. There can be no real question of extending the hereditary principle, because these ladies already hold hereditary Peerages which will pass to their eldest surviving issue who, if male, are entitled of right to sit in the House of Lords. Moreover there is much force in the argument that their existing disqualification is a breach of the principle that women ought not to be debarred by reason of their sex alone from holding positions in our public life.

4. In all the circumstances we suggest that we should be authorised to promise full consideration by the Government if the claims of hereditary Peeresses are pressed in the debate.

B.—Members of the House of Commons Succeeding to Hereditary Peerages
5. The Cabinet accepted Lord Home's suggestion that the Bill as introduced should not include a provision to enable Members of the House of Commons who succeed to hereditary Peerages to renounce their rights to sit and vote in the Lords, whether for their lifetime or some shorter period. The main ground for this decision was that such a provision would increase the difficulties in defending our decision not to embark on a comprehensive reform of the whole system of hereditary legislators. On the other hand, there will almost certainly be pressure in the House of Commons for the inclusion of some such provision, and I believe that Mr. Anthony Wedgwood Benn, M.P., has recently asked the Prime Minister to make provision for it.
6. Lord Home still thinks that this proposal goes too far beyond the purposes of the intended Bill, and he would propose to say in the debate that the Government can hold out no hope of including it in the forthcoming legislation.

On the other hand he and I agree that the matter is essentially one for the House of Commons and that we should not attempt to oppose it on principle if it becomes clear that the Commons wish it to be enacted. However this raises a technical difficulty, on which we should be grateful for guidance.

7. The Bill prepared to give effect to the Cabinet’s decision of 16th May has a Long Title limited to the creation of life Peers and Peeresses, and is virtually a one-clause Bill. I have discussed with the draftsman whether a Bill passed by the Lords in this limited form could be amended in the Commons to include a clause about renunciation. There is no doubt that such a clause would be out of order in the absence of an instruction to the Committee: and it is pretty clear that it could not be made the subject of an instruction. Others can appreciate the difficulties better than I can, but I thought it right to draw attention to the fact that it would probably be impossible to insert a renunciation clause in a Bill strictly limited to the creation of life Peers and Peeresses even if the House of Commons and the Government want to do so. If we decided to add to the Bill as introduced a clause about hereditary Peeresses, it would still be uncertain whether the Speaker would allow an instruction to the Committee to insert a renunciation clause: one cannot forecast what view the Speaker would take.

8. It might be possible to draw the Long Title of the Bill in wide enough terms to ensure that a clause about renunciation was plainly within its scope. But I am advised that it would be impossible to do so without opening the door to a vast number of other amendments, with the result that we might find ourselves embroiled in arguments on the countless rival schemes of Lords reform.

9. I conclude that there is no satisfactory method by which we can be certain of attaining our two objectives, namely, to leave us uncommitted in the Lords on the question of renunciation but to enable the Commons to debate that issue on an amendment to the Bill. On balance I should favour introducing the Bill in the Lords with the strictly limited title (i.e., life Peerages and, if necessary, hereditary Peeresses) and taking the risk that it may not prove possible in the end to move an instruction about a renunciation clause in the Commons even if we want to. If pressure for such a clause proves strong and we cannot get an instruction, we might consider offering to bring in another Bill to meet the wishes of the Commons on the point.

10. On behalf of the Commonwealth Secretary, I ask the Cabinet:—

(1) to authorise Government speakers in the debate on House of Lords Reform to promise favourable consideration if the claims of hereditary Peeresses are pressed;

(2) to express their views on the best procedural method to be adopted for enabling the question of renunciation to be dealt with in the House of Commons.

K.

House of Lords, S.W. 1,
4th October, 1957.
CABINET

CIVIL AVIATION: BRITANNIA AIRCRAFT

MEMORANDUM BY THE MINISTER OF SUPPLY

The Cabinet will wish to know the present position on the Britannia project and the further steps which seem necessary if the success of the aircraft is to be ensured.

2. For the purpose of this memorandum account need be taken of only two of the various marks of the Britannia—the medium range 100 series, which is already in service on the eastern routes of the British Overseas Airways Corporation (B.O.A.C.), and the long range 300 series, now beginning to be delivered to B.O.A.C. and to the Israeli Air Line El Al for the trans-Atlantic route. Both series are powered by Proteus turbo-propeller engines in slightly different versions, known as the 705 and 755 respectively.

3. The Proteus engine has an air intake arrangement which has resulted in certain icing troubles which have been dealt with progressively as they occurred by the Bristol Company in conjunction with my Department. My predecessor set up a special Committee under the Chairmanship of the Director, Royal Aircraft Establishment, for this purpose. In its early development stages the engine was fully and successfully tested in wet ice conditions. At a later stage difficulties were found to arise in the much rarer dry ice conditions encountered in inter-tropical areas: these difficulties in turn were overcome with virtually complete success. But last May still more infrequent climatic conditions were discovered which could result in a combination of wet and dry ice being sucked into the intake, with resulting engine stoppages and, occasionally, damage. These climatic conditions, about which little was previously known, are being intensively studied by the Meteorological Office.

4. The medium range 100 series with 705 engine has had a Certificate of Airworthiness for some considerable time and a Certificate was recently issued in respect also of the long range 300 series with 755 engine. An aircraft of the latter type has very recently experienced, in the Miami area, engine trouble of a different sort, unconnected with icing. A relatively simple modification to cope with this is in hand and modified 755 engines will start coming forward almost immediately for B.O.A.C. and El Al aircraft.

5. Apart from the icing trouble associated with the intake in special critically climatic conditions, the Proteus engine shows signs of being one of the most reliable ever designed and has already been granted an overhaul period by the Air Registration Board of no less than 1050 hours—which is phenomenal for an engine in so early a stage of its career. The troubles which have beset the engine are no greater than those which have been encountered by other aircraft of an advanced type. In the case, for instance, of the Lockheed Constellation, one of the most successful of the generation of aircraft now passing away, alarming troubles occurred, notably in 1946-47, and at various later dates (after the aircraft had been put into operation). An explosive and catastrophic fire broke out in a D.C.6 in operation, due to fuel system faults; the aircraft became none the less a highly successful one. The Boeing Stratocruiser, again, which has been giving good service on the trans-Atlantic route, has had most serious trouble arising on propellers, which are still operated under strict limitations. The Viscount had a number of teething

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troubles during its early period of operation, leading to forced landings in service. The earlier Viking type suffered also from major troubles after introduction into service.

6. The Britannia trouble is distinguished from these others, first by the fact that considerable research is required to put it right, and this at the peak of the production programme, and secondly by its having been spotlighted with the most unfortunate publicity. As a result, the hopes which it was legitimate to entertain as recently as a couple of months ago that this aircraft could command substantial additional orders, have for the moment been quenched and the Company is being hard put to it to hang on to the foreign orders which it already has. It is in the national economic interest that a complete remedy for the Britannia's icing troubles be found, and be seen to be found, as soon as possible. This however cannot be done without some further measure of Government support, financial and otherwise.

7. There are three possible technical solutions, any one of which may be successful, and which are being pursued in parallel. The testing of these possible solutions requires a programme of further intensive flying. This special flying could be fitted into the normal B.O.A.C. training and route proving programme: but it would be a relatively slow process. If, however, an aircraft due shortly to be delivered to B.O.A.C were to be specially allocated for this purpose, the period of test flying could be reduced to 6 months. It would be technically impossible to reduce the period any further, no matter how much money was spent.

8. It might be reasonable, since B.O.A.C. stand to gain the most from quick results, that they should meet the cost of making the aircraft available for the tests and reinstating it to normal B.O.A.C. standards when the tests are completed; and the Minister of Civil Aviation is pursing this with the Corporation. The Bristol Company, as the result of the Proteus icing troubles, are in extremely straitened financial circumstances (see paragraph 10 below). I therefore see no alternative to the extra cost of the flying tests being borne by my Department. My estimate of the cost is between £500,000 and £1 million, depending on the stage at which success is reached. These financial proposals are now before the Treasury.

9. Apart from these shorter-term measures designed to improve the reliability of the Britannia / Proteus combination, the longer-term question also arises whether there ought not to be more comprehensive testing of aircraft and aero-engines while they are still in the stage of development and before they go into operation. My Department will be submitting proposals on this point to the Committee which is now examining the future of Government policy towards the aircraft industry.

Bristol's Finances

10. The troubles encountered by the Britannia and the publicity surrounding them threaten serious consequences to the Bristol company. If it were unhappily to turn out that no more than the eighty-three Britannias now planned were to be completed, the Company would sustain a loss of some £8 millions–£10 millions on the Britannia programme. The loss would be correspondingly greater if orders now placed were to be cancelled. Work on the Britannia amounts to about 40 per cent, of the Company's entire business. A loss of £8 millions–£10 millions would be a very severe blow to the Company but it would not in itself drive the Company into liquidation. There is, however, the immediate difficulty that delays in deliveries are causing receipts from sales of Britannias to fall far short of what was expected and the Company are becoming acutely short of ready cash. Their overdraft has risen from £12 millions at the beginning of 1957 to nearly £18 millions, which is the limit at present fixed by the Company's bankers. The overdraft threatens to rise by as much as another £7 millions over the next 18 months and although it should come down to a normal level in the latter half of 1959, the immediate lack of liquidity is a threat to the Company's solvency.

11. If the Bristol Company were in fact to be forced suddenly out of business, the Britannia project in which so much national money and effort have been invested would be gravely imperilled. This contingency however can I think be avoided in the following ways.

12. Five Britannia aircraft of the 300 series were on order for delivery to the U.S.A. North East Airlines in the next few months. Partly owing to North
East's internal financial difficulties, partly owing to the publicity surrounding the Britannia, the Airline has postponed the delivery of the five aircraft. These aircraft have been modified and equipped to the standards required for internal operation in the United States. They could nevertheless be used on B.O.A.C.'s North Atlantic or Caribbean routes and it would go a long way to re-establishing Bristol's finances, and the Britannia project as a whole, if B.O.A.C. were to take up the five aircraft for their own immediate purposes. The Minister of Civil Aviation has taken up this point with the Corporation.

13. Secondly, the Bristol Company under their contract with B.O.A.C. on the 100 series are due to be paid by the Corporation a substantial sum, put by the Company at over £2 millions, in respect of aircraft already delivered and in service. The Minister of Civil Aviation has undertaken to use his good offices with B.O.A.C. in the hope of securing prompt payment of as much as possible of this sum.

14. Finally, proposals have been submitted to the Treasury for speeding up certain Government payments due to Bristol Aircraft Company and retarding certain Bristol payments due to the Government.

15. By these means, together with some further accommodation from the Company's bankers, it should be possible to tide the Company over its current cash shortage. Of the measures listed the most substantial is the purchase by B.O.A.C. of the five North East aircraft; in the absence of this, insolvency might not be avoidable without a Government loan, or at least a Government guarantee, if Bristol's are to be rescued from their predicament—and I need hardly emphasise the difficulties of such a course.

16. In the longer term a solution for the Bristol problem must be sought in the integration of the firm into a larger organisation on the general lines which I suggested in my memorandum on the aircraft industry, C. (57) 154. I am continuing my efforts to this end, though no early results can be promised. I sense that the aircraft companies are awaiting some declaration of the Government's intentions in regard to aeronautical research and development before committing themselves. I hope, therefore, that the Government will be able to reach conclusions on these matters with the least possible delay.

A. J.

Ministry of Supply, W.C.2.
9th October, 1957.
The Cabinet decided last month that investment in the public sector in 1958/59 and 1959/60 should be restricted to the 1957/58 level (C.C. (57) 68th Conclusions, Minute 3). Educational investment should certainly be cut so as to restrict it during the relevant years to the level of 1957/58: but I think it is a matter for serious consideration whether we should do more than this.

2. In saying this I have in mind our announced policies, the continued increase in the number of children and the basic importance of improving our scientific and technical education. I fear that a cut in educational investment which is more severe than that on the public sector as a whole, coming on top of the decision to proceed with the general grant, will revive all the doubts about the sincerity of the Conservative Party with regard to education that were so widespread during the years immediately after 1951. Even levelling off will involve a highly unpopular return to rationing of "minor projects" and holding up some projects for rural reorganisation.

3. If it is considered essential to go further than levelling off, I would suggest a temporary embargo on starting new rural secondary schools needed for eliminating all-age schools in the villages; and a drastic cut in expenditure on "minor works". (These are jobs costing less than £10,000 each, many of which are for the improvement of bad conditions in old schools.)

4. This would make possible a cut of £11 millions in planned investment over the two years 1958/60, as compared with a cut of £8 millions which would be needed merely to restrict investment to the 1957/58 level.

5. The Chancellor of the Exchequer however has asked me, over the same two years, to make a cut of £20 millions. In addition to the measures listed in paragraph 3 this would mean delaying the programme for technical education and also cutting the minimum programme of school places needed for the growing number of children and for new housing areas. I cannot believe that, in the light of the Red Moon, any interference with technical education would make political sense. A cut in the main school building programme would mean that essential school places would simply not be ready in time. And the fact that we were contemplating this result would be immediately apparent.
6. I could not recommend the adoption of either of these measures. I realise that our prime objectives are to stem inflation and to save the pound, and that all our economic policies must be directed to these ends. Yet I cannot persuade myself - and I am sure we shall not be able to persuade others - that the security of our currency cannot be attained without delaying the technical education programme or having children out of school.

G.L.

Ministry of Education, W.I.

11th October, 1957.
CABINET

THE ECONOMIC SITUATION

Note by the Chancellor of the Exchequer

I circulate this note on our external position for the information of my colleagues.

2. We have been near to the edge of economic disaster. We are still near the edge. Over the past two months we have lost £185 millions from our gold and dollar reserves. The reserves at the end of September were down to £660 millions, only two-thirds of what they were at the end of 1954, despite the £200 millions which we drew from the International Monetary Fund (I.M.F.) last year and the £37 millions which we gained by not paying last year's interest on the American loan.

3. A continued run on the reserves at the rate which we have recently experienced would exhaust them in six months. In practice, of course, the crack would come much sooner. Within weeks it would become clear that the rate could not be held. Increased leads and lags and the run which would be started by the central core of holders of sterling in the sterling area and elsewhere could and would start the reserves pouring out many times faster. In the collapse which would follow the cost of our imports of essential food and raw materials would rise sharply, adding very much to the dangers of an inflationary spiral at home.

4. Two factors are holding the situation:

(a) the money we have borrowed to fortify the reserves;
(b) the policies we have declared at home for dealing with inflation.

We have got to repay the former and carry through the latter.

5. But now we have got not only to hold the position but re-establish it. Reasonably sound as our current trading position may be in itself, this is going to be very difficult indeed.

(i) If we draw in full the £180 millions from the Export/Import Bank between now and next January, we shall bear debt obligations in dollars alone repayable over the following seven years of £870 millions, i.e. £200 millions to the I.M.F., £180 to the Export/Import Bank and £70 millions a year for the Canadian and United States loans. By

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claiming a "bisque" under the United States and Canadian agreements we can only save £70 millions a year from our existing commitments and we should do this only twice or three times in the period.

(ii) We have got to face the run down of sterling balances by the rest of the sterling area. India may impose a great strain in the coming year. Last year her I.M.F. drawing helped us out. We shall almost certainly not have the relief Australia gave us in the last twelve months and the Colonies may start being a strain too.

(iii) We have to meet these increased burdens from a weaker initial position and in a world in which the earning of gold and dollars may be even harder than it has been in recent years.

6. We will remain in danger of another crisis until our policies have finally and demonstrably shown themselves successful. Their first announcement has been greeted with respect. Inside and outside this country we are being watched to see that we carry them through.

P.T.

Treasury Chambers, S.W.1.

14th October, 1957.
The Cabinet have already decided to resist any pay increase for the railwaymen (C.C. (57) 67th Conclusions, Minute 2). Any advance they could justify by the rise in the wages and prices index would be so small that they ought clearly to do without it in the general interest. To allow such an increase on top of that secured as late as March last, would clearly be the negation of any policy to control inflation. The railwaymen’s increase in March was 5 per cent to 2 per cent more than had been awarded by the Railway Arbitration Tribunal. Since then retail prices have risen about 2 points.

2. I must now report that the Whitley Council for the National Health Service clerical, etc. grades have agreed to give an increase of 3 per cent to their clerical grades (up to a salary level of £1,200) who got a 3 per cent increase in January - in other words substantially what we intend to refuse to the railwaymen. The offer was made by the Management Side despite clear representations to the contrary by the Minister of Health and an indication, twice repeated, that if the offer were made he would not necessarily implement it.

3. The decisions of this Council are not operative unless and until the Minister of Health gives formal approval under the regulations authorising the new rates to which they have agreed. Ministers of Health up to now have always done this, though not bound to do so by the terms of the Council’s constitution. On this occasion I feel the Minister must refuse to do so. The Secretary of State for Scotland is, of course, also concerned.

4. This would be a serious decision. It could be represented that the Government were intervening in a bargain freely negotiated in the normal process of collective bargaining. On the other hand it can fairly be argued that in this case the Management Side have no responsibility for finding the money (all of which comes from the Exchequer) and the Minister who has to find the money is entitled to say that he is neither going to provide additional finance for the Health Service nor curtail its benefits to foot this bill.

5. This is a pay decision in the public service which, unlike many other pay decisions, falls within the power of Government to decide. In my judgment we should say No.

P.T.

Treasury Chambers, S.W.1.
14th October, 1957.
CABINET

THE QUEEN'S SPEECH ON THE PROROGATION OF PARLIAMENT

NOTE BY THE SECRETARY OF THE CABINET

I circulate a revised draft of The Queen's Speech on the Prorogation of Parliament. This incorporates the amendments approved by the Cabinet on 7th October (C.C. (57) 71st Conclusions, Minute 2).

(Signed) NORMAN BROOK.

Cabinet Office, S.W.1.
17th October, 1957.
SPEECH ON THE PROROGATION OF PARLIAMENT

My Lords and Members of the House of Commons

A few days ago I returned to London with My Dear Husband on the conclusion of a short stay in Canada and a visit to the United States. It was a great joy to Me to have this opportunity to see again My People in Canada, to open the Canadian Parliament and to renew My personal experience of that great and developing Commonwealth country. I was also very happy to pay, at President Eisenhower’s invitation, a second visit to the United States, and to meet members of the United States Government, Congress and the Supreme Court. Everywhere I received a most warm and friendly welcome. My visit has further convinced Me that the ties which bind our peoples are strong and enduring.

2. I shall always retain the happiest recollections of the visits which I paid with My Dear Husband to France, Portugal and Denmark, and the moving reception extended to us by the peoples of those countries.

3. My Dear Husband and I were deeply grieved at the death of King Haakon the Seventh of Norway, who held a special place in the hearts of My People. Our sympathy goes out to the members of His family and to the whole Norwegian people.

4. I recall with pleasure the reception accorded to Me and My Husband by the Secretary-General and by the General Assembly of the United Nations in the course of My visit to New York this month. My Government have continued to co-operate in the work of the Disarmament Commission of the United Nations and have joined in putting forward practical proposals for an international agreement on conventional and nuclear disarmament.

5. My Government have contributed to the continuing progress being made within the North Atlantic Treaty Organisation and Western European Union in strengthening the defence of the Atlantic Community and in broadening the scope of European co-operation. They have also continued to give their whole-hearted support to the South-East Asia Treaty Organisation and the Baghdad Pact. They welcome the decision of the United States Government to participate in the Military Committee of the Baghdad Pact, and have been much encouraged by the Joint Resolution of the United States Congress, designed to promote peace and stability in the Middle East.

6. After the cessation of hostilities between Israel and Egypt and the establishment of an effective United Nations force, United Kingdom Forces were withdrawn from the Suez Canal area. My Government have thereafter continued their efforts to bring about a just settlement of the dangerous situation in the Middle East.

7. In view of the long-standing ties of friendship between Muscat and Oman and the United Kingdom, My Government took prompt action in response to a request from the Sultan for armed assistance in quelling a rebellion in his dominions. No losses were sustained by the small number of United Kingdom troops engaged.

8. It gave Me great pleasure to meet the Prime Ministers and other representatives of Commonwealth countries in London at the end of June. Their meeting, at which they reviewed all the major international issues of the day which were of common concern to their countries, revealed a broad similarity of approach and purpose. They affirmed that in the interests of world peace and security they would continue to work for the wider adoption of the principle and practice of co-operation between nations, which is the foundation of their own association.

9. During the year Acts were passed as a result of which Ghana and the Federation of Malaya achieved independence within the Commonwealth. All Commonwealth Prime Ministers agreed to recognise them as fellow members of
the Commonwealth. I wish the peoples of Ghana and Malaya all happiness and prosperity, and I welcome their admission to the United Nations. I was much gratified at the cordial reception extended to My Dear Aunt, Her Royal Highness the Duchess of Kent, who represented Me at the celebrations in Ghana in March, and to My Dear Uncle, His Royal Highness the Duke of Gloucester, who represented Me in the Federation of Malaya in August.

10. My Government have entered into an Agreement with the Government of the Federation of Malaya whereby United Kingdom Forces may be stationed in Malaya to assist that country in her external defence and for the fulfilment of Commonwealth and international obligations. United Kingdom Forces, together with Forces from other Commonwealth countries, are also continuing to support the Army of the Federation of Malaya in the campaign against the terrorists.

11. The Nigeria Constitutional Conference, which was held in London in May and June, has led to the establishment, under the chairmanship of the Governor-General, of an All-Nigerian Council of Ministers with a Federal Prime Minister, and to the grant of Regional self-government in the Eastern and Western Regions. An Order in Council has been made providing for the establishment of the Federation of the British West Indies.

12. My Government have made progress in discussing the proposals for the closer association of Malta with the United Kingdom while in Cyprus they have continued their unremitting efforts to reach a peaceful solution of the problems of the Island.

13. My Ministers have announced plans for reorganising My Armed Forces at home and overseas. Compensation terms and resettlement plans for those officers and men whose service will be prematurely terminated have been published. A new Naval Discipline Act has been passed.

14. [A successful series of nuclear trials was carried out in the Pacific Ocean.]

15. My Government have approved a reorganisation and expansion of the information services overseas.

Members of the House of Commons

16. I thank you for the provision which you have made for the public services.

My Lords and Members of the House of Commons

17. I welcomed the recent meeting of Commonwealth Finance Ministers in Canada and their agreement to recommend that a Commonwealth Trade and Economic Conference be held in 1958. [My Government have entered into negotiations in the Organisation for European Economic Co-operation for the establishment of a Free Trade Area in Europe.]

18. Provision has been made for more effective long-term assurances to agriculture and for assistance towards the modernisation of farms in the United Kingdom. New provision has also been made for the development of the pig industry in Great Britain.

19. Legislation has been passed providing further assistance for the white fish and herring industries and for the modernisation of the fishing fleet.

20. [My Ministers have appointed a Committee of Inquiry into the fishing industry.]

21. An Act has been passed to amend the law of homicide and to limit the scope of capital punishment.

22. I have given My Assent to legislation to enable effect to be given to the four international conventions which provide for protection for the victims of war.

23. Legislation has been enacted amending the Rent Restrictions Acts and providing for a minimum period of notice for the termination of residential lettings. A measure has been passed to revise Scottish housing subsidies and to facilitate the movement of population from overcrowded areas in Scotland.
24. The law relating to rating and valuation in England and Wales has been amended.

25. An Act has been passed providing for the payment by all insured persons of a special weekly National Health Service contribution.

26. Provision has been made for reorganising the electricity supply industry in England and Wales.

27. A measure has been enacted permitting the imposition of countervailing and anti-dumping duties on goods imported into the United Kingdom.

28. An Act has been passed to impose a levy on exhibitors of cinematograph films, and to continue certain other provisions, to assist British film production.

29. I have assented to an Act to extend the right of redress for damage caused by subsidence resulting from coal mining.

30. Improvements have been made in the provisions for elderly and seriously disabled war pensioners.

My Lords and Members of the House of Commons

31. I pray that the blessing of Almighty God may attend you.
CABINET

CIVIL AVIATION: BRITANNIA AIRCRAFT

Memorandum by the Minister of Transport and Civil Aviation

I have a threefold responsibility with regard to Britannia aircraft. I take a much less hopeful view about its future than the Minister of Supply in his memorandum C. (57) 228.

(1) I am responsible for the Certificate of Airworthiness. Consideration of its withdrawal for both types of aircraft might well have to be given but for the effect of this on Bristols.

(2) The short-term future of British Overseas Airways Corporation (B.O.A.C.) depends on the Britannia. Their views are set out in detail below but they would certainly refuse to fly this aircraft to-day if any alternative type was available.

(3) I have a responsibility for civil aviation as a whole. Its reputation is being seriously damaged by the inability of the Bristol Aircraft Co. to keep its promises on delivery and performance.

2. B.O.A.C.'s experience with the Britannia has been unhappy and costly. The nineteen months' delay in bringing the Britannia 102 into service entailed a net loss to B.O.A.C. of some £3 millions. Delays in the 312 series are likely to cost B.O.A.C. at least £2 millions in the current financial year and every month's delay thereafter will add over £500,000 to their losses. These figures, large as they are, do not represent all the economic penalties the Corporation may suffer. The cumulative effect of the retardation in the planned rate of growth of the Corporation is incalculable.

3. In addition to the financial losses and the retardation in planned expansion, the delayed deliveries create almost insuperable crew training problems for B.O.A.C.

4. The Britannia 312 was planned to come into service in 1956/57 and would have maintained the competitive position of the Corporation on the North Atlantic until the introduction of the new jet types. These are due in 1960 and the Britannia delays are eating away the period of useful service of the turbo-prop aircraft.

5. B.O.A.C.'s increasing anxieties have been aggravated by the new troubles experienced at Miami. B.O.A.C. would not subscribe to the view that a simple modification will necessarily cope with this until the
engines have been stripped and examined. In face of all the difficulties and delays and of their own need to have additional capacity available for the summer of 1958, if not before, B.O.A.C. are profoundly dissatisfied with the speed at which the task of getting the Britannia right has progressed; and they are equally dissatisfied with the prospects for the future. They are also concerned that, if the aircraft were put into service with the operating limitations necessary while the icing troubles persist, great practical difficulties will arise in conforming with air traffic control requirements at airports on the eastern seaboard of North America; this could well result in harmful publicity. B.O.A.C. are also concerned because crew morale is being affected by the troubles experienced with both marks of aircraft.

6. Against this background the Chairman has just informed me that, unless the engine defects can be remedied by April, 1958 and the aircraft made ready to use on trans-Atlantic services for the summer of that year, the Corporation would be unwilling to accept the aircraft; in that event they would have to buy (or hire) some other aircraft. B.O.A.C. consider themselves contractually entitled to decline to accept further deliveries. Furthermore, the Corporation consider that, even if this date can be met, they should in some way be compensated financially. One possibility they mention is for the aircraft to be purchased by Her Majesty's Government and hired to the Corporation for such period as they will have a useful competitive life.

7. It is clear from the attitude of B.O.A.C. that they would be unwilling to accept delivery of any further Britannias at present - whether on order for them or for North East Airlines or to make any further payments to Brístols. (I should perhaps point out that North East Airlines' main reason for postponing acceptance of these aircraft was that they could not be delivered in time for their Florida tourist season.) In any case, the suggestion of the Minister of Supply that B.O.A.C. should contribute any further to the costs of getting the aircraft right is clearly unacceptable.

8. I must carefully examine the latest views of B.O.A.C. and discuss them with the Chairman. But I should not feel justified in attempting to dissuade B.O.A.C. from their present attitude so long as the putting right of the Britannia is left solely in the hands of Bristol.

H.W.

Ministry of Transport and Civil Aviation, W.1.

14th October, 1957.
CABINET

TARIFF POLICY : THE COMMONWEALTH

MEMORANDUM BY THE PRESIDENT OF THE BOARD OF TRADE

On 19th September the Cabinet invited me to circulate a memorandum defining the exact scope of the existing statutory provisions for the exemption of Commonwealth goods from protective duties in their application to the independent members of the Commonwealth and to the Colonies. I was also invited to ascertain the reaction of the independent members of the Commonwealth to the possible discontinuance of these provisions. (C.C. (57) 70th Conclusions, Minute 2.)

Present Statutory Provisions

2. The existing statutory provisions relating to duty-free entry for Commonwealth goods are extremely complicated. For historical reasons which are now largely irrelevant they vary as between goods and countries. Briefly, the position is that protective duties may not be imposed on goods of the Colonies (which, for this purpose, include Ceylon, Ghana, Malaya and Burma). As regards the other independent Commonwealth countries and Eire no duties may be charged on certain goods, e.g., fine chemicals, optical and scientific instruments, dried fruit. Duties at full rate may, and indeed must, be charged on all other goods from any of these latter countries if the country concerned has no trade agreement with the United Kingdom. If a trade agreement is in force duties on these other goods may be charged (but not the first 10 per cent.), but only if this would not contravene the terms of any trade agreement with the country concerned.

3. It would not be possible to reproduce these provisions exactly in the new Bill without perpetuating the arbitrary and outdated distinction between duties charged under particular tariff enactments which it is a main purpose of the Bill to eliminate.

4. None of the above provisions applies to the revenue duties, to the “McKenna” duties, i.e., duties on motor-cars, clocks and watches, cinematograph films, musical instruments, or to the duties on goods containing silk or artificial silk. Commonwealth goods have always been liable to these duties, though generally at preferential rates.

Views of the Independent Commonwealth in Relation to the Possible Discontinuance of these Provisions

5. I explained the matter to the Commonwealth Finance Ministers at Mont Tremblant, having previously arranged for a full understanding of it at official level and for the circulation of a short memorandum to all delegations. I outlined the reasons why we were thinking of discontinuing these provisions in the new legislation. I emphasised that this would not affect our existing policy in this matter which would continue to be governed by the provisions of our “Ottawa” trade agreements with other Commonwealth countries. Several of the other Commonwealth Ministers and officials indicated complete understanding and acceptance of our proposal, and none offered any objection. Indeed those who
made no comment can reasonably be assumed to have agreed with those who said that they considered our proposal entirely reasonable and acceptable. So far as the independent Commonwealth countries are concerned we can therefore take it that there would be no objection to our making no provision in the Import Duties Bill for the duty-free entry of Commonwealth goods.

The Colonies
6. This leaves us with the question of the Colonies. It may be held that rather different considerations apply to the Colonies because they cannot protect themselves by formal trade agreements. But this objection seems to me to be misconceived. Although the Colonies cannot themselves have trade agreements with us they are, for all practical purposes, fully safeguarded by our trade agreements with the independent Commonwealth countries. In any case, what matters to the Colonies is not the law of the United Kingdom (which can be amended) but our policy, i.e., whether we do or do not impose duties on Colonial goods. I propose that we should give the Colonies a public assurance of our policy on this matter during the passage of the Bill but should not include any provision in the Bill itself. There is the further consideration that if we were to retain a provision in the Bill which prevented us from imposing any duties at any time on Colonial goods the independent Commonwealth countries might wish to reconsider the views they expressed (or concurred in) at Mont Tremblant.

Conclusion and Recommendation
7. It is not practicable to reproduce in the new legislation exactly the existing provisions relating to duty-free entry for Commonwealth goods; any provision would have to be in general terms which would either go further than the present statutory bar or not as far, and, in practice, I have no doubt that we should have to go further. This would bring to nothing the steps which we have taken since the war to limit the scope of our duty-free guarantees to Commonwealth countries and would clearly weaken us in negotiations with them. For this reason and for the other reasons which I set out in my paper, C. (57) 201, and in the light of the reaction of other Commonwealth Governments at Mont Tremblant, I am satisfied that the right—and indeed the only practicable—course is to drop the statutory bar completely.

D. E.

Board of Trade, S.W. 1.
14th October, 1957.
CABINET

THE QUEEN'S SPEECH ON THE OPENING OF PARLIAMENT

NOTE BY THE SECRETARY OF THE CABINET

I circulate a revised draft of The Queen's Speech on the Opening of Parliament.

(Signed) NORMAN BROOK.

Cabinet Office, S.W. 1,
17th October, 1957.
THE QUEEN'S SPEECH ON THE OPENING OF PARLIAMENT

MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS

1. [I look forward with great pleasure to the visit which I shall pay with My Dear Husband to the Netherlands.]

2. [My Government will continue to work in the closest co-operation and consultation with the other members of the Commonwealth in all matters of common concern. In their relations with the United States of America, the countries of Europe and the other countries with which the United Kingdom is associated in organisations for collective self-defence, My Government will be concerned to strengthen further the bonds of friendship and collaboration which already exist.

3. My Government will continue to give wholehearted support to the United Nations and to any measure designed to render the Organisation more effective. While desiring the early realisation of a comprehensive agreement on disarmament, they will continue to press for a partial agreement on the lines of the proposals which the Western Powers have recently put forward.

4. My Government will maintain their efforts to promote a settlement of the many grave problems of the Middle East and an increase in the prosperity of the peoples of the area. [They will continue to press for the restitution of British property in Egypt and for the payment by the Egyptian Government of proper compensation where this is due.]

5. Legislation will be laid before you to give effect to certain recommendations of the Conference held in April 1957 regarding the future Constitution of Singapore.

6. My Ministers will continue to seek a just and lasting solution of the problems of Cyprus, in conformity both with the rights of the local communities and with the interests of the United Kingdom and our Allies.

7. [My Government will pursue their discussions, which have already made considerable progress, with a view to completing detailed plans for the closer association of Malta with the United Kingdom.]

8. A measure will be laid before you to enable the Colonial Development Corporation to continue its work and to define further the scope of its operations.

9. The re-organisation of My Armed Forces will continue in accordance with the announcements of policy which My Government have made.

MEMBERS OF THE HOUSE OF COMMONS

10. Estimates for the public services will be laid before you in due course.

MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS

11. My Ministers are resolved to take all steps necessary to maintain the value of our money, to preserve the economic basis of full employment by restraining inflation, to strengthen our balance of payments and to fortify our reserves, upon which depends the strength of sterling and hence the strength of the sterling area as a whole. My Ministers are confident that measures to achieve these purposes will have the full support of every section of the community.

12. My Government welcome the recommendation, made by the recent meeting of Commonwealth Finance Ministers in Canada, that a Commonwealth Trade and Economic Conference should be held in 1958, thus providing an opportunity to reinforce still further the economic ties between the members of the Commonwealth.

[My Ministers will continue their negotiations for the establishment of a Free Trade Area in Europe.]
13. A Bill will be introduced to revise and simplify existing legislation relating to import duties.

14. My Ministers will continue to pay particular attention to areas which have special employment problems.

15. A measure will be laid before you to establish a Conservancy Authority for Milford Haven to regulate the increased maritime traffic which should result from the projected development of this important harbour.

16. [You will also be invited to approve legislation to provide for the reconstruction of the roads at Hyde Park Corner and Marble Arch and along the eastern side of Hyde Park in order to relieve the congestion of traffic in this area of London.]

17. My Ministers will continue to give the support to agriculture and fishing that is necessary for achieving full economic production.

18. [Legislation will be introduced to repeal the disciplinary powers exercisable in relation to husbandry and estate management by the Agricultural Ministers in Great Britain, and to amend, in the interests of efficient farming, the law relating to the tenure and rents of agricultural holdings.]

19. [You will be invited to approve a Bill to regulate the licensing and provision of slaughterhouses in England and Wales and to secure improved standards for their structure and equipment.]

20. [A measure will be introduced to strengthen and improve the existing powers for the carrying out of agricultural drainage schemes in Scotland.]

21. Legislation will be laid before you to establish machinery for the progressive reorganisation of local government in England and Wales. This measure will also make adjustments in the rating system and in the system of Exchequer grants to local authorities. Separate legislation will be introduced for these two purposes in Scotland.

22. [A Bill will be introduced to permit the creation of life peerages.]

23. You will be invited to approve legislation for the revocation of certain emergency powers relating to land and their replacement so far as necessary by appropriate statutory provisions.

24. [Legislation will also be introduced to give effect to certain of the recommendations of the Committee on Administrative Tribunals and Enquiries.]

25. A measure will be laid before you to make better provision for the care and disposition of public records.

26. [Legislation will be introduced to amend the law relating to the adoption of children and to provide for the supervision of those who take children into their care for payment.]

27. [My Ministers will continue to pay particular attention to the problems of penal reform and the treatment of offenders. Improvements in the prison system will be developed in the light of a fuller programme of research. A Royal Commission will be appointed to review the present arrangements for the administration of justice by Courts of Assize and Quarter Sessions.]

28. A Bill will be brought in to improve the arrangements for the industrial rehabilitation and resettlement of disabled persons.

29. War pensions will be increased; and legislation will be introduced to authorise increases in retirement and other benefits, and in contributions, under the National Insurance Scheme. [? Add reference to more comprehensive proposals.]

30. Other measures will be laid before you in due course.

MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS

31. I pray that the blessing of Almighty God may rest upon your counsels.
CABINET

ADMINISTRATION OF JUSTICE

MEMORANDUM BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT AND LORD PRIVY SEAL AND THE LORD CHANCELLOR

The purpose of this paper is to seek the agreement of our colleagues to the appointment of a Royal Commission to consider the arrangements for the administration of justice by courts of assize and quarter sessions. We are led to believe that such an inquiry is necessary by two different groups of considerations—one arising out of problems of penal reform, the other out of problems of practical administration.

2. In the field of penal reform there is much that can be done and is being done without any fundamental change in the machinery for dealing with offenders. The Home Secretary intends, for example, to press on with the programme of new accommodation in prisons, hostels and borstals and of improving existing ones; to increase the amount of work which is done by prisoners and borstal inmates and to improve the payments made to them for doing it; to revise the system of classifying prisoners and prisons; and in other ways to try to make the penal system more effective. A new research unit has been set up in the Home Office to try to discover, among other things, how effective existing penal sanctions are. It may be desirable in the not-very-distant future to examine the nature of these sanctions and to consider whether in the light of modern views on the responsibility of society towards both the offender and his victim they are all that is required. The time is not yet ripe, however, for such an inquiry and the immediate problem is to find a means of giving adequate effect through our machinery of justice to the concepts of penal treatment which are already of general acceptance in law or practice.

3. The historic system of circuits of The Queen's Judges and quarter sessions of magistrates, which has come down to us little changed from an earlier age, is ill-adapted to give effect to these concepts. The principles on which the sentencing of convicted offenders are now based assume that the court, having informed itself of the history, character and potentialities of the offender, and of the possible effect on him of the various forms of treatment available as penalties, will select the most appropriate form of sentence. The law provides magistrates' courts with ample powers to these ends, enabling them after conviction, but before sentencing, to remand for such medical, social, or other enquiries as they think fit. The superior courts however, which sit for short periods at long intervals, are virtually obliged to proceed direct from conviction to sentence.

4. The plain intention of Parliament that the court should fit the sentence to the offender, and should be given the information necessary to enable it to do so, is exemplified by the provision in the Criminal Justice Act, 1948, which enables the courts to have before them, in the cases of offenders eligible for borstal training, corrective training or preventive detention, reports from the Prison Commissioners on the suitability of the offenders for such sentences, but again the machinery of justice has not been adapted to the effective use of this provision, since such reports...
frequently have to be made on offenders who have not been in custody long enough
for adequate enquiries and observation, or who, having been on bail, are seen for
the first time at the court. Nor are the resources of our local prisons in general
adequate to furnish full and helpful reports to courts. It is our intention, as
economic conditions permit, to establish remand and observation centres where
this essential work of furnishing the courts with full information on offenders can
be properly done on a scientific basis, but this provision will not help the superior
courts unless they are put in a position to obtain such information after conviction.
The more we learn, in the light of modern developments in sociology and
psychology, about the results of treatment and the means of selecting the treatment
appropriate to the individual, the more difficult it will be to apply that knowledge
effectively within the existing system.

5. These views are confirmed by comments received from judges and
recorders, who lack the information necessary to enable them to select the
appropriate sentence, but are reluctant to postpone sentence to enable enquiries to
be made because this may involve keeping the offender in custody, and in suspense
for anything up to three months; indeed, the Court of Criminal Appeal has
discouraged courts of quarter sessions from postponing sentence except for such
reasons as an offer on the part of a prisoner to make restitution or to give
information. The difficulty of supplying the Court with adequate information does
not arise where there is a semi-permanent court of the kind now existing in London
and South Lancashire, and from the point of view of penal reform it is highly
desirable that consideration should be given to the question whether in the rest of
the country it is right to maintain a system which makes it so difficult for the courts
to discharge adequately the functions which modern legislation lays upon them.

6. Although the primary reason for an inquiry is the need to improve
the organisation of the criminal business at Courts of Assize and Quarter Sessions, such
an inquiry must necessarily take account of civil business at Assizes as well
inasmuch as the Queen’s Bench Judges try, or ought to try, both classes of business
at each Assize town. Apart from the increasingly large number of long criminal
cases tried at Assizes, the great increase in civil business, particularly matrimonial
cases, since the war has put the Assize system under great strain. There are at
present fifty-eight Assize towns, some of them with small populations and little
business, others where the business, both civil and criminal, is so heavy that the
Assizes extend more or less continuously throughout the legal year. There have
been serious delays in the transaction of civil business at certain towns, while the
disposal of the criminal business has caused great anxiety to the Lord Chief Justice
in his task of allocating the available Judge power equitably between London and
the provinces.

7. We therefore think it desirable that a Royal Commission should be
appointed to examine the arrangements for the administration of justice in courts
of assize and quarter sessions, and in particular to consider what alterations are
required to ensure that the Courts have before them the material necessary for the
proper discharge of the increasingly difficult function of selecting the appropriate
sentence. We do not propose that this Royal Commission should enquire into the
sentencing policy of the courts; this is a subject more germane to the wider inquiry
into the treatment of offenders which, as we have earlier suggested, might usefully
be undertaken at a later stage. We propose that the Commission’s terms of
reference should be on the following lines:

“To consider whether, having regard to the changing methods of dealing
with offenders, any changes are necessary in the arrangements for the
administration of justice by courts of assize and quarter sessions with a view,
in particular, to ensuring that these courts, before passing sentence, have
adequate information about the circumstances of offenders convicted before
them; and to make recommendations.”

If it is agreed that the appointment of a Royal Commission should be recommended
we think that the intention to appoint one should be announced in the Queen’s Speech.
Conclusions

8. We recommend—

(a) that a Royal Commission should be appointed with terms of reference on the lines suggested above. (We would agree the precise form of words with the Prime Minister);

(b) that the intention to appoint the Commission should be announced in the Queen's Speech;

(c) that reference should also be made in the Queen's Speech to the Home Secretary's intention to press on with projects of penal reform.

R. A. B.

K.

17th October, 1957.
CABINET

WAGES POLICY: THE PUBLIC SECTOR

Memorandum by the Chancellor of the Exchequer
and the Minister of Labour and National Service

To safeguard the currency we must not allow wage increases in the aggregate to absorb the total increase in production without taking countervailing action. Without such action prices will rise and the value of the currency will fall. There should, however, be no attempt to secure a wage freeze or to prevent the operation of the established processes of free collective bargaining and arbitration. A general wage freeze cannot be secured for the Government has no means of controlling wage movements over the greater part of the field of employment. Nor can we hope to effect a wage freeze even in the State service if wage rates outside were moving upwards. There is no alternative to the system of collective bargaining and arbitration except some form of central wage fixing and the country is clearly not prepared to accept that.

2. While the Government cannot by direct action bring wage inflation to a complete halt over the whole field, there are three ways in which it might seek to slow down wage inflation:

(i) its general economic policy;

(ii) bringing home the facts to the public, e.g., through the Cohen Committee;

(iii) its own action as an employer and its indirect influence upon the nationalised industries.

3. The remainder of this paper deals only with the third point. Unless we are successful in dealing with the cases which come within the direct control and influence of the Government and so set an example, we can have no hope of success for our policies over the remainder of the field.

4. The governing principles of our policy in regard to Government service employees should be -

(a) We should slow down the pace of wage increases.

(b) Any wage increases secured by settlement or arbitration must be balanced as far as possible by compensating savings, except in so far as they are matched by increased productivity. Inflation must not be fed with further finance.
(c) There should be no wage freeze, no attempt to prevent the
operation of the established processes of free collective
bargaining and arbitration.

5. The Government must therefore neither appear to be leading
in the wage race nor to have abandoned the idea of doing justice to its
own employees, including its indirect employees, e.g. in the National
Health Service. It must not appear to interfere in the determination of
wages in the nationalised industries, although it is entitled confidentially
to make its views and policies plain to the chairmen of these bodies. It
must not interfere or even appear to interfere in the negotiations in other
fields of wage settlement.

The Civil Service

6. We can handle pay claims for the Civil Service consistently
with our two principles of not preventing the operation of free collective
bargaining and arbitration and of offsetting any increase with compensating
savings. We must honour our obligation to fix pay on the basis of fair
comparisons with comparable outside employment but in construing them
we must aim to pitch our offers at the lowest possible point knowing that
in perhaps the majority of cases this may lead to arbitration and that the
arbiter's award may give a higher increase than could have been
settled by negotiation. A fuller account of claims in progress and how
they should be dealt with is in the Appendix. Three points should be made
here.

7. First the wages increases already given this year, together
with those which we estimate will be awarded before its close, will cost
£32 millions this financial year (of which £18 millions is for the Post
Office). The corresponding costs next year will be £50 millions and
£24 millions. The extent to which these increases can be balanced by
compensating savings will only be apparent when Departments have
replied to the Prime Minister's minute of 10th August calling for savings
in expenditure.

8. Secondly, industrial wage claims in the Civil Service will
have to be handled in accordance with our obligations under the fair wages
resolution. There can be no question of pitching our offers low. We are
obliged to apply the rates negotiated nationally by the general body of
employers.

9. Thirdly, the Cabinet should take account of the current
claims by the Post Office engineers. The Postmaster-General has been
asked to restrict his offers to figures lying well down in the range indicated
by fair comparisons in the knowledge that this may result in arbitration.
The claims will be settled one way or the other in about three weeks.
The total cost will be large, up to about £4 millions, and the amounts
awarded to certain classes may be as much as 20s. a week. In justifying
the award we shall have to say not only that it fulfils our undertaking to
honour arbitration awards, but that the cost of the increases to put the
engineers on the same footing as the rest of the Post Office and the rest
of the Civil Service was allowed for in the increased charges announced
by the Postmaster-General this summer.
National Health Service

10. The application of this general policy to the National Health Service should present no difficulty at any rate for some time except in the case of the clerical and administrative staff. Any further claims from the big battalions - nurses and doctors - will not fall to be dealt with till at any rate next year. Claims for a few minor groups - cost about £200,000 - are of no great significance.

11. The difficulty about the clerical/administrative claim was before the Cabinet last week (C.C.(57) 73rd Conclusions, Minute 4). The Minister of Health told the Management Side that their offer should not be more than 5 per cent to the grades above £1,200 who had had no pay increase since February 1956 and that no offer should be made for those below this limit who got 3 per cent in December/January last. He had also warned them that he would not necessarily implement a higher offer, if made and accepted. The Management Side persisted in offering 3 per cent to the latter group and it was accepted.

12. Two further facts should now be brought out -

(a) The negotiated increases are not operative until the Minister has approved their application. This power not to implement agreed decisions has not been used by Ministers since the Health Service was set up.

(b) Since there is no dispute between the two sides, the staff, almost certainly, cannot go to arbitration, but the Minister could agree exceptionally to an arbitration reference on an issue between himself and the staff. In doing so, he would be establishing a precedent which could be quoted against him, e.g. by the doctors.

13. There seem to be four alternative policies -

(a) The first would be to stand firm. The Regulations provide for the Minister to give approval to rates agreed in negotiation. This is no ritual gesture. Ministers should exercise their powers and the country will see that the Government mean business. The objections are that whatever we say, the Unions' propaganda will be that, despite declarations by Ministers that established processes of free collective bargaining and arbitration will be maintained, the Government in their own interests have sabotaged the Whitley machinery.

(b) The second policy would be to defer the implementation of the settlement for some months. The objections here are that the Unions will not be propitiated and will still say there has been interference in the established wage machinery, and that this amounts to a wage freeze.

(c) A third course is to authorise the increases. They may not attract much notice and may be considered an inevitable consequence of the recent wage increases to local government staff. The Minister would tell the Management Side that he was shocked that they had given these increases against his wishes, that he was taking steps to review his powers of exercising a controlling voice on the Management Side.
and in the meantime he had only approved the increases to honour the Government's declared intention of doing nothing to prevent the operation of established wage machinery. If the settlement attracted public comment, he could say the same publicly. This might answer any criticisms though it might still be represented that the Government had taken no steps to stop a wage increase in its own sector.

(d) The fourth course is a variation of the first. The Minister would disallow the increase but would offer to go to arbitration and to stand by the arbitrators' award, though he would make it clear that the cost of any award would have to be offset by retrenchment in the National Health Service. This would remove some of the onus from the Government.

14. All these alternatives involve some difficulties. The Health Ministers in their paper (C.,57) 238 may have a better solution. Subject to that, our feeling at present is that the fourth alternative is the least unsatisfactory.

15. We understand that the Health Ministers will shortly be putting in a further paper setting out the present constitution of the Management Side and recent efforts to improve their control over it. It seems to us vital to take immediate steps to secure real control and to prevent a recurrence of the present incident. It also seems vital that, if and when an increase is authorised, we should say that as far as practicable this is going to be offset by compensating savings.

III

Other Public Services

16. There are no immediate practical problems in the other public services, schools, police, fire services, probation officers, etc. since there should be no claims this financial year.

The constitution of the Whitley bodies should be looked at at once to prevent the embarrassment caused by the semblance of Ministerial control which in substance is non-existent.

17. There is an immediate problem in respect of the New Towns staff. The Whitley constitution here is even more unsatisfactory than that of the National Health Service. The Minister's representative is not allowed to vote. The decision of the Council can be implemented without any power of intervention by the Minister who, however, finances the salary bill from Votes. The staff are virtually identical in origin and affinities with the National Health Service staff and have a good claim for comparable treatment. We suggest that the Minister of Housing ought immediately to get into touch with the Chairman of the Management Side to make quite certain that they will adopt Government policy and will not follow one of their own.
The Nationalised Industries

18. Precautionary measures have already been taken in the field of nationalised industry. In response to a request from the Chancellor of the Exchequer, the Ministers of Power and Transport have informed the chairmen of the nationalised industries (Central Electricity Authority, National Coal Board, Gas Council, British Transport Commission and the Airways Corporations) that no concessions in pay should be made without reference to Her Majesty's Government; and this has apparently been accepted by all concerned.

19. That takes care of the situation for the time being. We must clearly do what we can to get our general principles accepted in this sphere. Policy will vary from case to case and will have to be considered at the time. In principle it will be desirable to push opposition to wage claims to the point of arbitration, for which there is machinery inside these industries. It would, of course, be understood that arbitration awards would have to be honoured. The consequence however in some cases may well be strikes.

20. There is no reason to fear that the management sides will not co-operate to the best of their ability. The chairmen have stressed that approaches to them should be personal and confidential. Legal advice taken on a previous occasion seemed to suggest that it would be possible for the appropriate Minister to issue directions to the nationalised bodies to refuse wage increases: but the position is far from clear and it would be essential to ask the Law Officers to confirm this view before any such action could be contemplated in any specific case. In view of the co-operative attitude of the chairmen above, this point has not been further pursued at present.

21. The only cases likely to come to a head in the next few months are those of the railwaymen and the London busmen. A special factor in relation to the British Transport Commission (B.T.C.) is that the railways are even now dependent on Government loans for meeting current losses. The objective is to make it plain to the B.T.C. that no additional Exchequer funds will be made available to meet increased wages and, insofar as these increases are not immediately offset by increased productivity, retrenchment would be the inevitable consequence. The practicability of this course is being urgently examined.

Summary of Conclusions

22. Our conclusions, which can only be set out very broadly, and must be read in conjunction with the rest of this paper are:

(a) Our policy in the public sector should be to slow down the pace of wage increases and to offset by compensating savings any that are secured. At the same time we should maintain established processes of collective bargaining and arbitration and there should be no wage freeze.
Civil Service claims should be handled in accordance with these principles.

Our provisional view is that the least unsatisfactory settlement of the National Health Service problem is for the Minister to refuse to implement the settlement but to offer arbitration.

The Minister of Health, we suggest, should at once grip the potential difficulties in the New Towns pay claim.

In the nationalised industries generally we should aim at securing our objectives by the co-operation of the chairmen. In the case of B.T.C., the objective is to ensure that additional Exchequer funds are not made available to meet any increased wages that may be obtained.

18th October, 1957.

________________________

APPENDIX

Claims under negotiations and pending in the Civil Service (outside the Post Office Engineering Union Group)

1. Cases going to arbitration

<table>
<thead>
<tr>
<th>Grade</th>
<th>Date of Arbitration</th>
<th>Possible Annual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison Officers</td>
<td>October, 1957</td>
<td>£200,000</td>
</tr>
<tr>
<td>Assistants (Scientific)</td>
<td>October, 1957</td>
<td>£200,000</td>
</tr>
<tr>
<td>Cartographic Draughtsmen</td>
<td>October, 1957</td>
<td>£300,000</td>
</tr>
</tbody>
</table>

2. Cleaners

A report from the Fay Research Unit is available and this is now being examined by the Official Side and the Staff Associations concerned. We do not expect that the facts produced by the Unit will show that there is very much owing to the cleaners, so that our minimum offer may well be nil. An increase of 2d. an hour, for Post Office cleaners as well as the others, would cost £400,000 a year.

3. Messengers

A report from the Fay Research Unit on messengers is likely to be available soon, and we expect this to show that something is owing to the grade. An increase of 10s. per week would cost about £250,000 a year.
4. **Telephonists**

A report from the Pay Research Unit is expected fairly soon. It will cover not only Post Office telephonists but also the comparatively small group employed in other Departments. We have literally no idea what the report is likely to reveal. An increase of 10s. a week in the pay of telephonists would cost £1 million a year.

5. **Radio Operators**

Revaluation negotiations are in progress for this grade, and the Pay Research Unit are investigating the Post Office group. A settlement might well cost £300,000 a year.

6. **Typists and Machine Operators**

The typists and machine operators were given a fair comparison award by the Priestley Commission. They have nevertheless pressed for investigations by the Pay Research Unit, and a report may well be available before the end of the year. If the Priestley Commission put their pay in line with the outside world, the report should point to a nil offer. An increase of 10s. a week would cost about £1,300,000 a year.

7. **Clerical Officers**

A report by the Pay Research Unit on clerical officers is likely to be available by next March, and this may well point not only to scale shortening, but also to a small increase at the maximum of the scale, costing in total possibly £4 millions.

8. **Industrials**

Any further adjustment in, for example, engineering wages will be reflected in pay improvements at Government industrial establishments. The "M" rate is now due to be brought into line with pay movements since 1st April, 1957. The increase is likely to be 6s. per week, which will cost £1,870,000 a year.
WAGES POLICY: NATIONAL HEALTH SERVICE

MEMORANDUM BY THE SECRETARY OF STATE FOR SCOTLAND AND THE MINISTER OF HEALTH

There appear to be five possible courses for dealing with the Whitley agreement to give a 3 per cent. increase to officers on salaries up to £1,200 per annum:

A. — To approve the agreement.
B. — To withhold approval without right of arbitration.
C. — To offer to submit the question to arbitration on the basis that we would accept the award but without making additional money available to pay for it.
D. — To offer arbitration on the normal understanding that any extra money required would be forthcoming.
E. — To withhold approval but to announce that approval would be given at some future date to be determined in the light of circumstances and to undertake to review the question in six months' time.

2. Course A

On the individual merits of this claim there is a good deal to be said for this course; but we would not press it if our colleagues consider that its implications for current economic policy are clearly unacceptable.

Course B

This would mean that the staff were condemned without the benefit of arbitration enjoyed by much larger and more powerful bodies. It would be said that they suffered disadvantageous treatment, not because their case was weaker than others, but because it was so strong that no dispute had arisen to provoke arbitration. It would also be said, with less justification but with equal certainty and force, that the Government were willing to apply to the small black-coated worker methods which they were afraid to apply to the large and powerful industrial Unions. We do not therefore consider Course B defensible.

Course C

We appreciate that this course may be attractive and appropriate where the cost can be absorbed in economies without real detriment to the service. This is not however the case with the National Health Service. While it may be that in
the long term economies are possible; it is, in view of the Guillebaud Report, impossible to identify any now, and equally impossible to assume the existence of unspecified opportunities of economising. The alternative of cutting staff is equally impracticable because this would involve a reduction of the service, e.g., the closure of hospital beds.

If therefore Course C were followed, hospital authorities, long subject to a sharper curb of economy than that applied elsewhere, might be expected either to reduce services (e.g., by closing hospital wards), or to overspend, or to resign. We therefore consider Course C inappropriate in this case and fraught with danger and detriment to the National Health Service.

Course D

This has much to commend it. It is, however, open to two objections:—

(i) It would almost certainly lead to an immediate wage increase and consequent public expenditure, with repercussions in other cases;
(ii) it might provide an embarrassing precedent in respect of the doctors and dentists, following the Report of the Royal Commission on their remuneration.

Course E

This would have as advantages:—

(i) It would avoid any embarrassing precedent during the particularly sensitive period of the transport negotiations;
(ii) it would enable this claim to be dealt with in the light of the result of the transport negotiations and other relevant circumstances;
(iii) it would not involve the intractable difficulties involved in Courses B and C.

3. If Course A must be ruled out, we favour Course E, but would regard Course D as less unacceptable than Courses B and C.

4. We propose that that part of the agreement which gives a 5 per cent. increase to officers on salaries over £1,200 should be approved at once, the Chancellor of the Exchequer having agreed it in advance.

5. The situation we are considering throws into relief the weakness of the present Health Service negotiating machinery. Though the structure is illogical and unsatisfactory, it would be unrealistic to think in terms of a dramatic change overnight. These factors must be borne in mind:—

(i) The system has continued for nine years;
(ii) to change it might well require legislation;
(iii) as recently as last year, the Government revised the position in the opposite direction—the table in the appendix to this memorandum sets out the position;
(iv) the position of a considerable number of interests in the health and hospital world is involved.

Nevertheless, if our colleagues agree, we propose immediately to explore, in the light of the above factors, possible methods of establishing an improved, more logical structure, and to submit a further memorandum as soon as we have done so.

J. S. M.
D. W.-S.

18th October, 1957
# APPENDIX

## COMPOSITION OF MANAGEMENT SIDES OF WHITLEY COUNCILS FOR THE HEALTH SERVICES

<table>
<thead>
<tr>
<th>Council</th>
<th>Representatives of</th>
<th></th>
<th></th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hospital authorities</td>
<td>Local authorities</td>
<td>Executive Councils</td>
<td>Department</td>
</tr>
<tr>
<td>General</td>
<td>10 (7)</td>
<td>10</td>
<td>2</td>
<td>5 (8)</td>
</tr>
<tr>
<td>Administrative and Clerical</td>
<td>10 (7)</td>
<td>—</td>
<td>3</td>
<td>5 (8)</td>
</tr>
<tr>
<td>Ancillary Staffs</td>
<td>10 (7)</td>
<td>7</td>
<td>—</td>
<td>5 (8)</td>
</tr>
<tr>
<td>Dental (Local Government)</td>
<td>—</td>
<td>9</td>
<td>—</td>
<td>(observers only)</td>
</tr>
<tr>
<td>Medical</td>
<td>10 (7)</td>
<td>4</td>
<td>—</td>
<td>5 (8)</td>
</tr>
<tr>
<td>Committee “B” (Hospitals)</td>
<td>10 (7)</td>
<td>2</td>
<td>—</td>
<td>5 (8)</td>
</tr>
<tr>
<td>Committee “C” (Local Government)</td>
<td>—</td>
<td>17</td>
<td>—</td>
<td>(observers only)</td>
</tr>
<tr>
<td>Nurses and Midwives</td>
<td>10 (7)</td>
<td>8</td>
<td>—</td>
<td>5 (8)</td>
</tr>
<tr>
<td>Optical</td>
<td>10 (7)</td>
<td>4</td>
<td>—</td>
<td>8</td>
</tr>
<tr>
<td>Pharmaceutical</td>
<td>10 (7)</td>
<td>1</td>
<td>—</td>
<td>8</td>
</tr>
<tr>
<td>Committee “A” (Chemist contractors)</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>6</td>
</tr>
<tr>
<td>Committee “C” (Hospitals and Local Government)</td>
<td>9 (5)</td>
<td>1</td>
<td>—</td>
<td>5 (7)</td>
</tr>
<tr>
<td>Professional and Technical “A”</td>
<td>10 (7)</td>
<td>5</td>
<td>—</td>
<td>5 (8)</td>
</tr>
<tr>
<td>Professional and Technical “B”</td>
<td>10 (7)</td>
<td>5</td>
<td>—</td>
<td>5 (8)</td>
</tr>
</tbody>
</table>

**NOTE**—The figures without brackets show the present composition of Management Sides. Those in brackets show the composition as it was previous to the changes made following the Guillebaud Report.
CABINET

COMPULSORY ACQUISITION: COMPENSATION

MEMORANDUM BY THE MINISTER OF HOUSING AND LOCAL GOVERNMENT AND MINISTER FOR WELSH AFFAIRS

I understand it may be suggested, at an early meeting of the Cabinet, that a Bill to alter the law of compensation on compulsory acquisition should be introduced this coming session.

2. I have hitherto been proceeding on the assumption that, although there could be no possibility of squeezing a complex and controversial Bill of this kind into the 1957-58 programme, a place might be found for it in 1958-59. This is what I would favour.

3. I do not think that earlier legislation is practicable. The subject is highly complicated, and Ministers have not yet held any discussions on it. My intention is to submit a Paper on the subject to the Home Affairs Committee within the next few weeks; but I shall be surprised if we find it easy to reach decisions. What we shall be doing, of course, is considering how to amend Conservative legislation enacted as recently as 1954. While the existing compensation code is rooted in the Town and Country Planning Act, 1947, it was our legislation which deliberately retained it while getting rid of other features of that Act; and we did this knowing that the changes we were making would be liable to create just the difficulties that have arisen.

4. I well know the dissatisfaction with the present basis of compensation. Broadly, it provides that the acquiring authority shall pay only the current market value of the land in its existing use, together with any development value that the land may have had in 1947. Where the land has acquired development value since 1947, therefore, the price paid by the acquiring authority is less—it may be much less—than the owner could get in the open market. This naturally looks extremely unfair. There is also the difficulty that, in view of the fall in the value of money, the 1947 development value itself is now worth a good deal more than it was assessed at in 1947.

5. A further trouble is that where an authority exercising compulsory powers have bought, at the above restricted value, land which subsequently proves surplus to their requirements, the price at which they are obliged to dispose of it is full market value. They may thus find themselves offering land back to the original owner at a great deal more than they paid him for it. This situation, even though it arises infrequently, can cause intense feeling.

6. Nevertheless there were good reasons why the Government in 1952 decided to retain the restricted value on compulsory acquisition, while abolishing development charge and setting the private market free. These reasons were set out briefly in the White Paper Cmd. 8699 (paragraphs 30 and 31) presented to Parliament by the Prime Minister when he was Minister of Housing and Local Government. They were developed more fully in H.A. (52) 79 which he circulated to Home Affairs Committee. The relevant paragraphs of that Paper are appended.
7. To adopt market value instead of restricted value on compulsory acquisition looks, at first sight, simple and attractive. But we must pause and see what it would involve. Take the case of agricultural land which acquires building value through the provision, at public expense, of roads and sewers and water supply. If it is then agreed that the land is suitable for building, its value may be increased from (say) £50 an acre to as much as £1,000 an acre, or even more in areas where, as a result of planning restrictions, building land is in short supply. If that land is then needed for any public purpose, the public—whether as taxpayer or as ratepayer—in effect has to pay twice.

8. It was this sort of situation which, I believe, influenced the Government in 1952 to adopt the solution contained in the 1954 Act. Unearned increment on the scale indicated is hard to defend, and has considerable political implications. Apart from anything that the Opposition may say, and threaten to do, we must recognise that if public authorities are required to pay market value, they are bound as prudent guardians of the public purse to try to buy well in advance all the land they may possibly need and whose value they may be going to increase.

9. To overcome these and suchlike difficulties it has in the past been suggested that if the market value basis is adopted, some form of levy should be imposed on unearned increment in land values. Any such plan raises grave doubts in my mind; but in default of any other solution it would have to be examined.

10. One suggestion made by the Prime Minister in H.A. (52) 79 (paragraph 15) was that in due course it might prove necessary to adjust the amount to be paid by way of compensation to take account of a decline in the value of money. He indicated something like this in the Committee debates on the 1954 Act (Standing Committee C, June 1, 1954, col. 535). I do not think that if we legislated we should be able to do that and stop there. It would also be very difficult not to apply the same adjustment to compensation for planning restrictions.

11. The fact is that the reason for the present compensation code stems from the necessity for planning control. I will not here attempt to go over the arguments that led to the 1947 Act. That Act was accepted in principle by our Party when we were in Opposition because we believed in the necessity of planning control and knew that that must involve limitation of compensation. In all the changes we have made, we have retained the principle that, for planning restrictions, compensation is limited to the amount established by the claims for 1947 development value. That has been generally accepted; but if we alter the basis of compensation on compulsory acquisition, we risk an attack on the basis of compensation for planning restrictions. That could be disastrous.

12. It may be argued that we can and must sweep all these questions aside and go straight for market value on compulsory acquisition. But simple market value will not do, since in some cases the effect of planning is to depress the value of land below what would be paid in accordance with the present restricted value. There are technical problems to be solved here.

13. In terms of legislation, to alter the basis of compensation means amending Part IV of the Town and Country Planning Act, 1947, as amended by the Town and Country Planning Act, 1954. This will be a tricky Parliamentary operation, for as soon as we start amending these Acts we shall of course be subject to all sorts of pressures to relieve landowners from the effects of planning control. Yet we certainly do not want to see planning control fatally weakened. We shall then have “Subtopia” unlimited; uncontrollable seizure of agricultural land; and a St. James’s Theatre outcry daily!

14. Despite the difficulties and the risks, I want to find a way to legislate before the Election—that is, in 1958–59. But in my view we could not possibly be ready in time for the 1957–58 session, with a Bill that would stand up to criticism. That is my judgment; I shall be interested to hear the views of the several other Ministers who are directly concerned, including of course the Chancellor of the Exchequer.

H. B.

Ministry of Housing and Local Government, S.W. 1.
17th October, 1957.
APPENDIX

Extract from H.A. (52) 79

15. The proposal to limit the compensation to 1947 development values is, I think, defensible. That is as much as (indeed in most cases more than) anyone has expected to get since the 1947 Act was introduced. I believe that this would be generally accepted—at the start at any rate. In time individual owners might think it inadequate; particularly if the value of money declines further. But we should get rid in the first few years of the strongest and most urgent cases for compensation; and if thereafter we had to adjust the amount to be paid by way of compensation, to take account of a decline in the value of money, that would not be fatal.

16. The main political difficulties would be these:

(i) Where permission is given for profitable development the land-owner would keep the profit from the land. The Socialists would make this the main point of attack. It would be "reactionary."

(ii) If, with the free market in land restored, public authorities had to buy at the free market value, the political attack would be formidable and the practical results would be serious. The value of public authorities needed to buy (e.g., for housing) might have been increased by what they themselves had done: by the fact that their plan concentrated development in a limited area, or kept adjoining land open; or the value might have been increased by improvements carried out at public expense. All the old arguments about "unearned increment" would be raised. This difficulty could, however, be avoided if we provided that the basis for compulsory acquisition should be the existing use value prevailing at the time the purchase is made, plus the claim for the 1947 development value. That would leave the owner whose land is bought exactly where he is under the present Act (except that his claim would be paid in full); and would treat him in precisely the same way as the owner who is not allowed to develop. But it would mean that the owner who is forced to sell to a public authority would get a worse price—in some cases a much worse price—than the owner who sells privately, or develops his own land.

(iii) There would be no equality of treatment. Owners allowed to develop their own land, or to sell it for development, would keep the profit. Owners not allowed to develop, or forced to sell to a public authority, would get nothing but its value for existing use plus the claim—if any. The difference in some cases could be large, and would get larger if and when 1947 development values became less and less related to current development values. Few would incur actual loss (though the proposed exclusions from any title to compensation for certain kinds of restriction might have this result in some cases); but some would lose the chance to make a profit which others would get.

(iv) It would be very difficult to satisfy all the people who are out of pocket as a result of the past 5 years. We should probably have to repay charge to people who hold a claim; and to pay the claims to people who have been compelled to sell their land at existing use value. But many people who have paid charge—especially people who have paid charge on building a house and who have been so anxious to get a site that they have not stopped to work out the trouble in store for them—have no claim, having bought the land without getting it; do anything for them would mean disentangling the facts about the price at which they bought, and trying to sort out the rights and wrongs between vendor and purchaser. Many private transactions in land have been affected by the Act, land having been sold at sometimes less than its full value because the owners expected to be paid something on their claims some day. I do not think that we could unravel all these.

(v) We might have to reopen the right to make claims. Some people failed to make them; but nobody knows how many.

17. I am advised that there would be serious technical difficulties in making 1947 development values the basis of compensation to be paid in 10, 20 or 30 years' time. The land would split up meantime and the agreed claims would have to be apportioned; the interests on which the values have been assessed would have altered; and so forth. There would also be difficulty in deciding when a claim
ought to be paid. Many, such as the owners of green belt land close to the towns, would have to be paid in the first two or three years; but many claims arise on land which nobody really intends to develop for a long time. I think these difficulties could be surmounted, though no doubt in a rough and ready way; but the fact of them would increase the pressures on the scheme. There would be contentious cases.

These difficulties arise equally on scheme (ii) above.
CABINET

THE AGRICULTURE ACTS

MEMORANDUM BY THE LORD CHANCELLOR

As my colleagues know, the operation of the provisions of the Agriculture Acts—the Agriculture Act, 1947; the Agricultural Holdings Act, 1948; the Agriculture (Scotland) Act, 1948, and the Agricultural Holdings (Scotland) Act, 1949—which relate to security of tenure and confer disciplinary powers on the Agriculture Ministers has given rise to serious concern and misgivings in recent years.

2. Ministers considered these matters at length in 1955 and 1956. It was not questioned, in any of the discussions then, that the security of tenure provisions had come to operate in such a manner as to give a quite unexpected and unintended degree of security to the tenant farmer. This was not in the best interests of agriculture; the landlord/tenant system was being slowly undermined; and it had already become extremely difficult for young farmers to acquire, except by purchase, holdings to farm themselves. There was equally little dispute that the Government were confronted with acute and potentially embarrassing difficulties in their exercise of the disciplinary powers over the farming industry, and that the future of these powers needed re-examination.

3. The Cabinet decided, in 1956, that, in preference to appointing an independent enquiry to go into these questions and to prepare farming and public opinion for eventual legislation, it would be better for the Agriculture Ministers to attempt to discover, in discussion with the farming and land-owning interests, what measure of agreement on these issues could be reached. If enough common ground could be established, legislation might be considered (C.M. (56) 31st Conclusions, Minute 5). Discussions have therefore taken place, with encouraging results, with the Country Landowners' Association and the National Farmers' Union, and the corresponding Scottish bodies.

4. Meanwhile, it has become necessary to contemplate, in any event, early legislation to give effect at least to the principle underlying those recommendations of the Franks Committee on Administrative Tribunals and Enquiries which relate to the functions of agricultural tribunals and the semi-judicial functions at present devolving on the Agriculture Ministers. This legislation, although covering only a part of the field which has been under review, would involve the considerable amendment of Part II of the Agriculture Act, 1947, so that public debate would be focused inevitably on the controversial question of the need for the disciplinary powers and the performance of the Agriculture Departments in exercising them. Even if this particular legislation is deferred until the session of 1958-59—and the Agriculture Ministers take the view that it will not be easy to delay it so long—an early announcement of the Government's intentions on these particular recommendations of the Franks Committee will have to be made, and opportunity for debate afforded.

5. The discussions which have taken place with the agricultural interests have led to a quite unexpected measure of agreement—considered to be unattainable two or three years ago—between landowners and farmers on a basis for introducing greater flexibility into the statutory provisions governing security of tenure. It is now possible to contemplate corrective legislation which would be broadly acceptable to both sides of the landlord/tenant relationship.
6. No similar agreement has been reached on the question of disciplinary powers. The landowners would like to see the Government retain these powers and, perhaps surprisingly, so would the farmers. This attitude, however, naturally takes no adequate account of the embarrassment of continuing to possess powers of discipline which can no longer be exercised on any generally acceptable basis. The Agriculture Ministers are satisfied that the only satisfactory course is to repeal these powers and that this would in fact meet with no serious resistance in the agricultural world.

7. Although it is not to be expected that landlords and farmers could be brought to actual agreement on the subject of rents, informal soundings have revealed the prospect that a sensible amendment could be made to the law without the generation of too much heat. Rents have lagged far behind the landlords' costs, and it is urgently necessary that arbitrators should be required to have regard to current market values in settling rents if damage to the long-term interests of our farming land is to be avoided.

8. In view of the relative success achieved in these negotiations and consultations, and taking into account the independent pressure now exerted by the recommendations of the Franks Committee, the Secretary of State for Scotland and the Minister of Agriculture are strongly of the opinion that long needed legislation to bring the Agriculture Acts up to date in respect of all these various matters should be undertaken without delay, and that the time is ripe for doing so. The proposed legislation, in addition to repealing the disciplinary powers and amending the existing statutory provisions concerned with security of tenure and rents, would provide, in accordance with the recommendations of the Franks Committee, for the transfer to independent tribunals of the semi-judicial responsibilities at present devolved on the Agriculture Ministers.

9. The opportunity would also be taken to correct a serious anomaly which the Agriculture (Scotland) Act, 1948, introduced into the law governing bequest of and succession to agricultural tenancies in Scotland. The consequences of the new provisions made in 1948 were not fully foreseen at the time, and they have proved most unfair to landowners. No agreement between Scottish landowners and farmers can be expected on this issue, which would therefore be controversial as between the Scottish interests directly affected.

10. A Sub-Committee of the Home Affairs Committee, under my Chairmanship, have been considering in detail the scope of this legislation and the justification for it. Their conclusions are set out in the annexed report. The proposed legislation would be in accordance with Conservative Party principles and would be in the general economic interest of the country. Much of it would be popular with the Parliamentary Party, and a good proportion of it would be based on an agreement between the landowning and farming interests. Such an agreement is unlikely to prove enduring unless advantage is taken of it promptly; and the projected legislation, if not introduced in the next session, would not be suitable for a later session of this Parliament. In any event, the Country Landowners' Association, having shown considerable flexibility in reaching accord with the National Farmers' Unions on security of tenure, are bound to feel that the Government have failed them if, after protracted discussions, no further action is taken.

11. On the other hand, the projected legislation—despite the measure of agreement on which it would be founded—would clearly be contentious in certain respects. The agricultural legislation of 1947-49 was bipartisan in character and supported by the Conservative Party. Proposals to amend it in the directions envisaged will certainly provide scope for possibly keen controversy as between the Government and the Opposition; and any legislation on such subjects as tenure, rents and agricultural discipline is both susceptible to misrepresentation and capable of causing confusing eddies in the public mind.

12. Nevertheless, it is not a question of legislating or not legislating, except in the unlikely event of the Government deciding to reject the relevant recommendations of the Franks Committee. The real choice would appear to lie between (a) legislation confined to the provisions necessary to give effect to the recommendations of the Franks Committee; and (b) taking advantage of the important measure of agreement which has been reached with the interests concerned to introduce a more comprehensive and constructive measure. The
Sub-Committee take the view that, as between these alternatives, the second course offers a definite balance of advantage; that, given the measure of agreement between the interests directly concerned, the political difficulties should not be insurmountable, and that the proposed legislation satisfies the tests to which legislation for the next session must if possible be subjected.

House of Lords, S.W. 1.
17th October, 1957.

ANNEX

LEGISLATION TO AMEND THE AGRICULTURE ACTS

REPORT OF A SUB-COMMITTEE OF THE HOME AFFAIRS COMMITTEE

We have considered proposals of the Secretary of State for Scotland and the Minister of Agriculture for legislation to amend the provisions of the Agriculture Acts and the Agricultural Holdings Acts relating to:

(i) security of tenure;
(ii) disciplinary powers over the agricultural industry;
(iii) agricultural rents;
(iv) law of succession to agricultural tenancies in Scotland.

2. Amending legislation to deal with the first two of these matters has been under review since 1955. Such legislation, although still providing scope for controversy, can be expected to be a good deal less contentious than it would have been two or three years ago because, in discussions which have taken place, both the landowning and the farming interests have adopted a perhaps unexpectedly understanding attitude. Meanwhile, the report of the Franks Committee on Administrative Tribunals and Enquiries has made it necessary to envisage legislation to give effect to the recommendations of that Committee—or the principle underlying those recommendations—relating to the jurisdiction of the Agricultural Ministers both in cases of disputed tenancies and over appeals brought by persons against whom the disciplinary powers are invoked. The fact that legislation, concerned with a limited part of the field we have had under review, must now be contemplated in any event clearly has a close bearing on the question whether—given the relatively co-operative attitude which the farming industry has taken up—this legislation should not be expanded into a considerably more constructive and needed measure. We therefore begin with the questions arising out of the Report of the Franks Committee.

Transfer of Functions from Minister to Independent Tribunals

3. The Agricultural Holdings Act, 1948 (Sections 24 and 25), and the corresponding Scottish legislation, confer on the tenant farmer who is served with a notice to quit a right of appeal in certain circumstances to the Minister. The landlord is then required to justify terminating the tenancy on one or more of a number of stated grounds: namely, that this would be in the interests of efficient farming; that the land is needed for research, education, small-holdings, allotments, or is wanted for a permissible non-agricultural use; that, in certain circumstances, failure to authorise eviction would cause the landlord greater hardship than the tenant.

4. The Agriculture Act, 1947 (Part II), and the corresponding Scottish legislation, confer on the Agriculture Ministers a statutory power to place owners and occupiers of agricultural land under supervision if they are not farming or managing the land satisfactorily; to serve directions requiring an improved performance; and, in the last resort, to dispossess those who fail to show satisfactory progress under supervision.

5. The Ministers' statutory powers to arbitrate between landlord and tenant in disputes over notices to quit, and to exercise discipline over the agricultural industry, have been delegated in practice to the County Agricultural Executive...
Committees. There is a right of appeal on both matters from the Ministers' decision given through the County Committees to the Agricultural Land Tribunals (and in Scotland to the Land Court), whose decision is final, except for the right of further appeal to the High Court (or the Court of Session) on a question of law. The Franks Committee rather severely criticised the vesting of adjudicating functions in these Committees—particularly in regard to the disciplinary provisions, the enforcement of which the Committee could be held "to combine the functions of detective, prosecutor and judge." As the Committees were delegates of the Minister, this also infringed the principle of visible impartiality.

6. The Minister of Agriculture proposes to transfer the function of arbitrating any disputes over notices to quit from the County Agricultural Executive Committees to the Agricultural Land Tribunals—bodies whose chairmen and members are appointed by, or under the supervision of, the Lord Chancellor and are therefore independent of the Minister. No need is seen for an appeal from the decision of a Tribunal, except to the courts on a point of law.

7. Although both the landlords and the farmers would prefer the Agricultural Ministers to retain their judicial responsibilities they are considered unlikely to resist this proposal. The proposed arrangement would conform with the principle that the landlord is entitled to do what he thinks proper with his own land, subject to the right of the tenant to appeal to some judicial body against arbitrary or unreasonable action. The Secretary of State for Scotland proposes that the Land Court should become a Court of first instance in place of the Agricultural Executive Committees. An appeal on a point of law, if competent, would go to the Court of Session.

8. If the disciplinary powers are to be repealed—as we recommend below—no further problem of overhauling the machinery for exercising them will arise. If, however, these powers are to be retained, it will clearly be necessary to consider giving effect to the recommendation of the Franks Committee that new tribunals, independent both of the Minister and of the County Committees (and before whom the latter would then merely give evidence), should assume jurisdiction in cases where a farmer appeals against the imposition of disciplinary sanctions on him. The Franks Committee also recommended that an initial supervision order, although intended to help the farmer, must itself be regarded as a penal sanction, and the farmer or landowner given the right—which he does not possess now—to appeal against it.

9. The prospect of such legislation would be embarrassing. In point of fact the disciplinary powers have fallen into virtual disuse and cannot now easily be revived. We discuss in greater detail below the problems arising in regard to these powers and recommend that they should be repealed. The introduction, at the instance of the Franks Committee, of new arrangements for the administration of these powers would be certain to focus attention on their utility and on the extent to which they have been allowed to fall into abeyance. A decision to retain these powers would therefore confront the Government with embarrassing and difficult problems to which we can see no solution.

10. (The County Committees also exercise judicial functions in approving short-term tenancies and dealing with applications from tenants wishing to carry out long-term improvements to which the landlord does not consent. It will need to be considered, as a separate matter, whether these functions should not now be transferred to the Agricultural Land Tribunals.)

11. We endorse the proposals in paragraphs 6 and 7 above under which the Agricultural Ministers would be divested of any responsibility for arbitrating between landlord and tenant in cases of disputes over notices to quit, and the responsibility for adjudicating in these cases would be transferred to the Agricultural Land Tribunals or, as appropriate, the Scottish Land Court, as independent bodies, with a right of appeal to the courts on a point of law.

Security of Tenure

12. The problem here arises from the fact that the interpretation which has been placed on the present statutory provisions has caused the administration of the law to be weighted unfairly in favour of the tenant. The Agricultural Holdings Acts empower the adjudicating authority—whether of first instance or on appeal—
to exercise a very wide discretion in cases of dispute over notices to quit; and
the practice has grown up of allowing considerations of hardship to the tenant
to govern the decision in a great number of cases where consent to a notice to quit
would in fact be justified on the specific tests laid down and would be in the
interests of efficient farming.

13. It is through the existence and exercise of this wide power of discretion
that the balance as between landlord and tenant has come to be seriously disturbed.
The present law gives much too much protection to the bad or mediocre farmer
and is detrimental both to the true interests of tenant farming, by making it virtually
a closed shop, and to the maintenance of a landlord/tenant system on any sound
basis. The Agricultural Ministers are satisfied that it is very much in the public
interest that these provisions should now be amended. There is no question of
repealing them in their entirety and of leaving the tenant without protection against
a notice to quit. The landlords accept this. And it would be difficult to
contemplate legislation on such a matter without some reasonable measure of
agreement between the landlords and the farmers.

14. What is required is to redress the balance as between landlord and tenant
so as to make it somewhat easier for the landlord to obtain consent to a notice
to quit. The landlord would still be required to establish certain matters to the
satisfaction of the adjudicating authority, which would in future be able to take
into account not only the proposed future use of the land but also its use in relation
to any other land with which that land had been or would be farmed or managed,
but the general discretion now held by the Minister to withhold consent, even if such
matters were established to his satisfaction, would be abolished. In the past, consent
has often been withheld, on the ground of hardship to the tenant, in cases where these
matters were otherwise satisfactorily established by the landlord. In future,
hardship to the tenant will only be considered when hardship to the landlord is
the ground relied on by the landlord. And then all the circumstances of the case,
including the length of time in which the land to which the notice relates has been
occupied by the tenant or his family, may be taken into account.

The negative provision that the Minister shall withhold his consent
unless he is satisfied is to be changed to the positive provision that he shall consent if
satisfied, &c.

15. Amending provisions on these lines are acceptable both to the Country
Landowners' Association and to the National Farmers' Union (subject to one point)
and to the corresponding bodies in Scotland. The National Farmers' Union would
like to see some element of an overriding discretion retained. It is hoped that
further discussion with the National Farmers' Union will elicit more precisely
what they want. It may not be possible to give a general overriding discretion
to a tribunal concerned with the determination of judicial issues. Subject to this,
legislation containing amending provisions may therefore be expected to be
uncontroversial as between the interests directly affected. It is not considered
practicable, nor would it be right, after the existing legislation has been interpreted
and applied with a certain emphasis for a period of ten years, to proceed without
amending legislation but by way of advising the adjudicating tribunals to adopt
an interpretation of the existing discretionary power which is more favourable
to the landlord. The tribunals are independent of Ministers and it is felt that,
after this lapse of time, the conditions on which tenancies can be terminated must
be restated in statutory form.

16. We recognise that any legislation to adjust the landlord/tenant
relationship in favour of the landlord is likely to provide scope for more general
social controversy, of which the Opposition will no doubt take advantage. But we
do not think this consideration should be over-riding, and we recommend that
advantage should be taken of the measure of agreement which has been promoted
between the interests directly concerned to make an important and constructive
amendment to the law.

The Disciplinary Powers

17. The disciplinary powers in Part II of the Agricultural Act of 1947 and in
the corresponding Scottish provisions were intended to be complementary to the
subsidy provisions of Part I of the Act. They reflect the atmosphere of the
immediate post-war period when food was scarce and rationed, and the nation had
become accustomed to Government intervention in many more matters than it
would now willingly tolerate. The provisions were enforced to a significant extent
in the early years of the Act but, because of the difficulty of applying them, gradually
tell into disuse, the number of cases declining from 1,030 in 1952 to 70 in 1955, and
to isolated examples in subsequent years. The Agricultural Ministers are clearly
under a constitutional obligation to exercise—or, if that is impracticable, to amend
or repeal—penal sanctions of this kind which have been placed on the Statute Book;
they take the view that it is quite unsatisfactory, from all points of view, for such
powers to continue to exist when no generally acceptable basis for exercising them
can be found.

18. There are, however, objections to all courses of action which are
theoretically possible:

(a) The full exercise of the powers as the law apparently intended

This is out of the question on all grounds. It would result in a great
number of supervision orders, a considerable number of dispossessions, and
much relative injustice. The measurement of agricultural efficiency cannot be
made an exact science, especially when the quantity of food production is no
longer the single objective; and it would place an invidious responsibility on
the Agricultural Executive Committees (or whatever other body might be
entrusted with the task) to administer the powers in this way. Neither public
opinion nor the farming industry would now tolerate such a course. Nor is
it feasible to revive the exercise of such powers once they have fallen into
disuse. The alternative policy of persuasion and education is now being
followed by the Agricultural Departments with considerable success, and the
energetic exercise of disciplinary powers is quite incompatible with this
approach.

(b) The use of powers in selecting extreme cases for their general deterrent
effect

This is equally impracticable. It would give rise to an even greater
injustice that a more consistent use of the powers; would be not much less
repugnant to public opinion; and would provide, as the case of Lady Garbett
illustrated, ample scope for misrepresentation of the Government’s motives
and competence.

(c) To amend the powers

New legislation continuing the sanction of dispossessions—and without this
ultimate sanction disciplinary powers would be nugatory—would need to have
the new purpose clearly defined so that Ministers would know when to take the
initiative and tribunals would have a clear basis on which to reach decision.
It has proved impossible to devise more limited disciplinary powers which a
Conservative Government could be expected to enact.

(d) The repeal of the powers

This is the straightforward and realistic course, reflecting the impossibility
of achieving efficient farming by means of penal sanctions. The justification
for it would be that the disciplining of the bad farmer, in a practical world,
must be left to the play of economic forces: the bad farmer will not do very
well, even with subsidies; and the very bad farmer will eventually ruin
himself. Effective sanctions against the occupier who farms his land in such
a way as to cause damage to other land, e.g. by noxious weeds, are provided
in other legislation.

Nevertheless the Opposition will resist such a drastic course, and some
sections of public opinion may feel that the bad farmer is being let off too
lightly. The disciplinary powers have always been regarded as the equitable
price the farmer must pay for his subsidies, and the public mind is quite
capable of being ambivalent to the extent of objecting to the repeal of the
powers, while sympathising with the individual farmer against whom they
may be exercised. Moreover, while the proposed readjustment of the security
of tenure provisions will expose the tenant farmer to a greater degree of
natural discipline exercised by the landlord, the repeal of the statutory
disciplinary powers will remove all penal sanction against negligent owner-
occupiers, and owner-occupiers now farm nearly 40 per cent. of our
agricultural acreage. The owner-occupier will, of course, be subject to normal
economic discipline.
Placing the disciplinary powers in reserve, by an amendment providing for their use only in extreme circumstances.

This would go some way towards meeting the objection that the subsidised farmer was being freed from all penal sanctions, but it would be constitutionally improper to retain reserve powers for which no use was in fact intended.

19. The Agricultural Ministers take the view that the issue should now be faced squarely, the disciplinary provisions repealed and opposition and criticism firmly countered. In any event, as stated above, the legislation which would be required to put into effect the changes in procedure which would be necessary in consequence of the Report of the Franks Committee would lead to debate on the whole system and exercise of these powers, and would reveal that they require the support of a complicated administrative machine which now contributes almost nothing to securing the better use of land. The farmers, in wishing to see the powers retained, are concerned lest the repeal of these powers should be regarded as freeing the Government in any way from their obligations under the subsidy provisions of the 1947 Act. But the farmers, while wishing to see the powers retained, have no desire to see them exercised with any vigour; their position on the matter is quite untenable and it should be possible to assuage their fears by pointing out that subsidies have now been placed on a long-term basis by the new 1957 Act.

20. It must be for the Cabinet to decide whether, in all the circumstances, it is feasible to repeal these powers outright at the present time. But we are satisfied that, on merits, this is the right action to take; and, after considering the matter exhaustively, we are unable to recommend any alternative practicable course. The longer these powers remain on the Statute Book, unexercised, the more embarrassing their existence will be; and we must reiterate that the need to take action on the recommendations of the Franks Committee will itself prevent the matter from slumbering.

Rents

21. The landlord, unable to reach agreement with his tenant on an increase in rent, has a right of appeal under the Agricultural Holdings Acts to an arbitrator. The arbitrator must determine “the rent properly payable” for the holding and has been inclined to do so by reference to the existing rents of neighbouring properties, so that no movement of rents has taken place comparable with the figures new tenants are prepared to pay when holdings fall vacant. Agricultural rents now stand on average at about 50 per cent. above the pre-war level while the landlords’ costs have risen to about 300 per cent. of that level, with the result that the landlord is not in a position properly to maintain and improve his property. This is not in the long-term interests of agriculture, and it is now a matter of some urgency that the situation should be remedied.

22. Although no formal joint consultations have taken place with the landlords’ and farmers’ organisations, and the formal agreement of the N.F.U.’s to a course of action which would raise rents further would be extremely unlikely, enough soundings have been taken to establish that the farmers recognise that rents have lagged too far behind prices and incomes, and the Agricultural Ministers are satisfied that action can be taken without serious opposition from the farming organisations. It is proposed, therefore, to amend the law to require arbitrators to assess rents on the basis of the open market value of the land, i.e., the rent at which the holding might reasonably be expected to be let in the open market by a willing lessor. This would exclude unreasonable premiums such as might be offered simply in order to gain possession. It is recognised that such premiums are not an easy element to express in a calculation, but valuers are not unaccustomed to doing this in practice and the difficulty is not considered insuperable.

23. The farmers’ representatives who have been consulted would prefer the matter to be dealt with not by way of amending legislation, but by way of formal or informal guidance to the arbitrators. Arbitrators, although appointed by the Ministers in default of agreement between the parties, are independent of them; and it would not seem that Ministers have any authority even to give arbitrators guidance on the interpretation of the Act. The Agricultural Ministers are satisfied that, as in the case of security of tenure, it would be impracticable to change the interpretation of the existing law after this lapse of time and that new statutory

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provision embodying a new criterion for the determination of rents is necessary. This would follow the Landlord and Tenant Act, 1954, in providing that open market values should be the basis for agricultural as for commercial rents.

24. The subject of rents, controversial at all times, is especially so now but, balancing more general political considerations against the degree of understanding which farmers have shown on this issue, we recommend that the proposed legislation should include a provision to place agricultural rents on an economic basis.

**Succession to, and Bequest of, Agricultural Tenancies in Scotland**

25. As the law in Scotland stands at present an heir-at-law or legatee may succeed to the tenancy of an agricultural holding and continue to have the protection of the existing provisions with regard to security of tenure. The heir-at-law or legatee may have taken no part in the running of the farm, may not be employed in agriculture, or may even be abroad. The Secretary of State for Scotland proposes to bring the Scottish law on this subject broadly into line with the English law by abolishing the right of bequest and restricting the right of succession to the unexpired portion of a lease.

26. We endorse this proposal. The Scottish Landowners will support it. The Scottish National Farmers' Union will object, particularly on the ground that certain tenants, under the safeguard provided by the existing law, have sunk, or are in the process of sinking, more capital in their holdings than they would otherwise do. This, however, is a matter which is taken care of by the law with regard to compensation for improvements.

**Application of the Legislation to Scotland**

27. The proposed legislation, if it is confined to the subjects considered in this report and does not involve any more general amendment of the agricultural legislation, can be embodied in a single Great Britain Bill, without need for a separate Bill for Scotland. In that event, it will be desirable to make special arrangements for the Parliamentary handling of the provision in the Bill which will be concerned with the law of succession to, and bequest of, agricultural tenancies in Scotland. It would be undesirable for this provision, which will be contested by Scottish farmers, to be referred in the normal way to a Standing Committee on which there would be few Scottish members. We understand, however, that it would be practicable (though not perhaps customary) to remit this single provision in the Bill for consideration by the Scottish Grand Committee. This would be a preferable course to making this particular provision the subject of a separate short Bill and we recommend that it should be followed.

**General Conclusion**

28. We are satisfied that there is a very strong case on merits for taking steps, after an experimental period of ten years, to bring our agricultural legislation up to date by an amending Bill to deal with security of tenure, disciplinary powers, rents and the succession to agricultural tenancies in Scotland. The first three of these matters are closely inter-related. Farmers as well as landlords have been brought to accept the need for more flexible arrangements in regard to both security of tenure and rents, and the proposed legislation would have the advantage of being based on this. The disciplinary powers have become inoperable, cannot be revived, are out of harmony with the spirit and needs of the times, and their existence is a source of embarrassment to the Government. On the other hand, despite the measure of agreement or understanding on which the proposed legislation would be based, the subjects with which it would deal provide scope for general controversy and misrepresentation of the Government's motives. Nevertheless, we consider that these objections ought not to be regarded as overriding, and that the balance of advantage lies in introducing the proposed legislation in the next Session, bearing in mind that the problem of the disciplinary powers will not remain quiescent if no legislation to repeal them is introduced. For it will then become necessary, as stated earlier, to introduce legislation to give effect to the recommendations of the Franks Committee which relate to the administration of these powers, and this will reveal that the powers are not being exercised and cannot easily be revived. We are agreed that, any legislation on these various subjects should be embodied in one Bill, and that it would be impracticable for the Government to proceed with legislation on these matters in the next Session without having announced their intention to do so in The Queen's Speech.
CABINET

SUPERANNUATION: THE LABOUR PARTY PLAN

MEMORANDUM BY THE MINISTER OF PENSIONS AND NATIONAL INSURANCE

It has been suggested to me that my colleagues would find it helpful to have a brief account of the Labour Party's superannuation proposals, with some comments on them.

2. "National Superannuation," published last May, is in two parts: first, a policy statement by the Party's National Executive Committee, mostly in very general terms, which was prepared by a group under Mr. R. H. S. Crossman, M.P., and adopted at the Labour Party Conference; secondly, a memorandum by a "technical sub-committee," containing a "working model" scheme on the principles laid down in Part I. The National Executive Committee take formal responsibility for Part I only, emphasising the purely illustrative nature of the "working model"; but until now this distinction has not been stressed by Party spokesmen and has largely been ignored in published comment.

SUMMARY OF THE PROPOSALS

3. The following is based on the two parts of the booklet taken together. Apart from the proposed increase in the basic rate and the eventual aim of half-pay on retirement for the average earner, the various figures quoted are not underwritten in Part I.

(a) The basic pension rate for a single person to be raised "at once" to £3 a week, with unspecified increases in other benefits and in national assistance. This would not apply to the wife's pension on the husband's insurance, which would remain at whatever level it had reached when the increase took place. This restriction of the increase to the single rate was defended by Mr. Crossman at Brighton on the ground that the need is greatest among persons living alone. He is reported as saying that roughly 75 per cent. of pensioners are single or widowed. This figure is however reached by counting a married couple as one pensioner. The correct figure for individual pensioners is about 54 per cent. In any case, by no means all of the single or widowed live alone.

(b) A compulsory scheme of "national superannuation," for old age and widowhood, with contributions and benefits related to the insured person's earnings, to be grafted on to the existing National Insurance scheme. The contribution rates, which would replace the present pensions element in the flat-rate National Insurance contribution, would be: employees, 3 per cent.; employers, 5 per cent.; self-employed, 8 per cent.—in each case on earnings up to about £40 a week. The Exchequer would contribute 2 per cent. of the total earnings of the community. Out of the Fund so created would be paid pensions consisting of the basic flat rate plus a graded element, with a ceiling of about £15 a week for the total, excluding any wife's pension. Ultimately, early next century, a person earning about the national average throughout his life would get half pay on retirement. The contribution and benefit rates are however admitted to be tentative only, depending on the extent to which the earning section of the community is willing...
to forgo consumption in order to provide for old age. “If the readiness to save is less than anticipated . . . the average worker would receive less than half pay at 65.”

(c) Each employee covered by an existing superannuation scheme that satisfied certain conditions would have the right to choose between becoming a full member of the State scheme or paying a flat-rate National Insurance contribution, increased as necessary, for the flat-rate basic pension only. The main conditions would be: level of provision comparing not unfavourably with that of the State scheme; transferability of full pension rights on change of employment; and either funding or statutory guarantee. The self-employed would have to join the State scheme unless they had “already made adequate and irrevocable provision” for old age. The non-employed would continue with flat-rate contributions and benefits.

(d) The basic pension would be “inflation-proof” i.e., its full purchasing power would be maintained. The graded element would be “dynamic” —i.e., would be scaled up at the time of award according to whatever rises there had been in average earnings during the employee’s working life. There is no suggestion in Part I that the graded element would be made “inflation-proof” after award, though Part II appears to assume that it would.

(e) Employed married women would not as such be allowed to opt out of National Superannuation.

(f) Increased pensions would be provided in return for postponement of drawing them; but the present retirement condition and earnings rule for National Insurance pensions might well be abolished.

(g) The scheme would not be actuarially funded; nevertheless a large Fund is contemplated, primarily for investment. Its Government-appointed trustees would have “the same opportunities to carry out profitable investment of their funds as private insurance companies.”

(h) Sickness benefit, unemployment benefit, &c, are assumed to remain at flat rates; but an examination of their future is stated to be currently proceeding, and the Trade Union Congress (T.U.C.) have recently hinted strongly that they too should be graded according to earnings. The increases which are in any case proposed for them (see (a) above) would no doubt entail increases in the additional contribution elements for them, though this is not brought out.

Examples of the total contributions, including assumed elements for other benefits and for the National Health Service, together with the corresponding pension rates, are given in the Appendix.

CRITICAL COMMENTS ON THE PLAN

Status of Part II of the Booklet, its Miscalculations and their Effect on the Fund

4. By disclaiming responsibility for the “working model,” the National Executive Committee have left themselves a free hand on almost every feature of the scheme, including the contribution and benefit rates, while as a result of the publication of Parts I and II together the impression has been given that the “working model” is a properly thought out scheme which represents the Labour Party’s concrete proposals. Mr. Crossman has however been quick to dissociate the Labour Party from the “working model” scheme following my criticism of its calculations at Brighton last week—see his letter in The Times of 16th October. Part II contains the following grave miscalculations and inconsistencies—

(a) The income of the scheme from percentage contributions on earnings has been over-estimated because the figure used for the total income from employment includes—

(i) employers’ National Insurance and Superannuation contributions;
(ii) income in kind;
(iii) earnings of persons in Northern Ireland (while making no allowance for the cost of benefits there);
(iv) earnings over the proposed ceiling of about £2,000 a year.
(b) The expenditure of the scheme has been under-estimated because—

(i) expenditure on widow's benefits for widows under pension age has been omitted;
(ii) no allowance has been made for the cost of administration;
(iii) it has been assumed that female pensioners aged between 60 and 65 when the scheme began would not qualify for the £1 increase, whereas both Part I of the booklet and Mr. Crossman's speech at the Labour Party Conference make it clear that they would;
(iv) a substantial saving has been assumed for postponed drawing of pension: this, in the absence of a retirement condition, is quite unrealistic.

When all these items are corrected, the estimated surplus on pensions accruing in the first year of the scheme is reduced from £385 millions to about £100 millions, and the estimated cumulative net addition to the Fund from £3,750 millions in the first ten years to about £300 millions in the first six years, after which there would be a steadily increasing annual deficit.

Alleged Addition to Real Net Savings

5. The claim that the scheme would itself produce important additional savings for investment is unfounded, not only because of the mostly illusory nature of the surplus but because in any case it cannot be assumed that savings through the Fund would not be offset by dissavings elsewhere.

Inflationary Aspects

6. The introduction of contributions totalling 10 per cent. of earnings—and indeed more, if account is taken of the cost of higher short-term benefits—would seriously aggravate the wage-price spiral, particularly through the substantial increases in employers' contributions, most if not all of which would be passed on through higher prices. One way and another, as consumer and taxpayer, the employee would have to pay a good deal more than his own 3 per cent. contribution.

7. Perhaps even more seriously inflationary in the longer run would be the psychological effect of the scheme on the great mass of the community. The built-in guarantee of the benefits against inflation would suggest Government acceptance of defeat in its struggle against inflation and invite a similar surrender elsewhere in the community. It would thus destroy any faith there may be left in any form of long-term savings investments, such as Government Securities, not protected against inflation. Moreover for the majority of the community there would be little incentive to genuine saving, i.e., forgoing consumption or other immediate benefits, against old age, sickness or unemployment when under the scheme they could rely on the State to see that they were provided for far beyond subsistence level.

The Redistributive Character of the Scheme

8. Higher paid workers would get a proportionately smaller return for their contributions than the lower paid, and the older a better return than the younger. Those of the higher earners who stayed in approved schemes (see paras. 10 and 11 below) would however be able to escape this element of taxation. This inequitable arrangement is inherent in the scheme.

Age Discrimination in the Contributory Structure

9. Contributions between the ages of 25 and 45 are given only half the value for benefit purposes of those made at other ages. In the case of coal miners and other heavy manual workers these years of early middle life bring in the highest earnings, and later earnings, unlike those of the salaried worker, tend to fall away. This proposal is therefore likely to be criticised by manual workers' organisations when they come to appreciate it.

Impact on Occupational Schemes

10. In offering the right to contract out of the graduated part of the contribution, on the conditions referred to in paragraph 3(c) above, the plan...
recognises the importance of occupational schemes politically and economically; but:

(a) The thoroughly non-commercial character of the scheme, with its substantial elements of redistribution and State subsidy, would go far to render nugatory the contracting-out provisions, except possibly in the case of the higher paid workers, against whom the scheme is loaded.

(b) It is moreover difficult to see how schemes run on commercial lines and funded, as the tests for approval require, could compare favourably with a scheme whose benefits expanded automatically with rising prices.

(c) The right given to each member of an approved scheme to opt would present the individual with a complex choice and would make for chaos in the finance and administration of the schemes.

11. If, as seems probable from the above, few if any schemes would secure approval, the option to contract-out becomes largely meaningless. Employers and members of occupational schemes which were not approved would either have to pay the heavy graded contributions of the State scheme in addition to those required for the occupational scheme, or else the occupational schemes would be drastically curtailed. There seems little doubt that the latter would happen, with serious economic and financial consequences. The development of new schemes would be checked, and an important instrument of private saving severely damaged. The T.U.C. and co-operative interests have drawn attention to this danger, and Mr. Crossman sought to answer them in his Brighton speech by denying any hostility to the occupational schemes as such. He has, however, promised to discuss the matter further with the T.U.C. and a satisfactory solution has clearly not been reached.

J. A. B.-C.

Ministry of Pensions and National Insurance, W.C. 2,
17th October, 1957.
### APPENDIX

Specimen weekly rates of contributions and benefits under the "working model" scheme in Part II of the Labour Party booklet "National Superannuation", with comparative rates under the existing scheme.

#### Eventual rate of existing combined pension
- National Health Service contribution, with a weekly contribution from February 1957, for old age and widow's benefits (see Note 1) (see Note 2)
- Benefit rate of £2 for a person
- £2 for a wife

#### Employee
- £8
- £15
- £40 or over

#### Employee
- £6
- £12
- £40 or over

#### Employee
- £8
- £15
- £40 or over

#### Notes—
1. The booklet states that benefits other than pensions (which in the absence of any proposal to the contrary must be assumed to remain at flat rates) would be increased simultaneously with the £1 increase in the basic pension rate; an appropriate increase in the existing flat rate contribution element for these other benefits (including Industrial Injuries benefits) has therefore been assumed.
2. This is assumed to be at the increased rate payable since 2nd September, 1957.
3. The figures given assume in each case a working life of 50 years after the scheme begins—-with earnings, cost of living and national living standards all steady throughout.

* Limited to 75 per cent. of the earnings figure.
† The highest contribution payable for this class of person.
‡ The highest rate of pension payable.
Since I circulated my memorandum, C. (57) 132, on future legislation, the programme for next session has been altered in various respects.

2. In Appendix A I set out the Bills which are at present mentioned in the draft of The Queen's Speech on the Opening of Parliament. In Appendix B I set out the Bills which, though not mentioned in The Queen's Speech, are known to be essential or, although contingent at the moment, are likely to have to be accommodated in the programme. In Appendix C I set out some other Bills which the Ministers concerned are anxious to introduce.

3. The time likely to be available for legislation remains, as indicated in C. (57) 132, at about fifty-five days. The Bills listed in Appendix A alone would absorb practically the whole of this allocation, while those listed in Appendices B and C would probably require, in total, more than half as much time again.

4. I suggest, therefore, that, in order to provide ourselves with rather more room for manoeuvre than we have at present:

(a) If the Cabinet decide in principle to introduce legislation on Agricultural Holdings, &c. (which will be a substantial Bill, requiring specific mention in The Queen's Speech), the Slaughterhouses Bill should be omitted from the Speech and placed on the reserve list of Bills mentioned in (d) below.

(b) The Public Records Bill should also be omitted from the Speech, although it should remain in the legislative programme and might be introduced in the House of Lords.

(c) We should consider carefully whether we should be well advised to proceed with legislation on Administrative Tribunals or whether we should defer this until the 1958–59 session.

(d) We should decide that all the Bills in List C, together with the Slaughterhouses Bill, should constitute a reserve list, from which individual Bills may be selected for introduction provided that time permits and the Bills themselves are ready.

(e) We should review the programme again early in the New Year, in the light of the progress achieved before Christmas.

R. A. B.

Haistead, Essex,
17th October, 1957.
## APPENDIX A

### Bills mentioned in The Queen's Speech

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## APPENDIX B

### Bills known to be essential

- Commonwealth Institute
- British Nationality (Amendment)
- Post Office (Money)
- Expiring Laws Continuance
- Exchequer Loans to Nationalised Boards
- New Towns (Money)
- Representation of the People (Redistribution)
- Representation of the People (Cars to take voters to the poll)
- Christmas Island

### Bills which may become essential

- Crown Aircraft (actions for nuisance)
- Ceylon (Consequential Provisions)
- Jamaica Dependencies
- West Indies Regiment
- Public Works Loans
- Egyptian Sterling Balances
- Insurance (Nuclear Reactors)
- Pensions (No. 2 Bill) - subject to Cabinet decision on policy

## APPENDIX C

- Overseas Civil Service
- Isle of Man Constitutional Reform
- Royal Naval Hospital, Great Yarmouth
- Inventions and Designs
- Charitable Trusts (Baddeley Judgment)
- Trustee Savings Banks
APPENDIX A

Bills mentioned in The Queen's Speech

- Singapore
- Malta
- Overseas Resources Development
- Agricultural Holdings
- Land Drainage (Scotland)
- Slaughterhouses
- Child Welfare and Adoption
- Penal Reform
- Local Government Reorganisation
- Local Government Finance (Scotland)
- Public Records
- Disabled Persons (Employment)
- Tariffs
- Milford Haven
- Hyde Park Corner
- Lords Reform
- Emergency Powers Repeal (Land)
- Administrative Tribunals
- Pensions (No. 1 Bill)

APPENDIX B

Bills known to be essential

- Commonwealth Institute
- British Nationality (Amendment)
- Post Office (Money)
- Expiring Laws Continuance
- Exchequer Loans to Nationalised Boards
- New Towns (Money)
- Representation of the People (Redistribution)
- Representation of the People (Cars to take voters to the poll)
- Christmas Island

Bills which may become essential

- Crown Aircraft (actions for nuisance)
- Ceylon (Consequential Provisions)
- Jamaica Dependencies
- West Indies Regiment
- Public Works Loans
- Egyptian Sterling Balances
- Insurance (Nuclear Reactors)
- Pensions (No. 2 Bill)—subject to Cabinet decision on policy

APPENDIX C

Overseas Civil Service
- Isle of Man Constitutional Reform
- Royal Naval Hospital, Great Yarmouth
- Inventions and Designs
- Charitable Trusts (Baddeley Judgment)
- Trustee Savings Banks
TOP SECRET

CABINET

WAGES POLICY: POST OFFICE ENGINEERS

Memorandum by the Postmaster-General

I accept completely the general wages policy in paragraph 2 of C. (57) 237.

2. I disagree entirely with the proposed treatment of the outstanding wage claim of Post Office engineers.

3. My attitude to this claim is:

   (a) The Post Office (like the whole Civil Service) is committed to honour "Priestley". This Royal Commission was appointed in 1952 and reported in 1955. The Government accepted its recommendations that pay and conditions in the Civil Service should be comparable to outside industry.

   (b) 80 per cent of the Post Office staff have already received their Priestley increase.

   (c) I have committed myself in the House of Commons to give the Priestley increase to 100 per cent of Post Office staff. Here is my pledge:

       "Mr. Hobson: For what surplus is the right hon. Gentleman budgeting? Do these increases account for any outstanding wage demands that are in process of negotiation?

       Mr. Marples: I budgeted for an increased cumulative surplus of £5 millions by 31st March, 1959. We have estimated that some of the wage awards that will be made in the future will be given on a basis pro rata to those already made in the past."

   (d) The public is already paying the cash for Priestley increases for 100 per cent of our staff. That is why the recent Post Office tariff increases were so huge.

TOP SECRET
My proposed offer to our engineers is the smallest my conscience will allow. Even so they may go to arbitration. But at any rate I could make out some sort of a case.

4. The Treasury proposals summarised are:-

(a) Agree Priestley in principle. But dishonour it in practice. The Postmaster-General can do the dishonouring by making:-

(i) no offer at all to some engineering grades;

(ii) a deliberately unacceptable offer to others.

(b) Then arbitration will follow and all will be well.

5. My objections to these proposals are:-

(a) We shall be faced at once with the political accusation of dishonesty. And we shall have no answer. (The Union's present Secretary was Colchester's Member of Parliament for five years. A past Secretary of the Union is John Edwards, the present Member of Parliament for Brighouse who was a former Economic Secretary.)

(b) In addition to the political price we cannot avoid paying the cash price. Arbitration is likely to cost as much (or probably more) as my proposals.

In other words we shall get the worst of both worlds.

6. All this would be the worst possible send off to the Government's new wages policy.

E.M.


18th October, 1957.
PUBLIC ACCESS TO CABINET RECORDS

MEMORANDUM BY THE SECRETARY OF THE CABINET

In 1954 it was recommended (C. (54) 265) that Cabinet records should be opened to inspection in the Public Record Office when they are fifty years old. When this recommendation was discussed by the Cabinet on 3rd March, 1955 (C.C. (55) 20th Conclusions, Minute 4) doubts were raised on two points:

(i) Would the law of copyright suffice to prevent private persons from publishing Cabinet records in extenso once they had been opened for inspection in the Public Record Office?
(ii) Would it be practicable to withhold from the Public Record Office such parts of the Cabinet records as could not suitably be opened to public inspection even after fifty years?

2. On the first point the position is that copyright in Government records continues to vest in the Crown for fifty years from the date of first publication. The opening of the records to inspection in the Public Record Office would not amount to publication. It would therefore be a breach of copyright for any person to publish in extenso, without permission, the whole or any substantial part of Cabinet records opened to inspection in the Public Record Office. This copyright protection could be enforced in the United Kingdom, in other Commonwealth countries and probably in the United States; but there are many countries in which it could not be enforced.

3. It is true that the Public Record Office have never sought to enforce Crown Copyright in respect of Government records in their custody. It is their practice to provide, on demand, photographic copies of documents or parts of documents which have been opened to public inspection. They find it convenient, both for themselves and to research students, to multiply in this way the means of easy reference to records which are unlikely to be made more widely available by official publication. They also think it reasonable that, as a historian living in or near London can come to the Record Office himself and make copies of documents in which he is interested, other historians living further away (including those overseas) should be able to obtain photographic copies if they are willing to pay for them.

On the other hand, Departments have always exercised the right to decide on what conditions their records shall be opened to inspection; and the Public Record Office would find no great difficulty in applying a rule that Cabinet records should not be copied in extenso, and that photographic copies of them would not be supplied, without specific authority.

4. It thus appears—(i) that practical precautions could be taken which would reduce within narrow limits the risk that private persons would attempt to publish in extenso Cabinet records which had been opened for inspection in the Record Office; and (ii) that, if the attempt were made, the remedy of legal proceedings for breach of copyright would be available as against publication in those countries where such an attempt would be most likely to be made viz., in this country, in other Commonwealth countries and (probably) in the United States.
5. The Cabinet were also concerned lest, on some subjects, current policy or administration might be embarrassed by disclosure of earlier Cabinet proceedings. The point was made that if, for example, records were in existence of Cabinet proceedings of the period of the South African war, their publication at the present time might complicate our current relations with South Africa.

6. Any difficulties that might arise on this score would apply to Departmental records no less than to Cabinet records. On any particular subject the Departmental records will certainly be more full, and probably more liable to contain unguarded expressions of view, than the Cabinet records. Difficulties of this kind would not, therefore, be avoided by withholding Cabinet records from the Public Record Office until a date later than that on which the corresponding Departmental records are opened to inspection.

7. This problem is not, therefore, peculiar to Cabinet records. It applies to Government records generally. The remedy is to be found, in principle, in the reviewing arrangements proposed by the Grigg Committee, which contemplate a careful scrutiny of all documents before transfer to the Public Record Office, and in their recommendation that Departments should exercise a discretion to withhold any which, on grounds of continuing secrecy or for other reasons, should not be disclosed. A discretionary system of this kind could be applied to Cabinet records—though not without some practical difficulty on account of the manner in which these records are preserved in bound volumes. It would, however, be necessary that all the Departments concerned with this problem—in particular the Foreign Office, Commonwealth Relations Office and Colonial Office—should follow a consistent practice in applying a discretionary system.

8. I have therefore discussed this problem with the Permanent Secretaries of the Departments most closely concerned. There is general agreement that—

(i) The Departments concerned should have authority to withhold indefinitely from the public—
(a) the old India Office records;
(b) papers dealing with Intelligence methods and sources;
(c) papers dealing with Royal personages.

(ii) Records of Imperial and Commonwealth Conferences, and records of the Committee on Imperial Defence or other Ministerial meetings which were attended by Ministers from other Commonwealth countries, should not be opened to the public, irrespective of their date, without the consent of the other Governments concerned.

(iii) Papers relating to individuals—e.g., criminal case papers, the records of individual members of the Services, &c.—may need to be withheld for rather more than fifty years and, in any event, until the death of the persons concerned.

(iv) In the relatively rare cases where a Department might still wish to reserve documents at the end of the fifty-year period, the Department itself would not only take the necessary action to withhold its own papers but would also ask other Departments to search for, and to withhold, connected papers.

9. The legislation to implement the Grigg Report will be so drafted as to enable Departments, in agreement with the Lord Chancellor, to withhold any documents or classes of documents which they consider unsuitable for release. Departments are satisfied that their existing arrangements for the classification of their papers will suffice to enable them to take advantage of this statutory safeguard for the exceptional categories of documents noted above, together with any other classes of record which may, on further consideration, appear liable to remain sensitive indefinitely. Otherwise Departments think it reasonable that their records should be made available to public inspection after fifty years. Most Departments would find it impracticable to identify particular papers (as distinct from specified categories of papers) which should be withheld for some longer period. It thus appears that the reviewing arrangements envisaged by the Grigg
Committee, as the Departments propose to apply them in practice, would provide some protection against embarrassing disclosures, though not to the full extent which the Cabinet originally had in mind.

10. If Departmental records are to be handled in this way, there is nothing to be gained by treating Cabinet records differently. I therefore recommend that Cabinet records should be opened to public inspection after fifty years, subject to the same proviso that particular classes of papers—which should be very few—may need to be withheld for a longer period. The definition of Cabinet records would include all memoranda and minutes (including Confidential Annexes) of the Cabinet and of Cabinet Committees.

(Signed) NORMAN BROOK.

Cabinet Office, S.W. 1,
23rd October, 1957.
CABINET

INDIA

NOTE BY THE SECRETARY OF THE CABINET

The Prime Minister has asked that the attention of his colleagues should be specially drawn to the attached despatch from the United Kingdom High Commissioner in Delhi on the internal political situation in India.

(Signed) NORMAN BROOK.

Cabinet Office, S.W. 1,
19th October, 1957.
INDIA: INTERNAL POLITICAL SITUATION

United Kingdom High Commissioner in India to Secretary of State for
Commonwealth Relations

(No. 51. Secret)

My Lord,

1. There has been a shift in the internal political situation in India as a result of the General Election five months ago. Before the Election the Congress Party governed India with comparatively little effective opposition at the Centre and in all the States, although they asserted their authority in Kerala through President's Rule following a period of chronic instability there. At the Election the Party gained another apparently overwhelming victory, being returned to power once more at the Centre and in all the States, except Kerala. In Kerala the Communists emerged as the largest individual party without an overall majority, and they formed an administration in coalition with some Independents.

2. It soon became clear, however, that the Congress victory was not as great as it appeared. Quantitatively, the Party's position in a few States besides Kerala had worsened: in Bombay and Uttar Pradesh its customary massive majorities were surprisingly reduced, and in Orissa its members were in a minority in the legislature until they formed a government and then detached adequate numbers from the main opposition party to give them sufficient votes to maintain themselves precariously in office. Moreover, qualitatively the inefficiency, self-seeking, and corruption of some State Congress Ministries had been shown up during the pre-election jockeyings for personal and political positions. The voters were unenthusiastic about Congress. Criticisms of the party had been freely aired, and there was little of the crusading zeal which had marked its campaign in the Election five years earlier as well as throughout its previous political career.

3. The reduced fortunes of the Congress were due partly to the "swing of the political pendulum" which has, quite naturally, begun to operate in India; but they were also a sign that democracy here is growing up. The voters were in a more independent mood than in 1952, and they exercised their right to express scepticism about their rulers. The fact is that they sensed that power had in a marked degree corrupted the Congress Party. Many of its secondary leaders had become typical minor Oriental potentates seeking to retain position by graft and nepotism.

4. Other defects were revealed, affecting the Central Government as well as State Governments. For example, the Cabinet in Delhi had become a group of familiar elderly faces, and in the case of some of them familiarity began to breed something akin to contempt. Their leadership had lost touch with the youth of the nation. It had even—except to a considerable degree in the dominant person of Nehru—become remote from the people generally.

5. These defects dawned on the consciousness of the Congress High Command and their supporters after the Election. An introspective self-examination began in the Congress Party which opened their eyes to various weaknesses that had been growing unrecognised and therefore unchecked for some time. Their previous complacency was blown to the winds, and was succeeded by a serious loss of self-confidence. The sensiteness, emotionalism and volatility in the Indian character all ran amuck, and caused a slip in morale. There has since been some recovery of a more balanced view, but a habit of self-criticism remains. Led by Nehru—whose public denunciations of the Congress Party's faults have been impressive—the High Command are anxiously reviewing the situation.

6. There are in fact other weaknesses besides unfortunate degrees of inefficiency, corruption and self-seeking in the Congress regimes. The foremost is
that the Party has no clear-cut long-term policy on which its members are instinctively agreed. During the struggle for independence its various elements were united in striving for national freedom; they might have split into different parties of the "right" and "left" soon after 1947, but were held together by the hypnotic, powerful leadership of Nehru and Sardar Patel; and now the significant divisions amongst them are becoming more obvious. The Congress is in fact rather distracted internally by divisions of opinion between progressive Nehru-ites on one side, who believe that India should be a modern, secular, industrialised, welfare State developing along up-to-date scientific and socialistic lines; and on the other side a mixture of various conservative groups, some of them Gandhian idealists who want India to remain a simple nation of self-sufficient villages (un-industrialised, unscientific and unmodern), others capitalists who wish to put severe limits on socialism and to depend mostly on private enterprise for India's economic development; and others old-fashioned, unrepentant and even reactionary Hindus who wish Indian society to be based on the traditional concepts of religion, caste and communalism. These divisions not only cause a certain lack of cohesion amongst the elders who shape Government policy, but also produce a rift between much of the older generation and the educated younger generation.

7. Such are the weaknesses which now confuse the Party, and make it lack a decisive sense of direction and purpose. Nevertheless, its pristine massive strength as the national movement of the revolutionary era—reinforced by its character as the bandwagon from which patronage is dispensed—is far from dissipated.

8. The sorry state of affairs sketched above, has been aggravated by the difficulties in which India now finds itself through (i) its inability to fulfil the promised second Five-Year Plan within a five-year period, (ii) alienation of the sympathy of the Western world, and particularly of the United States and Britain (on whom India depends for help in its present economic crisis) brought about by some aspects of Indian foreign policy, and (iii) the effects on Indian public opinion of the Delhi Government's presentation of the Russian and Chinese Communist regimes as "respectable."

9. Associated with these developments is a decline in Nehru's authority and influence with the public in general and with some sections of opinion in particular. For example: —

(a) the President of India and the conservative Hindus defeated his attempt at the time of the Election to replace Dr. Rajendra Prasad (a Hindu reactionary) by Dr. Radhakrishnan (in general a Nehru-ite) in the Presidency;

(b) he is criticised for his weak handling of the States Reorganisation proposals last year;

(c) he is also being partly blamed for the difficulties that have befallen the Five-Year Plan; and

(d) Hindu and other extremists pay little heed now to his exhortations to them to be disciplined, orderly and co-operative. Violence seems to be on the increase.

10. But the significance of this decline in Nehru's authority should not be exaggerated. He is less influential than he was, but is still the only national figure who counts in any pre-eminent way. His power over the nation is immense, and he could recover most of his earlier prestige if he exerted that power decisively.

11. But will he so exert it? Nehru has the defects of his qualities. He is not a very good Prime Minister in a crisis requiring strong, decisive, ruthless action overriding the sentiments of formidable minorities. He too often seeks a compromise that will appease those minorities. There is also a streak of trustful guilelessness in him which makes him blind to the dubious motives and intrigues of those who appear friends but are in fact foes to his ideas. And his sentimental attachment to established colleagues makes him incapable of dismissing them from office when the time comes for them to go. He wished to reconstruct his Cabinet drastically after the Elections, but allowed old Congress comrades to wheedle him into retaining them in the Ministry. As Dr. Radhakrishnan has said to me in a moment of strictly confidential indiscretion: "The greatest weakness of the Prime Minister is weakness."

SECRET
12. On top of all this Nehru is overworked, tired, depressed and at last ageing. He may not have the will to assert himself vigorously.

13. If Nehru revives the magic of his leadership, and if the Congress Party learns the lessons of its loss of popularity, reforms and reorganises itself, and renews its reputation as the destined maker of New India, there is no reason why they should not recover and win the next General Election five years hence, possibly even reconquering lost ground in Kerala and elsewhere.

14. But will these desirable things happen? If they do not—and the Congress continues to decline—what will happen in India?

15. The Opposition Socialists are feeble. This is partly because Nehru has stolen their political clothes in his "Socialist pattern of society," partly because their leaders are mostly doctrinaire types with little flair for practical political work, and partly because some of them have their full share of the Indian's readiness to engage in personal quarrels. As a result, they are split into two separate Socialist Parties which fought each other in the General Election and lost seats which they should otherwise have gained. This has shocked them into a move to re-unite, but this laudable purpose seems doomed to disappointment on account of their inescapable failings.

16. At any rate the Socialists are not at present an effective alternative to the Congress Government.

17. The Communists are a more effective alternative. They are comparatively united, well-organised and efficient, and are stimulated by a fanatical sense of mission. They also command plenty of money for campaigning, some of which may come from foreign sources.

18. The Congress Government's organisation of nation-wide welcomes to Bulganin, Khrushchev and Chou En-lai helped to make the Communists seem respectable to intellectual and illiterate voters alike. Responsible leaders of the Congress Party now believe that this was a serious mistake.

19. Above all, the Communists are now in power in Kerala.

20. There they are doing things which appeal to a majority of the voters—things which the State Congress Government should have done long ago, but which it failed to do. It may be very difficult to oust these Communists. Amongst other things, they are giving more efficient and less corrupt administration than the Congress gave; and their leaders are setting an overt example in personal austerity which seems to make them, rather than the Congress chiefs, the inheritors of the Gandhian tradition. This last quality makes a special appeal to the Indian masses and is profoundly important.

21. At the same time they are not seeking yet to defy the Central Government, but for the present are working prudently within the Constitution and making a pretence of being good democrats. If they exploit their success in Kerala well, their reputation will grow, their comrades in other States will also gain in prestige, and Kerala may become for the Communists of India what Yenan was for the Communists of China—a successful pioneering experiment which they will then extend elsewhere.

22. Much will depend on whether the Congress can oust the Communists in Kerala before the next Election in a way which weakens Communist prestige. This will need skilful management, for the Communists will try to blame Central Government obstruction, instead of their own bungling, for any failure in their administration.

23. One of the complications of the present situation is that some Ministers in the Government in Delhi do not seem to see the need for an early overthrow of the Kerala Communists. They have been deceived by the Communists' "good behaviour" and now think that Indian Communism will be different from, and better than, Communism elsewhere! These gullible men have even talked themselves into thinking that co-operation between a Congress Government at the Centre and a Communist Government in Kerala is a praiseworthy demonstration of peaceful co-existence.
SECRET

24. Other Ministers in Delhi see the danger clearly, and have their plans for defeating the Communists in Kerala. Mr. S. K. Patil, one of the “tough” Party bosses, and Mr. U. N. Dhebar, the milder but dedicated President of Congress, have sketched them to me. They depend partly on election petitions (now pending) unseating one or two Communist legislators in the Kerala Assembly, partly on the provision of judicious inducements to detach a few Independents from their present support of the local Government, and partly on an expectation that the Government will make mistakes and lose popularity with the voters. By a combination of these processes such Congress leaders hope to rob the Communists of their majority, to get their Government defeated in the legislature, and to establish President’s Rule in its place. The alternative of a Congress Government in the State is not practical politics in the near future, because the local Congress Party is discredited, it could not command a majority, and it will need a long period of reform, reorganisation and recuperation before it is capable of taking office again. Nor is a coalition between the Congress and the local Praja Socialist Party likely to materialise. To meet this situation, S. K. Patil has told me that if the Communists fall in Kerala, the Central Government will amend the Indian Constitution so that President’s Rule in a State shall continue, not for a maximum of three years (as provided at present), but until the next normal General Election without interruption by an interim State Election.

25. I should feel more confidence that these Congress hopes might be realised if the Congress leaders in Kerala showed any sign of being able to exploit the one or two mistakes which the Government there have already made. In the absence of effective political opposition the Communists may be able actually to increase their hold on the electorate. Their superior powers of organisation may make their position virtually impregnable. But these are early days to form any firm conclusion. The new Kerala Education Bill, which has aroused the opposition of the Churches in this almost one-quarter Christian State, may prove to be the Communists’ first self-damaging mistake. Moreover, Congress Party bosses of the Patil type are not without the guile and resource necessary to achieve their ends.

26. Is Indian national character such that it can face and survive the economic and political crises which are likely to arise as a result of these and other circumstances in the next few years?

27. Most of India’s hundreds of millions of people are poverty-stricken, illiterate and ignorant of public affairs. They are not united by any one language, religion or culture, but are divided between many of all these. Yet they are somehow inspired by the idea of “Bharat” (India), they are patient, submissive and obstinate, and so far through the ten years of independence they have maintained a remarkable creative national unity. The reason has been patriotic leadership by Nehru and uniformity of administration by the Congress.

28. Nevertheless, fissiparous tendencies are at work. Deep historical divisions, language divisions, communal divisions, caste divisions, and the innate Indian tendency to quarrelsomeness are threatening to undermine the structure of the nation. They may break the effective unity of India, or at least hamper fatally the difficult but essential transition from an ancient, primarily Hindu form of social and economic organisation to something more modern and capable of facing the harsh tests of the present-day world.

29. The right answer to this supreme Indian problem is inspired leadership—leadership with a clear national purpose and a clear idea of the means of attaining that purpose. And the leadership will need the backing of a country-wide political party extremely well organised to muster effective majorities amongst some 200,000,000 qualified voters in the Union and the States.

30. The only possible available leadership of the quality required in the next few years seems to be Nehru’s. In spite of his defects, some of which I have mentioned, he is a national statesman of genius. His actions during the last thirty-five years have given him unparalleled prestige amongst his countrymen, his power over them is still titanic, and they will follow him if he gives an unaltering lead. Though his gifts lie more in the field of thought than of action, nevertheless his ideas are refreshing, potent and dynamic in contemporary India. He is the driving force behind numerous modern notions which are responsible for India’s measure of
progress during the last decade, such as the successful exercise of parliamentary democracy, the creation of a secular state in which Hindus, Muslims, Christians and others live without fear or favour in partnership together, the slow but steady uplift of conditions in millions of peasant villages by agricultural and rural reforms, and the planning and execution of ambitious schemes of industrialisation. With remarkable courage, but (it may turn out) less permanent success, he has attacked not only Asian tendencies to accept bribes, promote relatives and work slackly, but also all sorts of archaic Hindu religious and social customs which bind India to a crippling past. He remains by far the most enlightened and inspired champion of progressive principles and practices. The task of governing nearly 400,000,000 "backward" but awakening people by democratic means is extremely difficult, and it might prove impossible in India without a Nehru.

31. But in spite of his greatness, by himself he is of course hopelessly inadequate to the situation. His weaknesses need supplementing by other men's strengths. He must be the head, and they must provide the body and limbs of the government of the Indian Union. Such men exist: able, strong-willed, authoritarian Ministers like Pandit Pant, Morarji Desai and S. K. Patil. Other characters like the prudent party manager Dhebar and the intellectual, philosophical Vice-President Radhakrishnan, and of course the team of able civil servants bequeathed by the I.C.S., will play their parts.

32. It is not impossible that at some stage in the political evolution of the next few years Nehru will retire to perform lofty extra-government services as the nation's elder-statesman, whilst one of the "strong men" takes over the Central Premiership. This might have some advantages, but also some disadvantages from the point of view of good government; but it is too speculative a possibility on which to base any considered judgment now. In any case, the only alternatives to rule by Nehru's team or some such substitute are probably government by the Hindu reactionaries on one side or by the Communists on the other. It is in the interests of the rest of the Free World, as well as of India itself, that the Congress leaders should continue in power in Delhi and in the various States: and therefore that the present Government should get all the friendly support that is needed not only from inside but also from outside India.

33. I am sending copies of this despatch to the United Kingdom High Commissioners in the other Commonwealth countries, to Her Majesty's Ambassador in Dublin and to the Commissioner-General for South-East Asia.

I have, &c.

MALCOLM MACDONALD.

Distribution B.
Special Communism Distribution.

SECRET
25th October, 1957

CABINET

REPORT OF THE COMMITTEE OF PRIVY COUNCILLORS
ON THE INTERCEPTION OF COMMUNICATIONS

Memorandum by the Secretary of State for the Home Department and Lord Privy Seal

In the Prime Minister's absence I circulate herewith, for the information of my colleagues, copies of the report of the Committee of Privy Councillors on the Interception of Communications, which is to be presented to Parliament and published on 31st October.

2. The Committee were appointed "to consider and report upon the exercise by the Secretary of State of the executive power to intercept communications and, in particular, under what authority, to what extent and for what purposes this power has been exercised and to what use information so obtained has been put; and to recommend whether, how and subject to what safeguards, this power should be exercised and in what circumstances information obtained by such means should be properly used or disclosed".

3. As to the legal authority for interception, the Committee take the view that the practice "rests upon the power plainly recognised by the Post Office statutes as existing before the enactment of the statutes by whatever name the power is described" (paragraph 50). They consider that the power extends to telegrams and find it "difficult to resist the view that if there is a lawful power to intercept communications in the form of letters and telegrams then it is wide enough to cover telephone communications as well" (paragraph 51).

4. The Committee express themselves as satisfied that all the officers and officials concerned are scrupulous and conscientious in the use and exercise of the power, that interception is highly selective, and that it is used only where there is good reason to believe that a serious offence or security interest is involved (paragraph 123). They recommend, subject to reservations by Mr. P.C. Gordon Walker, M.P., that the power of interception should continue to be used for the purposes for which it is used at present, subject to certain safeguards (paragraphs 139-152). Mr. Gordon Walker would restrict the use of interception in relation to crime to cases of a more extreme and urgent kind - for example, where a dangerous criminal or lunatic is at large and likely to commit violence or where a dangerous gang is committing violence and cannot be broken up by other means (paragraph 174). In relation to security he considers that interception should be used only for (a) direct counter-espionage and protection of high secrets of State, and (b) the
prevention of the employment of Fascists or Communists in connection with work, the nature of which is vital to the State (paragraph 171). The report itself disposes of these suggestions.

5. The safeguards which the Committee recommend relate wholly to matters of procedure. They are summarised in paragraphs 159-163 of the report and can all be accepted.

6. The Committee reject suggestions that the Secretary of State should be assisted by an Advisory Committee and that warrants should be issued only on a sworn information before magistrates or a High Court Judge (paragraphs 85-86).

7. The Committee considered the Marrinan case at some length (paragraphs 91-101). They report that "there can be no doubt that the actions of Sir Hartley Shawcross and Viscount Tenby were wholly governed by considerations of the public interest", but they recommend that in future there should be no disclosure of information obtained on public grounds by the exercise of the power of interception "to private individuals or private bodies or domestic tribunals of any kind whatsoever".

8. The Committee heard evidence on the question whether there was or had been unauthorised tapping of telephones in this country. All the evidence was to the effect that there had not, and that for technical reasons it would be much more difficult here than in the United States. The Committee concluded, however, that there could be no certainty that unauthorised tapping did not occur and they remark, without making a specific recommendation, that in these circumstances Parliament may wish to consider whether legislation should be passed to make unauthorised telephone tapping an offence (paragraphs 129-131).

9. The Committee's report is being published in full and the Prime Minister proposes to make a statement in the House of Commons on the day of publication (31st October) accepting the Committee's recommendations. Arrangements for a debate next session can be discussed through the usual channels.

R.A.B.

Home Office, S. W. 1.

24th October, 1957.
Report
of the Committee of Privy Councillors
appointed to inquire into the interception
of communications

Presented to Parliament by the Prime Minister
by Command of Her Majesty
October 1957
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REPORT OF THE COMMITTEE OF PRIVY COUNCILLORS
APPOINTED TO INQUIRE INTO THE INTERCEPTION OF
COMMUNICATIONS

To the Right Honourable Harold Macmillan, M.P.

We, the undersigned Privy Councillors, having been appointed "to
consider and report upon the exercise by the Secretary of State of the executive
power to intercept communications and, in particular, under what authority,
to what extent and for what purposes this power has been exercised and to
what use information so obtained has been put; and to recommend whether,
how and subject to what safeguards, this power should be exercised and in
what circumstances information obtained by such means should be properly
used or disclosed," submit the following Report.

2. We were appointed on 29th June, 1957, and we held our first meeting
in private on 2nd July. We held 16 further meetings for the purposes of
discussion and 12 meetings for the hearing of oral evidence.

3. We heard evidence from all the Secretaries of State for the Home
Department who have held office since 1939, the Permanent Under-Secretary
of State at the Home Office, and the officers in charge of those authorities that
use interception of communications as part of their work.

4. We received much assistance on the law from the Lord Chancellor,
the Attorney-General, Sir Edwin Herbert, and others. Sir Hartley Shawcross
gave evidence about the Marrinan case. We also received a number of
valuable memoranda. We called for records and files, selected at random,
and examined them.

5. We have confined our detailed investigations to the interception of
communications over the last twenty years—that is to say, to the period from
1937 to 1957. This period covers pre-war and post-war practice, and the
practice under both the Administrations that have held office since the war.

6. We have looked into the practice and procedure of a number of foreign
countries, Commonwealth countries and Colonial Territories.

7. Following the example of the Secret Committee of both Houses of
Parliament appointed in 1844 to consider the same problem that has been
referred to us, we decided not to publish the evidence and so informed those
who gave evidence before us.

8. We set out our conclusions and recommendations at length in the
pages that follow. The gist of our Report may be thus summarised:—

(1) The origin of the power to intercept communications can only be
surmised, but the power has been exercised from very early times;
and has been recognised as a lawful power by a succession of statutes
covering the last 200 years or more.

(2) There is some difference of view on the authority to intercept telephone
messages. On one view the power is identical with the power to open
letters and rests on the ancient power to intercept communications.
Another view is that the power rests on a comparatively modern
statute. We discuss these views fully in our Report. (Paragraphs
9–52.)
(3) The power to intercept communications is exercised for the prevention and detection of serious crime and for the preservation of the safety of the State.

(4) The power is now almost exclusively exercised by the Metropolitan Police, the Board of Customs and Excise and the Security Service. It is used with the greatest care and circumspection, under the strictest rules and safeguards, and never without the personal considered approval of the Secretary of State. (Paragraphs 62–90.)

(5) The use of the power has been effective in detecting major criminals and preventing injury to national security. (Paragraphs 107–113.)

(6) The exercise of the power in these limited spheres should be allowed to continue under the same strict rules and supervision and in the special circumstances we have set out. The criminal and the wrongdoer should not be allowed to use services provided by the State for wrongful purposes quite unimpeded, and the Police, the Customs, and the Security Service ought not to be deprived of an effective weapon in their efforts to preserve and maintain order for the benefit of the community. (Paragraphs 132–152.)

(7) The interference with the privacy of the ordinary law-abiding citizen or with his individual liberty is infinitesimal, and only arises as an inevitable incident of intercepting the communications of some wrongdoer. It has produced no harmful consequences.

(8) Mr. Gordon Walker has reservations to sub-paragraphs (6) and (7) which he sets out in a separate Note of his own. (Paragraphs 170–179.)
PART I

THE AUTHORITY OF THE SECRETARY OF STATE TO INTERCEPT COMMUNICATIONS

9. The origin of the authority of the Executive to intercept communications is obscure, and it is not surprising that conflicting views about the source of the power have been placed before us. The first public reference to the warrant of the Secretary of State authorising the opening of letters is in the Proclamation of May 25th, 1663, which forbade the opening of any letters or packets by anybody, except by the immediate warrant of the Principal Secretary of State. But long before this date the practice of opening letters had been followed.

10. It is a singular circumstance that the source of the power has never been the subject of judicial pronouncement, and the text-book writers have not discussed it in any fullness. In the fourth edition of Anson's Law and Custom of the Constitution, Vol. II, Part II, for example, the subject is thus dealt with:

“The right and the duty, if occasion requires, of detaining and opening letters in the Post Office rests in Great Britain upon the Home Secretary, in Northern Ireland upon the Governor. This power, which extends to telegraphic communications, is occasionally, though not frequently, used . . . . and is extended to telegrams . . . .”

11. The existence of the power from early times has frequently been acknowledged; its exercise has been publicly known; and the manner of its exercise has been the subject of public agitation from time to time, and has been made the subject of debate in the House of Commons and the House of Lords. In the year 1844, a great agitation arose in the country, because the Secretary of State, Sir James Graham, had issued a warrant to open the letters of Joseph Mazzini; and after debates in both Houses of Parliament, two Secret Committees were set up, one of the House of Commons and one of the House of Lords. Both Committees were asked to inquire into the state of the law in respect of the detaining and opening of letters at the General Post Office. It is significant that both Committees avoided any discussion of the source of the authority upon which the Secretary of State exercised his power, and were content to recognise the existence of the power to intercept communications, and to rely upon the various statutes which refer to the existence of the power. This is significant, because in the debates which preceded the setting up of the Committees, the origin of the power had been discussed. In the House of Lords, Lord Campbell, who was at that time a member of the Judicial Committee of the Privy Council, and afterwards was to be Lord Chief Justice and Lord Chancellor, discussed the question, and in his Autobiography he says:

“In the debates which arose this session upon the practice of opening letters at the Post Office under a warrant from the Secretary of State, I contended that it was neither authorised by common law nor statute, although the Secretary of State, like any other magistrate, or indeed any private individual, may seize and detain documents which constitute evidence of the commission of a crime.”

12. On the question of law, the Committee of the House of Commons reported:

“The inquiry, therefore, what the state of the law now is respecting such detention and opening, is reduced to the inquiry what the state
of the law was, respecting the same matter, immediately upon the passing of the Statute of Anne... the law on the matter in question was the same in 1711 that it is in 1844."

13. They also said on the point of law:—

"In preference to discussing the purely legal question, how far the Statute of Anne, in recognising the practice, on the part of the Secretaries of State, of issuing Warrants to open Letters, rendered it lawful for the Secretaries of State to issue such Warrants, Your Committee propose, so far as they have materials for that purpose, to give the history of this practice, prior and subsequent to the passing of that Statute: these materials being such as ought not to be overlooked in investigating the grounds on which the exercise of this authority rests."

14. Two further extracts from the history the Committee set out may be given:—

(a) "It does not appear at what precise period the Crown undertook to be the regular carrier of Letters for its subjects. The Crown, doubtless, found it necessary, at a very early period, to the exercise of the functions of Sovereignty, to be able to convey with speed and security its own despatches from one part of the realm to another, and from and to parts beyond the seas; and for that purpose it appointed certain messengers or runners, called the Posts. These Posts were also employed for the personal convenience of the Sovereign, and the individuals composing the Royal Court. In course of time, a Master of the Posts was appointed, and the first of these on record was Brian Tuke, Esq.,... who held that office in 1516..."

(b) "The practice probably began at an early period, and afterwards grew into a regular custom, of allowing private persons to avail themselves of the King's Posts for transmitting their correspondence. This probably became a perquisite to the Postmasters, while, at the same time, it gave to the Ministers of State the power of narrowly inspecting the whole of the written communications of the country."

15. The Committee of the House of Lords had two former Lord Chancellors as members, Lord Brougham and Lord Cottenham, and in their Report the Committee said:—

"The Committee have not thought it necessary to attempt to define the Grounds upon which the Government has exercised the Power afforded by public Conveyance of Letters of obtaining such Information, as might be thought beneficial for the public Service; it seems sufficient for the present Purpose to state, that the Exercise of this Power can be traced from the earliest Institutions in this Country for the Conveyance of Letters, from Orders in Council of the 22nd of November, 1626, and 24th of February, 1627... In 1657, upon the first Establishment of a regular Post Office, it was stated in the Ordinance to be the best Means to discover and prevent any dangerous and wicked Designs against the Commonwealth... The Power, therefore, appears to have been exercised from the earliest Period, and to have been recognised by several Acts of Parliament. This appears to the Committee to be the State of the Law in respect to the detaining and opening of Letters at the Post Office, and they do not find any other Authority for such detaining or opening."

16. The situation with regard to the opening and detaining of letters and postal packets is substantially the same in 1957 as it was in 1844, for section 58 (f) of the Post Office Act of 1953, which is the Act now governing
the opening and detaining of letters, is substantially in the same terms as the earlier statutes of 1908, 1837 and 1710.

17. We have made these quotations from the two important Reports of 1844, because it is clear that not only were questions of law debated in both Houses of Parliament, but both Committees considered the questions of law with great care. Both Committees recognised that the Executive had exercised the power of opening letters over a very long period of time, and neither Committee ever suggested or concluded that the exercise of the power was in any way unlawful. Nor did they suggest in terms that the exercise of the power was the exercise of a prerogative right of the Crown. They leaned heavily upon the Post Office statutes, although none of the statutes contain clauses conferring the power to intercept communications, but recognise the power as an existing power which it is lawful to exercise.

18. In view of the conflicting opinions that have been put before us on the source of the Secretary of State's power to intercept communications, we think it best to set out briefly the arguments as they were presented to us.

19. The first submission made was that the power of the Secretary of State to issue his warrant for the interception and opening of letters was in exercise of a prerogative right of the Crown. The Royal Prerogative has been defined as comprehending all the special liberties, privileges and powers and royalties allowed by common law. It is created and limited by the common law. Blackstone defined the Royal Prerogative in these words—

"Prerogative can only be applied to those rights and capacities which the King enjoys alone in contradistinction to others and not to those which he enjoys in common with any of his subjects."

20. It was contended before us that the procedure of opening letters so far as it was known, and set out in the Secret Committees' Reports of 1844, was such that in all respects it was proper to describe it as a prerogative right. The nature of that right was said to be a right to intercept communications. It is true that for some centuries, communications in fact were confined to letters and postal packets, but as science invented new modes of communication, such as the telegraph and the telephone, and they came into general use, it was submitted that the prerogative power to intercept communications was wide enough to include not only letters and postal packets, but every subsequent means of communication that became known and was used. The prerogative right, therefore, to intercept communications applied now to letters and telegrams and telephonic communications alike.

21. It would appear that the view entertained by the Home Office has always been that the power exercised by the Secretary of State is not expressly conferred by statute, but that the statutes relating to the Post Office recognise the existence of the power as a lawful power for the purpose of making it clear that no offence is committed by a person who acts in obedience to a warrant of the Secretary of State issued by him in the exercise of that power. On this view the power exercised from the very earliest times is a prerogative power to intercept, examine, and disclose for certain purposes connected with the safety of the State or the preservation of public order, any messages carried by the Crown; and this Prerogative attached to the new methods of carrying messages that were undertaken by the Crown in the nineteenth century by means of the telegraph and the telephone. It was conceded that no new Prerogatives can be created, and the prerogative power to intercept a telephone message must therefore be the same prerogative power which authorises the interception of letters.
22. In connection with this argument the principle must be borne in mind that, where the legislature has intervened and covered by statute the ground covered by the Prerogative, the statute thereafter rules. But this doctrine does not seem applicable here, since there has been no intervention of this character by the legislature.

23. The opponents of the view that the power to intercept is a prerogative power emphasise the fact that no constitutional writer when dealing with the Royal Prerogative, mentions this particular power as being a prerogative power. In Chitty's Prerogatives of the Crown published in 1820, the learned author states that he has attempted "to present a comprehensive and connected, yet compressed and logical, view of every prerogative and corresponding right of the subject"; but nowhere is any reference made to a prerogative power of detaining and opening communications. Reliance is also placed on the doctrine laid down by Lord Camden in Entick v. Carrington, 19 State Trials 1030. In the year 1762, the Secretary of State issued a warrant directing certain persons to search for John Entick, the author of certain numbers of "The Monitor or British Freeholder," and to seize him, "together with his books and papers," and to bring them to the Secretary of State. Certain messengers, empowered by the warrant, seized Mr. Entick in his house, and seized his papers. Entick brought an action in trespass against the messengers for seizure of his papers. The case was tried before the Lord Chief Justice and a jury, and the jury returned a special verdict, which is very lengthy, and is set out in the report of the case. If the Defendants were liable, the jury assessed the damages at £300. This special verdict was twice argued in the Court of Common Pleas at great length, and with much learning; and finally in 1765 Lord Camden delivered the elaborate judgment which was the judgment of the Court. Many questions were argued and decided, but the main question was the legality of the general warrant. Lord Camden declared that the practice of issuing general warrants was illegal and unconstitutional. The jury found by their special verdict that the practice of issuing general warrants had been in existence for many years, but Lord Camden nevertheless denied their legality.

24. It was suggested that the arguments used to support the legality of general warrants before Lord Camden and his fellow judges were the same arguments used to support the prerogative power exercised by the Secretary of State to intercept communications, namely that no court of justice had ever declared the powers to be illegal, that the powers were essential to government, and the only means of quieting clamours and seditions. Lord Camden said—

"With respect to the practice itself, if it goes no higher, every lawyer will tell you it is much too modern to be evidence of the common law; and if it be added that these warrants ought to acquire some strength by the silence of those courts which have heard them read so often upon returns without censure or animadversion, I am able to borrow my answer to that pretence from the Court of King's Bench, which lately declared with great unanimity in the case of General Warrants that as no objection was taken to them on the returns and the matter passed sub silentio, the precedents were of no weight. I most heartily concur in that opinion. . . ."

"To search, seize, and carry away all the papers of the subject on the first warrant: that such a right should have existed from the time whereof the memory of man runneth not to the contrary, and never yet have found a place in any book of law: is incredible. But if so strange a thing could be supposed, I do not see how we could declare the law upon such evidence."
.. . If it is law it will be found in our books. If it is not to be found there it is not law."

25. It was submitted in reply that there is a distinction to be drawn between the general warrants condemned by Lord Camden, and the limited, strictly governed use of the Secretary of State's warrant into the exercise of which we have been enquiring; and in this connexion we emphasise once more the exact nature of the procedure we set out in Part II of this Report.

26. It was further pointed out that the provisions of section 9 (I) of the Crown Proceedings Act of 1947 giving certain immunities to the Crown are inconsistent with the existence of a prerogative power for the section provides that "... no proceedings in tort shall lie against the Crown for anything done or omitted to be done in relation to a postal packet by any person while employed as a servant or agent of the Crown, or for anything done or omitted to be done in relation to a telephonic communication by any person whilst so employed; nor shall any officer of the Crown be subject, save at the suit of the Crown, to any civil liability for any of the matters aforesaid." It may very well be that in 1947 the question of intercepting a telephone message was not in contemplation, and therefore no reference was made to a prerogative power, but the words of the section are very wide in their terms.

27. An alternative view was put before us which differed in some respects from the assertion of the prerogative right, but scarcely differed in substance. It was submitted that the origin of the power of the Secretary of State to intercept communications lay in a common law right which was not a part of the Prerogative, but which derived from an inherent power in the Crown to protect the realm against the misuse of postal facilities by ill-disposed persons. This common law right, it was said, continues to exist and is recognised in the Post Office statutes. No statute has enacted the power in express terms, but in addition to recognising and acknowledging the power, the statutes have indicated certain ways in which the power should be exercised, as for example, by the issue of a warrant by the Secretary of State authorising the interception to be made.

28. No support for this view is to be found in any judicial pronouncement, or in any legal text book. Indeed in Chitty's Royal Prerogative in England published in 1830, the learned author says at page 166—

"In modern times the prerogative of the Crown has been so strictly defined by law... that though the old doctrines of absolute sovereignty and transcendent domination still disfigure our law books, they are little heard of elsewhere. Occasionally however it happens that in Parliamentary discussions, assertions are hazarded of latent prerogatives in the Crown which are supposed to be inherent in the very nature of sovereignty. That such pretensions are unfounded it is not difficult to make out."

29. It was said before us that this common law power which was clearly an ancient power and derived from the actions of the monarchy when seeking to safeguard the realm, was a power wide enough to cover every form of communication which might come into being at any time. This second view is difficult to distinguish from the first view save that the use of the word "Prerogative" is avoided.

30. A third argument was put before us, which we summarise in paragraphs 31-37, that from the earliest times the power to intercept and open letters had been in existence. Throughout many centuries the practice had continued. How it arose can only be conjectured because historical records are wanting, but that the power existed and was used permits of no doubt whatever.
31. The Ordinance of 1657 recited in the Preamble that one of the advantages of erecting and settling one General Post Office was that it "was the best means to discover and prevent many dangerous and wicked designs which have been and are daily contrived against the peace and welfare of the Commonwealth, the intelligence whereof cannot well be communicated but by letter of escript." One of the principal objects of that Ordinance, it was suggested, was to prohibit persons other than the Postmaster-General from conveying letters, and the public reference to "discovering many dangerous and wicked designs" would seem to throw some light on the probable origin of the power. The Act of Parliament of 1660 followed the Ordinance of 1657 and agreed *mutatis mutandis* with its content. The Proclamation of 1663 prohibiting the opening of letters save by the warrant of the Secretary of State would seem to imply that it was not unlawful to open a letter before that Proclamation, otherwise the prohibition would have been superfluous. The object of the legislation of 1657 and 1660 was to create a monopoly for the Crown and to ensure that the letters would be carried by persons appointed or licensed by the Crown, with the object of enabling the Crown to inspect the contents of the letters carried. It was also pointed out that in none of these public declarations was there any assertion of the Royal Prerogative. The origin of the power to intercept letters, on this view, was the result of the creation of a monopoly, created and developed for this among other purposes; and the opening and detaining of letters by the Crown took place not because of any prerogative right, but upon the footing that those who entrusted their letters to the Posts would render them open to inspection at the wish of the Crown. It is of course understandable how this power should be referred to as a Prerogative, because the Crown alone could exercise the power; but, however the power is described, it was said that from the 17th century at least it cannot be doubted that the power to open letters has been lawfully exercised by the Crown.

32. In 1710, an Act was passed "for establishing a General Post Office for all Her Majesty's Dominions, etc." and again it was enacted by section 40 "that no person . . . shall presume to open, detain, or delay . . . any . . . Letter after same is or shall be delivered into the General or other Post Office . . . except by an express Warrant in Writing under the Hand of one of the Principal Secretaries of State for every such opening, detaining, or delaying . . . ."

33. Section 58 (I) of the Post Office Act, 1953 provides—

"If any officer of the Post Office, contrary to his duty, opens . . . any postal packet in course of transmission by post, or wilfully detains or delays . . . any such postal packet, he shall be guilty of a misdemeanour. . . .

Provided that nothing in this section shall extend to the opening, detaining or delaying of a postal packet returned for want of a true direction, or returned by reason that the person to whom it is directed has refused it, or has refused or neglected to pay the postage thereof, or that the packet cannot for any other reason be delivered, or to the opening, detaining or delaying of a postal packet under the authority of this Act or in obedience to an express warrant in writing under the hand of a Secretary of State."

34. Postal packet is defined in section 87 (I) as meaning—

"A letter, postcard, reply postcard, newspaper, printed packet, sample packet, or parcel, and every packet or article transmissible by post, and includes a telegram."
35. Section 58 of the Act of 1953 reproduces section 56 of the Post Office Act, 1908 which reproduces section 25 of the Post Office (Offences) Act, 1837 which in return re-enacted without material amendment section 40 of the Post Office (Revenue) Act of 1710.

36. The legal position since 1710 and now is that an officer of the Post Office who opens, delays or detains a postal packet commits an offence unless it is his duty to do so, or one of the conditions mentioned in the section as justifying his conduct is satisfied. It is a defence to show that the letter was opened, delayed or detained on the authority of the Secretary of State's warrant.

37. As telegrams are postal packets for the purposes of the Post Office Act of 1953, and are telegraphic messages for the purposes of the Telegraph Act of 1869 by virtue of section 3, it is an offence for an officer of the Post Office to "open, delay or detain" a telegram in course of transmission by post unless it is his duty so to do, or the opening, &c., is authorised by the warrant of the Secretary of State, or it is justified on one or other of the grounds mentioned in section 58 (I) of the Post Office Act, 1953.

38. We have thought it right to set out at some length the different views which were expressed to us by high legal authorities. We recognise that we have no authority ourselves to decide between these conflicting views and to declare the law. We have been impressed by the fact that many Secretaries of State in many Administrations for many years past have acted upon the view that the power to intercept communications was in the nature of a prerogative power. It had never been thought necessary for any statute to confer the right, but all the statutes had recognised the right as an existing right at the time of their enactment. It was beyond doubt that the power had existed independently of the statutes, its precise origin alone remaining in doubt.

39. If the problem confronting us had merely been concerned with letters, we should have been inclined to follow the example of the two Secret Committees in 1844, and to say that there can be no doubt whatever of these things—

(a) The power to intercept letters and postal packets and to disclose their contents and otherwise to make use of them had been used and frequently used through many centuries.

(b) Such a power existed and was exercised widely and publicly known as the debates in the House of Commons and the House of Lords plainly showed.

(c) At no time had it been suggested with any authority that the exercise of the power was unlawful.

But we recognise that the chief controversy which resulted in the setting up of the present committee was concerned with the interception of telephone messages, and therefore we do not feel able to leave the matters in question quite as the two Secret Committees were able to do.

40. The power to intercept telephone messages has been exercised in this country from time to time since the introduction of the telephone; and until the year 1937, the Post Office acted upon the view that the power, which the Crown exercised in intercepting telephone messages, was a power possessed by any other operator of telephones and was not contrary to law. No warrants by the Secretary of State were therefore issued, and any arrangements for the interception of telephone conversations were made directly between the Security Service or the Police Authorities and the Director-General of the Post Office.
41. In 1937 the position was reviewed by the Home Secretary and the Postmaster-General and it was then decided, as a matter of policy, that it was undesirable that records of telephone conversations should be made by Post Office servants and disclosed to the Police or to the Security Service without the authority of the Secretary of State. Apart from thinking that the former practice was undesirable, the Home Office was of opinion that the power on which they had acted to intercept letters and telegrams on the authority of a warrant issued by the Secretary of State, was wide enough in its nature to include the interception of telephone messages also. It was accordingly decided to act on this view of the law, and it has since been the practice of the Post Office to intercept telephone conversations only on the express warrant of the Secretary of State, that is, upon the authority which had already been recognised in the statutes to which we have referred dealing with letters and telegrams.

42. If it be said that a prerogative right could not extend to the interception of telephone conversations, because telephones were undreamt of when the prerogative power was first taken and exercised, reference should be made to the case of In re a Petition of Right, 1915 3 K.B. 659 in the Court of Appeal (Cozens-Hardy, M. R., Pickford and Warrington L.JJ), when Lord Cozens-Hardy said in affirming the judgment of Avory J.—

"If it be said that the prerogative right cannot extend to an aerodrome because aeroplanes were unknown in the reign of Richard I., I think that the answer is to be found in the somewhat analogous case of Mercer v. Denne (1905) 2 Ch. 538, 585, where this Court held that a customary right to ' cutch' fishing nets was not limited to materials known in the reign of Richard I., but extended to drying nets with suitable materials. So the prerogative applies to what is reasonably necessary for preventing and repelling invasion at the present time, regard being had to the invention of gunpowder and the use of aeroplanes in warfare."

Warrington L.J. said—

"The circumstances under which the power may be exercised and the particular acts which may be done in the exercise thereof must of necessity vary with the times and the advance of military science . . . ."

43. The prerogative power in question in that case was the power to take lands without compensation for the purposes of the Defence of the Realm, but if in the question we have to consider, the existence of a prerogative power to intercept all communications was established, the objection that the telephone was a modern invention would not defeat the application of the power.

44. But if the view accepted and followed by the Home Office for many years is rejected, then it was submitted that the power to intercept telephone messages was governed by special considerations which were somewhat different from those that govern the question of letters and telegrams. If there be no prerogative power governing all communications, and thus including telephonic communications, and if there be no power at common law to the like effect, then the only relevant statutory reference to be considered, would be section 20 of the Telegraph Act of 1868.

45. The material words of the section are—

"Any person having official duties connected with the Post Office, or acting on behalf of the Postmaster-General, who shall, contrary to his duty, disclose or in any way make known or intercept the contents
or any part of the contents of any telegraphic messages or any message intrusted to the Postmaster-General for the purpose of transmission, shall in England and in Ireland be guilty of a misdemeanour, . . . and the Postmaster-General shall make regulations to carry out the intentions of this section, and to prevent the improper use of any person in his employment or acting on his behalf of any knowledge he may acquire of the contents of any telegraphic message.”

46. No regulations have in fact been made under this section. It is a little difficult to think that the word “intercept” in section 20 of the Act of 1868 contemplated the listening in to telephone conversations for the telephone exchange was only instituted in England in 1879 and then there were only seven or eight subscribers.

47. In the case of the Attorney-General v. Edison Telephone Company, 1880 6 Q.B.D. p. 244, it was held that a telephone conversation is a “telegraphic communication” for the purposes of the Telegraph Acts, though at the time of the decision the question of listening into or intercepting a telephone message was not being considered.

48. In view of the decision, however, it was argued that by reason of section 20 of the Telegraph Act of 1868 it was open to the Postmaster-General to instruct post office officials and those acting on his behalf to listen in, to record and disclose telephone conversations, just as he had the power to intercept, disclose and make known the contents of a telegram. It was also argued that the fact that it is not now the practice for the Postmaster-General to give any such instructions except on the authority of the Secretary of State’s warrant had no legal significance.

49. If this argument is rejected, then it was submitted that, so far as the interception of telephone messages is concerned, reliance could be placed on the doctrine followed until 1937 that the Post Office was entitled to intercept and that it was not unlawful to do so, and that in any event the provisions of the Crown Proceedings Act made the Post Office immune from any legal action for any acts relating to the telephone.

50. We should not be happy to feel that so important a power as the power to intercept telephone messages rested on either of the grounds set out in paragraphs 44–49. We favour the view that it rests upon the power plainly recognised by the Post Office statutes as existing before the enactment of the statutes, by whatever name the power is described.

51. We are therefore of the opinion that the state of the law might fairly be expressed in this way.

(a) The power to intercept letters has been exercised from the earliest times, and has been recognised in successive Acts of Parliament.

(b) This power extends to telegrams.

(c) It is difficult to resist the view that if there is a lawful power to intercept communications in the form of letters and telegrams, then it is wide enough to cover telephone communications as well.

52. If, however, it should be thought that the power to intercept telephone messages was left in an uncertain state that was undesirable, it would be for Parliament to consider what steps ought to be taken to remove all uncertainty if the practice is to continue. So far as letters and telegrams are concerned, the provisions of the Post Office Act of 1953 appear to have worked in practice without any difficulty. If it were thought necessary, a suitable amendment to that section of the Act of 1953 would remove doubts whether telephonic communications were in the same position as letters and telegrams.
PART II
PURPOSE, USE AND EXTENT OF THE POWER OF INTERCEPTION

1. Purpose

53. We were further instructed under our terms of reference "to consider and report upon the exercise by the Secretary of State of the executive power to intercept communications and, in particular, . . . to what extent and for what purposes this power has been exercised and to what use information so obtained has been put."

54. The exercise by the Secretary of State of the executive power to intercept communications is by warrant under his own hand (and in the case of Scotland under the hand of the Secretary of State for Scotland). If either of these Secretaries of State were ill or absent the power would be exercised on his behalf by another Secretary of State: but this has very rarely happened.

55. It is to-day the invariable practice that the interception of communications is carried out only on the authority of one or other of these two Secretaries of State (see paragraph 41 above).

56. The warrant of the Secretary of State sets out the name and address or telephone number of the persons whose communications are to be intercepted. On occasion, a single warrant has been issued in the past to cover a number of names. We think this practice is undesirable. In our opinion each warrant should in future specify the name and address or telephone number of the person who is the subject of the warrant.

57. The Secretary of State has to satisfy himself on the facts of each particular case that it is proper to issue his warrant. In practice the principle on which the Secretary of State acts is that the purposes for which communications may be intercepted must be either for the detection of serious crime or for the safeguarding of the security of the State.

58. We discuss first the procedure in relation to crime. Changing circumstances during the past twenty years have made some acts serious offences that were not previously so regarded. For instance, during and for a period after the last war, breaches of food regulations were for a time serious offences. After the war, exchange control was introduced to protect the nation's gold and dollar reserves, and attempts to contravene its provisions are still regarded as serious offences.

59. On the other hand, some offences which had previously been considered serious enough to justify warrants for the interception of communications have ceased to be so regarded. The interception of letters* to prevent the transmission of illegal lottery material began in 1909 but was abandoned in November 1953. The main grounds for the decision to cease interception for this purpose were, we were told, doubts about its efficacy and the feeling that, owing to the changed public attitude towards lotteries, it was no longer necessary or appropriate to use this power for this particular purpose.

60. In the 1930's considerable numbers of warrants were issued for the interception of letters, mainly passing to or from places abroad, believed to contain obscene and indecent matter. The number of warrants steadily declined after the war and none has been issued in the last two and a half years.

*In this Report "letters" includes postal packets and telegrams except where they are expressly excluded.
years. We were informed that one of the main reasons for this was not any doubt as to the efficacy of methods of interception in this case but a growing reluctance to use the expedient of interception for this particular purpose.

61. The issue of warrants for the interception of letters in connection with offences under the Dangerous Drugs Acts began in 1922. After the war the number of warrants sharply declined and no warrants have been issued since early in 1956. This coincided with a decline in the traffic in drugs. The Department of the Home Office concerned with the administration of the Dangerous Drugs Acts and with duties under the International Narcotics Conventions is of the opinion that it might again become necessary to intercept letters in the discharge of its statutory and international obligations.

62. Since the Secretary of State's discretion is absolute he may issue a warrant for the interception of communications to any person, authority, agency or Department of State; but in fact such warrants have been granted to a limited number of authorities. We set out in Appendix II a list of all the authorities to whom warrants have been issued over the past twenty years.

63. The great majority of warrants for interception for the purpose of the detection of crime have been, and are now, granted to the Metropolitan Police and Board of Customs and Excise. In what we say below about the interception of communications for the detection of crime, we confine our observations to these two authorities. For the sake of brevity we sometimes refer to them as the "Police" and the "Customs."

64. The principles on which the Home Office acts in deciding whether to grant an application for a warrant to intercept communications for the detection of crime were first reduced to writing in letters in similar terms sent to the Metropolitan Police and Customs in September 1951. These letters were occasioned by a recent increase in the number of applications and an increase in the number rejected by the Home Office. It was stated in these letters that the procedure of interception was "an inherently objectionable one," that "the power to stop letters and intercept telephone calls must be used with great caution," and that it must be regarded as "an exceptional method." In particular, three conditions were laid down both for the Police and for the Customs that must be satisfied before a warrant could be issued. These were:

(a) The offence must be really serious.
(b) Normal methods of investigation must have been tried and failed, or must, from the nature of things, be unlikely to succeed if tried.
(c) There must be good reason to think that an interception would result in a conviction.

65. It was indicated in the letter to the Police that what the Home Office regarded as "serious crime" were offences for which a man with no previous record could reasonably be expected to be sentenced to three years' imprisonment, or offences of lesser gravity in which a large number of people were involved.

66. The type of crime that the Customs seek to detect is necessarily somewhat different from the violent crime with which the Metropolitan Police is mainly concerned. The definition of "serious crime" upon which the Home Office acts when considering the issue of warrants to the Customs is that "the case involves a substantial and continuing fraud which would seriously damage the revenue or the economy of the country if it went unchecked."

67. The arrangements concerning the issue of warrants to the Security Service are similar, but the objectives of the Security Service are different.
from those of the Police or Customs. The Home Office considers each case. The principles governing the issue of warrants to the Security Service can be stated in these terms:—

(a) There must be a major subversive or espionage activity that is likely to injure the national interest.

(b) The material likely to be obtained by interception must be of direct use in compiling the information that is necessary to the Security Service in carrying out the tasks laid upon it by the State.

68. The same provision applies to the Security Service as to the Customs and Police about the failure of normal means of detection. But less stress is laid on the need to secure convictions, since the Security Service is primarily concerned with safeguarding the State and keeping itself informed about dangers to its security. Besides securing convictions, the Security Service has the duty to keep up to date its information covering espionage and subversion and to inform Ministers and Departments of State about security matters that concern them.

69. The Metropolitan Police, the Customs and Excise and the Security Service have adopted policies and internal procedures designed to ensure that warrants are sought only when they satisfy the appropriate conditions laid down by the Home Office. The request for a warrant can be sent to the Home Office only by the Chief of the authority concerned or his deputy.

70. All applications for warrants to intercept communications for the detection of crime are considered by senior officers in the Criminal Department of the Home Office, who, if they approve the application, submit it to the Permanent Under-Secretary of State, who, if he considers that sufficient case has been made out, submits the application to the Secretary of State for his personal decision. Applications for warrants sought by the Security Service go in the first place direct to the Permanent Under-Secretary. All the Secretaries of State who appeared before us said that they gave close personal consideration to every request for a warrant submitted to them. If the procedure that has been laid down is faithfully followed, there are likely to be very few applications that need to be rejected and this was in fact confirmed by the evidence.

71. Close supervision over the use of methods of interception is maintained by the Home Office. There is a quarterly review of outstanding warrants by the Permanent Under-Secretary. At this review, or earlier if the Home Office thinks that warrants have not been cancelled after a reasonable period, the authorities concerned are sent for and asked to make a case for their continuance. Not only are individual warrants reviewed in this manner but also the number of warrants in operation. We have already referred to the letters sent by the Home Office in 1951 to the Metropolitan Police and Customs (above paragraph 64). A further letter was sent to the Metropolitan Police in April 1956 drawing attention to the increase in the figures of warrants granted during the previous five years and emphasising the need to keep applications to a minimum. This led to the adoption by the Metropolitan Police of a new and more effective system of review which reduced the average duration of warrants and brought about an increase in the proportion of arrests to interceptions.

72. The Customs have a regular quarterly review of all outstanding warrants individually. A similar review is undertaken by the Security Service every six months. Since 1956 the Metropolitan Police has instituted a weekly review every Monday. All these authorities cancel warrants when they are considered to be of no further use without waiting for their own regular review of outstanding warrants.
73. The authority concerned, when an interception is no longer needed, immediately instructs the Post Office to discontinue the interception. The Customs and Police inform the Home Office forthwith and ask for the formal cancellation of the warrant. The Security Service does this only at three-monthly intervals. We should point out that despite this variation of practice we have found no evidence of interceptions being kept on longer than was thought necessary for the case in hand.

74. We feel that the outstanding warrants should be reviewed more frequently. We therefore recommend that there should be a regular review not less than once a month both by the Home Office and by every authority that is granted a warrant to intercept. This review should be not only of the numbers of warrants outstanding, but of each particular warrant.

75. We recommend that warrants should no longer be valid until they are cancelled, but that their validity should be for a defined period that appears on their face. Normally this should be for a period no longer than a month and in no case should it be for a period longer than two months. If an extension of the validity of the warrant is desired, the reasons for this should be sent to the Home Office for their consideration before any extension is approved.

76. We recommend that when a warrant for the interception of communications is cancelled by the authority to whom it was issued, this cancellation should be forthwith reported to the Home Office.

77. The Secret Committee of the House of Lords in its Report of 1844 thought that “a more detailed account than is already kept of the grounds upon which each warrant is granted would frequently have the effect of leaving in the Office a grave accusation, without affording an opportunity of Reply or Defence.”

78. But we are of opinion that the keeping of full and accurate records is a necessary part of any procedure to ensure that the use to which interception may be put is effectively controlled. The Home Office records of warrants issued for the detection of crime are reasonably full. Each case is separately recorded in a file. These all contain the ground on which the warrant was issued, a copy of the warrant itself and the date of its cancellation.

79. We think that in one or two respects the procedure could be improved. For example we found that in some cases part of the consultations between the Home Office and the authority seeking or in possession of a warrant had been oral, and had not been recorded. In a few cases there was no precise record of the usefulness or otherwise of the interception. There were no records of the rejection by the Home Office of applications for warrants.

80. Until 1947 the Home Office kept a card index of names and addresses showing alphabetically by name and geographically by area all the warrants issued for security purposes. In 1947, at the suggestion of the Security Service, which was disturbed by the existence of these records in the Home Office, all of them were destroyed and no complete records were kept thereafter except for the serial numbers of the warrants issued. From 1954 the covering minutes were also preserved—we examined a number of them. These minutes contain very brief summaries of the reasons for the issue of each warrant.

81. The Metropolitan Police destroyed all warrants between 1937 and 1946 upon their cancellation, and the same practice was followed from 1946–1953, except that a bare record was kept of the number of interceptions
authorised by the Secretary of State. Detailed records exist only from 1953. The Security Service also destroyed detailed records before 1952 although it kept figures of the numbers of warrants issued. It was not possible to discover the exact number of interceptions in earlier years, but only the number of warrants issued; the discrepancy between these two figures would, however, be very small indeed.

82. We wish to emphasise that none of the matters referred to in the three preceding paragraphs has in practice affected the strict control of the use of the power to intercept communications.

83. Arrangements to keep fuller and more uniform records were made early in 1957 by the Home Office before our inquiry was announced. We were informed that, since our inquiry started, the Home Office has worked out an elaborate system for keeping records on a uniform basis, both for security purposes and for the detection of crime.

84. It is not necessary that such secret records should be kept in a number of different places, but they should be preserved in one secure place. We therefore recommend that full records should be kept in the Home Office showing in each particular case—

(a) The ground on which the warrant is applied for.
(b) A note of any subsequent decisions concerning the warrant.
(c) A copy of the warrant issued, or, alternatively, a note that the application has been rejected.
(d) A record of the date of the cancellation of the warrant and the reason therefor.

These records should be preserved for a reasonable time by the Home Office. Before any warrants or any records relating to them are destroyed by the authority to whom the warrants were issued, the Home Office should be consulted.

85. It has been urged in some quarters that the authority for the issue of warrants for interception should not be left exclusively in the hands of the Secretary of State. The chief suggested alternatives that have come to our attention are that the Home Secretary should be assisted by an Advisory Committee or that warrants should be issued only on a sworn information before magistrates or a High Court judge.

86. In our opinion, neither of these proposals would improve matters. If a number of magistrates or judges had the power to issue such warrants, the control of the use to which methods of interception can be put would be weaker than under the present system. It might very well prove easier in practice to obtain warrants. Moreover, it would be harder to keep and collate records. If an Advisory Committee were set up this would, at the best, leave things as at present because the ultimate discretion would still lie with the Secretary of State; at the worst it would tend to weaken the sense of responsibility of the Secretary of State, and might lead to a loosening of the principles, the strict maintenance of which is the chief means of ensuring that interception of communications is limited to the uses for which it is intended.

87. One exceptional purpose for which the Secretary of State issues warrants for the interception of communications is the stopping and returning of letters to the sender. This power has long been exercised and was referred to by the Secret Committee of the House of Commons of 1844 in their Report. Beyond stating that some doubt existed how far this could lawfully be done and giving the number of such warrants issued as 7 over a period of 45 years they made no further comment or recommendation.
88. In recent years this power has been exercised somewhat more frequently, but still on a very small scale. From 1946–57 there were 28 cases in all. We have examined all these cases in detail and have found that, in all but one or two instances, warrants were issued only on the grounds of a major public interest.

89. It seems to us that the interception of letters for this purpose falls into quite a distinct category in that no one suffers any damage if a sender's own letter is returned to him. There might, however, be administrative difficulties if the interception of letters at the sender's request became a general practice. We therefore feel that this power should be exercised only in cases where in the opinion of the Secretary of State a clear public interest is involved.

90. As a result of our inquiry into the purposes for which warrants authorising the interception of communications are issued, we are satisfied that Secretaries of State and all the officials and authorities concerned have taken, and continue to take, scrupulous care to ensure the strict observance of the purposes to which it is intended by the Home Office that the interception of communications should be directed and confined.

2. The Marrinan Case

91. Since it was the warrant of the then Secretary of State, giving power to intercept the telephone communications of one, Billy Hill, which gave rise to what is now known as the Marrinan case, we have felt it right to consider that case with great care so far as it would appear to be relevant to our inquiry.

92. It has been the settled policy of the Home Office that, save in the most exceptional cases, information obtained by the interception of communications should be used only for the purposes of detection, and not as evidence in a Court or in any other Inquiry.

93. We have listened to the evidence of the Attorney-General, Sir Reginald Manningham-Buller; to Sir Hartley Shawcross, the Chairman of the Bar Council; and to Viscount Tenby, who was the Secretary of State at the relevant time.

94. It will be convenient to set out a summary of the principal dates:—

(1) On the 9th October, 1956, reports appeared in certain newspapers of a case tried at the Central Criminal Court, where it was alleged that a barrister had obstructed the police when they were acting in the course of their duty in Dublin.

(2) On the 17th October, Mr. Boulton, the secretary of the Bar Council, wrote for information to Mr. R. E. Seaton, the counsel who had prosecuted in the case, and in the meantime Mr. Seaton himself had informed the Attorney-General of the circumstances.

(3) On the 26th October the Attorney-General brought to the notice of the Bar Council the alleged professional misconduct on the part of Mr. Marrinan.

(4) On the 20th November Mr. Boulton wrote to Mr. R. L. Jackson, the Assistant Commissioner of Police in charge of the Criminal Investigation Department, to ask him whether any information was available about Mr. Marrinan's alleged unprofessional conduct.

(5) On the 26th November Mr. Jackson was authorised by the Home Secretary to show to Sir Hartley Shawcross personally, as Chairman of the Bar Council, the material obtained in June and July 1956 in the course of the interception of the telephone line of Billy Hill.
(6) On the 12th December Mr. Boulton, in Sir Hartley Shawcross's absence abroad, called upon Mr. Jackson. He appears to have been regarded as the personal representative of Sir Hartley Shawcross rather than the secretary of the Bar Council, for he was shown a copy of the transcript of the intercepted telephone conversations. Mr. Jackson was not present at that interview, but on the 18th December he showed the transcript of the intercepted telephone conversations to Sir Hartley Shawcross, and told him that if he thought it necessary to show it to other people, Sir Hartley should himself seek the authority of the Home Secretary so to do. He informed Sir Hartley Shawcross in some detail of the view of the Police about the character and activities of Billy Hill. Sir Hartley was informed that Mr. Marrinan was believed to be acting improperly in concert with Hill in certain matters, well knowing him to be a criminal, and that Scotland Yard had been interested in the activities of Mr. Marrinan for some considerable time.

(7) Sir Hartley informed the Assistant Commissioner of Police that the intercepts of the telephone conversations would be valueless to him unless he had permission to show them to the members of the Bar Council who were inquiring into the conduct of Mr. Marrinan, and also to the Benchers of Lincoln's Inn who might be inquiring into Mr. Marrinan's conduct, and also to Mr. Marrinan himself.

(8) Accordingly Sir Hartley Shawcross on the same day (the 18th December) wrote to ask for the Home Secretary's authority to disclose the transcripts of the interceptions to the persons mentioned in (7) above.

(9) On the 20th December, 1956, a letter was sent to Sir Hartley Shawcross by the Permanent Under-Secretary of State on behalf of the Home Secretary giving to Sir Hartley the authority he had sought.

95. There can be no doubt that the actions of Sir Hartley Shawcross and Viscount Tenby were wholly governed by considerations of the public interest.

96. Apart from the evidence contained in the telephone intercepts, there was a good deal of additional evidence in Sir Hartley's possession concerning Mr. Marrinan which in Sir Hartley's view directly affected the integrity of the Bar and the proper administration of justice. He was aware that in some other countries the improper association of members of the legal profession with avowed criminals was known to exist, and that this association was for the purpose of assisting criminals in their unlawful activities, and was highly injurious to the proper administration of justice. It was for these reasons that he decided to ask the Secretary of State to disclose the telephone intercepts to him and to his colleagues on the Bar Council, and to permit him to show them to the Benchers of Lincoln's Inn who were concerned with the professional conduct of Mr. Marrinan as a member of Lincoln's Inn, and also to Mr. Marrinan himself. He did this, he insisted before us, because he thought the integrity of the Bar was of vital importance to the proper administration of justice in this country; and as Chairman of the Bar Council he felt that a special responsibility lay upon him to preserve this integrity, and he regarded the administration of justice as being one of the most important public functions exercised in the State, and the peculiar care of the Home Office.

97. Viscount Tenby, who was at the time the Secretary of State, himself had an interview with the Assistant Commissioner of Police, Mr. Jackson, and heard from him in detail the view which the police entertained of Hill
and his activities. When the request therefore was made to him by Sir Hartley Shawcross, the Chairman of the Bar Council, to allow the Bar Council and the Benchers of Lincoln's Inn, and Mr. Marrinan, to see the intercepts, Viscount Tenby regarded the case "as the most exceptional that I had ever come across." In view of the information he had received from the Assistant Commissioner of Police concerning the character of Hill, and in particular the fact that he was carrying on his activities in connivance with a member of the Bar such as Mr. Marrinan, Viscount Tenby came to the conclusion that the circumstances were so utterly exceptional and the ground of the application was of such high importance, that he would depart from the normal practice which he and his predecessors had always followed.

98. Viscount Tenby was most clearly impressed first of all by the evidence given to him of the character of Hill, and in turn by the argument of Sir Hartley Shawcross that in his view the actions of Mr. Marrinan were such that they struck at the very heart of the proper administration of the law. Thereupon he made the two decisions with which we have been concerned. He decided to disclose the intercepts to Sir Hartley Shawcross personally, and then also decided to consent to Sir Hartley Shawcross's subsequent request for permission to show the intercepts to the Bar Council, the Benchers of Lincoln's Inn, and to Mr. Marrinan. These two decisions were clearly within the powers of the Secretary of State, and it is right to say that Viscount Tenby accepts the fullest responsibility for them.

99. Viscount Tenby regarded the situation as being utterly exceptional, and there does not appear to have been any previous case which could in any sense be regarded as a precedent. The closest parallel that we have discovered occurred in 1953, in a disciplinary inquiry before the Metropolitan Police Discipline Board into charges of corruption against two police officers. In that case the Secretary of State had issued a warrant authorising the interception of messages on the telephones of the two officers, and upon application being made that these intercepts might be used in the disciplinary proceedings the Home Office had granted permission. But in that case the disclosure was within the public service, and cannot in any sense be said to apply to the position which existed in the Marrinan case. We entertained some doubt whether the decision to use the intercepts in the police inquiry in 1953 was in fact justifiable. We are of the opinion that Viscount Tenby's decision to permit the disclosure of the information contained in the telephone intercepts in question to the Bar Council and to the Benchers of Lincoln's Inn, was a mistaken decision.

100. We are anxious not to use language which might imply that the decision of Viscount Tenby was unreasonable, for we quite recognise that the facts before Viscount Tenby, which we have summarised, were indeed highly exceptional. The fact that the administration of justice was involved was the governing consideration in the mind of Viscount Tenby, and it is easily to be understood that the importance of that consideration led him to the conclusion that the action which he took was in all the circumstances of the case justifiable. But we are of opinion that the power given to the Secretary of State to issue a warrant to intercept communications, whether by letter or by telegram or by telephone, is a power of such importance and consequence that it should be most rigorously confined to the purposes which convinced the Home Secretary that it was right to issue the warrant in the first place.

101. We therefore conclude by recommending that there should be no disclosure of the information obtained on public grounds by the exercise of this great power, to private individuals or private bodies or domestic tribunals of any kind whatsoever.
3. Use and Result

102. The various authorities that use methods of interception put them to somewhat different specific uses according to the sort of crime or offence that they are seeking to detect and suppress.

103. The major uses to which methods of interception are put by the Metropolitan Police are: to break up organized and dangerous gangs; to catch men on the run (escaped convicts and men wanted for serious crime); to detect receivers of stolen property. The reason why the overwhelming majority of warrants issued for police purposes are applied for by, and granted to, the Metropolitan Police is that London is a natural centre for criminal, as for other, activities. Much of the major crime in the provinces, even in large cities, is the work of criminals based on London. The leader of a gang cannot put his schemes into effect without directly or indirectly communicating with his henchmen, almost always by telephone. A receiver who works on a large scale is often either the organizer or focal point of a number of criminals who are dependent upon him for a market. A man on the run has often revealed his whereabouts by telephone to his home or his associates.

104. The use of interception by the Board of Customs and Excise started in 1946, that is to say, at a time when exchange control and quota restrictions induced a great increase in smuggling of a kind very damaging to the national economy. In particular, interception is used to frustrate the illicit export of capital, usually in the form of diamonds. The extent of the smuggling of diamonds has been largely determined by the strength or weakness of sterling. It is estimated to have reached a value of £9,000,000 in 1952, and is still running at a very considerable figure, probably around £6,000,000 a year. Diamond smuggling is internationally organised by a very small, closed group of people. It is hard to get reports from informers or by normal means of detection, and the smugglers normally make contact by post or telephone. Interception is also used to detect the large-scale smuggled import of Swiss watches which adversely affects the balance of payments, and to detect conspiracies to effect major fraudulent evasions of purchase tax which involve the Revenue in considerable loss.

105. The uses to which the Security Service puts the power to intercept are determined by the duties laid upon that Service by the Government. These are broadly to detect and counter espionage and subversion and, in the words of Mr. Attlee (as he then was) in the House of Commons on the 15th March, 1948, “to ensure that no one who is known to be a member of the Communist Party or to be associated with it in such a way as to raise legitimate doubts about his or her reliability is employed in connection with work, the nature of which is vital to the security of the State. The same rule will govern the employment of those who are known to be closely associated with Fascist organisations.” This policy was confirmed by the present Government in March 1956, in the White Paper on the Findings of the Conference of Privy Councillors on Security (Cmd. 9715).

106. Espionage is carried out by highly trained people who take extreme precautions. Communications are the weakest link in their organisation, and, without penetration of these communications, it would often be impossible to detect major espionage at all.

107. Interception has not always proved an effective means of detection or deterrence. The interception of letters did not greatly reduce the traffic in lottery tickets, and this was one reason for the abandonment of this use of interception in 1953. But, with regard to the present day uses of interception, we received conclusive evidence of their effectiveness. We were told
of many major wrong-doers who had been brought to justice, and of the frustration of espionage. We give here only a few examples of results directly achieved by methods of interception.

1. The arrest and conviction of a number of Billy Hill's close associates.
2. The recapture of a number of escaped convicts.
3. The arrest and conviction of a large-scale smuggler believed to have illicitly exported £6,000,000 over a period of three years.
4. Major spies identified; the discovery of highly secret material in passage through the post in extremely ingenious forms, some of which we saw for ourselves; the detection of Communists operating secretly in the Civil Service.

108. All the authorities that use methods of interception are firmly convinced that the effect on their operations would be greatly, if not calamitously, reduced if they were to be deprived of the power to intercept communications. The Treasury indicated to us the value that they attach to the results achieved through interceptions by the Customs and Excise. All the Secretaries of State who gave evidence before us emphasised the great effectiveness of interception of communications as a means of detection.

109. One measure of the effectiveness of interception as a means of detection is the number and proportion of convictions thereby obtained, which could not have been obtained by any other means. Difficulties, however, arise in the application of this test. First, interception may be only one line of inquiry that is being followed, and it may not be easy to judge the extent to which a conviction was due to interception. Secondly, it is impossible to say with absolute certainty that a wrong-doer caught by one method of detection might not have been caught then or later by some other means. Thirdly, a number of telephone lines may be tapped in the course of a single investigation directed to the detection of one major offence.

110. Between 1953 and 1956 the number of arrests made by the Metropolitan Police of important and dangerous criminals as the result of direct interception was 57 per cent. of the number of telephone lines tapped. The effectiveness of interception by the Police has been getting steadily greater, especially in the last few years. So far in 1957 every interception but one has led to an arrest.

111. The number of cases of detection of major Customs frauds directly or indirectly due to interceptions of mail and telephone lines was 80 per cent. of the number of interceptions. Another way of measuring the effectiveness of interceptions by the Customs is by the value of the seizures of illicit exports and imports. As a result of interceptions of communications between 1948 and 1957, such seizures amounted to a total of £736,490. Account should also be taken of the removal from the field of highly skilled operators and the deterrent effect upon others. The sums lost to the reserves and to the revenues might otherwise have reached considerably greater proportions.

112. The proportion that the number of arrests or convictions obtained by interception bears to the total of convictions is small. This is naturally to be expected for the reason that in the vast majority of criminal cases these methods of interception are not used. They are reserved for cases of serious crime as we have explained. It was emphasised in the evidence given to us that the use of methods of interception is strictly limited to the biggest and most dangerous offenders and that on the whole the most important captures and seizures are made as the result of interception.
113. As we have pointed out in paragraphs 105 and 106, the obtaining of arrests and convictions is not necessarily a major objective of the Security Service. It is therefore not possible to measure the effectiveness of interception as used by the Security Service by reference to arrests and convictions. The evidence we heard overwhelmingly established the following facts:

1. There are continuous organised and dangerous efforts to spy out secrets of the State.
2. Similar organised and continuous efforts are made to spread subversion and to penetrate the apparatus of the Government and work of high security.
3. The weakest link in this highly skilled and trained chain of espionage and subversion is communication between the agents and persons concerned.
4. Methods of interception are highly effective; they are often the only effective method of countering espionage and subversion and of safeguarding the vital secrets of the State. We received a great deal of direct evidence of the success achieved solely by the interception of communications.

114. We enquired closely into the number of people who have access to the information obtained by the interception of communications.

115. We visited a centre where telephone tapping is operated and we ourselves held a telephone conversation that was tapped and recorded by a machine in our presence. There is a very small number of persons supervising this purely mechanical operation, and they listen to a tapped conversation only occasionally and briefly to check whether the machines are in order.

116. It is at the point when the recording is passed to the authorities concerned with the use of interception that the whole content of the interceptions becomes known to officials, whether it is relevant to the inquiry in hand or not, whether or not it contains private and personal or even privileged conversations.

117. The number of officials who have access to this information is small. In no particular case of interception is the number in excess of three or four carefully chosen officers. They have the duty to select and transcribe only those parts of the material that are relevant to the inquiry in hand. The quantity of relevant material that is thus transcribed varies from case to case. It can be extensive but in the great majority of cases it bears a small proportion to the total material recorded by the machines. The material that is not selected and transcribed is destroyed.

118. The selected and transcribed material necessarily becomes known to a larger number of people, all of whom are directly concerned with an investigation. In the Police and the Customs about half a dozen officers have access to this sifted material in any particular case; in the Security Service only two officers. Material that is of security interest, whether obtained by interception or from other sources, is collated in the general records of the Service and may be made available to the Departments of State who have an interest in such information.

119. In our view public concern may be in some degree allayed by knowledge of the actual extent of the interception of letters and telephone messages which has been exercised on a much smaller scale than many people seem to have thought. In considering the best manner of presenting the statistics, we had to weigh the consequences of any disclosure of figures at all
upon the effectiveness of the interception of communications. All the authorities that use the power of interception say that such disclosure would impair the effectiveness of the method as a means of detection. After very careful consideration we have come to the conclusion that it would be in the public interest as an exceptional measure on this occasion to publish figures showing the extent of the interception of communications. We recognise, however, that this should be done in a manner that does as little injury as possible to the public interest.

120. We are in particular aware of the danger of disclosing even on a single occasion the extent of interception for security purposes. The best course therefore seems to us to group the figures for interceptions for each of the years from 1937–56 under these heads—

(1) interceptions by security, Police, Customs and Post Office;

(2) interceptions in connection with dangerous drugs, lotteries and obscene publications.

We set out these figures in Appendix I, Table I. From this Table it appears that the average annual number of interceptions of telephone lines from 1937 to 1956 was 130. The corresponding figure for interception of letters and telegrams was 501.

121. We are strongly of the opinion that it would be wrong for figures to be disclosed by the Secretary of State at regular or irregular intervals in the future. It would greatly aid the operation of agencies hostile to the State if they were able to estimate even approximately the extent of the interceptions of communications for security purposes.

122. Figures for interception of communications authorised by the Secretary of State for Scotland since the war are set out in Appendix I, Table II. These figures show that in this period three warrants were issued for the interception of telephones; the average duration of these warrants was eight weeks. One warrant was issued for the interception of one telegram. Fifty-one warrants were issued for the interception of letters in connection with lotteries—a practice that was abandoned in 1953.

123. As a result of our review of the use and result of the power to intercept communications, we are satisfied that all the officers and officials concerned are scrupulous and conscientious in the use and exercise of the power to intercept communications. We are satisfied that interception is highly selective and that it is used only where there is good reason to believe that a serious offence or security interest is involved. We are satisfied that the number of people with access to material obtained by interception, either in its original or in its selected form, is kept to an absolute minimum. We are further satisfied that interception of communications has proved very effective in the detection of major crimes, customs frauds on a large scale and serious dangers to the security of the State.

4. Members of Parliament

124. Questions have recently been asked in the House of Commons about the propriety of intercepting the communications of Members of Parliament. We have therefore taken advice upon this matter and considered it. The essential point is whether the interception of a Member of Parliament's letters or telephone would constitute a breach of privilege. This is of course for the House itself to determine. So far as we have been able to discover, a Member of Parliament is not to be distinguished from an ordinary member of the public, so far as the interception of communications is concerned,
unless the communications were held to be in connection with a Parliamentary proceeding. On the question of the interception of Members' letters the House of Commons expressed itself clearly in a Resolution in 1735. This was reported in the Report of the Secret Committee of the House of Commons of 1844 in these words:

"That it is a high infringement of the privilege of the knights, citizens, and burgesses, chosen to represent the Commons of Great Britain in Parliament, for any postmaster, his deputies or agents, in Great Britain or Ireland, to open or look into, by any means whatsoever, any Letter directed to or signed by the proper hand of any Member, without an express Warrant in writing, under the hand of one of the principal Secretaries of State, for every such opening and looking into; or to detain or delay any Letter directed to or signed with the name of any Member, unless there shall be good reason to suspect some counterfeit of it, without an express Warrant of a principal Secretary of State, as aforesaid, for every such detaining or delaying."

125. This seems to be a clear recognition by the House of the right of the Secretary of State to intercept Members' postal packets by the use of an express warrant. So far as we know this recognition has never subsequently been rescinded or modified.

126. On 2nd August, 1956, Mr. Francis Noel-Baker, M.P., complained, amongst a number of other points, that his correspondence addressed to British subjects in the Seychelles had been interfered with. The Speaker replied to this part of Mr. Noel-Baker's complaint in these terms:

"... The first complaint of the hon. Member was about the interference with correspondence from hon. Members. The law on that subject, as I understand, is that letters can be detained and opened by a warrant of a Secretary of State. There is a long series of Acts on this subject, the principal one being that passed in 1912. The fact that that Act was passed by this House, and that in it there is no exception for letters addressed either to or from Members of Parliament, shows that there can be no question of Privilege involved in that."

127. No question seems ever to have arisen in the House on the specific question of the interception of a Member's telephone conversation. Subject to any decision by the House on this point, it appears probable that the rulings concerning letters would extend by analogy to telephones.

128. It is difficult to imagine the circumstances in which a telephone conversation might be held to be related to a "proceeding in Parliament"—a term which seems never to have been precisely defined. In 1939 the Select Committee on the Official Secrets Act held in its Report (Command Paper 173, 1937–38, Vol. 7), that privilege protected a draft of a parliamentary question which a Member showed to a Minister. This might presumably be held in certain circumstances to cover a communication in writing or by telephone about an intended parliamentary question. It has also been suggested that a breach of privilege might be committed if the Secretary of State were induced to issue a warrant for interception of a Member's telephone by something that that Member said in the House in relation to a Parliamentary proceeding.

5. Unauthorised Tapping

129. All the evidence we heard was to the effect that there is, and has been, no tapping of telephones by unauthorised persons in this country.
130. We also received evidence that, for technical reasons, the unauthorised tapping of telephones would be much more difficult in this country than in the United States of America. However, there can be no certainty that unauthorised tapping of telephones does not occur and it might even be done without the commission of a trespass upon private or Crown property.

131. In these circumstances Parliament may wish to consider whether legislation should be passed to render the unauthorised tapping of a telephone line an offence.

PART III

HOW SHOULD THE POWER TO INTERCEPT COMMUNICATIONS BE USED IN THE FUTURE?

132. We are conscious that this is perhaps the most controversial question contained in our terms of reference and we therefore set out here the main considerations we have had in mind in answering it.

133. There is no doubt that the interception of communications, whether by the opening or reading of letters or telegrams, or by listening to and recording telephone conversations, is regarded with general disfavour. In this country where the power to detain and open letters has been in existence from very early times, and has been used by successive Governments for very many years, public feeling has only been aroused on rare occasions when it was suspected or feared that the practice was being abused in some way, in circumstances which do not warrant its use. Whether practised by unauthorised individuals or by officials purporting to act under authority, the feeling still persists that such interceptions offend against the usual and proper standards of behaviour as being an invasion of privacy and an interference with the liberty of the individual in his right to be "let alone when lawfully engaged upon his own affairs." The Secret Committee of the House of Commons in its Report in 1844 spoke of "the strong moral feeling which exists against the practice of opening Letters, with its accompaniments of mystery and concealment . . . ." and Sir James Graham, the Home Secretary, said in a debate in the House of Commons in 1845 that the practice of opening letters was "odious, invidious and obnoxious." It is important to observe that this dislike of interceptions is not confined to those who feel that as a matter of principle the liberty of the individual outweighs all other considerations, or that the exercise of the power is not justified by the results obtained: it is also shared by those who think it right that the power to intercept communications should be used by the State, under proper safeguards, for well-defined purposes. We think it important to emphasise this aversion to the interception of communications, for just as the wise administration of the criminal law must depend finally upon the support and approval of public opinion, so the principles by which the law is enforced must win the same approval if they are to be exercised effectively and without public unrest. The disquiet expressed by Members of the House of Commons which resulted in the setting up of the present Inquiry was due, we think, in some measure at least, to the dislike of obtaining information by means of tapping telephone wires, quite apart from the separate questions of the propriety of opening letters, or the extent of the practice of intercepting letters and telephone conversations, or of the value of the information obtained, or of the use that had been made of the information so acquired. In considering
the questions contained in our terms of reference, therefore, we have reminded ourselves at all times that the liberty of the subject was involved, and that there was considerable opposition to any use of methods of intercepting communications for any purpose, public or private.

134. In framing our recommendations as to the future use of any powers of intercepting communications, it was necessary for us to understand and appreciate, as far as we were able to do so, the grounds of the antipathy to the methods of interception of communications in general. It is impossible, of course, to do more than to speculate upon the attitude of the public at large, but there is reason to suppose that some of the objections at least can be thus stated:—

(i) The powers of interception are in the hands of State officials. They are exercised in secret, and the extent of the exercise and the purposes for which the powers are exercised are not publicly known.

(ii) There is some apprehension that the powers may be used to invade private rights, and to interfere with the liberty of the subject unnecessarily.

(iii) The circumstances in which the powers may be exercised do not give to the subject any reasonable opportunities for protest or objection.

135. The greatest agitation which ever arose upon the question of detaining and opening letters was in 1844, when Sir James Graham, the Secretary of State, had opened the letters of Joseph Mazzini and had communicated some of their contents to the Neapolitan Government. In Parker’s “Life and Letters of Sir James Graham,” a detailed account is given of that great controversy, and it is quite clear that the feeling was based, in some measure, on the suspicion that the practice of opening letters was very widespread and that the letters of the ordinary citizen were not immune. In the Greville Memoirs, Vol. V, at p. 182, there are certain interesting references to this agitation, and Greville states that “it lit up a flame throughout the country. Every foolish person who used papers and pens fancied their nonsense was read at the Home Office.”

136. We have referred in paragraph 11 of this Report to the terms of reference of the two Secret Committees, and it is interesting to notice that, when the reports of those two Committees were made known, and the special circumstances in which the power was exercised were made plain, the public anger at once subsided. According to Greville, who was a close observer of the parliamentary scene, when the Member who had raised the original Question moved that a Select Committee should inquire into the opening of his own letters in February, 1845, “the House was tired of the subject and the motion was defeated.” So in the present inquiry we cannot but feel that some of the antipathy to the methods employed, particularly those of tapping telephone wires, is due to the fear, or the suspicion, or the belief that it is practised on a large scale, and that the telephones of ordinary citizens are likely to be the subject of such interference, or could possibly be the subject of such interference. Some Questions which were asked in the House of Commons would seem to lend colour to this view. It is important, therefore, that it should be made as widely known; as considerations of public policy permit, that the power of intercepting communications is very strictly reserved for the very special cases where the public interest is deeply involved to which we have referred in detail in another part of this Report.

137. We have examined the exact circumstances in which the powers of the Secretary of State have been exercised, in order to see what is the extent of the interference with the privacy of the individual or his liberty, and whether
such interference ought to be prohibited for the future, or whether it is necessary or justifiable in the interests of the citizens as a whole that the procedure in force at the present time should continue. The freedom of the individual is quite valueless if he can be made the victim of the law breaker. Every civilised society must have power to protect itself from wrongdoers. It must have powers to arrest, search and imprison those who break the laws. If these powers are properly and wisely exercised, it may be thought that they are in themselves aids to the maintenance of the true freedom of the individual. It is therefore most important to observe that from the evidence tendered to us, it is plain that the exercise of the power to intercept communications by the Secretary of State has never been regarded as a general power, but as a power, carefully restricted to special and well-defined circumstances and purposes, and hedged about with clearly formulated rules and subject to very special safeguards.

138. In the Report of the Secret Committee of the House of Lords of 1844, appointed to inquire into the state of the law in respect of the detaining and opening of letters by the Post Office, and into the mode under which authority given for such opening and detaining has been exercised, and to report their opinion and observations thereupon to the House, there is one passage which seems to us to be applicable to the evidence we ourselves have heard—

"The Committee are bound, in conclusion, to state, that having looked back to the Proceedings of several Secretaries of State during successive Administrations over more than Twenty Years, they have found the Practice has been nearly uniform, that the Power has been very sparingly exercised, and never from personal or Party Motives, and that in every case investigated it seems to have been directed by an earnest and faithful Desire to adopt that Course which appeared to be necessary, either to promote the Ends of Justice or to prevent a Disturbance of the public Tranquility, or otherwise to promote the best Interests of the Country."

The Committee of 1844 said that they left it to the legislature to determine whether the power should continue to exist, and it is interesting to note that the power has continued to exist without any interruption and has continued to be recognised by the statutes.

139. We have set out in paragraphs 57 et seq of our Report the procedure which is followed by the Secretary of State before the issue of any warrant and we have been very much influenced in our conclusions by the nature of that procedure. In the light of evidence given before us we are satisfied that if the practice of issuing warrants is to continue for the purposes we have specified, apart from the suggestions we make in the body of our Report, no further safeguards are needed to see that the power is properly and wisely executed; for in our opinion the best possible safeguard lies in the final responsibility of the Secretary of State. All the Secretaries of State for the Home Department who have held office since the beginning of the war were of the same opinion that the power to intercept communications should still be permitted under the conditions and safeguards which have existed in the past; further that they were all of opinion from their very intimate knowledge of the procedure that there had been no case where the liberty of the subject had been invaded to his detriment. This very powerful testimony seemed to us of the highest importance. It is true that they were all men who had exercised authority in the highest positions of the State, and who were naturally concerned with the efficiency of methods of government, but just as the Secret Committee of the House of Lords of 1844 were impressed by the witnesses who had held high office, we too in our turn, were impressed
by this unanimity of opinion. The Secret Committee of the House of Lords of 1844 reported “it is the concurrent Opinion of Witnesses who have held high Office, and who may be most competent to form a sound Judgment, that they would reluctantly see this Power abolished . . .” We repeat this sentence as representing the views of the Secretaries of State who have been good enough to give evidence before us.

140. The Secret Committee of the House of Lords of 1844 also reported —and we think that their finding is applicable to present conditions—

“They think that the Responsibility will be more effective when resting upon the Individuals who are mainly charged with the Preservation of Peace and the Prevention of Crime in this Country than if it were divided with others . . .”

We considered whether it would be an advantage to require all applications to the Secretary of State for the issue of his warrant to be made on oath but when it is remembered that the applications from the Security Service and the Police are made only after the rigorous examinations we have described in Part II of our Report, and that the applications, when made, are made only by the very highest officials of the two Departments, we do not feel that any additional security or advantage is to be gained by requiring the applications to be made on oath though Mr. Gordon Walker is of a contrary opinion as his Note discloses.

141. In the first great field where the power has been and is exercised—that of national security—we feel no doubt at all in recommending that the powers of interception should continue to be used subject to the conditions and safeguards which we have set out at length in Part II and in the summary of conclusions. The Security Service is part of the defence system of the country, and its supreme task is the defence of the Realm, and this necessarily involves protection from espionage, from sabotage, and indeed from every kind of action that threatens the security of the State. It is upon the security of the State that the citizens rely for the enjoyment of their freedom, and it would be folly to hamper or hinder the Security Service by withdrawing essential powers from them unless the necessity to do so were quite overwhelming. It is important to note that it is no general power that is exercised, but one limited expressly to the cases where there is reasonable cause to believe that subversive activities are already being carried on. We are quite satisfied that the problems of national security are such that no reasonable weapon should be taken from the hands of those whose duty it is to watch over all subversive activities in the safeguarding of British interests. We are further satisfied, from the evidence before us, that the methods of interception hitherto employed are necessary, and have been productive of important results which could not have been obtained in any other way.

142. We now consider the exercise of the power by the Secretary of State in cases of serious crime, which is the second great field of activity. The detection and suppression of crime is essential to the good government of any society, but it is not so fundamental as the security of the State itself. Other methods are available for the detection of crime, and, even if some criminals do escape detection, the injury to the State cannot compare with the kind of injury the Security Service seeks to prevent. If, therefore, it could be shown that this method of intercepting communications, either by letter or by telegram or by telephone conversation, affected the law-abiding citizen to his detriment, even though the power was being exercised to prevent and detect crime, we should have hesitated to recommend that the power of interception should continue to be exercised for this purpose. But so far from the citizen being injured by the exercise of the power in the circumstances we have set
out, we think the citizen benefits therefrom. The adjustment between the
rights of the individual and the rights of the community must depend upon
the needs and conditions which exist at any given moment, and we do not
think that there is any real conflict between the rights of the individual citizen
and the exercise of this power to intercept by the Secretary of State in the
limited circumstances which we have set out in Part II of this Report. The
issue of warrants by the Secretary of State in these well-defined circumstances
is exercised with the avowed intention of detecting and preventing crime, and
of thus securing those conditions which will permit the freedom of the
individual to be unimpeded, and make his liberty an effective, as distinct
from a nominal, liberty.

143. It is to be noted that no warrant is even applied for unless a crime
of a serious nature has been committed and is actually under investigation,
and other methods of investigation have either been tried and have failed, or
must from the nature of the case be unlikely to succeed if they were tried;
so that there is no likelihood of the ordinary law-abiding citizen being affected
to his detriment by this procedure. The evidence before us showed that the
Police do not seek to use methods of interception save in the very special
cases of serious crimes to which they are specially applicable and which in
practice have proved most useful and efficacious. The nature of the serious
crime was disclosed to us, and specific instances of serious crimes were given.
These crimes were described as “those organised and carried out by pro-
fessional criminals who want to make a great deal of money and would not
think of making it in any other way than by crime, at the expense of their
fellow citizens.”

144. We cannot think it to be wise or prudent or necessary to take away
from the Police any weapon or to weaken any power they now possess in their
fight against organised crime of this character. The Police ought not to be
handicapped in their efforts to prevent or to detect crime, whilst the criminal
is allowed to use every modern method to achieve his purpose. If it be said
that the number of cases where methods of interception are used is small,
and that an objectionable method could therefore well be abolished, we feel
that though the number of cases may be small this is not a reason why
criminals in this particular class of crime should be encouraged by the
knowledge that they have nothing to fear from methods of interception. We
therefore think that no useful purpose would be served by recommending
that the power of interception be no longer exercised in the detection and
prevention of crime, for it would remove from the hands of the Police a
weapon which they have found to be effective when all other methods have
been unavailing, and would announce to potential wrong-doers that they have
nothing to fear from the Police in this particular respect. This, in our opinion,
so far from strengthening the liberty of the ordinary citizen, might very well
have the opposite effect.

145. The Secret Committee of the House of Commons reporting in 1844
said on this point “It must also be remembered that if such a power as this
were formally abolished, the question would not be left quite in the same
condition as though the power had never been exercised or disputed; by
withdrawing it, every criminal and conspirator against the public peace would
be publicly assured that he could enjoy secure possession of the easiest,
cheapest, and most unobserved channel of communication, and that the
Secretary of State would not under any circumstances interfere with his
correspondence. It must not be forgotten, however, that at present other
rapid means of communicating their views are of easy access to the evil
intentioned, and that, as far as internal order is concerned, the same rapid
means afford the Government unexampled facilities for suppressing tumult.”
146. The foregoing observations are intended to apply to all the activities of the Police as we have set them out, and also to the activities of the officials of the Board of Customs and Excise.

147. It is important to remember at all times that the power to open letters has been exercised in this country for many hundreds of years, and that power has been the subject of debate in Parliament on several occasions.

148. We have referred to the year 1844, when the two Secret Committees were set up, but long before that date the practice of intercepting letters had been exercised and had been made publicly known. The details are fully set out in the Report of the Secret Committee of the House of Commons in 1844. The Reports of the Secret Committees of both Houses of Parliament in 1844 contain a wealth of historical information which we have found to be of the greatest service to us in our work. The Report of the Committee of the House of Commons is particularly valuable for the documents which are set out in full, for the extracts from the Lords and Commons Journals, from the Reports of the Council of State and for the references to the State Trials, and other sources of information. We do not think it necessary to produce much of this material in our Report but it is available for reference. In 1735, a complaint being made in the House of Commons by certain of the Members that their letters had been opened and read by the clerks of the Post Office on the pretence of ascertaining whether or not the franks of those Members were counterfeit, the matter was referred to the consideration of a Committee to make a Report to the House, and upon the Committee doing so the House passed the Resolution, which we have set out in paragraph 124 of Part II of this Report, which recognised the authority of the Secretary of State to issue warrants to intercept communications.

149. Parliament therefore with the knowledge of the method of intercepting letters had permitted it to continue for this great length of time and there has been no view so far as we know adverse to the method expressed in the Courts of law. On the contrary letters so detained and opened have been used, though rarely, in cases coming before the Courts. In the years 1722–3 in the course of the proceedings on passing the Bills of Pains and Penalties against Atterbury, the Bishop of Rochester, and his two associates, Kelly and Plunket, the principal evidence adduced against the parties accused was that of Post Office clerks and others who, in obedience to warrants from the Secretary of State had detained, opened, copied and deciphered letters to or from those parties. In the Committee on the Bill against the Bishop in the House of Lords the clause of the Statute of Anne was referred to and commented on by the Bishop's Counsel, Mr. Wynne—State Trials, Vol. 16, page 544, and doubt was raised whether the copying of a letter was sanctioned by the Act of Anne; but in no one of these three cases was any question raised as to the legality of the warrants. In the year 1758, Dr. Hensey, a physician, was tried on a charge of high treason, being accused of treasonable correspondence with the enemy. The principal evidence on which he was convicted was that of a letter carrier and a Post Office clerk, the latter of whom had opened Dr. Hensey's letters and delivered them to the Secretary of State. In the trial of Horne Tooke for High Treason in 1795, State Trials Vol. 25, a letter written to Horne Tooke by the printer was intercepted at the Post Office and was stated by Horne Tooke to be the immediate occasion of his apprehension. On his requiring its production, it was produced in Court by the Crown Officers and was given in evidence. In 1923 at the trial before Mr. Justice Swift of Art O'Brien and others for seditious conspiracy, a number of original letters intercepted in the post were produced.
In his summing up to the jury the learned judge said, "it was no doubt a matter of surprise to the jury to learn of the mass of correspondence passing between London and Dublin and of relief to know that the authorities in this country were not so blind or stupid as they were sometimes thought to be and that they knew a little more of what was going on than those who did these things either suspected or imagined. . . . It is well for this country that there is an organisation—when it is suspected that a crime is about to be perpetrated—which has a means of watching the suspected persons."

150. We feel that to announce the abandonment of this power now would be a concession to those who are desirous of breaking the law in one form or another, with no advantage to the ordinary citizen or to the community in general. If the Police were to be deprived of the power to tap telephone wires in cases of serious crime, the criminal class would be given the use of the elaborate system set up by the State and use it to conspire and plot for criminal purposes to the great injury of the law-abiding citizen. The telephone could then be used with impunity to arrange the last-minute details, for example, of a mail van robbery, a theft on an organised scale, an assault with robbery on a citizen, or indeed any form of crime. In the large centres of population like London it would be an immensely powerful aid to criminal conspiracies of every kind if it were made known that the power to intercept telephone communications had been prohibited, and it would permit the telephone system to be used without hindrance by the criminal classes and aid them in their criminal enterprises without any advantage either to the individual or to the State. Thus, in the view we take, if the power of intercepting telephone conversations were to be taken away from the Police, the law-abiding citizen would get nothing in return, and might indeed suffer the greatest loss.

151. Two objections can be dealt with shortly. If it should be said that at least the citizen would have the assurance that his own telephone would not be tapped, this would be of little comfort to him, because if the powers of the Police are allowed to be exercised in the future, as they have been in the past under the safeguards we have set out, the telephone of the ordinary law-abiding citizen would be quite immune, as it always has been. Secondly, if it is said that when the telephone wires of a suspected criminal are tapped all messages to him, innocent or otherwise, are necessarily intercepted too, it should be remembered that this is really no hardship at all to the innocent citizen. The information so obtained goes only to the Police and, until the recent case affecting Mr. Marrinan, had never been disclosed to any outside person and had always been destroyed. This cannot properly be described as an interference with liberty; it is an inevitable consequence of tapping the telephone of the criminal; but it has no harmful results, and the testimony of the Secretaries of State who have given evidence before us confirms this view. The citizen must endure this inevitable consequence in order that the main purpose of detecting and preventing crime should be achieved. We cannot think, in any event, that the fact that innocent messages may be intercepted is any ground for depriving the Police of a very powerful weapon in their fight against crime and criminals. No single ground of complaint under this head has been made known to us, and we feel the question we are asked to answer should be answered in the light of practical reality, rather than in imagined or fanciful circumstances. To abandon the power now would be a concession to those who are desirous of breaking the law in one form or another, without any advantage to the community whatever.

* The Times Newspaper, 5th July, 1923.
152. With regard to the use to be made of the information discovered; we feel that that should be confined to the authority empowered by the warrant to discover it, and it should not be disclosed to private persons or to private bodies. It should be recognised that this is a very great and responsible power confided to the executive exclusively for State purposes, and we feel that it should be so confined. We are told that in practice the Home Office insists that the power should be exercised for the purpose of detection only, primarily on the ground that the use of the information so obtained, if used in Court, would make the practice widely known and thus destroy its efficacy in some degree. But we do not feel for ourselves that we need argue the wisdom or otherwise of this practice, although we see no reason why in a proper case the evidence should not be tendered, for when the occasion arises the admissibility of the evidence will be decided by a Court before whom the evidence is tendered, and the history of the law of evidence is proof enough of the immense care that is taken in the administration of justice to see that the evidence submitted both in civil and criminal cases is evidence that it is proper to admit in all the circumstances of the case. It should be noted that the limitations which have been placed by the Courts and by the judges upon the powers of the Police have at all times been for the protection of the citizen, and the important question has always been the quality of the evidence in the proceedings actually before the Court, and how far that evidence tends to serve the true purpose of justice. We think, therefore, that the practice of applying for the warrants of the Secretary of State in the special circumstances we have set out, and the procedure under which such warrants are granted, should be permitted to continue, but that there should be no relaxation of the rigid conditions and safeguards which have proved of such value in practice, and that there should be no extension of these powers beyond those we have so carefully defined.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

153. We consider that the decision of the then Secretary of State to make transcripts of intercepted telephone conversations available to the Bar Council and the Benchers of Lincoln’s Inn was a mistaken decision. (Paragraph 99.)

154. We recommend that in no circumstances should material obtained by interception be made available to any body or person whatever outside the public service. (Paragraphs 100 and 101.)

155. We are satisfied that Secretaries of State and all the officials concerned have taken, and continue to take, scrupulous care to ensure the strict observance of the purposes to which it is intended by the Home Office that the interception of communications should be directed and confined. (Paragraph 90.)

156. We are satisfied that interception is highly selective and that it is used only where there is good reason to believe that a serious offence or security interest is involved. (Paragraphs 64–70.)

157. We are satisfied that only the minimum number of people have access to intercepted material either in its original or in its selected form and that this number is very small. (Paragraphs 115–118.)

158. We are satisfied that interception has proved effective in the detection of major crimes, customs frauds and dangers to the security of the State. (Paragraphs 107–113.)
159. We recommend that there should be a regular review of outstanding warrants not less than once a month both by the Home Office and by every authority that is granted a warrant to intercept. (Paragraph 74.)

160. We recommend that warrants should no longer be valid until they are cancelled, but that their validity should be for a defined period that appears on their face. (Paragraph 75.)

161. We recommend that the cancellation of a warrant by the authority to whom it was issued should be forthwith reported to the Home Office. (Paragraph 76.)

162. We recommend that in future each warrant issued by the Secretary of State should specify the particulars that we have set out. (Paragraph 56.)

163. We recommend that full records showing the details we have set out should be kept in the Home Office in each case of interception. (Paragraph 84.)

164. We recommend that the power to intercept letters at the request of the sender should continue to be exercised in cases where a clear public interest is involved. (Paragraphs 87–89.)

165. It would be against the public interest for the Secretary of State to give figures of the extent of the interception in communications, for the reasons set out. (Paragraphs 119–121.)

166. So far as we can determine, a Member of Parliament is in exactly the same position as any private citizen in regard to the interception of his communications unless those communications were held to be connected with a proceeding in Parliament. (Paragraphs 124–128.)

167. It is for Parliament to consider whether legislation should be introduced to make the unauthorised tapping of a telephone line an offence. (Paragraphs 129–131.)

168. We recommend that the powers of interception should continue to be used subject to the conditions and safeguards we have set out in Part III and in this summary of conclusions, but that there should be no extension beyond those we have so carefully defined. (Paragraphs 139–152.) Mr. Gordon Walker has reservations on this recommendation—as set out below.

169. We cannot conclude without placing on record our recognition of the very efficient work of our Secretary, Mr. G. A. Peacock. This is no conventional acknowledgment. We are conscious that we laid on him a very heavy burden of work, which he has discharged with great ability. In particular, his assistance in compiling the statistics and checking all questions of fact has been quite invaluable, and his help at every stage of the work has greatly assisted us in our task.

NORMAN BIRKETT.
MONCKTON OF BRENCHLEY.
P. C. GORDON WALKER.

G. A. PEACOCK,
Secretary.
18th September, 1957.
RESERVATION BY MR. P. C. GORDON WALKER

170. Whereas I concur in the other main conclusions and recommendations in our Report, I regret that I cannot wholly agree with my colleagues in their conclusion that the present use of the power to intercept communications should continue unchanged. In my view the purposes for which warrants are issued should in future be judged by new and stricter standards, particularly in regard to the detection of crime: with the effect that interception would practically cease to be used for this purpose.

171. I feel that this would be in closer accord with our general ideas in this country about the methods that we permit the Police to use and with the state of public opinion concerning the interception of communications. We are proud in Britain that our rules of evidence are more favourable to the accused than in some other countries, and that an innocent man should not be wrongly convicted, although this may result in some guilty persons escaping punishment. Although the Police may put any question to an arrested or suspected person, the Judges' Rules prescribe and limit the answers that the Police may tender as evidence.

172. The reason why we enforce such high standards and tie the hands of the Police in certain respects is that this aids the enforcement of law and order; for the methods used by the Police must carry public support. In my opinion public concern about telephone tapping is such that if the interception of communications for the detection of crime continues as in the past there may be some danger of a weakening of the popular approval without which the Police cannot in the long run carry on effectively.

173. A restriction of the purposes for which the interception of communications is used in the detection of crime would be in accord with the general trend of policy since the war. One of the factors determining the evolution of policy in regard to the interception of communications has been the state of public opinion towards the exercise of this power. As we record in our Report, the interception of letters to prevent the transmission of illegal lottery material was abandoned in November 1953; shortly afterwards the interception of letters believed to contain obscene matter was similarly discontinued. In my view the interception of communications should never have been used for either of these purposes; neither of the illegal actions aimed at can be regarded as a crime serious enough to justify the exercise by the State of so great and exceptional a power. One of the reasons for the abandonment of interception in these two cases was (we were told) a change in public opinion towards the offence in question and a growing reluctance to use interception for the purpose in question. (See paragraph 59.) In 1951 the Home Office in letters to the Metropolitan Police and Customs laid down more stringent and precise conditions governing the grant of warrants. (Paragraph 64.)

174. Public repugnance to the interception of communications has, it seems to me, increased and there should therefore be a further restriction upon the use of this power for the purposes of the detection of crime. In future the interception of communications should, in my submission, no longer be regarded as an admissible method of detection in what may be called ordinary cases of crime, even when these are "serious" as this term has been defined by the Home Office; but should be authorised only when the Secretary of State is satisfied that there is the most extreme and urgent reason. The sort of rare and exceptional case I have in mind is that a dangerous criminal or lunatic is at large who is likely to commit violence
or murder and the interception of communications may provide the best or
only means of his speedy recapture; or that a highly organised and dangerous
gang is committing violence and cannot be broken up by other means of
detection. The application of these new and much stricter standards of
judgment by the Secretary of State should, I suggest, be such that the
interception of communications for the detection of crime would in practice
cease to be used for long periods of time. It would be a power held in
reserve for unusual and extraordinary cases of the utmost urgency, in which
there could be no doubt that the use of the power would carry overwhelming
public support.

175. There would, of course, be a price to pay if my recommendation
were adopted. It would bring comfort to some criminals and smugglers. The
price can, however, be exaggerated. It is true, as we make clear in
paragraph 112 of our Report, that methods of interception are used only
in a small number of serious cases. Nevertheless the proportion that the
number of arrests or convictions obtained by interception bears to the total
of arrests or convictions seems to me significant. I have taken out figures
for certain recent years. The number of detections of offenders secured
through interception by the Customs was 0.7 per cent. of the total number
of convictions for offences against customs regulations. The number of
arrests made by the Metropolitan Police as the result of interceptions was
0.13 per cent. of the total number of arrests for indictable offences. These
figures seem to me to suggest that, even if the interception of communications
for the detection of crime were practically brought to an end, there would
be no catastrophic increase in the amount of crime that might in consequence
escape detection. Moreover, it is scarcely to be doubted that most of the
offenders would be caught, if not so promptly, by normal means of detection.
It must also be taken into account that the danger would be reduced that the
public repugnance to telephone tapping may weaken popular support and
approval of the methods used by the Police.

176. A distinction must in my view be drawn between the interception
of communications for the detection of crime and for security purposes. As
my colleagues point out, “even if some criminals do escape justice the injury
to the State cannot compare with the kind of injury the Security Service
seeks to prevent.” A far larger proportion of the information that the
Security Service must discover is obtained by interception of communication
than in the case of the Police or the Customs. A great deal of this vital
information could be discovered by no other means. There cannot, therefore,
in my view be the same sharp restriction of the use of the interception of
communications by the Security Service as I recommend in regard to the
use of this power for the detection of crime.

177. Even in the field of security the strictest possible limits should be
set to the use of the power to intercept communications. It should in my
view be allowed for two purposes only:—

(1) direct counter-espionage and protection of high secrets of State;
(2) the prevention of the employment of Fascists or Communists in
connection with work, the nature of which is vital to the State.

It is fair to state that these are the two purposes for which the Security Service
at present mainly intercepts communications.

178. In addition to the detailed suggestions and recommendations
contained in our report, I would like to propose that no warrant to authorise
the interception of communications should be issued by the Secretary of
State save on a sworn information or affidavit. This would impart an element of formality and precision that seems to me appropriate to the exercise of so great and exceptional a power.

179. I also propose that no material obtained by the interception of communications should be used by the Crown as evidence in any Court of Law or in any Inquiry in the public service. This seems to me to accord with public feeling about the use of evidence that is necessarily obtained by furtive means and normally consists only of selected extracts from the communications that have been intercepted.

P. C. GORDON WALKER.
### APPENDIX I

#### TABLE I

**Number of Interceptions Authorised by the Secretary of State**

<table>
<thead>
<tr>
<th>Year</th>
<th>Police, Customs, Post Office and Security</th>
<th>Drugs, Lotteries and Obscene Publications</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Telephone</td>
<td>Letters</td>
<td>Telephone</td>
</tr>
<tr>
<td>1937</td>
<td>17</td>
<td>335</td>
<td>—</td>
</tr>
<tr>
<td>1938</td>
<td>20</td>
<td>422</td>
<td>—</td>
</tr>
<tr>
<td>1939</td>
<td>29</td>
<td>643</td>
<td>—</td>
</tr>
<tr>
<td>1940</td>
<td>125</td>
<td>1,192</td>
<td>—</td>
</tr>
<tr>
<td>1941</td>
<td>180</td>
<td>833</td>
<td>—</td>
</tr>
<tr>
<td>1942</td>
<td>164</td>
<td>512</td>
<td>—</td>
</tr>
<tr>
<td>1943</td>
<td>126</td>
<td>327</td>
<td>—</td>
</tr>
<tr>
<td>1944</td>
<td>102</td>
<td>213</td>
<td>—</td>
</tr>
<tr>
<td>1945</td>
<td>56</td>
<td>90</td>
<td>—</td>
</tr>
<tr>
<td>1946</td>
<td>73</td>
<td>139</td>
<td>—</td>
</tr>
<tr>
<td>1947</td>
<td>110</td>
<td>162</td>
<td>—</td>
</tr>
<tr>
<td>1948</td>
<td>103</td>
<td>156</td>
<td>—</td>
</tr>
<tr>
<td>1949</td>
<td>133</td>
<td>183</td>
<td>—</td>
</tr>
<tr>
<td>1950</td>
<td>179</td>
<td>232</td>
<td>—</td>
</tr>
<tr>
<td>1951</td>
<td>177</td>
<td>261</td>
<td>—</td>
</tr>
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<td>1952</td>
<td>173</td>
<td>237</td>
<td>—</td>
</tr>
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<td>202</td>
<td>240</td>
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</tr>
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<td>222</td>
<td>223</td>
<td>—</td>
</tr>
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<td>1955</td>
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<td>205</td>
<td>10</td>
</tr>
<tr>
<td>1956</td>
<td>159</td>
<td>183</td>
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</tr>
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</table>
## APPENDIX I

### TABLE II

**Interceptions in Scotland, 1946 to 1956**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
<th>Applicant</th>
</tr>
</thead>
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<tr>
<td></td>
<td></td>
<td><strong>Letters</strong></td>
</tr>
<tr>
<td>1947</td>
<td>22</td>
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<tr>
<td>1948</td>
<td>9</td>
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</tr>
<tr>
<td>1951</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>1952</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Scottish Home Department</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1952</td>
<td>1</td>
<td><strong>Telegrams</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Crown Office</td>
</tr>
<tr>
<td>1946</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>1949</td>
<td>1</td>
<td>Police</td>
</tr>
<tr>
<td>1955</td>
<td>1</td>
<td>Customs and Excise</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX II

AUTHORITIES THAT INTERCEPTED COMMUNICATIONS BETWEEN 1937 AND 1956

1. The Ministry of Food was granted, between 1941 and 1944, warrants to intercept thirty-one telephone lines and five warrants to intercept letters.

2. The Treasury was, in 1939, granted a warrant to tap one telephone line.

3. One warrant was issued in 1952 to the Crown Office in Scotland to intercept telegrams in connection with a case of culpable homicide.

4. The Investigation Branch of the Post Office has on a relatively small number of occasions been granted warrants in connection with the detection of such crimes as large-scale mail-van robberies and persistent attacks on safes on Post Office premises.

5. The Port of London Authority Police was granted in 1952 one warrant to tap two telephone lines.

6. Chief Constables were granted warrants to tap fourteen telephone lines and six warrants for the interception of letters.

7. At the request of the Director of Public Prosecutions a warrant was issued in 1937 for the interception of letters. In the following year a particular letter and telegram were intercepted at the request of a Chief Constable so that they could be shown to the Director of Public Prosecutions.

8. In 1944 a warrant was issued to the City of London Police for the interception of letters.

9. There was one example of interception in 1944 which it is not easy to classify. One of Her Majesty's Judges of Assize made an order instructing the Post Office to pass to the Police the correspondence of a woman convicted of false pretences. The Secretary of State issued a warrant to regularise the matter.

10. The Home Office (for dangerous drugs, lotteries and obscene publications).

11. The Metropolitan Police.

12. The Board of Customs and Excise.


14. The Scottish Home Department for lotteries only.
Cabinet

Federation of Rhodesia and Nyasaland

Memorandum by the Secretary of State for Commonwealth Relations

I attach for the information of my colleagues a report on my recent visit to the Federation of Rhodesia and Nyasaland.

Commonwealth Relations Office,
S. W. 1.

24th October, 1957.
REPORT BY THE SECRETARY OF STATE FOR COMMONWEALTH RELATIONS ON HIS VISIT TO THE FEDERATION OF RHODESIA AND NYASALAND IN OCTOBER, 1957

Since Federation was established in 1953, the economic progress in the three territories has been spectacular. The expansion of Salisbury, where the European population in 1951 was 40,000 and in 1956 was 62,000, is equalled in most of the larger towns and everywhere boom conditions prevail. No doubt much development would have taken place without Federation, but a great and well-founded surge of confidence followed the Act, capital was attracted on a large scale, and industrial expansion was and remains rapid.

2. With cheap power from Kariba which will be available for the Copperbelt in 1960, with African labour abundant and inexpensive, with copper (even at its present reduced price) a major revenue earner, with an expanding steel production based on accessible ore, with a variety of other minerals, including large coal reserves and improving tobacco and agricultural production, the future prosperity of the Federation seems secure.

3. Though, with external capital in short supply and reductions in the revenue from copper, the present pace of development can scarcely be maintained, it should nevertheless continue steadily.

4. Nyasaland is the weakest partner and it is there that the economic advantages of Federation can most clearly be seen. The average annual net inflow of capital into the Protectorate has increased since before Federation from about £2½ million to over £2½ millions, and the average annual earnings of Africans employed in Nyasaland have increased by 44 per cent since Federation, compared with an increase of 32 per cent for the whole Federal area. In general the economic case for Federation is unchallengeable. The economy is expanding and the African is getting a fair share of the benefits. Considering his lack of knowledge and capacity ten years ago, industry is certainly providing the African with a land of opportunity.

5. Politically there is heavier weather ahead. The Africans in the three Territories combined outnumber the Europeans by 30 to 1, while the Europeans hold all the wealth and all the political power. In the future development of the country each is indispensable to the other but each is afraid of the "partnership" which is declared to be the social and political goal of Federation.

6. The African fears that the European will use his experience, wealth and privilege to maintain power for ever and to exclude him from political responsibility. The European fears that, if the African is admitted to political influence, he will use his weight of numbers to oust the European from the country for which he has done everything and where he considers he lives as of right.
7. Among the Europeans there are a number who treat the African badly and dismiss the possibility that he could qualify for responsibility in any foreseeable future; among the Africans there are those who have caught the infection of racialism from overseas and are creating a tension between the races which is not yet serious but is noticeable and cannot be ignored. There is evidence that the colour bar is beginning to break down but it is very slow; most of the hotels, cinemas, barbers shops and buses bar Africans and Asians and as more Africans become educated these practices hurt increasingly and are resented.

8. Industry is breaking this kind of segregation and joint education will slowly do the same. Contact between the races will spread down from the University through the technical colleges and eventually through the secondary schools, but for the present the daily practice of the colour bar leads to open disbelief among the Africans that partnership will be a reality. It is a gift to the African National Congress politicians and makes it easier for them to represent that the European settlers, if left to their own devices, will convert the Federation into another South Africa. Among Europeans there is a conflict of view as to the pace at which Africans should be allowed to progress. There are those who think that the pace has lately been dangerously fast and who, if they would not call a halt, would proceed with extreme caution. They are represented by the Dominion Party (who are said to lean towards South Africa’s policy) and I think by a substantial majority of the Federal Party, including most of the Federal Ministers. They have in their support the incontrovertible argument that the African, who only fifty years ago was no more than a savage, is still, despite much progress, extremely backward. There are only a handful among the whole population up to a University degree standard and the rest are nowhere. There is a minority of Europeans which is probably becoming more influential, who believe that a 'go slow' will be fatal to the chances of winning African co-operation and who would take the deliberate risk of a more liberal policy. They claim that decisive liberal leadership would win the moderate African’s support for partnership and that now is the time. They argue in particular that the Federal Government could do more to give a lead, for example by breaking down barriers to the employment of Africans on the railways and in the higher Civil Service.

9. These conflicting views have come to the front in argument and debate about the Federal Government’s franchise proposals. I am circulating a separate paper (C.(57) 248) on this particular problem, but one thing is common to all proposals which have been put forward by any section of Europeans, "die-hard" or "liberal". All, by one device or another secure that the African can only exercise a minute influence in the Territorial Parliaments or in the Federal Parliament for many years ahead. Differences between Europeans are confined within very narrow margins of concessions and I doubt if the Africans are interested in the liberalising niceties which exercise the minds of the Europeans. They tend to see things in extremer terms and direct their minds to thoughts of adult suffrage and African majorities. The moderates realise that they cannot get such prizes yet but keep them as their ultimate objectives.

10. The African has no political organisation, unless Congress establishes itself. Congress is blatantly racial and therefore opposed to the Federal Government which it represents to the people as being
dominated by Europeans who, given half a chance, would impose the South African pattern upon them. For the moment it suits Congress in Nyasaland and Northern Rhodesia to have only one political target, but, should they ever overthrow Federation, they would certainly then turn their fire on the Government of the United Kingdom, as their goal is "Africa for the Africans". Congress is not at present making much progress, but it is organised in "action groups" and could be dangerous.

11. Political ambitions and fears are also focused upon 'Dominion Status' for the Federation. By and large the Europeans would like it, partly for reasons of prestige, partly because they genuinely feel they are adult enough to run the three Territories without the Colonial Office and British Government administering such a large slice of their affairs and partly because they specifically want to get direct control of the handling of African affairs. They argue that, so long as an African can appeal to a third party, he will never give his loyalty to the Federation. They also see Ghana completely independent within the Commonwealth and are impatient with the British Government for not pressing on with plans to give the Federation full Commonwealth status. It is a political rallying point for all sections of European opinion and will increasingly feature in election programmes and pledges.

12. On the other hand the prospect of Dominion status upsets the Africans and is causing much of their present apprehension. They believe, especially in the two Northern Territories, that it is a device that will allow a Federal Government, largely composed of Southern Rhodesian Europeans, to establish a South African system, with Dominion status. They argue that they will lose the protection of the British Government and receive in exchange "entrenched clauses" which will be ineffective. In the eyes of the Africans who are capable of thinking, and they are, of course, a tiny minority, this is the real political issue. They are therefore likely to be receptive to the propaganda of Congress.

13. There will be a row about the Federal Government's franchise proposals, and there may be an African boycott of what is known as the 'special roll' at the next elections, but this is a minor trouble compared to the hardening of opinion on both sides which would result from a decision of the Federal Government to go to the country on a platform of immediate Dominion status. I have no doubt that were we to turn down the Constitution Amendment Bill and the franchise proposals as not being liberal enough, the Federal Prime Minister would go to the country on a programme of a less liberal franchise, Dominion status in 1960, if not before, and of general defiance of the British Government. If that were the position, we should lose all along the line with deplorable consequences for European-African relations within the Federation and for United Kingdom and Federal co-operation in the future.

14. My conclusion on political tactics is that (a) we should try between now and 1960 to avoid any hardening of the position and in particular of European opinion against African advance; (The Federation is in a sense suffering from an overdose of politics which is extremely unsettling to both settler and African and it needs a period of quiet consolidation.) (b) we should co-operate with the Federal Government in selling Federation to the African who has never yet understood its advantages (this is particularly important in Northern Rhodesia and Nyasaland); and, (c), between now and 1960, when the next stage of Commonwealth advance is to
be settled by the five Governments in consultation, we should find ways and means of reconciling the Europeans' demand for full Commonwealth membership with the African's concern that his rights should be entrenched beyond the possibility of interference and abuse. It will be a major constitutional exercise, but if we can bring it off it will be the first real step towards partnership between the races and the acceptance of Federation in the hearts of its peoples.
CABINET

FEDERATION OF RHODESIA AND NYASALAND

MEMORANDUM BY THE SECRETARY OF STATE FOR COMMONWEALTH RELATIONS

The Federal Government wish to enlarge the Federal House which is at present undoubtedly too small. For this purpose they have passed a Bill amending the 1953 Constitution. They propose to follow it by a Franchise Bill which will cater for the election of the larger House. As these proposals will entail a debate in the House of Commons and possible controversy, I would like my colleagues to know the position and the course of action which the Colonial Secretary and I propose should be followed.

2. The 1953 Constitution (S.I. 1953 No. 1199) provided that the Federal Assembly should consist of—
   26 elected members.
   6 specially elected African members (two each from Southern Rhodesia, Northern Rhodesia and Nyasaland, though the two from Southern Rhodesia are in practice not “specially elected,” but “elected” on the common roll).
   3 European members with special responsibilities for African interests (one from each Territory).

The new plan, now embodied in the Constitution Amendment Act, is to increase the Assembly to 59 members, as follows:—
   44 elected members.
   8 elected African members (two each from Northern Rhodesia and Nyasaland and four from Southern Rhodesia).
   4 specially elected African members (two each from Northern Rhodesia and Nyasaland).
   3 European members with special responsibilities for African interests (one from each Territory).

These figures preserve the proportions between the ordinary (European) members on the one hand and the African members plus representatives of African interests on the other. They actually double the number of African members while only increasing the number of ordinary (European) members by two-thirds. The transfer of two Southern Rhodesian African members from the “specially elected” category to the “elected” category will enhance African participation in their election. The present two were elected on a common roll containing very few Africans. In future all four will be elected on the combined general and special rolls, which will include far more Africans.

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3. Action by the United Kingdom Government is necessary, because the 1953 Constitution provides a special procedure for constitutional amendments. A constitutional Bill requires a two-thirds majority in the Federal Assembly and has to be reserved for assent in this country. The Constitution also provides for a Standing Committee of the Federal Assembly, called the African Affairs Board, which has the duty of drawing attention to any Bill which is in their opinion a “differentiating measure,” i.e., which makes Africans liable to any conditions, restrictions or disabilities, disadvantageous to them, to which Europeans are not also made liable. For this purpose they may lay a report before the Assembly at any stage while the Bill is in the Assembly, and, if it is passed, they may ask for it to be reserved. If the African Affairs Board ask for a constitutional Bill to be reserved, it can only be assented to by Order in Council, which has to lie before both Houses of Parliament at Westminster for forty calendar days, during which it is subject to negative resolution.

4. There was in fact no objection to the Constitution Amendment Bill from the African Affairs Board until, during the second reading debate, the Federal Government, in reply to a question, made a statement about their proposals for the franchise on which the enlarged Assembly would be elected. These are briefly as follows.

5. Electors will be divided into two rolls. First, the ordinary roll. This will be open to Europeans and Africans and will elect the 44 ordinary members. The qualifications will be various combinations of income and education, the minimum being £300 income plus the Cambridge School Certificate. Secondly, the special roll, which, combined with the Ordinary Roll, will elect the 8 “elected” Africans. The qualifications for this are £150 income plus simple literacy, or £120 income plus two years secondary education. British Protected Persons, i.e., all Africans in the two Northern Territories, are made eligible for the vote for the first time, if otherwise qualified.

6. These new qualifications as I explain later are a substantial liberalisation on previous practice but there are two features which should be noted:

(a) There will for the time being be only a very small fraction of qualified Africans on the ordinary roll.

(b) In an attempt to get away from purely racial rolls the franchise proposals provide that the two rolls shall be combined for the election of the eight “elected Africans”: this will mean that in the aggregate vote for these eight constituencies combined there will, for the time being, be a European majority.

7. The African Affairs Board seized upon this last point and objected to the Constitution Amendment Bill as “differentiating” because it made such a franchise arrangement possible. Their actual objections were:

(1) although the proportion was maintained of African members plus members representing African interests, the increase in the numerical difference between these and the ordinary members was to the disadvantage of the Africans;

(2) racial representation ought to be “honest,” i.e., Africans ought to have the major say in electing African representatives.

8. The first objection is nonsense. The second cannot be said to be differentiating. Nothing whatever has been taken away from Africans which was granted them under the constitution. It is admitted that it is desirable to get away from purely racial rolls and the only question is what should the balance be between European and Africans for the purpose of electing the eight Africans. When they sent their objection, the African Affairs Board did not know how many Africans would be likely to qualify for the vote on the special roll. It is impossible to get accurate forecasts, but it seems likely that an African majority will qualify in Nyasaland in 1958 and in Northern Rhodesia by 1961, and that there will at once be a very large addition of qualified Africans in Southern Rhodesia. No one can be sure of these forecasts and no one can tell how many qualified Europeans or Africans, both of whom are apathetic, will apply for a vote, but on these estimates much of the case of the African Affairs Board disappears.
9. For nearly three weeks while I was in the Federation in October, I had exhaustive discussions with people representing all shades of opinion. As a result, I have no hesitation in recommending that we should advise the Royal Assent to the Constitution Amendment Bill and that we shall be on strong ground in arguing that this Bill, taken with the franchise proposals, not only is not differentiating but makes a liberal and substantial advance on the existing situation, for the following reasons:—

(1) The increase in the number of African members will give more Africans political experience: if the European members of the Federal House become more evenly divided between parties, the influence of the twelve African members would become increasingly important;

(2) British protected persons—the majority of the population of Northern Rhodesia and Nyasaland—will be eligible for the vote, for the first time;

(3) Africans, if qualified, will get a full value vote on the ordinary roll;

(4) The qualifications for the special roll (£120 income plus two years secondary education or £150 income plus literacy) will make substantial numbers of Africans eligible at once and will almost certainly mean African majorities in the two northern territories in the near future. In calculating income, the value of food and accommodation provided by employers is counted. The money wages required are therefore not unduly high. In any case African wages are rising steadily and educational facilities are expanding rapidly;

(5) The proposals envisage an extension of the common roll principle which should work in the long run towards the political partnership that is desired.

10. I must warn my colleagues that there may well be controversy both in the Federation and in Parliament here where the Socialists may take up the African Affairs Board case. I am sure we must take this risk. The alternative would be to turn down the Federal Government and force them to drop both bills. If we did that—and on the merits we have no case for doing so—the Prime Minister of the Federation, Sir Roy Welensky, would be bound to go to the country on a less liberal franchise, on Dominion status in 1960 and on general opposition to British interference in Federation affairs. He would be returned by a huge majority and the European attitude towards the African would have been hardened disastrously. Racial trouble would then be certain. It may be argued that Sir Roy Welensky has missed a chance to be more liberal, and that, if he had added a percentage of the lower qualified Africans to the ordinary roll, he would have attracted the support of moderate Africans. But that is a matter of political judgment: I pressed him and his Cabinet on it and they insisted that they could not carry their supporters if they suggested such a step. I propose therefore that we should proceed at once to table a draft Order in Council to assent to the Constitution Amendment Bill and that we should indicate in debate that the Franchise proposals in their present form are good. No such proposals are the final word but they are a notable advance for the African.

11. As I said at the beginning, the Colonial Secretary agrees with this course of action.

H.

Commonwealth Relations Office, S.W. 1,
24th October, 1957.
CABINET

THE QUEEN'S SPEECH ON THE OPENING OF PARLIAMENT

Note by the Secretary of State for the Home Department and Lord Privy Seal

I circulate a revised version of The Queen's Speech on the Opening of Parliament, which has been prepared by the Committee on The Queen's Speeches in the light of the recent Cabinet discussion (C.C.(57) 75th Conclusions, Minute 2).

Paragraphs 3 and 4 may need to be reconsidered after the Prime Minister's return from Washington.

R.A.B.

Home Office, S.W.1.

23rd October, 1957.
THE QUEEN'S SPEECH ON THE OPENING
OF PARLIAMENT

MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS

1. I look forward with great pleasure to the visit which I shall pay with My Dear Husband to the Netherlands.

2. Reference to visits by Heads of States

3. I and My Dear Husband have been most profoundly moved by our recent stay in Canada and our visit to the United States of America. The warmth of the welcome which greeted us wherever we went was spontaneous evidence of the bond of common sympathy which unites the peoples of the Commonwealth and the English speaking world. It will be the constant endeavour of My Government to foster this unity of sentiment and purpose among the free peoples, that they may be confirmed in their resolve to defend the right and to sustain those values on which our civilisation is founded.

4. To this end My Government will seek to strengthen the United Nations and will offer their wholehearted collaboration in engaging the expanding resources of the world in the service of progress, justice and peace. They will maintain their endeavours to achieve an agreement on disarmament, mindful that, at this momentous time, the advance of science into the unknown should be inspired by the hopes, and not retarded by the fears, of mankind.

5. In accordance with their belief in responsible self-government by free peoples My Ministers will continue to promote the economic and constitutional development of the territories overseas which are in their care. They will introduce legislation to give effect to certain recommendations of the Conference held in April, 1957 about the future Constitution of Singapore. They will endeavour, in agreement with the Government of Malta, to complete detailed plans for the closer association of Malta with the United Kingdom. They will continue to seek a just and enduring solution to the problems of Cyprus, in conformity both with the interests of the local communities and with those of this country and our Allies.

MEMBERS OF THE HOUSE OF COMMONS

6. Estimates for the public services will be laid before you in due course.

MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS

7. My Ministers are resolved to take all steps necessary to maintain the value of our money, to preserve the economic basis of full employment by restraining inflation, to strengthen our balance of payments and to fortify our reserves, upon which depends the strength of sterling and hence the strength of the sterling area as a whole.
8. My Government welcome the recommendation, made by the recent meeting of Commonwealth Finance Ministers in Canada, that a Commonwealth Trade and Economic Conference should be held in 1958. They consider that this would provide a valuable opportunity to reinforce still further the economic ties between the members of the Commonwealth. My Government also welcome the recent declaration by the Council of the Organisation for European Economic Co-operation of their determination to promote the establishment of a European Free Trade Area. It is the firm purpose of My Ministers to seek to bring these negotiations to a successful conclusion, and so to strengthen the resources of the free world.

9. A Bill will be introduced to revise and codify existing legislation relating to import duties.

10. My Ministers will continue to give support to agriculture and fishing. Legislation will be introduced to amend certain provisions of the Agriculture and Agricultural Holdings Acts and to improve agricultural drainage in Scotland. My Government have completed a comprehensive review of the emergency powers relating to land. They will propose the repeal of certain of these powers and their replacement, so far as necessary, by statutory provisions.

11. A measure will be laid before you to establish a Conservancy Authority for Milford Haven to regulate the increased maritime traffic which should result from the projected development of this important harbour.

12. My Ministers will seek to promote the progressive reform of the institutions of government in this country, to enlarge the opportunities for public service and to foster the sense of shared responsibility for the efficient discharge of the manifold functions of government on which depend the well-being and security of us all.

13. You will be invited to approve a measure to permit the creation of life Peerages for men and women, carrying the right to sit and vote in the House of Lords.

14. Legislation will be laid before you to establish machinery for the reorganisation of local government in England and Wales. This measure will also make adjustments in the rating system and in the system of Exchequer grants to local authorities. Separate legislation will be introduced for these two purposes in Scotland.

15. My Government have considered with care the report of the Committee on Administrative Tribunals and Enquiries and will promote legislation to give effect to certain of the recommendations of that Committee.

16. My Ministers will be concerned to promote the social welfare of My people. A Bill will be introduced to improve the arrangements for the industrial rehabilitation and resettlement of disabled persons. War pensions will be increased; legislation will be introduced to authorise increases in retirement and other benefits, and in contributions, under the National Insurance scheme; and my Government will
continue to study the wider problems of provision for old age. They will also introduce legislation amending the law relating to the adoption of children and providing for the supervision of those who take children into their care for payment. They will continue to pay particular attention to penal reform and the treatment of offenders, and they will develop improvements in the prison system in the light of an imaginative programme of research.

17. Other measures will be laid before you in due course.

MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS

18. Three weeks ago I opened the Parliament of Canada. To-day, I open Parliament at Westminster, where our forefathers, many centuries ago, laid the first foundations of those institutions of Parliamentary democracy which peoples throughout the world have adopted as the guardian of their rights, their liberties and their hopes. From the New World I have brought a message of firm fellowship and the assurance of a common faith. Bearing in My heart the inspiration of that message, I pray that the blessing of Almighty God may rest upon your counsels.
THE QUEEN'S SPEECH ON THE PROROGATION OF PARLIAMENT

NOTE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT AND THE LORD PRIVY SEAL

I circulate, for the information of the Cabinet, the final draft of The Queen's Speech on the Prorogation of Parliament, amended in the light of the Cabinet's recent discussion (C.C. (57) 75th Conclusions, Minute 2).

R. A. B.

Home Office, S.W. 1,
25th October, 1957.
SPEECH ON THE PROROGATION OF PARLIAMENT

My Lords and Members of the House of Commons

A few days ago I returned to London with My Dear Husband on the conclusion of a short stay in Canada and a visit to the United States. It was a great joy to Me to have this opportunity to see again My People in Canada, to open the Canadian Parliament and to renew My personal experience of that great and developing Commonwealth country. I was also very happy to pay, at President Eisenhower's invitation, a second visit to the United States, and to meet members of the United States Government, Congress and the Supreme Court. Everywhere I received a most warm and friendly welcome. My visit has further convinced Me that the ties which bind our peoples are strong and enduring.

2. I shall always retain the happiest recollections of the visits which I paid with My Dear Husband to France, Portugal and Denmark, and the moving reception extended to us by the peoples of those countries.

3. My Dear Husband and I were deeply grieved at the death of King Haakon the Seventh of Norway, who held a special place in the hearts of My People. Our sympathy goes out to the members of His family and to the whole Norwegian people.

4. I recall with pleasure the reception accorded to Me and My Husband by the Secretary-General and by the General Assembly of the United Nations in the course of My visit to New York this month. My Government have continued to co-operate in the work of the Disarmament Commission of the United Nations and have joined in putting forward practical proposals for an international agreement on conventional and nuclear disarmament.

5. My Government have contributed to the continuing progress being made within the North Atlantic Treaty Organisation and Western European Union in strengthening the defence of the Atlantic Community and in broadening the scope of European co-operation. They have also continued to give their whole-hearted support to the South-East Asia Treaty Organisation and the Bagdad Pact. They welcome the decision of the United States Government to participate in the Military Committee of the Bagdad Pact, and have been much encouraged by the Joint Resolution of the United States Congress, designed to promote peace and stability in the Middle East.

6. After the cessation of hostilities between Israel and Egypt and the establishment of a United Nations force, United Kingdom Forces were withdrawn from the Suez Canal area. My Government have thereafter continued their efforts to bring about a just settlement of the dangerous situation in the Middle East.

7. In view of the long-standing ties of friendship between Muscat and Oman and the United Kingdom, My Government took prompt action in response to a request from the Sultan for armed assistance in quelling a rebellion in his dominions. There were no losses in action among the small number of United Kingdom troops engaged.

8. It gave Me great pleasure to meet the Prime Ministers and other representatives of Commonwealth countries in London at the end of June. Their meeting, at which they reviewed all the major international issues of the day which were of common concern to their countries, revealed a broad similarity of approach and purpose. They affirmed that in the interests of world peace and security they would continue to work for the wider adoption of the principle and practice of co-operation between nations, which is the foundation of their own association.

9. During the year Acts were passed as a result of which Ghana and the Federation of Malaya achieved independence within the Commonwealth. All Commonwealth Prime Ministers agreed to recognise them as fellow members of
the Commonwealth. I wish the peoples of Ghana and Malaya all happiness and prosperity; and I welcome their admission to the United Nations. I was much gratified at the cordial reception extended to My Dear Aunt, Her Royal Highness the Duchess of Kent, who represented Me at the celebrations in Ghana in March, and to My Dear Uncle, His Royal Highness the Duke of Gloucester, who represented Me in the Federation of Malaya in August.

10. My Government have entered into an Agreement with the Government of the Federation of Malaya whereby United Kingdom Forces may be stationed in Malaya to assist that country in her external defence and for the fulfilment of Commonwealth and international obligations. United Kingdom Forces, together with Forces from other Commonwealth countries, are also continuing to support the Army of the Federation of Malaya in the campaign against the terrorists.

11. The Nigeria Constitutional Conference, which was held in London in May and June, has led to the establishment, under the chairmanship of the Governor-General, of an All-Nigerian Council of Ministers with a Federal Prime Minister, and to the grant of Regional self-government in the Eastern and Western Regions. An Order in Council has been made providing for the establishment of the Federation of the British West Indies.

12. My Ministers have announced plans for reorganising My Armed Forces at home and overseas. Compensation terms and resettlement plans for those officers and men whose service will be prematurely terminated have been published. A new Naval Discipline Act has been passed.

13. My Government have approved a reorganisation and expansion of the information services overseas.

Members of the House of Commons

14. I thank you for the provision which you have made for the public services.

My Lords and Members of the House of Commons

15. My Government welcomed the opportunity, provided by the recent meeting of Commonwealth Finance Ministers in Canada, to exchange views with other members of the Commonwealth on problems of common economic concern.

16. Provision has been made for more effective long-term assurances to agriculture and for assistance towards the modernisation of farms in the United Kingdom. New provision has also been made for the development of the pig industry in Great Britain.

17. Legislation has been passed providing further assistance for the white fish and herring industries and for the modernisation of the fishing fleet.

18. An Act has been passed to amend the law of homicide and to limit the scope of capital punishment.

19. I have given My Assent to legislation to enable effect to be given to the four international conventions which provide for protection for the victims of war.

20. Legislation has been enacted amending the Rent Restrictions Acts and providing for a minimum period of notice for the termination of residential lettings. A measure has been passed to revise Scottish housing subsidies and to facilitate the movement of population from overcrowded areas in Scotland.

21. The law relating to rating and valuation in England and Wales has been amended.

22. An Act has been passed providing for the payment by all insured persons of a special weekly National Health Service contribution.

23. Provision has been made for reorganising the electricity supply industry in England and Wales.

24. A measure has been enacted permitting the imposition of countervailing and anti-dumping duties on goods imported into the United Kingdom.
25. An Act has been passed to impose a levy on exhibitors of cinematograph films, and to continue certain other provisions, to assist British film production.

26. I have assented to an Act to extend the right of redress for damage caused by subsidence resulting from coal mining.

27. Improvements have been made in the provisions for elderly and seriously disabled war pensioners.

My Lords and Members of the House of Commons

28. I pray that the blessing of Almighty God may attend you.