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CABINET

ADMINISTRATIVE TRIBUNALS AND ENQUIRIES

Memorandum by the Lord Chancellor

The Committee on Administrative Tribunals and Enquiries - the "Franks Committee" - reported on 15th July and their report will be debated in Parliament on 31st October. I need not recapitulate the considerations which led to the appointment of this enquiry in 1955, following the disputes over Crichel Down in the previous year. The Committee's terms of reference are attached at Annex B.

2. The Franks Committee addressed themselves to the formulation of principles which should underlie the constitution and working both of tribunals and of administrative procedures involving an enquiry or hearing, and they carried out an exhaustive survey of the operations of existing tribunals and the working of administrative procedures relating to land.

The Committee arrived at three basic principles - the principles of "openness, fairness and impartiality" - which, in their view, should mark the arrangements both for tribunals and for administrative procedures involving enquiry. They submitted a total of 95 recommendations formulated in the light of these principles; 33 of these recommendations are concerned with the constitution and procedures of tribunals in general; 32 recommendations are concerned with the functioning of individual, named, tribunals; and the remaining 30 relate to administrative procedures involving enquiry or hearing. Some of the main considerations of principle which guided the Franks Committee are given in quotation in Annex C.

3. In preparation for the forthcoming debate, a Committee of Ministers under my chairmanship have reviewed the Franks Committee Report for the immediate purpose of determining, in relatively general terms at this stage, the extent to which the Franks recommendations are acceptable and capable of application. (We have not applied ourselves, at this point, to the extent to which legislation will be necessary to give effect to the Franks proposals, or with the form and timing of any such legislation. A good many of the proposals, however, can be put into effect by administrative arrangement.)

4. The Franks Report is in general accordance with Conservative philosophy and principles, and it has been welcomed by our supporters. We have, therefore, been concerned to satisfy ourselves that as much as possible of the Report can be accepted. In doing so, we have given full weight to those considerations which must be more present in our minds as a Government than in the minds of any outside Committee.
First, the consideration that the Government must be able, in the last resort, to discharge their responsibilities effectively. The Ministry of Housing, for example, deal with about 6,000 appeals cases a year and any administrative procedure must be related to that basic fact, unless - by changes in policy - we take the alternative course of reducing the scope of the responsibilities falling on that Department. While the Franks Committee themselves recognised in principle the importance of achieving equilibrium between the needs of sound administration and the legitimate claims of the citizen, it is not unfair to infer that, as their enquiry proceeded, they became more preoccupied with the libertarian than with the administrative aspects of their problem. Virtually all their 95 recommendations extend the rights of the citizen and impose some additional burden on administration.

Second, the question of delay. The Franks Committee did not address themselves to the problems of striking a balance between perfection and expedition, and they themselves volunteered the view that their recommendations are unlikely to contribute towards the speedier despatch of business. In fact their recommendations must lengthen the time taken to reach decisions, and there can be little doubt that they suspected this. But the delay in settling cases is one of the two main subjects of public complaint, the other being compensation for land, with which the Franks enquiry was not concerned.

Third, the striking of a just balance between the claims of the citizen, and the claims of the community as a whole, in an era in which the nation must be equipped with the resources of a fully competitive economy.

5. Nevertheless, taking all these things into account, we are able to recommend, in purely numerical terms, that some 71 out of the 95 recommendations are either completely or broadly acceptable; 8 are acceptable to a lesser or minor degree and 12 must be reserved (in whole or in part) for further consideration. We propose that only 4 recommendations should be rejected outright. And, whenever we have felt unable to accept a recommendation, or have accepted it with considerable qualification, we have wherever possible aimed at devising some compromise proposal which would comply with the spirit of the Report.

6. I am circulating separately, for the information of my colleagues, our findings on each of the 95 recommendations. But the Cabinet will wish to be informed immediately of our conclusions on the minority of recommendations which might be regarded as fundamental or structural in character. These conclusions are set out in Annex A. Naturally, it is in regard to these basic recommendations that we have frequently found most difficulty in accepting the Franks proposals precisely as they stand.

7. I recommend that the Home Secretary should take the line in the debate that the Government welcome the Report of the Franks Committee and expect to be able to accept in large degree the detailed recommendations in it. Naturally, this acceptance must be qualified by reference to the various considerations set out in the preceding paragraphs. But the Government fully recognise the desirability of adjusting their various procedures wherever possible to conform with the basic principles which the Franks Committee have formulated, and where they are unable
fully to adopt a recommendation they will try to offer some alternative which is in harmony with these principles and goes at least some part of the way to meet the problem. This, of course, will not be practicable in every case but we do not expect to have to reject outright more than a small proportion of the total number of recommendations. The Home Secretary may then wish to announce the Government's attitude towards the main recommendations in the Report on the lines of the proposals below, if these proposals are approved, and assure the House that the views expressed in debate will be fully taken into account in reaching final decisions on the recommendations and in devising methods of applying them.

K.

House of Lords, S.W.1.

29th October, 1957
ANNEX A

CONCLUSIONS ON FUNDAMENTAL RECOMMENDATIONS

Tribunals

(i) Councils on Tribunals. The Franks Committee recommended that two Councils on Tribunals should be established to exercise in an advisory capacity a comprehensive supervisory role over the activities and procedures of all tribunals. (On this, see (iii) and (iv) below.) We endorse this proposal. It is not necessary, however, to set up separate councils for England and Wales and for Scotland respectively. Scotland’s interests will be better served by appointing for Great Britain as a whole a single council in which the Scottish members will not be isolated and out of touch with developments generally.

(ii) Appointments to tribunals. We accept the recommendation that the Lord Chancellor (in Scotland, the Lord President of the Court of Session) should henceforward nominate the chairmen of all tribunals appointed by the Government, with a few necessary exceptions. But, after much reflection, we consider it impracticable for the Council on Tribunals to be charged, as recommended, with responsibility for appointing the members of tribunals. These recommendations were, of course, designed to remove the power of appointing from the Departmental Minister concerned. For practical reasons, and to preserve full accountability to Parliament, the power of appointing must remain with a Minister and it is most convenient that this should be the Departmental Minister; but we propose as a compromise that he should appoint in consultation with the Council on Tribunals. This would go some way towards meeting the aim of the recommendation. We are satisfied that it would be practicable for the Council to offer advice on appointments when it would not be practicable for them to undertake the full burden of appointing.

(iii) Procedure before tribunals generally. The recommendations on this are designed to extend the rights of the citizen before, during and after the tribunal hearing, and to define more closely the obligations of Departments. Although it will be necessary to qualify acceptance at a number of points, the general tenor of these recommendations can be endorsed. We are able to go further than the Franks Committee in recommending that all restrictions on legal representation before tribunals should be abolished. The Committee recommended that a code of procedure for each tribunal should be formulated by the Council on Tribunals. We endorse this in principle.

(iv) Appeal and judicial review. The recommendation that, generally, there should be a straight appeal from a tribunal of first instance to an appellate tribunal, with a further appeal to the courts on a point of law, is quite acceptable. Its detailed application will, however, need consideration. The Franks Committee themselves rejected the case for a General Administrative Appeal Tribunal or an Administration Division of the High Court.
(v) Legal aid and costs. The Franks Committee were relatively generous in their recommendations on these matters. We do not think that those recommendations should be accepted without much further consideration. There is a queue for legal aid, and the proposal that this service should be extended to appearances before tribunals must take its place in it. Generous arrangements for awarding costs will be expensive and are not necessarily in the best interests of appellants, because of the certainty that they will lead to the much greater employment of lawyers and eventually destroy informality of procedure. Sympathetic consideration can be given to awarding costs in cases taken to appeal by Departments to obtain a clarifying decision on a point of principle. We recommend that the whole matter of costs should be remitted to the Council on Tribunals for advice.

Administrative procedures relating to land

(vi) Prior statement of the acquiring authority's case. We agree that it is an elementary principle of justice that the objector must know in advance what case he has to meet. We are satisfied, however, that the obligation of public authorities to provide such a case should be embodied in Rules of Procedure to be made by the Lord Chancellor and not, as recommended, in statutory provisions.

(vii) Statements of policy. It is considered impracticable, on many counts, for the Departmental Minister to provide, as the Franks Committee recommend, a statement of Ministerial policy drawn up in relation to each case going to hearing. This recommendation, as it stands, must be rejected. As a compromise, we can undertake that more effective steps will be taken to make more widely known the general policy which affects particular cases and to review the working of this after an interval.

(viii) Inspectors. We are satisfied that, for purely practical reasons, Departmental inspectors cannot be divorced from their Departments and organised into a separate corps under an independent Minister. As a compromise, we propose that inspectors should, henceforward, be appointed only after consultation with the Lord Chancellor and dismissed only with his consent. The Franks Committee themselves put up few arguments of substance in support of their recommendation, which our proposal will go some way to meet.

(ix) Publication of reports and correction of evidence. We agree that inspectors' reports, inference as well as fact, should be published along with the Minister's decision. This departure from present practice will be both unexpected and generally welcomed. We also agree that the appellant must be given an opportunity to correct his factual evidence. Acceptance of these recommendations will give rise to serious practical problems, of which the Franks Committee were not fully conscious, and the method in each case will require much further thought.

(x) Detailed procedures for hearings and enquiries. The same comment as to (iii) above applies.
(xi) Procedures under which the Service Departments acquire land. There is at present no statutory right to a hearing or enquiry when the Service Departments acquire land under the Defence Acts. The Franks Committee recommend that the Service Departments should be deprived, except where security considerations are paramount, of the protection of these Acts in any circumstances short of approaching emergency and should operate under the ordinary civil procedures which provide for objections and enquiries. This recommendation is, in our view, based on faulty premises and is not acceptable. We agree, however, that some statutory right of objection and hearing must be given and we propose that this should comprise a right to a private (not a public) hearing under an inspector of suitable status appointed by the Lord Chancellor.

ANNEX B

TERMS OF REFERENCE

"To consider and make recommendations on:-

(a) The constitution and working of tribunals other than the ordinary courts of law, constituted under any Act of Parliament by a Minister of the Crown or for the purposes of a Minister's functions.

(b) The working of such administrative procedures as include the holding of an enquiry or hearing by or on behalf of a Minister on an appeal or as the result of objections or representations, and in particular the procedure for the compulsory purchase of land."

ANNEX C

QUOTATIONS FROM THE REPORT OF THE COMMITTEE ON ADMINISTRATIVE TRIBUNALS AND ENQUIRIES

General

"Since the war the British electorate has chosen Governments which accepted general responsibilities for the provision of extended social services and for the broad management of the economy. It has consequently become desirable to consider afresh the procedures by which the rights of individual citizens can be harmonised with wider public interests." (Paragraph 5.)
"It is noteworthy that Parliament, having decided that the decisions with which we are concerned should not be remitted to the ordinary courts, should also have decided that they should not be left to be reached in the normal course of administration. Parliament has considered it essential to lay down special procedures for them." (Paragraph 20.)

"When we regard our subject in this light, it is clear that there are certain general and closely linked characteristics which should mark these special procedures. We call these characteristics openness, fairness and impartiality." (Paragraph 23.)

"To assert that openness, fairness and impartiality are essential characteristics of our subject matter is not to say that they must be present in the same way and to the same extent in all its parts." (Paragraph 25.)

**Tribunals**

"Reflection on the general social and economic changes of recent decades convinces us that tribunals as a system for adjudication have come to stay. The tendency for issues arising from legislative schemes to be referred to special tribunals is likely to grow rather than to diminish." (Paragraph 37.)

"We agree ... that tribunals have certain characteristics which often give them advantages over the courts. These are cheapness, accessibility, freedom from technicality, expedition and expert knowledge of their particular subject." (Paragraph 38.)

"Tribunals are not ordinary courts, but neither are they appendages of Government Departments ... We consider that tribunals should properly be regarded as machinery provided by Parliament for adjudication rather than as part of the machinery of administration." (Paragraph 40.)

"In the field of tribunals openness appears to us to require the publicity of proceedings and knowledge of the essential reasoning underlying the decisions; fairness to require the adoption of a clear procedure which enables parties to know their rights, to present their case fully and to know the case which they have to meet; and impartiality to require the freedom of tribunals from the influence, real or apparent, of Departments concerned with the subject-matter of their decisions." (Paragraph 42.)

**ADMINISTRATIVE PROCEDURES INVOLVING AN ENQUIRY OR HEARING**

"Although the statutory requirements are merely to hear and consider objections, it must surely be true that an objection cannot reasonably be considered as a thing in itself, in isolation from what is objected to. The consideration of objections thus involves the resting of an issue, though it must be remembered that it may be only a part of the issue which the Minister will ultimately have to determine. If so, then the case against which objections are raised should be presented and developed with sufficient detail and argument to permit the proper weighing of the one against the other." (Paragraph 271.)
"Our general conclusion is that these procedures cannot be classified as purely administrative or purely judicial. They are not purely administrative because of the provision for a special procedure preliminary to the decision - a feature not to be found in the ordinary course of administration - and because this procedure, as we have shown, involves the testing of an issue, often partly in public. They are not on the other hand purely judicial, because the final decision cannot be reached by the application of rules and must allow the exercise of a wide discretion in the balancing of public and private interest. Neither view at its extreme is tenable, nor should either be emphasised at the expense of the other." (Paragraph 272.)

"We shall not examine these procedures in the light of the conceptions of "administrative" and "judicial" because we do not think them satisfactory instruments for dealing with the actual nature of the subject-matter. We shall instead directly address ourselves to the task of finding a reasonable balance between the conflicting interests. On the one hand there are Ministers and other administrative authorities enjoined by legislation to carry out certain duties. On the other hand there are the rights and feelings of individual citizens who find their possessions or plans interfered with by the administration. There is also the public interest ...." (Paragraph 276.)

"It is with these considerations in mind that we shall seek to apply the three principles of openness, fairness and impartiality - to which we have referred in Part I - to the second part of our terms of reference, but we must recall that the third of these three principles, impartiality, cannot be applied here without qualification." (Paragraph 277.)
On 15th October the Cabinet invited a Committee of Ministers under my Chairmanship to consider what further steps would be necessary and justified to ensure the satisfactory development of the Britannia aircraft (C.C. (57) 73rd Conclusions, Minute 2). Progress has been made in dealing with the immediate difficulties which have arisen, and our colleagues may wish to have a report on the steps taken so far and the present position; but a final solution cannot yet be assumed. This is, therefore, essentially an interim report.

2. Britannia Programme.—The Bristol Aeroplane Company have a programme for the production of 83 Britannia aircraft (of both the medium and long-range versions). Of these 83 aircraft 15 (of the medium-range version) have already been delivered to British Overseas Airways Corporation (B.O.A.C.) and are in daily service. The remaining 68 are of the long-range version and of these 18 have been ordered by B.O.A.C. and 24 by the Ministry of Supply, while orders for all save 5 of the remainder of the programme have been placed by other commercial air lines, of those aircraft which have already been ordered, the eventual sale of the 5 ordered by the American North East Airlines is, however, in doubt.

3. The Troubles of the Britannia.—This programme has been placed in jeopardy as a result of icing troubles which have been found to affect the Proteus engine of the Britannia. Although the engine passed its tests for normal icing conditions with complete success, it was subsequently found to be susceptible in tropical areas to certain icing conditions whose existence had not previously been suspected. Teething troubles are inevitable in any aircraft which, like the Britannia, represent a marked advance on anything which has gone before. Unfortunately, however, the icing difficulties have occurred at the height of the production programme and have proved particularly intractable. They have, moreover, attracted much publicity. As a result the reputation of the Britannia has suffered severely and Bristol's delivery programme has been set back.

4. A further blow to confidence in the Britannia was struck by the additional engine trouble recently experienced at Miami in the prototype of the long-range version, although we were advised that a remedy for this particular trouble had been found before the incident but had not been applied to the aircraft. The Air Registration Board is satisfied with this remedy.

5. The Issues at Stake.—We have worked on the assumption that failure of the Britannia project and the collapse of the Bristol Aeroplane Company must be averted unless this objective could only be achieved at a wholly disproportionate cost. If the present engine troubles continue serious issues may arise, regarding the Britannia's certificate of air worthiness, the extent to which B.O.A.C. are contractually committed to taking the Britannias which they have ordered and, bound up with both these questions, the policy to be pursued by B.O.A.C. and other customers.
The immediate financial difficulties of the Bristol Aeroplane Company do not seem insuperable. These are discussed in paragraph 7 below. But if, for any reason, production of the Britannia had to be discontinued, an investment amounting to some £73 millions, of which some £26 millions would have been provided in this and previous years out of taxation, will be abandoned. There would also be a risk of unemployment for 30,000 work people, which would particularly affect Northern Ireland.

For B.O.A.C. the financial consequences of the difficulties to date have already been serious: failure of the Britannia project or further extensive deferment of deliveries might have a catastrophic effect. The Corporation would probably not survive without subsidy which would need legislation. Quite apart from payments to which the Corporation might or might not be found committed under their contract with the Bristol Aeroplane Company, they would be deprived of the equipment suprernacy which they had hoped to achieve on the North Atlantic and other routes during the period up to about 1960 before long-range jet civil aircraft come into operation, and would become gravely short of passenger capacity unless Her Majesty's Government were prepared to sanction an additional capital investment in dollars large enough to make good the shortage. Faced with these problems, B.O.A.C. have already indicated that they could not afford to accept further deliveries of Britannias unless they could be assured that the current troubles will be overcome in time for these aircraft to enter service on the North Atlantic routes in the summer of 1958, and they have already expressed their desire to examine the possibility of acquiring alternative aircraft from dollar sources.

6. Possible Solutions to the Icing Trouble.—The intensive search for remedies for the icing troubles which the Proteus engine has encountered is now concentrated in two directions. In the first place, work is in hand on a system of multiple ducts to reduce the obstructions which exist in the present single air intake. Associated with this, as a long-term measure, is a major redesign of the air intake of the engine. The multiple duct system may well be capable in itself of solving the present icing troubles. It should be fully tested by the end of March 1958. In recent weeks, however, another and quicker solution has come in sight. This involves the injection of high-speed air streams from the compressor into those parts of the existing air intake system which are susceptible to ice accumulation. Extensive ground testing has shown that there is every likelihood that this will be fully effective. Flight trials are due to be held towards the end of November and the results should be known by the middle of December. If success is confirmed the necessary modification can easily be made of all new engines coming forward from the end of 1957, and could subsequently be carried out on those engines both of the medium and long range which have already been delivered. In that event the problem of timing will be transformed and B.O.A.C.'s delivery requirements met. The cost of the whole of this programme of further development—if it had to be carried through to the end—might be of the order of £1½ million—£1 million, of which, however, not more than £1 million would relate to the period before 31st December, 1957. We consider that the issues at stake are such that the whole of this programme should continue to be pressed forward: but we should propose to re-examine towards the end of the year the need to continue with longer term development in the light of the result of the testing of the air jet system.

7. The Bristol Aeroplane Company.—The financial problem of the Bristol Aeroplane Company seems manageable in the longer term, provided that the existing orders for Britannias stand and the icing troubles do not lead to the withdrawal of a certificate of airworthiness. The Company claim that they can hold B.O.A.C. to their Britannia contract. The delay which has taken place in the deliveries of these aircraft, together with the withholding of certain payments by B.O.A.C. on grounds of shortcomings in performance and delivery date, and the suspension of the North East Airlines order, have however left Bristols seriously short of liquid resources. If no special steps are taken the Company's bank overdraft (see the table in paragraph 10) is forecast to rise from £18 millions in October to nearly £22½ millions in December as against the present limit of £18 millions set by Lloyd's Bank. The immediate financial problem as we see it, therefore, is how to tide the Company over the next two months pending the conclusion of the coma tests of the air jet system. If these are successful, the Company's shortage of lid resources should be relieved. If they fail, a
new situation will have been created which we shall have to consider at that stage. We have not thought it desirable at this stage to attempt an examination of this eventuality, since it is impossible now to predict what developments might by then have taken place in the continuing research on the main re-design of the Proteus engine which we are proposing should continue.

8. Immediate Action by the Government.—There are three possible means of relieving the immediate financial difficulties of the Bristol Aeroplane Company. The first lies in anticipating certain Government expenditure. There are certain payments in respect of flying trials, of down payments for Britannia aircraft already on order for the Government, and of jig and tooling expenditure for the Olympus engine for the Vulcan aircraft, which could reasonably be authorised in the ordinary course of events; and further help could be given by a deferment of the levy payments owing by Bristols to the Government in respect of the Government's expenditure in the development of the Britannia. (Such deferment would also settle a dispute between the Government and the Bristol Company which might have involved litigation.) Upon the understanding that no commitment is created beyond the end of 1957, we have agreed that immediate action should be taken on these lines, and also that Government expenditure on development of the Britannia should be increased by the cost of testing the air jet system. These various arrangements should provide a relief of some £2.6 millions for Bristols at the end of December, together with the £1 million for testing referred to in paragraph 6. It is proposed, however, to make these arrangements conditional upon certain interest payments from Bristols and to require that the development levy on future sales of engines should be raised in compensation for the increased Government expenditure on development.

9. Action by B.O.A.C.—The second source of financial assistance is B.O.A.C. The delay in deliveries of their Britannia aircraft and the present confidence crisis have caused the Corporation to hesitate before continuing to accept any more of these aircraft. But in the light of the latest report on the air jet system and on the strength of an indication that it is the desire of the Government that steps should be taken to support the Britannia programme at this juncture, the Chairman of B.O.A.C. has agreed to recommend to his Board that the Corporation should continue to accept further deliveries of Britannia aircraft up to the end of this year, pending the results of the tests of the air jet system, and should make certain payments on account to the Bristol Aeroplane Company in respect of former flying trials and of the sums previously held over. These payments would be without prejudice to subsequent claims on both sides. The Chairman of B.O.A.C. has also agreed to recommend that the Corporation should open negotiations with the Company regarding the possible acquisition for one of the Corporation's subsidiaries of three of the aircraft previously earmarked for the North East Airlines, though these would not in fact be required before the autumn of 1958-59. Further assistance would be forthcoming if the Royal Air Force could make use of the remaining two North East Airline aircraft on hire.

10. Resulting situation.—The total effect of the financial measures to be taken by Her Majesty's Government and B.O.A.C. is set out in the following table.

<table>
<thead>
<tr>
<th>Forecast Overdraft</th>
<th>October</th>
<th>November</th>
<th>December</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Earlier forecast</td>
<td>18.078</td>
<td>19.563</td>
<td>22.706</td>
</tr>
<tr>
<td>2. Additional payments by Her Majesty's Government and deferment of levy payments</td>
<td>2.013</td>
<td>2.414</td>
<td>2.631</td>
</tr>
<tr>
<td>3. Revised forecast</td>
<td>16.065</td>
<td>17.149</td>
<td>20.075</td>
</tr>
<tr>
<td>4. Payments by B.O.A.C.</td>
<td>720*</td>
<td>550*</td>
<td>525*</td>
</tr>
<tr>
<td>5. Revised forecast</td>
<td>15.345</td>
<td>16.559</td>
<td>19.550</td>
</tr>
</tbody>
</table>

* Note.—These payments decline because whereas the forecast at line 1 assumed full payment in respect of Britannias to be delivered to B.O.A.C., during the rest of the year, B.O.A.C. propose to continue to hold back payment of £65,000 in respect of each of the four aircraft concerned.
This shows that the Bristol's overdraft would be kept within the Bank's limit during October and November, but that it would exceed the limit in December unless—as the third possible expedient—the Bank were ready to provide further facilities to the Company. In present circumstances it would hardly be appropriate for any approach on this subject to be made by the Government; but the Bristol Company are confident that the further support for the Britannia programme which will already have been demonstrated by the Government and B.O.A.C., if the measures outlined above are put into effect, should enable the Company to find the necessary additional finance, provided that no impression is given that any decision has been taken to suspend the Britannia programme.

11. Conclusion.—By the means set out above the position of the Bristol Aeroplane Company will be assured till the end of November, and should in fact not be in danger in December, in the course of which month the success or otherwise of the new air jet system will be known. We recommend that our Committee should stay in being throughout this period so that we can keep the situation under continuous review and report again to the Cabinet as it develops.

M.

Ministry of Power, S.W. 1,
28th October, 1957.
30th October, 1957

CABINET

NUCLEAR POWER: I.B.R.D. LOAN

Memorandum by the Chancellor of the Exchequer

On 12th September I reported that it was clear that a loan from the International Bank for Research and Development (I.B.R.D.) for our nuclear power programme could not be made available without the participation of the New York market. In the light of this, I was authorised to explore further, without commitment, the possibility of a loan for this purpose from the I.B.R.D., and the terms on which it might be available (C.C. (57) 67th Conclusions, Minute 4).

2. Accordingly I pursued the matter with the President of the Bank while I was in Washington last month. In response to my enquiries he said that:

(i) He would be willing to make a loan for local currency expenditure (that is, for expenditure on the programme within the United Kingdom) provided that there was market participation to help to justify this.

(ii) He thought £50 millions was about the most the United Kingdom might hope to borrow from the market in the first instance. This was a very respectable amount and much more than other Governments had raised in New York since the war.

(iii) For his part he would be willing to recommend to his Executive Board that the Bank should match this borrowing with another £50 millions.

(iv) As for future years, there was no reason why there should not be repeat performances. The amounts would depend on the circumstances of the time. If this year’s market borrowing was a success (and he would not recommend market borrowing unless success was assured) the market might be willing next year to put up a larger sum.

(v) The period of the loan might be for 20 or 25 years (that is, until the final maturity). Repayments need not begin until the power stations were in operation and beginning to earn revenue.

3. I did not go into details about interest rates, as these will naturally be affected by the precise date at which any loan agreement comes into effect. But it is material to note that recent I.B.R.D. loans have been at 5½ per cent, whereas the rate of interest on long-term Exchequer advances now being made to our nationalised industries is 6 per cent. As regards the market participation, it would be for the United Kingdom to discuss this with our advisers in the United States, keeping in touch with the I.B.R.D.
4. It is clear that this I.B.R.D. lending in conjunction with the New York market represents the only real chance we have of getting any new fortification for the reserves and at the same time augmenting our capital resources by borrowing from overseas, and that even this possibility is likely to be lost if I am not put in a position to arrange for firm negotiations to be opened without delay. The President of the I.B.R.D. will be visiting London again about the first week in November, and it is highly desirable that this opportunity should be taken to put matters in train.

5. I am sure that we should seek this loan. If we are successful it would mean receipts of dollars over the next two or three years which would be a very valuable offset to the outgoings necessary to meet our debt obligations, to which I referred in my paper C.(57) 230. We are in no position to forego this relief.

6. I therefore recommend that authority be given for the opening of formal negotiations with the I.B.R.D. with a view to a loan of $50 millions to the nationalised electricity supply industry towards their nuclear power programme, in conjunction with negotiations for a further loan of $50 millions from the New York market.

F.T.

Treasury Chambers, S.W.1.

29th October, 1957.
As promised in my memorandum, C.(57) 251, I circulate for the information of my colleagues a summary of the findings of the Ministerial Committee on Administrative Tribunals on each of the 95 recommendations in Cmd. 218. I have not had an opportunity to submit this summary in advance to the members of the Ministerial Committee on Administrative Tribunals for their confirmation or correction, and it must therefore be circulated at this stage on an "e. and o. e." basis.

K.

House of Lords, S.W.1.

30th October, 1957
COMMITTEE ON ADMINISTRATIVE TRIBUNALS

PART A - TRIBUNALS IN GENERAL

"(1) Two standing Councils on Tribunals, one for England and Wales and one for Scotland, should be set up to keep the constitution and working of tribunals under continuous review. The Council for England and Wales should be appointed by and report to the Lord Chancellor. The Scottish Council should be appointed by and report to the Secretary of State for Scotland. (Paragraph 43)."

Substantially accepted. Because of the number of tribunals organised on a basis common to Great Britain as a whole a single Council (to be appointed jointly by the Lord Chancellor and the Secretary of State for Scotland) with power to set up a special Scottish panel is preferable to two Councils.

"(2) Chairmen of tribunals should be appointed by the Lord Chancellor (or alternatively in Scotland, by the Lord President of the Court of Session or the Lord Advocate). Members should be appointed by the Council on Tribunals. Recommendations for appointment by the Crown should be made by the Lord Chancellor. (Paragraphs 48-49, 53-54)."

Partly accepted. With few exceptions, it is practicable for chairmen to be appointed by the Lord Chancellor and the Lord President of the Court of Session. To preserve accountability to Parliament and avoid duplication of work members of tribunals will in general be appointed by the Minister concerned, but in consultation with the Council on Tribunals. Recommendations for appointments by the Crown will be made by the Lord Chancellor.

"(3) Responsibility for the removal of chairmen and members should rest with the Lord Chancellor or alternatively, in Scotland, with the Lord President of the Court of Session or the Lord Advocate. (Paragraphs 51, 53)."

Substantially accepted. Dismissal in England and Wales will rest with the Lord Chancellor. [To be decided: dismissal in Scotland].

"(4) All chairmen of tribunals exercising appellate functions should have legal qualifications; chairmen of tribunals of first instance should ordinarily have legal qualifications. (Paragraphs 55, 58)."

Substantially accepted. The qualification is that "ordinarily" would involve the dismissal of competent lay chairmen or preclude the employment of a substantial number of lay chairmen in special classes of tribunal (e.g. National Assistance Tribunals).

For simplicity, elsewhere in the summary of Main Recommendations, except in recommendations (28)-(33), which relate to the proposed constitution and functions of the Councils, we refer to the "Council on Tribunals." This term covers either or both Councils as appropriate.
"(5) In general, tribunal service should not be whole­
time or salaried. (Paragraph 57)."
Entirely accepted.

"(6) Some appointments should be paid, and remuneration
should be reviewed by the Council on Tribunals. (Paragraph 57)."
Entirely accepted. The Council should, however, confine
its recommendations regarding remuneration to general terms.

"(7) The present arrangements for providing clerks of
tribunals should continue. The duties of a clerk should be
confined to secretarial work, the taking of notes of evidence,
and advice on the tribunal's functions. Unless sent for to
advise he should be debarred from retiring with the tribunal.
(Paragraph 61)."
Substantially accepted. The Council should be asked to
advise on detailed application of the recommendation to debar
the clerk from retiring with the tribunal unless sent for.

"(8) The detailed procedure for each tribunal should
be designed to meet its particular circumstances and should be
formulated by the Council on Tribunals in the light of the
general principles enunciated in this Report. The aim should
generally be to combine an orderly procedure with an informal
atmosphere. (Paragraphs 63-64)."
Entirely accepted. The Council on Tribunals will not
be the rule-making authority - but will act in an advisory
capacity in this matter.

"(9) Every care should be taken to ensure that the
citizen is aware of and fully understands his right to apply
to a tribunal. (Paragraph 67)."
Entirely accepted.

"(10) The citizen should know in good time before the
hearing the case which he will have to meet. He should accord­
ingly receive a document setting out the main points of the
opposing case. (Paragraphs 71-72)."
Entirely accepted.

"(11) Documents relating to tribunal proceedings should be
clearly designated as documents of the tribunal and should come
from the tribunal and not from a Government Department.
(Paragraph 73)."
Entirely accepted.

"(12) An adequate opportunity of attending the hearing or
inspection should be given to the parties. (Paragraph 74)."
Entirely accepted.
"(13) Hearings before tribunals should be held in public, except in cases where:— (i) considerations of public security are involved; (ii) intimate personal or financial circumstances have to be disclosed; or (iii) the hearing is a preliminary investigation of a case involving professional capacity and reputation. A tribunal concerned almost exclusively with any of these types of case should sit in private. (Paragraphs 77-81)."

Substantially accepted. The qualification is that hearings before the National Health Service Tribunal should continue to be in private (i.e. not only the "preliminary investigation" by the appropriate Service Committee).

"(14) Consideration should be given to the conferment of absolute privilege on witnesses before tribunals at any rate on those giving evidence on oath. (Paragraph 82)."

Substantially accepted. It is agreed that sworn witnesses should have absolute privilege; the conferment of privilege on other witnesses and on documentary evidence should be considered by the Council.

"(15) The right to legal representation before tribunals should be curtailed only in the most exceptional circumstances. (Paragraph 87)."

Entirely accepted. In fact, it is proposed to go further and remove all restrictions on legal representation before tribunals.

"(16) The official scheme of legal aid should be extended at once to tribunals which are formal and expensive and to final appellate tribunals. Any extension of the scheme to cover a wider range of proceedings in courts should be accompanied by an extension to other tribunals. (Paragraph 89)."

Rejected. The proposal to extend legal aid to certain tribunals must take its place in the queue of prior and competing claims for the extension of this service.

"(17) Tribunals should have power to administer the oath. Those most akin to courts of law should always take evidence on oath. Others should not normally do so. (Paragraph 91)."

Substantially accepted. The qualification is that in some cases, for the sake of informality and simplicity, it may be undesirable for the tribunal to have the power. On this basis the recommendation should be referred to the Council.

"(18) Tribunals should have power to subpoena witnesses to give evidence or produce documents. (Paragraph 92)."

Substantially accepted. The Council should be invited to consider whether the power should rest with the tribunal or be exercisable only by the higher courts.

"(19) Parties should be free to question witnesses directly and not only through the chairman. (Paragraph 93)."

Entirely accepted.
Present arrangements for the award of costs and payment of expenses of parties should be reviewed by the Council on Tribunals. The general principles should be that:— (i) a successful applicant should be given a reasonable allowance in respect of his expenses, including in some cases an allowance for the cost of legal representation; (ii) an unsuccessful applicant should never have to pay any costs but before social service and most other tribunals should be entitled to the same reasonable allowance as the successful applicant. In dispute between private parties, however, the parties should bear their own expenses and costs, except at the appellate level or where a party has acted frivolously or vexatiously, when the tribunal should have power to order the unsuccessful party to pay a sum towards the other’s costs and expenses. (Paragraphs 94-96).

Reserved. The payment of applicants’ legal expenses would lead to the excessive employment of lawyers and produce delay and undue formality, but the payment of legal expenses in cases taken to appeal by the Department concerned in order to obtain a clarifying judgement on a point of principle will be sympathetically considered. On this basis the recommendation should be remitted to the Council for service.

Notwithstanding recommendation (20), no change should be made in the powers of the Lands Tribunal and the Transport Tribunal to award costs or in the power of the Minister of Labour and National Service to pay allowances to parties or witnesses before Re-instatement Committees or the Umpire. (Paragraph 97).

Entirely accepted.

Decisions of tribunals should be reasoned and as full as possible. (Paragraph 98).

Substantially accepted. In some categories of cases, as the Franks Committee recognised, reasons cannot be formally stated. Detailed consideration of the application of the recommendation should be referred to the Council.

As soon as possible after the hearing a tribunal should send to the parties a written notice of decision, which should set out the decision itself, the findings of fact by the tribunal, the reasons for the decision and the rights of appeal against the decision. (Paragraphs 99-100).

Substantially accepted. The qualification is that noted in connection with recommendation (22) above.

Final appellate tribunals should publish selected decisions and circulate them to lower tribunals. (Paragraph 102).

Entirely accepted.
(25) There should be an appeal on fact, law and merits from a tribunal of first instance to an appellate tribunal, except where the tribunal of first instance is exceptionally strong and well qualified. (Paragraphs 105-106).

Substantially accepted. This recommendation, which substantially reflects present practice, is accepted in principle but its application to particular cases requires further consideration.

(26) As a matter of general principle appeal should not lie from a tribunal to a Minister. (Paragraph 105).

Entirely accepted.

(27) An appeal on a point of law should lie to the courts from a tribunal decision, except from a decision of the National Insurance Commissioner, the Industrial Injuries Commissioner or National Assistance Appeal Tribunals. The machinery for such appeals should be simple, cheap and expeditious, and should be formulated in detail by the appropriate Rule Committees. Decisions of the National Insurance Commissioner, the Industrial Injuries Commissioner or National Assistance Appeal Tribunals should remain subject to review by certiorari. (Paragraphs 107-112).

Substantially accepted. (See note on recommendation (25) above).

(28) No statute should contain words purporting to oust the remedies by way of certiorari, prohibition and mandamus. (Paragraph 117).

Entirely accepted.

(29) The Lord Chancellor and the Secretary of State for Scotland, respectively, should be responsible for the statutory action to give effect to recommendations of the Council on Tribunals for England and Wales and the Scottish Council. (Paragraphs 131-132).

Partly accepted. The two qualifications are: (i) existing rule-making powers should not in general be transferred to the Lord Chancellor because of the administrative burden this would place on his Department; and (ii) it would be inappropriate for regulations on certain matters (notably tribunal remuneration) to be made by the Lord Chancellor rather than the departmental Minister.

(30) The main function of the Councils should be to advise on the detailed application to the various tribunals of the general principles of constitution, organisation and procedure enunciated in this Report. (Paragraph 133).

Entirely accepted.
“(31) Any proposal to establish a new tribunal should be referred to the Councils for their advice. (Paragraph 133).”

Substantially accepted. Consultation with the Council about future tribunals should not include the questions whether a tribunal was to be established and what issues should be decided by the tribunal.

“(32) The Councils should have power to take evidence, and their reports should be published. (Paragraph 133).”

Entirely accepted.

“(33) The Councils should comprise both lay and legally qualified members, with a lay majority. The Chairmen should be salaried and need not be lawyers. (Paragraph 134).”

Entirely accepted.

PART B - PARTICULAR TRIBUNALS

“(34) The general principles enunciated in Part II should, unless otherwise stated, be applied to all tribunals within our terms of reference (except those mentioned in paragraphs 4 and 5 of Appendix II). (Paragraph 135).”

Substantially accepted. This recommendation is clearly right in principle but the Government cannot commit itself to complete acceptance. A number of recommendations have to be referred to the Council for advice on their particular application, and it will clearly take the Council some time to review the constitution and working of the many tribunals within their purview.

“(35) Whenever it is proposed to establish a new tribunal consideration should first be given to the possibility of vesting the jurisdiction in an existing tribunal. (Paragraph 139).”

Entirely accepted.

“(36) The adjudicating functions now exercised by County Agricultural Executive Committees should be entrusted to new independent tribunals from which appeal should lie to an Agricultural Land Tribunal or to the Scottish Land Court. (Paragraph 148).”

Reserved. This recommendation (and recommendations 37-39 below) is being considered in the wider context of the review of the Agriculture Acts now taking place.

“(37) All Chairmen of these new tribunals should have legal qualifications and be wholly independent of the area concerned. (Paragraph 149).”

Reserved. (See note on recommendation (36) above).

“(38) These tribunals should have the right, on giving due notice, to inspect the land. (Paragraph 150).”

Reserved. (See note on recommendation (36) above).
"(39) A proposal to make a supervision order should be heard by one of the new tribunals, and an appeal should lie to an Agricultural Land Tribunal or to the Scottish Land Court against approval of the making of an order. (Paragraph 152)."

Reserved. (See note on recommendation (36) above).

"(40) The numbers of representatives of local authorities on Local Valuation Courts in England and Wales should be reduced. Persons acting as chairmen should be independent of any local authority, and members of local authorities should not hear any case relating to property within the electoral area which they represent on the local authority or within the electoral area in which they live. (Paragraphs 155-156)."

Partly accepted. The idea behind this recommendation is acceptable in principle but it is unlikely that any substantial reduction in the number of representatives of local authorities, serving either as chairmen or members of these tribunals, can be achieved in practice. The local authorities concerned will be asked to comply as far as possible with this part of the recommendation. The Council of Tribunals should be invited to keep under review the progress made in implementing it. The terms of the proposal to bar local authority members from hearing certain types of case appear to go wider than the Frenska Committee really intended, and this matter requires further consideration.

"(41) All chairmen of Rent Tribunals should have legal qualifications. (Paragraph 163)."

Substantially accepted. Legally qualified chairmen are being appointed in most cases, but it is not proposed to dismiss competent lay Chairmen.

"(42) The panels from which Rent Tribunals are constituted should include valuers to serve when required. (Paragraph 163)."

Partly accepted. The contribution which valuers could make is now limited, especially in view of the curtailment of the jurisdiction of Rent Tribunals by the Rent Act, 1957, particularly in England and Wales.

"(43) An appeal should lie from a Rent Tribunal to an appellate tribunal consisting of a County Court judge or sheriff, sitting with a valuer as assessor. (Paragraphs 165-166)."

Substantially accepted. An appeal will be provided but the detailed machinery requires consideration.

"(44) Legal representation should be permitted before a National Insurance Local Tribunal when the chairman considers that the claimant cannot satisfactorily present his case unless allowed to employ a lawyer. (Paragraph 174)."

Superseded. This recommendation is superseded by the decision to remove all restrictions on legal representation before tribunals.
"(45) National Insurance Local Tribunals should sit in public except when a case involves the disclosure of intimate personal or financial circumstances. (Paragraph 175).

Entirely accepted. This is a consequential of recommendation (13).

"(46) In both national insurance and industrial injuries cases all parties should have an automatic right of appeal to the appropriate Commissioner. (Paragraph 177)."

Entirely accepted.

"(47) National Assistance Appeal Tribunals should continue to sit in private. (Paragraph 180).

Entirely accepted. This is a consequential of recommendation (13).

"(48) Legal representation before National Assistance Appeal Tribunals should be permitted on the same basis as that recommended for National Insurance Local Tribunals — see recommendation (44) above. (Paragraph 183).

Superseded. See note on recommendation (44).

"(49) The functions of Family Allowance Referees should be transferred to National Insurance Local Tribunals, with appeal to the National Insurance Commissioner. (Paragraph 184).

Entirely accepted. Some matters of detail will require further consideration.

"(50) Appeals from the Medical Practices Committee should continue to lie to the Minister. The general recommendations in Part II should not be strictly applied to this Committee because of its special character. (Paragraph 193).

Entirely accepted.

"(51) Complaints against practitioners should continue to be first heard by Service Committees and decided thereafter by Executive Councils, subject to further appeal. (Paragraphs 192, 194).

Entirely accepted.

"(52) Service Committees should continue to sit in private. (Paragraph 195).

Entirely accepted."
"(53) Service Committees should normally administer the oath. (Paragraph 196)."

Entirely accepted.

"(54) Complainants should be entitled to apply for the assistance of an official representative at hearings before Service Committees. Clerks to Executive Councils should continue to assist complainants in preparing their statements of case. (Paragraph 200)."

Partly accepted. The last part is acceptable. The first part has still to be considered in the light of the decision to permit legal representation before these tribunals, but any such official representation should be provided by Executive Councils and not the Health Departments.

"(55) The general recommendations in Part II should not be strictly applied to Executive Councils, which are principally administrative bodies. (Paragraph 201)."

Entirely accepted.
"(56) The National Health Service Tribunal should in general sit in public. (Paragraph 203)."

Rejected. The Tribunal's jurisdiction is confined to National Health Service practice. Only the Disciplinary Committee of the General Medical Council can debar a practitioner from all practice and since this Committee sits in public there is no need for the National Health Service Tribunal to do so.

"(57) The right of appeal from the National Health Service Tribunal to the Minister should be abolished, and the right of appeal from Executive Councils to the Minister in certain cases should be replaced by a right of appeal to the Tribunal. As a safeguard for practitioners appeals by individual complainants should be heard by the Tribunal in private. (Paragraphs 205-207)."

Partly accepted. The first point, the abolition of appeal from the Tribunal to the Minister is accepted. The last point, that certain appeals should be heard in private, is covered by the rejection of recommendation (56). The remaining point that the appellate jurisdiction of the Minister in minor disciplinary cases is reserved for discussion with professional associations.

"(58) Hearings before Military Service (Hardship) Committees should be in public unless intimate personal or financial circumstances have to be disclosed. Legal representation should be permitted, and there should be an automatic right of appeal to the Umpire, at least on any point of law. (Paragraphs 214-216)."

Substantially accepted. The qualification is that some restriction will be maintained in appeals to the Umpire in hardship cases not involving points of law, in order to avoid an excessive number of appeals.

"(59) It is particularly important that the general recommendations in Part II concerning the atmosphere of tribunal hearings and the publication of selected appellate decisions should be applied to Conscientious Objectors Tribunals; an age-limit for members should also be considered. (Paragraphs 217-219)."

 Entirely accepted. The atmosphere of hearings is in the control of the Tribunals themselves, and their attention will be drawn to this point. The consideration of age-limits is a matter for reference to the Council.

"(60) Pensions Appeal Tribunals should each include a practitioner with recent clinical experience as far as possible directly related to the disability in the case. (Paragraph 221)."

 Reserved. There are practical difficulties to be discussed with ex-service organisations.

"(61) We recommend no change in existing arrangements for appeals from the Licensing Authorities for Public Service and Goods Vehicles. From appeal decisions by the Minister a further appeal should lie to the courts on a point of law. (Paragraphs 229-231)."

 Entirely accepted.
"(62) The general recommendations in Part II should not be strictly applied to the Transport Tribunals. (Paragraph 232)"

Entirely accepted.

"(63) We have not examined the constitution and working of the General and Special Commissioners of Income Tax, which have recently been examined fully by the Royal Commission on the Taxation of Profits and Income, but it may be desirable to include the Commissioners within the terms of reference of the proposed Council on Tribunals. (Paragraph 235)."

Entirely accepted.

"(64) Compensation Appeal Tribunals should be strengthened by vesting the appointment of both chairmen and members in the Lord Chancellor. We do not recommend the establishment of a further appellate tribunal, but there should be an appeal to the courts on a point of law. (Paragraphs 238-239)."

Substantially accepted. The qualification is that members should continue to be appointed by the Minister of Labour, but in consultation with the Council on Tribunals. This is consequential on the general decision on the appointment of members - see note on recommendation (2).

"(65) The Council on Tribunals should consider the question of providing a further appeal from the decisions of Independent Schools Tribunals. (Paragraph 241)."

Entirely accepted. The Council should be invited to do this in the light of experience gained from actual working of the Tribunals when they are set up.

PART C - ADMINISTRATIVE PROCEDURES (GENERAL QUESTIONS)

"(66) Although we confine ourselves to procedures relating to land the broad principles enunciated in Part IV should ordinarily be applied to other procedures clearly within the second part of our terms of reference. (Paragraph 242)."

Reserved. The application of the general principles to procedures other than land procedures has not yet been considered.

"(67) An acquiring or planning authority should be required to make available, in good time, before the enquiry, a written statement giving full particulars of its case. (Paragraph 281)."

Substantially accepted. The proposal in paragraph 281 of the Report that this requirement should be statutory is not acceptable. To avoid the courts of appeal being able to enquire into the merits of the case the obligation should be to state an adequate case and should be included in rules of procedure for enquiries to be made by the Lord Chancellor with the advice of the Council on Tribunals.
"(68) The deciding Minister should, whenever possible, make available before the enquiry a statement of the policy relevant to the particular case, but should be free to direct that the statement be wholly or partly excluded from discussion at the enquiry. (Paragraphs 287-288)."

Rejected. Not only do the dimensions of the problem in practical terms preclude acceptance but the issue of a policy statement might seem to prejudge the case. Steps will be taken, however, to make more generally known the policies which Ministers are applying in these cases.

"(69) If the policy changes after the enquiry the letter conveying the Minister's decision should explain the change and its relation to the decision. (Paragraph 289)."

Entirely accepted

"(70) The main body of inspectors in England and Wales should be placed under the control of the Lord Chancellor, but inspectors may be kept in contact with policy developments in the Departments responsible for enquiries. The preference of certain Departments for independent inspectors appointed ad hoc need not be disturbed. If a corps of inspectors is established for Scotland, the Lord Advocate should assume responsibility for it. (Paragraphs 303-304)."

Partly accepted. The Minister of Housing must be able to exercise close control over his inspectorate because of the need to deal expeditiously with the large number of enquiries. Whilst transfer of the inspectorate to the Lord Chancellor is, therefore, impracticable, it is proposed that inspectors should be appointed by the departmental Minister after consultation with the Lord Chancellor and dismissed only with his consent.

"(71) The initiating authority, whether a Minister or a local or other authority, should be required at the enquiry to explain its proposals fully and support them by oral evidence. (Paragraph 306)."

Substantially accepted. As with recommendation (67) this requirement should be embodied in the rules of procedure.

"(72) The code or codes of procedure for enquiries should be formulated by the Council on Tribunals and made statutory; the procedure should be simple and inexpensive but orderly. (Paragraphs 310, 312)."

 Entirely accepted. The rules of procedure should be made by the Lord Chancellor on the advice of the Council.

"(73) In connection with the compulsory acquisition of land (and schemes which imply later acquisition), development plans, planning appeals and clearance schemes, a public enquiry should be held in preference to a private hearing unless for special reasons the Minister otherwise decides. (Paragraph 314)."

Entirely accepted.
"(74) The proceedings should be opened by the initiating party. Strict rules of evidence are not required, but the inspector should have power to administer the oath and subpoena witnesses. He should have a wide discretion in controlling the proceedings and should give rulings on the scope of the proposed ministerial policy statements. (Paragraphs 312-313)."

Substantially accepted. The qualification is that, since it is proposed to reject recommendation (68) the need for the inspector to give rulings on the scope of the policy statements does not arise.

"(75) Officials of the Department of the deciding Minister should be required to give evidence if the enquiry is into a proposal initiated by that Minister, but not otherwise. Officials of other Departments should, if required, give factual evidence in support of the views of their Department if these views are referred to by a public authority in its explanatory written statement (see recommendation 67) or in its evidence at the enquiry. (Paragraphs 317-318)."

Substantially accepted. The qualification is that officials of the Agriculture Departments should not be required to give evidence in cases where their Department has expressed no view on proposals to alienate agricultural land (see paragraph 319 of the Report).

"(76) In compulsory acquisition cases and clearance schemes reasonable costs should generally be awarded to successful objectors directly interested in the land; they should only be awarded to unsuccessful objectors if the initiating authority has acted unreasonably. Costs should only be awarded against an unsuccessful objector if he has acted frivolously or vexatiously. (Paragraph 323)."

Reserved. It may be right to award costs more frequently but the question is not as straightforward as the Franks Committee seemed to think. The recommendations on costs require further consideration in consultation with the Council.

"(77) In planning appeals reasonable costs should generally be awarded to owner appellants if their appeals succeed or if the local planning authority has acted unreasonably. Costs should exceptionally be awarded to other successful appellants. (Paragraph 324)."

Reserved: – see note on recommendation (76) above.

"(78) Any award of costs should be made by the Minister. The inspector should hear submissions by the parties on costs and, where appropriate, made recommendations in his report. (Paragraph 325)."

 Entirely accepted – but see note on recommendation (76) above.
"(79) The Council on Tribunals should consider the basis on which "reasonable costs" should be assessed and keep under review the arrangements regarding the award of costs. (Paragraph 326)."

Entirely accepted - see note on recommendation (76) above.

"(80) Reports should be divided into two parts - (i) summary of evidence, findings of fact and inferences of fact; and (ii) reasoning from facts, including application of policy, and (normally) recommendations. (Paragraph 328)."

Entirely accepted.

"(81) The complete text of the report should accompany the Minister's letter of decision and also be available on request centrally and locally. (Paragraph 344)."

Entirely accepted - but see note on recommendation (82) below.

"(82) Additionally, if any of the following parties desires an opportunity to propose corrections of fact, the first part of the report should, as soon as possible after the enquiry, be sent to - (i) the promoting authority (or local planning authority) and any other authority which gave evidence; and (ii) all persons who lodged written objections (in planning appeals the applicants). Recipients should be allowed fourteen days in which to propose corrections. The inspector should decide whether to accept any proposed correction. (Paragraph 345)."

Reserved. It is agreed that some opportunity for the correction of facts must be given but, because of practical difficulties, and the prospect of serious delay, an alternative means to that recommended must be devised.

"(83) The deciding Minister should be required to submit to the parties concerned for their observations any factual evidence, including expert evidence, obtained after the enquiry. (Paragraph 350)."

Substantially accepted. The qualification is that "expert evidence" should not include technical or other advice given by civil servants.

"(84) The Minister's letter of decision should set out in full his findings and inferences of fact and the reasons for the decision. (Paragraph 352)."

Entirely accepted.

"(85) The present special form of appeal to the courts in procedures relating to land should be retained and also applied to decisions on planning appeals. The time-limit for lodging such appeals could be reduced if recommendation (82) is accepted. (Paragraph 359)."

Entirely accepted.
PART D - PARTICULAR ADMINISTRATIVE PROCEDURES RELATING TO LAND

"(86) Acquiring authorities should notify as early as possible those likely to be affected by their proposals. (Paragraph 367)."

Entirely accepted.

"(87) Save in time of emergency or threat of emergency or in special security cases the Service Departments should be required to adopt the same procedure for acquiring land as other Departments. (Paragraph 370)."

Partly accepted. Two main considerations prevent acceptance of the recommendation as it stands - (1) the urgency of some land requirements for defence purposes; and (2) the need to avoid spotlighting the cases involving security considerations. An alternative procedure is proposed, the main features of which would be that a statutory right would be given for a private hearing by a lawyer of standing appointed by the Lord Chancellor. The inspector would have discretion to grant a public hearing in cases not involving security. Because of the special nature of many of these cases a number of other features of the normal procedure (notably the publication of the inspector's report) could not apply.

"(88) Objectors should give advance written notice of proposals for alternative sites; discussion of such sites at the enquiry should otherwise be disallowed. (Paragraph 372)."

Entirely accepted. But safeguards for the owners of alternative sites will have to be devised if those sites are to be discussed, after due notice, at the enquiry.

"(89) Compulsory purchase orders requiring confirmation should be restyled "draft compulsory purchase orders". (Paragraph 374)."

Entirely accepted.

"(90) The Minister should publish any modifications which he proposes to make to a development plan, and twenty-one days should be allowed for the lodging of objections to them. Any further enquiry should be limited to opposed modifications. (Paragraph 377)."

Reserved. The recommendation is equitable but would add considerably to the length of time required to reach decisions on these plans. It requires further consideration.

"(91) An appeal should lie to the courts on a point of law against a determination by the Minister as to what constitutes "development". (Paragraph 381)."

Entirely accepted.

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"(92) Local planning authorities should discuss applications with applicants. (Paragraph 382)."

Entirely accepted.

"(93) Owners and others directly interested in the land should be informed of third party planning applications and allowed to state their views. They should also be informed of the decision of the local planning authority and of the lodging of an appeal. (Paragraph 384)."

Entirely accepted. Steps will be taken to meet as far as possible the practical difficulties.

"(94) The weight of planning appeal work falling upon the Government Departments concerned should be reduced by delegating some decisions to inspectors. (Paragraph 392)."

Rejected. But further consideration will be given to the possibility of setting up local tribunals to decide certain cases.

"(95) There should be an appeal to the Lands Tribunal (in Scotland to an independent arbitrator) against a decision by the Minister that a property is "unfit" or against a refusal by the Minister to sanction a "well maintained" payment. (Paragraph 399)."

Reserved. The provision of an appeal against refusal of a "well maintained" payment will be further considered. The provision of an appeal to a tribunal on "unfitness" is impracticable for two main reasons - (i) the fact of unfitness must be established before the Minister confirms the clearance or compulsory purchase order; and (ii) the criterion of unfitness cannot be fully codified.
THE QUEEN'S SPEECH ON THE PROROGATION OF PARLIAMENT

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

I circulate, for the information of my colleagues, the text of The Queen's Speech on the Prorogation of Parliament, as finally approved.

R. A. B.

Cabinet Office, S.W. 1.
1st November, 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.

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

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

My Government have approved a reorganisation and expansion of the information services overseas.

Members of the House of Commons

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

My Lords and Members of the House of Commons

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.

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.

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

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

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.

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.

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

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

Provision has been made for reorganising the electricity supply industry in England and Wales.

A measure has been enacted permitting the imposition of countervailing and anti-dumping duties on goods imported into the United Kingdom.
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.

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

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

My Lords and Members of the House of Commons

I pray that the blessing of Almighty God may attend you.
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, for the information of my colleagues, the text of The Queen's Speech on the Opening of Parliament, as finally approved.

R. A. B.

Cabinet Office, S.W.1.
1st November, 1957.
MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS

I look forward with much pleasure to the visit which His Excellency the President of the Italian Republic and Signora Gronchi will pay to this country next May.

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. My Government have recently held discussions in Washington with the United States Government, the results of which, they confidently believe, will greatly further the achievement of this aim.

My Government will seek to strengthen the United Nations in the task of maintaining justice and peace throughout the world. They will pursue 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.

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 further the plans for the closer association of Malta with the United Kingdom. They will continue to seek a just and enduring solution of 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

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

MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS

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 Government believe that these are purposes which should command the support of all sections of the nation.

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.

A Bill will be introduced to revise and codify existing legislation relating to import duties.

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.
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.

My Ministers will seek to promote the progressive development 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.

Thus 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.

You will also 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.

My Government have considered with care the report of the Committee on Administrative Tribunals and Enquiries and will introduce legislation to give effect to certain of the recommendations of that Committee.

My Ministers will continue to promote the social welfare of My people. A Bill will be introduced to improve the arrangements for the industrial rehabilitation, training 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 and Industrial Injuries schemes; 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.

Other measures will be laid before you in due course.

**MY LORDS AND MEMBERS OF THE HOUSE OF COMMONS**

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.
RECRUITMENT FOR THE ARMED FORCES

Memorandum by the Minister of Defence

In our White Paper on future defence policy (Cmd. 124), we announced that "the Government have decided to plan on the basis that there would be no further call-up under the National Service Acts after the end of 1960", and that "in order to encourage recruiting, the Government will seek to make life in the Services more attractive."

2. The Service Ministers and I have for the last six months been intensively studying the recruitment problem, since, as we have emphasised from the first, it will be no easy task to obtain voluntary recruits in the numbers required.

3. We shall need over the next five years an average rate of recruitment of male other ranks of 36,000 a year (27,000 adults and 9,000 boys). Figures for each Service are:

<table>
<thead>
<tr>
<th>Service</th>
<th>Men</th>
<th>Boys</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Royal Navy</td>
<td>3,000</td>
<td>3,000</td>
<td>6,000</td>
</tr>
<tr>
<td>Army</td>
<td>18,500</td>
<td>2,500</td>
<td>21,000</td>
</tr>
<tr>
<td>Royal Air Force</td>
<td>5,500</td>
<td>3,500</td>
<td>9,000</td>
</tr>
<tr>
<td></td>
<td>27,000</td>
<td>9,000</td>
<td>36,000</td>
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4. These are the numbers needed to build up by 1962 all-regular forces of about 375,000. Assuming an average length of service of about eight years in the Army and about ten years in the Royal Navy and Royal Air Force, the average entry needed to sustain those forces after 1962 would be some 31,500 a year (22,500 adults and 9,000 boys). No great difficulty is expected in recruiting the number of boys needed; the problem will be to obtain the adults, of whom we need 22,500 a year up to the end of 1962 and 22,500 a year thereafter. If recruitment runs at an average annual rate between these two figures, the total regular strength required can still be achieved, though two or three years later than planned. Should this occur, it will have to be decided, in the light of the situation at the time, whether it is acceptable for the forces to be temporarily under strength. If not, some form of selective national service will have to be introduced to bridge the remaining gap.
5. Since the new defence policy was announced in April 1957, recruiting of adult male other ranks for all three Services has been at an annual rate of about 35,000. However, of this total figure, the annual rate of entry on long service engagements is no more than 10,000; the rest represents entry on short engagements - three years for the Army and three or four years for the Royal Air Force. The figures for each Service are as follows:

<table>
<thead>
<tr>
<th>Service</th>
<th>Long Service</th>
<th>Short Service</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Royal Navy</td>
<td>3,700</td>
<td>-</td>
<td>3,700</td>
</tr>
<tr>
<td>Army</td>
<td>2,500</td>
<td>19,000</td>
<td>21,500</td>
</tr>
<tr>
<td>Royal Air Force</td>
<td>3,500</td>
<td>6,500</td>
<td>10,000</td>
</tr>
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</table>

6. Most of the men who enter upon short engagements do so as an alternative to a two-year period of National Service, in order to obtain the higher regular rates of pay and have no intention of making their career in the forces. We do not know how many will re-engage for a further period at the end of their term, but the average for the Army in the past has been less than 10 per cent. The three-year Army engagement was abolished last month, except for National Servicemen and for the Guards and certain other units; and it is too soon to tell what increase this will produce in long-term engagements. (For what it is worth, the experience of two weeks in October suggests an annual rate of about 10,000.)

7. Taking it all round it seems reasonable to say that we need an increase of about 50 per cent if we are to secure regular forces of the planned size by the end of 1962. In a period of full employment and high civilian wages, this is obviously not going to be easy, but I do not regard it as by any means impossible, if we take the necessary measures without delay.

8. It will not be achieved by sudden and spectacular measures, but rather by a sustained effort over a period of years. This should include, not only measures to improve material conditions, but also action to emphasise the continuing importance of the Armed Forces in the life of the nation.

9. The willingness of men and women to join the Services is influenced by a wide variety of factors - social, industrial and psychological. The relative weight to be attached to each of them in the conditions of life today is hard to assess, and past experience gives us little or no guidance. The Service Ministers and I have, therefore, decided to set up a strong independent Committee to advise on the long-term measures needed to attract and retain sufficient men in the Forces. Sir James Grigg has agreed to act as chairman.

10. A study of this kind is bound to take time. Meanwhile some interim action must be taken to stimulate recruitment and to remove certain positive disincentives to re-engagement. It is already six months since we announced our intention of improving Service conditions, and any further delay will gravely prejudice future prospects.

11. The Service Ministers and I have, therefore, proposed to the Treasury certain improvements which we consider urgently necessary. These include an average increase in pay of about 13 per cent, which
would do no more than restore the balance between Service pay and civilian wages to what it was when the present Service rates were fixed in February 1956. The increase would not be spread evenly over all ranks, but would be distributed in such a way as to make the maximum impact on recruitment and re-engagement. Other measures proposed are the removal of various disparities and anomalies in allowances, and improvements in uniforms and amenities.

12. The combined cost of these proposals would be about £39 millions in 1958/59, made up as follows -

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<thead>
<tr>
<th>£ millions</th>
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<tbody>
<tr>
<td>Pay</td>
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<tr>
<td>Allowances</td>
</tr>
<tr>
<td>Uniforms</td>
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<tr>
<td>Amenities</td>
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13. In addition, there is the problem of accommodation. Successive Service Ministers have had publicly to admit that many of our barracks are deplorably substandard, and married quarters inadequate. We cannot expect to attract recruits and to retain men for long service, unless we can show that we are tackling this problem with determination. I estimate that this will mean spending some £10-£15 millions a year. Even so, it will take about ten years to complete the minimum programme.

14. I accordingly ask the Cabinet -

(a) to take note of the present position;

(b) to accept that, if our declared policy of ending National Service is to succeed, action to stimulate regular recruitment is urgently necessary; and

(c) to agree in principle to the measures proposed in paragraphs 11 to 13 above.

D.S.

Ministry of Defence, S.W.1.

31st October, 1957
CABINET

CYPRUS

MEMORANDUM BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS AND THE MINISTER OF STATE FOR THE COLONIES

The Sub-Commission of the European Commission on Human Rights, referred to in C.P. (56) 152, have been considering the Greek allegations that in certain respects our actions in Cyprus are in breach of the European Human Rights Convention and decided on 6th September that before they could conclude their report they wished to carry out investigations in Cyprus. The matters to be investigated are:

(a) the existence and extent of a public danger threatening the life of the Nation. (The existence of such a public danger is required under article 15 of the Convention in order to justify the detention of persons without trial. The extent of the public danger is relevant since the Sub-Commission are entitled to decide that it exists but that some of the Emergency measures are extreme and unnecessary);

(b) the circumstances in which the curfew regulations are applied.

The Sub-Commission have indicated by way of clarification that they desire to hear evidence not only from the Government but also from the representatives of the communities in Cyprus.

2. The report will be sent to the Commission on Human Rights, which will in turn report to the Committee of Ministers of the Council of Europe, who have power under the Convention to make binding recommendations by a two-thirds majority. We are advised that the Sub-Commission are within their rights in deciding to visit Cyprus, and that there would be no advantage in seeking to prevent or even to defer the visit on purely legal grounds. Despite such arguments as we might deploy, it is virtually certain that the Sub-Commission will stand by their decision—and they have indicated as much in writing—and that an attempt on our part to change their mind would be resented and might tell against us when the report was being prepared. It is true that since the Sub-Commission made their decision there has been a renewal of terrorist activity, though not on a large scale. Further, a surrendered terrorist has revealed documents exposing EOKA's plans and preparedness for renewed violence. Nevertheless we are advised that to proffer this new proof of public danger would be most unlikely to deflect the Sub-Commission from their decision.

3. We have to decide whether we are going to allow the investigating Committee into Cyprus or not.

4. A further important and relevant fact is that the Human Rights Commission have now admitted as prima facie suitable for further examination twenty-nine cases in which the Greeks allege ill-treatment of persons in Cyprus,
contrary to the Convention. Our attitude to the present decision of the Sub-Commission may serve as a strong, although not necessarily an irresistible, precedent if and when the "atrocity" case reaches the same stage. As matters stand we have been given two months for the preparation of our written pleading on these cases; if an oral hearing followed, as is likely, a longer period would elapse.

5. The Governor, Sir John Harding, recognises the disadvantage of rejecting the Sub-Commission's decision. He is convinced, however, that substantial dangers would be involved in accepting the decision unconditionally at the present time. Copies of telegrams exchanged with him are attached. In brief, he represents that unconditional acceptance would involve a loss of British prestige in Cyprus in that the Greek Cypriots would be elated and conversely the Turkish Cypriots exasperated by the apparent British weakness; that the effect on the two communities in Cyprus would be reflected in Greece and Turkey with corresponding repercussions on the possibility of rational discussion of the Cyprus question in the General Assembly of the United Nations, or elsewhere; that, because of terrorist intimidation and lying witnesses the Sub-Commission would be unlikely to reach the truth; and that the visit might well lead to violence and bloodshed, particularly on the part of the Turkish community.

6. The Governor is particularly concerned at the prospect of an investigation on the present issues serving as a precedent for a local investigation of "atrocities." Such a possibility he views with the gravest concern since it would raise in an aggravated form the disadvantages mentioned above, and in addition would have the most serious effect on the morale of the security forces. There is little doubt that Sir John Harding would consider that an investigation of this kind ought to be rejected outright.

7. We consider below alternative courses of action:

(i). Immediate direct appeal to the Committee of Ministers over the heads of the Sub-Commission and the Commission: This course is strongly advocated by Sir John Harding on the grounds that it is intolerable that the Greek Government should be able to pervert the spirit of the Human Rights Convention to put us in the dock, on charges which could never have been brought forward but for the Greek Government's encouragement of armed rebellion. There is, however, nothing in the Convention which envisages such a direct appeal; the Committee of Ministers would be likely to refuse to interfere with proceedings still in the hands of the Sub-Commission. Further, we should be at a serious tactical disadvantage with the Committee because our appeal could only succeed if we had the support of two-thirds of the members, and in certain circumstances the unanimous vote of the Committee would be required. We should have to deploy our political arguments prematurely and sacrifice the advantage (which, at the ultimate stage in the normal course of events we should enjoy as "defendants") of requiring only the support of more than one-third of the Committee to block any adverse decision.

(ii) Rejection of the Sub-Commission's request: The practical and political arguments outlined in paragraph 5 above could be used to explain a refusal. On the other hand we should be in breach of the Convention and would incur odium on that account. The Sub-Commission would continue with their report and in the end might be more likely to find against us on the substance of the question. The refusal would be embarrassing in the United Nations where in previous Cyprus debates we have taken a strong line on the sanctity of treaties. We might, however unfairly, be compared to the Russians in the case of Hungary. We might try to make the refusal look better by saying that we would undertake to review the position later with the object of admitting the Sub-Commission if the situation in Cyprus had by then improved; but we consider that this would be regarded by everyone including the Sub-Commission as a mere device to cover up a refusal.

(iii) Unconditional acceptance: This would be the normal course and would be of assistance to us when the substance of the case eventually came before the Committee of Ministers. The objections are those given in paragraphs 5 and 6.
(iv) Acceptance subject to specific political conditions: e.g., that the Greek Government which has been responsible for stimulating terrorism—largely directed against Greek Cypriots—which is the negation of the human rights the Convention exists to protect, should denounce violence in Cyprus and curb their propaganda. Any such conditions are unlikely of satisfactory fulfilment. There is no legal provision for such a procedure and the Sub-Commission would almost certainly regard any such conditions as a disguised outright rejection. If the Sub-Commission themselves decline to accept our stipulation, we should then still either have to accept or reject their request and to accept in these circumstances would be doubly embarrassing.

(v) Acceptance without conditions, but playing for time: i.e., negotiating to secure that the best possible arrangements on timing and procedure are reached. We could indicate to the Sub-Commission that while we accept their proposed visit in principle, we had to consider not only our responsibility to them for the practical arrangements connected with the visit, but also our wider responsibility for the maintenance of law and order in Cyprus. We could expect to gain an interval in which developments might occur; e.g., if international discussions had begun, we might perhaps—though this is rather unlikely—persuade the Sub-Commission not to proceed with its proposal. In the end, however, we should, unless any really plausible reasons arise in the interval for refusing the investigation, have to admit the investigation.

8. Course (ii) above is the most attractive. Such a decision, however, would be used with great effect against us in the United Nations debate on Cyprus. It would be construed as an admission of guilt on the atrocity cases also. It would damage our reputation in the Council of Europe and among European parliamentarians, at an awkward moment in view of the wider issues now being debated. Therefore after carefully considering the alternatives we have reluctantly reached the conclusion that we should adopt the fifth alternative described above and accept the Sub-Commission's request to go, but play for time when it goes. We would wish to use such reasons as the change over of Governors to postpone any arrival until, say, the New Year. There seems to be a reasonable chance, particularly as we understand that the Sub-Commission does not at present have in mind an earlier date for the visit than the end of November, that we could succeed in this, by which time we might conceivably have made progress in negotiations and the United Nations debate should be out of the way. Furthermore, if there were a recrudescence of widespread violence in the interim, it would give us new grounds for reconsideration. If we did follow this course, we might consider asking the Committee of Ministers to appeal for the renunciation of violence in the Island, though not making this a condition of our acceptance of the Sub-Commission going. We may be able to manoeuvre in this way to the embarrassment of the Greek Government.

9. We must emphasise to the Cabinet that if this investigation on the spot is accepted it will not dispose in any way of the more serious possibility of subsequent investigation into alleged "atrocities." That case will take its normal course and we expect to be faced, in about two or three months' time, with the decision whether to allow another local investigation on that account. It might be more difficult to resist an investigation on the spot than that an application if one had been admitted on the first application particularly if the first investigation has passed off without incident and has resulted in a fair report. On the other hand, the United Nations Assembly will not be in session, and there may have been other developments. We are agreed about the effect on the morale of the security forces of such an investigation. We have already refused a Parliamentary demand for one. Our present strong view therefore is that we should have to refuse or prevent such an investigation, although obviously that decision must be completely weighed when the application is made and in the light of conditions at the time.

Recommendation

10. Her Majesty's Government should accept the Sub-Commission's request to visit Cyprus but negotiate to secure that the best possible arrangements in timing and procedure are reached in consultation with the Governor of Cyprus.

S. L.

P.

1st November, 1957.

TOP SECRET

52543

TOP SECRET
ANNEX

EXCHANGE OF TELEGRAMS BETWEEN THE COLONIAL OFFICE AND THE GOVERNOR OF CYPRUS

To Cyprus

13th September, 1957
No. 1544

For Harding from Profumo.
Greek Applications to Council of Europe Human Rights Commission.

As you know things are not going too badly as regards Application alleging atrocities. As regards the other Application, however, Sub-Commission had handed down a "decision" (for text see my immediately following telegram) effect of which is formally to ask Her Majesty's Government to give facilities for investigation on the spot, by the Sub-Commission or some members of it. The terms of reference of this investigation as set out in their decision require considerable clarification, but the principal points of enquiry are likely to be the extent to which an emergency still exists in Cyprus, and the circumstances in which the curfew regulations are applied.

2. We shall naturally try to fend this off and will start with a letter to the Commission requesting clarification, but we are likely before long to be faced with choice between admitting mission to Cyprus and refusing to afford facilities as required by Article 28 (a) of the Convention, which I judge Her Majesty's Government would be reluctant to contemplate except for most weighty reasons.

3. I know how very strongly opposed you have been to accepting any such mission. It would help us in advising Ministers concerned if we could have your latest considered appreciation of the risks or dangers which might arise from admitting a mission (which would consist of reputable international lawyers unlikely wittingly to stir up trouble). I realise and fully sympathise with the extreme inconvenience which such a visit would cause, but please feel free to spell this out. The dangerous consequences of admission seem to fall under four heads:

   (i) Danger of bloodshed by either community;
   (ii) danger of non-violent demonstrations and breach of public order;
   (iii) damage to prestige internally;
   (iv) administrative difficulties arising from need to look after commission and meet their requests for information.

Point (iv) is one which we fully recognise but which may not unfortunately in itself weigh much at Strasbourg. Point (i) is of course of the greatest importance.

4. I should be grateful for your assessment of the likelihood of such dangers and any others you may wish to suggest, as far as possible distinguishing between the various heads above.

From Cyprus

23rd September, 1957
No. 1470

For Secretary of State from Harding.
Your telegrams No. 1544 and No. 1545.
European Human Rights Commission.

This is a very difficult question. I can see the disadvantage of rejecting the proposal that the sub-commission, or part of it, should visit Cyprus, but many real dangers and difficulties will be involved by agreeing to a visit. I have set out below
some of the more serious considerations involved, but before I can give a properly
considered reply to your questions I shall need more precise information on the
following points: —

(a) What are likely to be the precise terms of reference of the visiting
sub-commission?

(b) What would be its actual composition? Obviously I could not accept a
sub-commission that contained a Greek (or Turkish) representative.

(c) How, in precise terms, would the sub-commission propose to conduct its
investigations? What type of person would they propose to interview? Could the Cyprus Government and other interested parties be
represented by councils at their hearings? Would witnesses be liable
to cross-examination? In view of secrecy of proceedings, would
witnesses be seen privately and would findings be privileged? To what
extent would the sub-commission expect to be given access to
Government records and classified information? And so on and so on.

2. As you know, EOKA is a clandestine organisation which is obviously not
going to reveal its strength and intention to members of any such sub-commission.
Since there is no other source of information open to them, the sub-commission
would thus be bound to rely on Government records to assess the magnitude of
the threat to the life of the nation presented by the existence of EOKA. We have
already in our written pleadings and at oral hearings described the information
which we interpret in light of past experience as demonstrating this threat.
Furthermore, threats from Athens radio and EOKA and PEKA sources constitute
an admission by the underground organisation of violent revolutionary intentions.
We have learnt by bitter experience to take such threats seriously. Indeed, the
whole basis of the intimidation campaign has been ability of EOKA to carry out
these threats. If the sub-commission proposed to take evidence from individuals
they would be faced with lying witnesses and stage-managed performances by
professional petitioners. They would be quite unable to get at truth of situation
and it would probably not be possible for us to produce counter-witnesses because
appearance by Greek Cypriot not sponsored by EOKA could not be kept secret
and his life would, thereafter, be in grave danger. Moreover, the Turks would;
doubt, secure witnesses to add to the confusion.

3. I would expect Greek Cypriots to be on their best behaviour during such
a visit and there might well be deliberate restraint during the visit to limit
intimidatory practices such as slogan writing, leafleting, violent sermons and
threatening letters. Indeed, attempts would no doubt be made by Greek Cypriots
to create an atmosphere of freedom of expression and calm for the occasion to
demonstrate as they would claim, moderate attitude of leaders of the community
and their sincere desire for peaceful settlement. On the other hand, Turkish
Cypriots are most unlikely to allow such an occasion to pass without demonstration.
They would make a considerable effort which could well lead to inter-communal
clashes with serious consequences. Turkish Cypriots might go even further and
resort to physical violence. Depending on internal situation here at the time, it
might be necessary to suggest certain restrictions on activities of sub-commission
for their personal safety. I trust they would understand this.

4. As regards damage to prestige, there is no doubt we should suffer badly in
this respect with both communities, but for different reasons. However, this is
not decisive factor in considering this matter. My main concern is that visit would
undoubtedly heighten political tension between communities and thus constitute
definite threat to life and property which would necessitate special measure to
contain.

5. A visit of this kind would certainly impose a heavy additional burden not
only on the administration, but on the Security Forces as well. I agree that this
is not in itself a decisive consideration, but it does affect the timing of a visit if it
was decided to accept (corrupt group ? it) and the methods employed by the
sub-commission to carry out their investigations.

6. Finally, I would be most strongly opposed to a visit by such a
sub-commission while the Cyprus question is open for discussion at the current
Session of the United Nations General Assembly or while there remains any
prospect of making progress in discussion between the Powers principally concerned. Tension which visit might raise here would be reflected in Greece and Turkey and could have serious repercussions on international plane.

7. To sum up, there is a real danger that a visit under present conditions would lead to bloodshed. It would almost certainly be the cause of breaches of public order. It could not fail to be damaging to our prestige internally and it would impose a heavy additional burden on the administration and the Security Forces. If it were admitted and did lead to bloodshed, or even to seriously heightened tension between the two main communities, it would set at nought for a longish period all the efforts we have made and are making to narrow the gap between them and between their respective backers, Greece and Turkey.

8. My recommendation is that we should not reject the proposal, but that we should use every argument and device open to us to play for time. In any case, I should require precise answers to the questions I have posed in paragraph 1 above and others before I could agree to accept the proposed visit.

From Cyprus
1st October, 1957
No. 1508.
Council of Europe—Human Rights Commission.

I have been giving further consideration with my advisers to situation in which we find ourselves in relation to our obligations under European Convention. From the start of these proceedings nearly eighteen months ago we have indulged the Commission and sub-commissions with our fullest co-operation. A vast amount of effort has been diverted, here and in London, to the preparation of material to the detriment of other and more constructive purposes, and nothing has been spared to meet requirements of these enquiries. There must surely be a limit to extent to which a signatory Power can be expected to allow itself to be subjected to such unscrupulous attacks, even by an ally. The Greek Government have, as must be evident to sub-commission from recent exchanges, exploited these proceedings to the full from political motives. Furthermore, whenever the course of these deliberations appears to have taken a favourable turn from the Greek point of view (e.g., after 2nd/3rd July proceedings and when sub-commission decided upon visiting mission) suitable publicity has been arranged in contravention of Article 33. This was not the case at the conclusion of the last hearings when the fate of application 299 was not a matter for enthusiasm on part of Greek politicians. The circumstances of whole exercise could not have been envisaged when Her Majesty's Government committed themselves to this convention. However much sub-commission may attempt to isolate itself from political aspects of this matter in its own deliberations it has not done anything effective to curb the Greek abuse of the proceedings and since the whole approach of the Greeks is so plainly political it is not difficult to see what political use that Government would make of visiting mission. In my view the United Kingdom Government has every right to expect sub-commission to protect it from political machinations of hostile Government engaged in the active support of sedition and subversion in a British territory. As I have often remarked, if the Greek Government is genuinely interested in restoration of "freedoms" to people of this island why does it not co-operate with us in calling for the renunciation of violence and intimidation as political weapons? Simply because this is not their aim and that much at least should by now have been absolutely clear to the members of the sub-commission.

2. Seen from our position in the Middle East, situation is one in which Britain, as sovereign Power, having been confronted with armed conspiracy promoted largely by the Greek Government, is now being called to account by the sub-commission at the instigation of the guilty party for measures it has taken to deal with subversion in Cyprus. This in itself is extremely damaging to our prestige and authority and I fear that to acquiesce either in visiting mission, which has been major aim of Greek policy in wider political context, or in view
of Greece's conduct of this unscrupulous campaign of denigration in a detailed investigation, either in Strasbourg or in Cyprus, into their wild allegations of atrocities would be regarded in this area, and particularly in Cyprus itself, as further evidence of weakening authority and thus encourage our opponents to further excesses.

3. The political smearing of this Government and of the Security Forces that could be achieved by Greece if she were allowed to continue to misuse the sub-commission for this purpose might well in the long run be more damaging to our interests than our refusal to allow ourselves to be pilloried any longer in this forum.

4. Our complaints against the Greek Government for the sinister part it has played in provoking measures complained of in these proceedings are using the proceedings as means of diverting our strength from EOKA and as part of its political propaganda; and against sub-commission for lending itself meekly to these procedures and failing to take any action so far in regard to the persistent breaches of the security of the proceedings are so serious that to reject visiting mission would not seem sufficiently to demonstrate gravity of matter from our point of view. Her Majesty's Government could presumably never have considered that it would be manoeuvred into this position under the convention by a Government deliberately aiming at upsetting our position in one of our dependent territories. Proceedings have demonstrated amply how an aggressor nation can, with co-operation of sub-commission, succeed in harrassing its victim in attempt to gain further advantage in its aggressive activities. I would like to have said "innocent co-operation" of sub-commission but in light of information which has been forcefully and exhaustively put before them, attitude at hearings of Greek representatives and its own response to the obvious abuses practised by Greeks, I am afraid our complaint lies against that body also. Thus I believe that simply to reject visiting mission would by no means meet the circumstances. The danger to which it seems to me Her Majesty's Government are exposed by the way this Convention has worked in practice in this case demands a reappraisal of our position. I could of course elaborate on this intolerable situation, but I am sure you will appreciate my feelings in this matter; in any case, effects of the proceedings were fully dealt with in my Savingram No. 1482 of 30th July, 1957, and my telegram No. 1491 and my telegram under reference.

5. From these arguments you will see that I feel strongly that in the light of what has already taken place before the sub-commission and in the light of the internal security situation here we should take a robust stand against exposing ourselves any further to unscrupulous attacks before a body which has shown no capacity or will to control the excesses of the Greeks. In order to bring this process to a halt you might feel that Her Majesty's Government would be justified in taking the matter to highest level of the Council of Europe with intimation that, unless effective action is taken to protect us from these malicious proceedings, we shall have seriously to reconsider our position under the convention. In meantime, the sub-commission would have to be informed that we regarded the proceedings as suspended for the time being. Timing of such an approach would of course be matter for consideration in London but it seems to me that if this course is to be followed it should not be long delayed.

6. I realise that the course I have suggested above has implications well beyond the Cyprus issue and I appreciate the seriousness with which Her Majesty's Government would regard such action. But after considerable reflection, and with respect, it seems to me that we have allowed ourselves to be taken far enough.

To Cyprus  
10th October, 1957  
No. 1693  
Your telegram No. 1508.  
Council of Europe Human Rights Commission.  
Personal from the Minister of State.  
Secretary of State was most grateful for frank expression of your views and we discussed it together before he left for East Africa. I have also had Foreign Secretary's reaction.  

TOP SECRET
2. We all share your strong feelings that it is time, if only there were means, for a halt to be called. But it is the means which trouble us, as well as the repercussions elsewhere of our saying thus far and no farther.

3. Your proposal that we should try to go over the heads of the Sub-Commission to the Committee of Ministers is attractive. Only in that forum could we elaborate the political aspects of the case and hope to get some understanding of political realities as distinct from the legalities with which the Sub-Commission is occupied. But there are two difficulties in this.

(a) We can by no means necessarily count on a majority of the Committee taking our view, especially if we come to them having frustrated the Sub-Commission in what the Convention permits it to do, and are thus confessedly in breach of the Convention. It might well turn out to be more damaging to us in the long run if we are in breach on this procedural question of admitting the investigation than on the substance of Application 176. In the one case we should be flouting obligations which we had freely accepted (and in fact had a part in drafting). In the other we should be found at fault in circumstances in which, on a review by the Council of Ministers, we could hope to be exonerated.

(b) There is no means within the Convention of our going direct to the Ministers.

4. While we never conceived the Convention being used against us like this, we are in fact caught between a binding treaty obligation and letting the investigation proceed. We shall have to come to a decision one way or the other very soon, and it is to help us reach this decision that I am now seeking your further views.

5. It may help you to have such answers as we can provide to the questions in your telegram No. 1470. Some of this adds to our concern about the danger of such a visit providing the spark to new disorders. It would be most helpful to have your more detailed assessment of this possibility, in the light of this telegram.

6. You will see from correspondence enclosed with our savingram No. 1607 that we have already asked the Sub-Commission for clarification of what it intends to investigate. A reply should follow the Sub-Commission’s meeting on 9th October. Meanwhile, it is probably fair to assume that we shall be able to secure terms of reference which lay down precisely just what the visitors are to do.

7. Your questions (b) and (c) in your telegram No. 1470 are ones which we do not think we could raise with the Sub-Commission without implying that we were in principle willing to permit the investigation to take place, and we can therefore only give you our own comments on them. We recognise the fundamental importance of point (b) and it extends not only to the members of the visiting team but also to Modinos, the Council of Europe’s Director of Human Rights. We think we might be able, if it came to the point, to have Modinos excluded, although we would also have to have excluded McNulty, whose presence might well be favourable to us. The case of the Greek member of the Sub-Commission is more complicated. If we got him out we shall obviously also have to give up Waldock, the British member, who, besides being the only member with experience of a similar investigation (in Trieste) is the only member familiar with English law and the only one likely to handle at all aggressively the kind of witness we can expect the Greeks to have put up. Since we doubt whether the Sub-Commission will admit counsel, Waldock’s presence has a considerable value as the only potentially effective cross-examiner in the team and it could be worth keeping him even if the price were to accept the Greek as well.

8. On your (c), we think it unlikely that the Sub-Commission would allow “interested parties” to be represented by Counsel. So the only cross-examination would be from the Sub-Commission itself. We think the proceedings would certainly be secret and evidence privileged, although the Sub-Commission would no doubt advert to evidence given before it if its findings were finally made public. We would obviously impress on the Sub-Commission so far as we could the undesirability of allowing it to be known or feared that such references might be made. We think the Sub-Commission would be reasonable on access to Government records and classified information.
9. There is one further thing which you will no doubt weigh carefully. The connection between this and the “atrocities” application is obvious and the possibility of the Sub-Commission desiring to investigate that application on the spot certainly arises. There is also perhaps a danger that once the team got to Cyprus efforts would be made to add the other investigation to its terms of reference.

10. We can possibly stall a little longer with Sub-Commission but United Kingdom Agent must soon be pressed to say whether or not Her Majesty's Government are prepared to co-operate with Sub-Commission in carrying out their decision to make an investigation on the spot. I should therefore be most grateful to have your further advice soon, so that whole matter can be put to colleagues in near future.

From Cyprus

12th October, 1957
No. 1553

Your telegram No. 1693.
Council of Europe—Human Rights Commission.
Personal for Lord Perth from Harding.

Begins.

I was glad to know that you were able to discuss this crucial matter with Secretary of State before his departure for East Africa and to hear that my feelings on this matter are shared by Foreign Secretary as well as you and Secretary of State. I am by no means convinced of inevitability of our being obliged to accept Visiting Mission; moreover, there appears to be some misunderstanding between us on nature of my suggestion that we should now confront Committee of Ministers with intolerable situation to which Greek intrigue, combined with Sub-Commission's weakness and our co-operative attitude, have brought us.

2. It was not my intention that we should go to Committee of Ministers having “frustrated Sub-Commission” or “flouted our obligations.” What I have proposed is that Sub-Commission should be informed that we regarded proceedings as suspended as we intended to take up with Committee of Ministers question of manner in which this case has been manipulated by Greeks in flagrant disregard of spirit of Convention. There need be no question of rejecting Sub-Commission’s request at this stage. It seems to me that most we could be accused of would be a mild measure of discourtesy to Sub-Commission or lack of co-operation—trivial matters in context of this squalid episode with its grave repercussions.

3. As you have recognised, Committee of Ministers is only forum in which we could hope to expose Greek political motives for which Convention is being abused. Fear that we could not count on sustaining our case before that body does not seem to me to be a vital factor. Strength of our case is such that, as seen from here, it seems clear that we either have a good chance of success or strongest grounds thereafter for refusing to have any further truck with such an intolerable exercise. With respect, I suggest that this is clearly a case in which we should not take counsel of our fears.

4. As regards your paragraph 3 (b), I would point out with respect that it was because we recognised that Convention did not provide adequate means of redress or protection for party treated as we have been, that I suggested an approach on political plane. As party to Convention we have interest in seeing that it is not abused. If Convention itself does not facilitate this, only course open to us would be to intervene with political organisation which sponsored the Convention and which therefore has primary duty to safeguard its integrity.

5. I do not propose to comment in detail on your paragraphs 7–8 at this stage although I agree generally with what you say. As regards paragraph 9, I was horrified to read that an attempt by Sub-Commission to widen scope of suggested enquiry to embrace application No. 299 could even be contemplated. If that really is the case, it is in my opinion sufficient reason in itself for refusing a visit.
6. The point raised in paragraph 5 of your telegram under reference was
dealt with in my telegram No. 1470. Since then, further substantial evidence has
come to hand regarding EOKA preparations and plans which are covered in the
paper enclosed with Neale’s letter to Higham of 8th September and my reports
on operation “JACKPOT” and the Ashiotis incident. These reinforce what I
have already said on the dangers of disorder especially in so far as both reveal to
some extent EOKA’s own assessment of Turkish intentions and the scale of
counter-action needed to meet this threat. The only other major point I have to
add is the probable reactions of the Turkish Government and the Turkish-Cypriot
community to our acceptance of a visit. I would not put it past them to engineer
disturbances in their own interests—in fact I consider such action on their part
more than likely. I would have thought that the Turks would regard such a visit
as a weak and disastrous retreat by us in the face of a Greek political attack from
(? on intended) the proper exercise of our authority in the Island. The Greek
Cypriots would certainly regard it in this light. Further consideration of the points
I have mentioned in this paragraph has more than ever convinced me that under
current conditions a visit would be the cause of breaches of public order and that
there is a real danger that it would lead to bloodshed.

Ends.

From Cyprus

26th October, 1957
No. 1652

My telegrams No. 1508 and No. 1553.
Following for Lord Perth.
Strasbourg.

I was glad to see from your telegrams No. 1798 and No. 1864 that you hope
question of Visiting Mission will be considered next week.

I very much hope that firm decision can be taken quickly. The matters in
question are intimately concerned with my administration and I feel very strongly
that my successor should not be embarrassed by having to put up with such an
unwarrantable interference in the internal administration of the island as a review
by an outside and hopelessly biased body of my conduct of the internal security
campaign would represent. I trust, therefore, that Her Majesty’s Government
will be adamant in refusing to countenance such an invasion of our authority here.
MEMORANDUM BY THE MINISTER OF LABOUR AND NATIONAL SERVICE

This memorandum discusses the action proposed on certain Conventions and Recommendations adopted by the International Labour Conference.

I.—Convention No. 105 concerning the Abolition of Forced Labour

2. The Conference in June last adopted a Convention (No. 105) concerning the abolition of forced labour whose main effect is to prohibit the use of forced labour as a means of political coercion or as a method of mobilising labour for economic development. Condemnation of these practices voiced in discussions of this subject which began ten years ago in the United Nations, followed by independent enquiry into their prevalence, has now culminated in this action by the International Labour Organisation. The Convention, which was adopted by a practically unanimous vote, can be considered as among the most important of the International Labour Conventions.

3. The full text of the Convention is appended (Annex I). It provides that ratifying Governments shall suppress immediately and not make use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system; as a method of mobilising and using labour for purposes of economic development; as a means of labour discipline; as a punishment for having participated in strikes; or as a means of racial, social, national or religious discrimination.

4. It was made clear, in the discussion of the Convention, that prison labour required of persons imprisoned for participation in illegal strikes was not to be regarded as "forced or compulsory labour" for the purposes of the Convention.

5. The law and practice in the United Kingdom are fully in accordance with the requirements of the Convention and I seek the concurrence of my colleagues in a decision to ratify it. It is desirable that the Convention should be ratified as soon as possible in order to deny, or at least minimise, the propaganda advantage which may be taken of early ratification by Soviet bloc countries.

II.-(a) Convention No. 104 concerning the Abolition of Penal Sanctions for Breaches of Contract of Employment by Indigenous Workers

(b) Recommendation No. 100 concerning the Protection of Migrant Workers in Under-Developed Countries and Territories

6. I also seek the concurrence of my colleagues in decisions concerning two Instruments adopted by the International Labour Conference in 1955—Convention 104 concerning the Abolition of Penal Sanctions for Breaches of Contract of Employment by Indigenous Workers and Recommendation No. 100...
concerning the Protection of Migrant Workers in Under-Developed Countries and Territories. The texts of these Instruments were presented to Parliament in Cmd. 9629 published in November 1955.

7. The United Kingdom is not directly affected by either of these two Instruments, but both concern a number of the non-metropolitan territories for which the United Kingdom is responsible. After consultation with the Commonwealth Secretary and the Colonial Secretary, I propose, with their agreement, that the Convention should not be ratified, and that as regards the Recommendation it should be stated that its basic principles are generally acceptable to the majority of the Governments of the non-metropolitan territories. Annex II gives a summary of the provisions of the two Instruments and the reasons for the proposed decision.

III.-Recommendation No. 102 concerning Welfare Facilities for Workers


9. Conventions of the International Labour Organisation are ratified by the United Kingdom Government on behalf of both Great Britain and Northern Ireland. The Minister of Labour in Northern Ireland has been consulted and concurs in the present proposals.

10. It is the practice to inform Parliament by means of a White Paper of the Government's proposals on Conventions and Recommendations adopted by the International Labour Conference. If the present proposals are approved, authority is sought for the issue of a White Paper which would state briefly the action proposed and the reasons for it.

I. M.

Ministry of Labour and National Service, S.W. 1,
1st November, 1957.
TEXT OF CONVENTION 105 CONCERNING THE ABDLATION OF FORCED LABOUR

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fortieth Session on 5th June, 1957, and

Having considered the question of forced labour, which is the fourth item on the agenda of the session, and

Having noted the provisions of the Forced Labour Convention, 1930, and

Having noted that the Slavery Convention, 1926, provides that all necessary measures shall be taken to prevent compulsory or forced labour from developing into conditions analogous to slavery and that the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956, provides for the complete abolition of debt bondage and serfdom, and

Having noted that the Protection of Wages Convention, 1949, provides that wages shall be paid regularly and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his employment, and

Having decided upon the adoption of further proposals with regard to the abolition of certain forms of forced or compulsory labour constituting a violation of the rights of man referred to in the Charter of the United Nations and enunciated by the Universal Declaration of Human Rights, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-seven the following Convention, which may be cited as the Abolition of Forced Labour Convention, 1957:

**Article 1**

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour—

(a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;

(b) as a method of mobilising and using labour for purposes of economic development;

(c) as a means of labour discipline;

(d) as a punishment for having participated in strikes;

(e) as a means of racial, social, national or religious discrimination.

**Article 2**

Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

**Article 3**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

**Article 4**

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

**Article 5**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

**Article 6**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

**Article 7**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

**Article 8**

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

**Article 9**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides—

   (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 5 above, if and when the new revising Convention shall have come into force;

   (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

**Article 10**

The English and French versions of the text of this Convention are equally authoritative.
ANNEX II

CONVENTION NO. 104 CONCERNING THE ABOLITION OF PENAL SANCTIONS FOR BREACHES OF CONTRACT OF EMPLOYMENT BY INDIGENOUS WORKERS

This Convention provides that the competent authority in each country where there exists any penal sanction for the breach of a contract of employment shall take measures to ensure the abolition of such sanctions within one year of ratifying the Convention.

In the United Kingdom and the great majority of the non-metropolitan territories for which the United Kingdom is responsible, no penal sanctions for breaches of employment contracts exist. The Convention, therefore, has no practical application there.

In the few territories where penal sanctions still exist, namely, Southern Rhodesia, Northern Rhodesia and the High Commission territories, it is not yet possible to undertake that they will be abolished within one year.

It is, therefore, proposed that the United Kingdom should not at present ratify this Convention.

RECOMMENDATION NO. 100 CONCERNING THE PROTECTION OF MIGRANT WORKERS IN UNDER-DEVELOPED COUNTRIES AND TERRITORIES

This Recommendation which provides for the protection of migrant workers and their families during their outward and return journeys and during employment does not directly concern the United Kingdom. It does however concern the non-metropolitan territories for which the United Kingdom is responsible. It has been brought to the attention of the Governments concerned and the basic principles of the Recommendation are generally acceptable to the majority of them in the light of existing law and practice.

ANNEX III

RECOMMENDATION NO. 102 CONCERNING WELFARE FACILITIES FOR WORKERS

This Recommendation lays down standards for the provision of feeding, rest and recreation facilities in or near places of work, and for transport facilities to and from work where ordinary public transport is inadequate or impracticable. It does not apply to workers in agriculture or in sea transport.

The Recommendation indicates alternative methods for achieving the standards it lays down. It does not require the standards to be prescribed exclusively by laws and regulations, but contemplates that they may also be achieved by other means such as collective or other agreements between employers and workers. In examining the position in this country, therefore, regard has been paid not only to the relevant legislative provisions, but also to the general situation as it has developed by the provision of the appropriate facilities through the various other means permitted by the Recommendation. From this examination it appears that the broad objectives of the Recommendation have been achieved, and that its principles can be generally accepted, subject to reservations on the following points, which need particularly to be mentioned:—

(1) Paragraph 24 provides that the competent authority should consult workers' and employers' organisations concerning the method of administration and the supervision of welfare facilities set up by virtue of national laws or regulations. Where legislative requirements exist in
this country, the obligation to provide welfare facilities is placed on the employer and it is left to him to decide how the facilities should be provided and managed and to arrange for any consultation with representatives of the workers. It is not proposed to change this policy, nor to require the Factory Inspectorate, which is responsible for enforcement of the relevant requirements, to consult either employers’ or workers’ organisations.

(2) Paragraph 27 provides that where meals are made available to the workers by the employer or by caterers or contractors, prices should be reasonable and there should be no profit to the employer, but that any financial surplus resulting from the running of the canteen should be paid into a special fund and used either to offset losses or to improve the facilities provided; where the facilities are provided under collective agreements or special agreements within undertakings, the special fund referred to should be administered either by a joint body or by the workers. There are practical difficulties about defining profit in this particular connection. Moreover, in this country it is preferred to leave the parties concerned to decide for themselves how any canteen fund established by collective or special agreement should be managed, without the terms of the agreement being prescribed in advance. It is not therefore proposed to accept this paragraph.

(3) Paragraph 28 provides that workers should not be required to contribute towards the cost of welfare facilities they do not wish to use, and that where they have to pay for welfare facilities payment by instalments or delay in payment should not be permitted. Except to the extent that the first of these matters may come within the prohibitions of the Truck Acts or the Factories Acts they are not the subject of regulation in the United Kingdom, although they may be dealt with by voluntary arrangements, and it is not considered appropriate that the Government should take any action in regard to them.

It is proposed that the Recommendation should be accepted subject to the foregoing observations and subject to reservations on the particular points indicated above.
The Cabinet may wish to know the position on National Assistance.

2. They will recollect that, when we considered the question of improvements in social service benefits before the recess, it was felt that it would be highly desirable that the improvement in National Insurance benefits, the withdrawal of the tobacco concession, and the increases in the National Assistance scales should be effected simultaneously. It was, however, far from certain whether the increase in the assistance scales could be postponed long enough so as to coincide with the earliest date possible for the National Insurance increases.

3. The National Assistance Board last week submitted to me recommendations and draft regulations to raise the National Assistance rates by 5s. a week for a single householder, 9s. for a married couple, with corresponding adjustments for other categories, to take effect from 27th January. This is the date from which it is intended that the increase in retirement pensions shall operate under the Bill to be presented this week.

4. After consultation with the Prime Minister and the Chancellor of the Exchequer I have accepted the Board's recommendations, and regulations to implement them will be laid this week. These regulations are subject to the affirmative procedure.

5. This time-table means that there will be a gap a week or two longer than usual between the laying of the regulations and their coming into effect. This will give rise to some criticism.

6. I am satisfied that there are decisive advantages in attaining the objective discussed last summer of a simultaneous operation. My colleagues will recall the trouble which we had in 1955 when the increases in National Insurance benefits took place some two months after the increase in National Assistance scales. The result was that a very large number of supplemented pensioners felt aggrieved that they were deriving no benefit from the latter operation. Simultaneous operation is even more important on this occasion since, in the case of supplemented retirement pensioners (of whom perhaps half a million have tobacco tokens), it is only through an increase in the National Assistance scales that compensation for withdrawal of the tobacco concession can be given, and this concession will continue to be enjoyed until the 27th January. There is also the fact that the Board have more work to do this time because of the combined operation.
7. Further, although there will be some criticism that these scales do not operate before Christmas (which would, in any event, have been impossible), the present rates of assistance judged both by the Index of Retail Prices and by the "Mikardo index" have not yet fallen below the 1948 standard, though they have done so according to the Board's own confidential and, for this purpose, more relevant calculations. Under the Labour Government the National Assistance scales were allowed to fall substantially below the 1948 standard before action was taken. And, unlike that action, our present proposals will amount to an improvement on the 1948 standard.

8. I ought to add that both the Board and I considered the possibility of shortening the gap by delaying the making of a recommendation for a couple of weeks or so. We came, however, to the conclusion that silence on this subject would be very difficult to defend against the background of the other steps being taken after the resumption of Parliament.

J.A.B.-C.


4th November, 1957.
CABINET

WAGES

NOTE BY THE PRIME MINISTER

At their meeting on 7th November the Cabinet agreed that a short statement should be prepared defining the Government's attitude towards wage claims, with a view to ensuring that Government speakers would give consistent answers to questions on this matter.

The attached statement has been prepared for this purpose. I would ask my colleagues, in considering it, to bear in mind the following points:—

(a) It is not intended to serve as the basis of a speech. We should not ourselves attempt to prolong public discussion of this question. But, in so far as it is necessary for Ministers to make public statements on this subject, they should be guided by the general considerations outlined in the statement.

(b) What the statement does not say is as important as what it does say. The economic theory from which our policy derives is not simple and it cannot easily be explained in straightforward language which the man in the street can be relied upon to understand. Fundamentally, we rely on the working of a disinflationary policy through the economy as a whole to counter the effects of any unwarranted increase in personal

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incomes in any particular sector of it. But it is neither intellectually easy nor politically attractive to explain in public that, if one industry gets away with too generous a wage increase, other industries may have to foot the bill in terms of a smaller increase in pay or some discharge of labour. Nor is it easy to explain that, if the total demand on the economy is to be kept within manageable limits, the non-productive workers have got to be "carried" by the productive workers and that, for this purpose, the latter must be content with rather smaller rewards than their own productivity would strictly justify.

(c) For these reasons we should not allow ourselves to be drawn into discussing in detail the impact of our policy on individual industries or particular sectors of the economy, whether in terms of prices or the level of employment. We should equally refuse to indicate in advance the attitude which we might adopt to hypothetical wage claims in industries over which we have some control, e.g., the nationalised industries. It would, indeed, be unprecedented and improper if we did so. We must argue in terms of general principles. We must not let ourselves be driven into a corner and be compelled to define our policy towards particular industries and individual interests.

(d) The most important of the general principles is simple—namely that, while we have no intention of interfering with the established processes of collective bargaining and will continue to accept the awards of arbitration tribunals, we shall refuse to create more money to finance wage awards which are not matched by increased output. This is the cardinal proposition; and on this proposition we should rest.

I have circulated this statement of principles for the personal information of members of the Cabinet. It should not be communicated to any person outside the Government Service; and I would ask my colleagues to remember, in whatever use they make of it, the importance of not attempting to elaborate the Government's policy in public statements in any more detail than Government spokesmen have so far supplied. I am arranging for the more important statements already made to be circulated; and these should be regarded as the basic material on which all Government speakers should rely.

H. M.

10, Downing Street, S.W.1,
8th November, 1957.
STATEMENT OF PRINCIPLES ON WAGE CLAIMS

(a) Where the Government is dealing with its own employees or with services which are financed by the State, the existing Whitley procedures and principles will continue to apply. In considering any claims under these procedures the Government will apply the most stringent tests of what is justified under the principle of fair comparisons. If the result is disagreement and arbitration follows, the Government will accept the award. If the outcome of negotiations or of arbitration means spending more money, that money must somehow or other be saved, either within the particular Vote or within general Government expenditure.

(b) If arbitration takes place in a nationalised industry, such as the railways, the Government will not expect the Board to reject the arbitration award; but they will expect the Board to meet the extra costs from its own resources.

(c) The Government have no power to prevent private employers from negotiating with their employees such wage increases as they see fit to grant. But the restraint on demand which will be exerted by the Government’s disinflationary policies will operate to prevent employers from passing on such increases in higher prices while maintaining their sales undiminished.
C. (57) 262

15th November, 1957

CABINET

MALTA: CONSTITUTIONAL DEVELOPMENT
MEMORANDUM BY SECRETARY OF STATE FOR THE COLONIES

Decision of Principle
The Malta Round Table Conference recommended, and the Government accepted in principle in March 1956, that Malta should be represented by three members in the next United Kingdom Parliament, provided that the Maltese people showed, in a general election, that they wanted this. It was agreed at the same time that there should be a new Constitution for Malta to provide local autonomy for the Maltese Parliament, save on defence, external affairs and a limited number of other matters which would remain the sole and exclusive responsibility of Westminster.

Phasing of Legislation
2. The original plan was that the new Constitution should come into effect before the next Maltese general election. Mr. Mintoff, the Prime Minister of Malta, now accepts that, although the Integration Bill should be passed through all its stages, its provisions should not come into operation and the new Constitution should not be made under it until that election has been held. The question, however, arises whether the Integration Bill should be so framed that its provisions would come into effect automatically on the passing of a resolution by the new Maltese Parliament by whatever majority, even a single vote. The Maltese Government strongly press that the Bill should come into effect on the passing of a resolution and I am inclined to agree with this view.

Financial Arrangements
3. It will be recalled that the talks with the Maltese Government last July resulted in a Memorandum of Agreement (C. (57) 183) under which Her Majesty's Government recognize and support the ultimate aim of the Maltese Government that, after a reasonable period of years, Malta should reach an economy and standard of living comparable to that of the United Kingdom and it will be open to the Maltese Government after a period of 12-15 years to request that their economy becomes an integral part of the United Kingdom on the Northern Ireland pattern. The appropriate clauses to give effect to this Agreement will be included in the Integration Bill.

Constitutional Arrangements
4. Throughout the negotiations since March 1956 the Maltese have maintained that the new constitutional arrangements must reflect equality of status for Malta and its people. The Maltese people could not be asked to accept that Malta should be associated with the United Kingdom by half measures or in a way which showed grudging acceptance by the United Kingdom of the Round Table Conference idea. Mr. Mintoff has from the start made clear his view that this involves making provision in the new Bill for Malta to become part of the United Kingdom. The recent talks with him proceeded on this assumption on status though without any form of commitment on the United Kingdom side.
Subject to that, agreement was reached with the Maltese delegation on the main features of the proposed new constitutional arrangements, as set out in Annex A. The whole of these arrangements is, of course, contingent on a satisfactory solution being found on the matter of Malta's future status. But as there are a number of points in them which have a bearing on the question of status, or which may appear to raise other difficulties, I draw my colleagues' attention to them before I discuss possible solutions of the status question.

Affirmations

5. The first of these points which has a bearing on status is the effect of the proposed affirmations concerning the enactment by the Parliament at Westminster of laws for Malta, described in paragraphs (2) and (3) of Annex A. So far as the first affirmation is concerned, there is a precedent for the part relating to the status of Malta as part of the United Kingdom (if this is agreed) in Section 1 (2) of the Ireland Act, 1949 (which affirmed that Northern Ireland would not cease to be part of the United Kingdom without the consent of the Parliament of Northern Ireland). There is no precedent for the remainder of the affirmation, but the Maltese Prime Minister has pressed the view that the Integration Act will give effect to mutually agreed "articles of union" which ought not to be altered without the further agreement of both parties. As a general proposition, this appears to me to be sound and convincing.

6. As regards the second affirmation, fears have been expressed that if it became necessary to amend it, difficulties might arise with members of the Commonwealth since the question would then be raised whether the United Kingdom Parliament could amend the preamble and Section 4 of the Statute of Westminster (see Annex B) and similar provisions in subsequent Independence Acts. There is, however, no real parallel between the Statute of Westminster and this affirmation; and, in order to emphasise the difference, it could be made clear in the Integration Act that the affirmation can be amended with Maltese consent and so long as such consent were obtained it does not seem that an amendment would give rise to these difficulties with the Commonwealth. Moreover it will not be necessary to amend the affirmation when, for example, the economy of Malta is integrated with that of the United Kingdom and it becomes necessary for the United Kingdom Parliament to be able to legislate freely for Malta on matters such as income tax.

7. It has to be recognised that the second affirmation may lead to demands for similar provision to be made by Parliament in future with respect to other overseas territories. The Government of the Federation of Rhodesia and Nyasaland, for example, which has hitherto been content with assurances from the United Kingdom Government about the enactment of legislation by Parliament for the Federation, may reopen this question when the affirmation relating to Malta is enacted. We shall have to face this pressure if and when it arises and, if it is essential to resist it, rely, as we shall have to on other aspects of the integration plan, on the argument that Malta is unique.

Equality of Maltese Abroad

8. Another point which affects the question of status is the Maltese contention that once Malta becomes part of the United Kingdom and Maltese are "first-class" citizens of the United Kingdom and Colonies, it would be wrong if they were treated by other countries differently from other citizens resident in the United Kingdom. Mr. Mintoff has therefore asked for an assurance regarding the action Her Majesty's Government will take to ensure that equal treatment is accorded. What he has principally in mind is restrictions on Maltese immigration by the United States, Australia and Canada. It has been explained to Mr. Mintoff that while we sympathise with his point of view and even now it is our policy that all citizens of the United Kingdom and Colonies without distinction should be treated equally, we cannot oblige other countries to change or interpret their laws and practices. It has also been explained that in member countries of the Commonwealth, the policy in such matters is entirely for the Governments of those countries and, if any questions arise, they are dealt with in discussion between the Governments concerned.

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9. I therefore propose that, in reply to a letter from Mr. Mintoff, asking Her Majesty's Government to use her best endeavours with members of the Commonwealth and foreign countries to ensure to Malta and its people after integration like treatment to that accorded to United Kingdom citizens resident in the United Kingdom, I should say something on the following lines:

"As you are aware, Her Majesty's Government has a special relationship with the Commonwealth countries. The immigration programme of each Commonwealth country is solely for that country to determine. Any adaptations or modifications of policy would be a matter for discussion through the normal channels of communication. So far as foreign countries are concerned, Her Majesty's Government would continue to use her best endeavours to persuade them to treat Malta and its people on terms of equality."

Status of Malta

10. Apart from the question of equality of status with the United Kingdom, the Maltese Government attach great importance to having an explicit provision in the Bill to make Malta part of the United Kingdom, for a number of reasons. As Malta must no longer be a Colony, a new status is needed and Northern Ireland provides the closest analogy. It is also argued that certain practical consequences will flow from making Malta a part of the United Kingdom e.g., as regards Maltese immigration into the United States. We have explained to Mr. Mintoff that it is the reality of the constitutional relationship which will count and not any descriptive title. But he is nonetheless convinced that the title is of fundamental importance in presenting the new arrangements to the Maltese people and hence in ensuring that they are made to work as the Round Table Conference envisaged.

11. Several anomalies and difficulties arise out of any method of making Malta part of the United Kingdom. An important difficulty concerns the Royal Style and Title. My colleagues in the Malta Committee felt that a change in the Royal Style should, if at all possible, be avoided, particularly as any such change would require prior consultation with Commonwealth countries. I accept this view and Mr. Mintoff would not press the contrary view. The Malta Committee threw out the idea that, in order to make Malta part of the United Kingdom, she might be made part of Great Britain. This has been looked into by officials who advise that there are geographical and legal objections and that our purpose in avoiding a change in the Royal Style could better be achieved within the terms of the original proposal, as explained in the following paragraph.

12. Apart from the question of the Royal Style, it is necessary for any provision making Malta part of the United Kingdom to indicate what the future titles of the United Kingdom and of the Parliament of the United Kingdom are to be and what construction is to be placed upon references to the United Kingdom in Acts of Parliament passed and public documents issued after the provision comes into force. Officials have worked out alternative drafts of clauses which have the effect of making Malta part of the United Kingdom, but avoiding a change in the Royal Style. These are given in Annex C, with a description of their implications. It will be seen that the longer of the drafts expressly alters the title of the United Kingdom and the Parliament of the United Kingdom; but also expressly debar alteration of the Royal Style. The shorter version avoids alteration of either the Royal Style or the title of Parliament by simply providing for "the United Kingdom of Great Britain and Northern Ireland" to be construed as including Malta. The advantage of the longer version is that it goes as far as possible towards meeting the aspirations of the Maltese people by recognising openly the fact of union with us. On the other hand, it may stimulate more opposition in Parliament here and it draws attention to the anomaly of not altering the Royal Style and Title. The shorter version appears to avoid these objections, but by a device which may in itself be considered anomalous, and which is patently less attractive to the Maltese people.

13. It appears that there are no insuperable legal difficulties in the way of including Malta in the United Kingdom without changing the Royal Style. The British Constitution is flexible enough to embrace any anomalies that might arise. I am aware of the argument that the degree of autonomy which will be given to the Maltese Parliament under the arrangements described in Annex A goes
beyond that enjoyed by Northern Ireland but it is fully consistent with the recommendations of the Malta Round Table Conference and is in fact based on convenience, not on principle. Many of the anomalies in the present situation will disappear in any case if and when Malta should take up the option to integrate its economic and financial arrangements with those of the United Kingdom as provided for in the Memorandum of Agreement (C. (57) 183).

Recommendation

14. I believe it is both necessary and desirable that the fullest and most explicit expression should be given in the new arrangements to Malta’s equality of status with us. I therefore recommend that—

(i) the question of status should be settled by agreeing to make Malta part of the United Kingdom on the lines of the longer version in Alternative I of Annex C;
(ii) the drafting of legislation embodying the new constitutional arrangements in Annex A should now be authorised so that the Bill can be introduced in this session and passed through all its stages by next summer;
(iii) an exchange of letters about the treatment abroad of Maltese on the lines of paragraph 9 should be agreed; and
(iv) the Maltese Government should be informed without delay of our decisions.

A. L.-B.

Colonial Office, S.W.1,
12th November, 1957.

ANNEX A

SUMMARY OF MAIN FEATURES OF PROPOSED CONSTITUTIONAL ARRANGEMENTS

(1) The Bill will provide for the representation of Malta in the next United Kingdom Parliament, for the delimitation of three constituencies in Malta, and for the application to Malta of the United Kingdom laws regarding elections.
(2) There will be an affirmation in the body of the Bill to the effect that the status of Malta and representation at Westminster will not be diminished without Maltese consent. (The extent, if any, to which other provisions of the Integration Act will be amendable without Maltese consent remains for further consideration.)
(3) There will be a second affirmation in the body of the Bill declaring the United Kingdom Parliament’s intention not to legislate for Malta in matters within the competence of the Maltese Parliament except for the fulfilment of the United Kingdom’s responsibilities for defence and external affairs or with respect to certain other matters, e.g., civil aviation, coinage and currency. (The Maltese Parliament will be able to legislate for these other matters but it will be prescribed that Maltese Bills relating to them must be reserved for Her Majesty’s pleasure.)
(4) The Bill will also confer power on Her Majesty—

(a) during a period of two and a half years from the date of its coming into operation, to make provision for Malta by Order in Council with respect to defence and external affairs mainly for the purpose of adapting existing legislation in force in Malta and applying to Malta with modifications legislation in force in the United Kingdom; and
(b) to make provision for Malta by Order in Council in case of urgency with respect to defence and external affairs.

Both these powers will be subject to appropriate provisions requiring an affirmative resolution of each House of Parliament.
The Bill will enable a new constitution to be established for Malta by Order in Council.

Under the new constitution, the diarchy in the form of the Maltese Imperial Government will disappear but Her Majesty's Government's responsibilities for defence, &c., in Malta will be carried on by a United Kingdom representative in Malta.

The Queen's Representative in Malta will be obliged to act in accordance with the advice of Maltese Ministers in the exercise of his powers except as regards reservation of Bills.

The Maltese Parliament will have power to legislate on all matters except those specified in a Schedule of excluded matters, of which the main items will be defence, external communications, certain matters relating to the Crown, and nationality.

The executive authority of the Maltese Government will not extend to matters outside the legislative competence of the Maltese Parliament or to external affairs. It is proposed, however, that the United Kingdom Government should delegate, subject to the overriding control of Her Majesty's Government, certain executive powers in the field of external affairs to the Maltese Government, notably to negotiate and conclude trade agreements with neighbouring countries.

The Constitution will in general be amendable by an Act of the Maltese Parliament passed by a two-thirds majority, but will not be amendable by Act of the United Kingdom Parliament without Malta's consent.

Where any Maltese enactment is inconsistent with an Act of Parliament or subordinate legislation passed or made after the date of coming into operation of the Integration Act, the Maltese enactment will, to the extent of the inconsistency, be void. But the Maltese Parliament will be given power to amend or repeal Acts of Parliament and subordinate legislation passed or made before that date in so far as they have effect as part of the law of Malta and relate to matters within the legislative competence of the Maltese Parliament.

The responsible Secretary of State will have power to require the Queen's Representative not to assent to a Bill passed by the Maltese Parliament but to reserve it for Her Majesty's pleasure if the Bill appears to the Secretary of State to impinge on the responsibility of the United Kingdom Government for defence and external affairs. The Queen's Representative must, in the absence of a direction to the contrary from the Secretary of State, reserve for Her Majesty's pleasure any Bill relating to certain other matters, e.g., civil aviation, coinage and currency. A reserved Bill must be submitted for Her Majesty's assent unless within 60 “sitting” days each House of Parliament resolves that it should not be so submitted.

The Bill will provide for the establishment of machinery for consultation between the United Kingdom and the Maltese Governments on matters of joint concern.

ANNEX B

PROVISIONS IN STATUTE OF WESTMINSTER

1. The recital in the preamble to the Statute of Westminster states that “it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion” is in substance to the same effect.

2. The corresponding provision in the body (Section 4) of the Statute of Westminster is expressed as a provision dealing with the interpretation of Acts of Parliament; it reads “No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.” The marginal note to the section, however, reads “Parliament of United Kingdom not to legislate for Dominion except by consent.”
ANNEX C
STATUS OF MALTA
ALTERNATIVE DRAFTS

ALTERNATIVE I

(1) Subject to the provisions in this section, the Island of Malta shall, as from
the appointed day, be included in the territories comprised in the United Kingdom
which shall be known and styled accordingly as the United Kingdom of Great
Britain, Northern Ireland and Malta.

(2) Subsection(1) of section two of the Royal and Parliamentary Titles Act,
1927 (which specifies the title of Parliament), so far as it relates to the title of the
Parliament current at the appointed day and subsequent Parliaments, and
subsection (2) of that section (which provides for the interpretation of the
expression “United Kingdom”), so far as it applies to enactments passed and
public documents issued after that day, shall have effect as if for the words “Great
Britain and Northern Ireland” there were substituted the words “Great Britain,
Northern Ireland and Malta.”

(3) Nothing in this section shall be construed as requiring or authorising any
amendment of Her Majesty’s royal style and title.

(4) Nothing in this section shall be construed as extending to Malta any
enactment or instrument or rule of law which does not extend to Malta immediately
before the appointed day, or as affecting the construction of any reference to the
United Kingdom in any enactment (other than section two of the Royal and
Parliamentary Titles Act, 1927) passed before that day, or in any instrument
made before that day.

(5) Unless the contrary intention appears therein enactments of the Parliament
of the United Kingdom passed on or after the appointed day shall be deemed not
to extend to Malta.

ALTERNATIVE II

(1) Subject to the provisions of this section, the Island of Malta shall, as from
the appointed day, be included among the territories comprised in the United
Kingdom of Great Britain and Northern Ireland, and any reference to the United
Kingdom, or to the United Kingdom of Great Britain and Northern Ireland, in
any enactment passed or public document issued on or after that day shall be
construed accordingly.

(2) Nothing in this section shall be construed as extending to Malta any
enactment or instrument passed or made before the appointed day, or any rule
of law in force immediately before that day, or as otherwise affecting the
operation in relation to Malta of any such enactment, instrument or rule of law.

(3) Nothing in this section shall be construed as affecting, in relation to
enactments passed on or after the appointed day, any presumption of law with
respect to the territorial extent of enactments of the Parliament of the United
Kingdom.

NOTES

The longer version, in Alternative I above, provides that the future title of
the United Kingdom shall include an express mention of Malta and expressly
amends section 2 of the Royal and Parliamentary Titles Act, 1927, so as to make
a similar alteration to the future title of Parliament and so as to include Malta,
unless the context otherwise requires, in the meaning of references to the United
Kingdom in future Acts and public documents. Although there is some
inconsistency in not making a corresponding alteration to the Royal Style and
Title, subsection (3) expressly excludes any need for any such alteration.
Subsections (4) and (5) respectively provide that the operation of existing law in
relation to Malta is not affected and preserve for the future the presumption that
Acts of Parliament extend only to the United Kingdom as at present constituted,
and corresponding provision is made in subsections (2) and (3) of the shorter version
in II above.
The object of the shorter version in Alternative II is to produce a situation in which it is unnecessary either to alter the Royal Style and Title or to provide expressly against the necessity for alteration. The words at the end of subsection (1) of this draft accordingly are designed to serve a dual purpose.

In the first place they operate to amend subsection (2) of section two of the Royal and Parliamentary Titles Act, 1927. This is done obliquely, but the effect undoubtedly is that the words “United Kingdom” when used in a future Act would mean Malta as well as Great Britain and Northern Ireland.

Secondly, the words in question do something to indicate which way to answer the question (so far left open by the proposition that Malta is to be included among the territories of the United Kingdom) what is the proper future title of the United Kingdom? The assumption underlying the words at the end of the subsection must be that “the United Kingdom of Great Britain and Northern Ireland” will continue to be used in Acts of Parliament and official documents, and the effect of the words is that when they are so used Malta is included without express mention.

It follows from the second proposition just set out that in the shorter version in Alternative II it is strictly unnecessary to include a subsection disclaiming amendment of the Royal Style and Title, and the same applies to the title of Parliament. It would, on the other hand, be quite appropriate, if desired, to include a subsection on the lines of subsection (3) of the longer version in Alternative I, but expanded so as to cover the Parliamentary title as well.
CABINET

HOUSE OF LORDS REFORM

Memorandum by the Lord Chancellor and the Secretary of State for Commonwealth Relations

On 15th October the Cabinet discussed the line which Government speakers should take in the two-day debate in the House of Lords on House of Lords reform, and agreed that it would be preferable to adhere to our original intention to introduce a Bill strictly limited to the creation of life Peerages and that we ought not to appear to be envisaging any extension of the hereditary principle (C.C.(57) 73rd Conclusions, Minute 6). In particular, we were advised not to encourage the suggestion of providing for the admission of hereditary Peeresses.

2. We had an interesting, well attended and, on the whole, a satisfactory debate. Our proposals for life Peerages for men and women proved generally acceptable to all shades of opinion in the House. Not unnaturally the most vociferous critics were those who thought that we had not gone far enough and mainly for that reason the reception in some quarters was fairly tepid. There was, however, little disposition to make it a Party matter, notwithstanding that the Opposition refused to commit their Party in any way, save in their rejection of the hereditary principle. In the Debate on the Address in the Commons, Mr. Gaitskell also refrained from committing his Party, doubting whether the Government proposals could be treated apart from the questions of the composition of the House of Lords as a whole and its existing powers. One or two Labour Peers (e.g. Lords Silkin and Lucas) speaking for themselves, recognised the practical necessities of the case, that is to say, the need to recruit adequate numbers of Peers to do the ordinary work of the House.

3. Apart from the criticism that we had not gone far enough, and the expressions of dissent (not only on the Labour side) from the hereditary principle, the main points of debate and possible future controversy arose over the question of limitation of the numbers of life Peerages to be created annually or to be in existence at any one time, the reduction of the number of hereditary Peers to an extent which would cut out the backwoodsmen, the payment of salaries and expenses, the renunciation of Peerages (both before and after succession) and hereditary Peeresses.

4. Limitation on numbers of life Peers. There was no uniformity of view on this question. Lord Teynham and other Independent Unionist Peers were in favour of limitation on the ground that a large influx of life Peers would destroy the character of the House; Lord Samuel was against any limitation.
5. After discussing the question in the light of the debate, we have come to the conclusion that it would be undesirable to fetter the power of the Crown in any way. Apart from other considerations, the arguments against limitation of numbers are compelling on the score of convenience and simplicity. In practice the demand for life Peers will vary from time to time and the Prime Minister's hands ought not to be tied. If an annual limitation were to be imposed, special exceptions would in any event have to be made to enable the Prime Minister to bring up Ministers and ex-Ministers to the Lords and this would complicate a Bill which is otherwise extremely simple. Moreover, it is difficult in logic to impose a limit on the number of life Peers while the number of hereditary Peers which may be created remains unlimited.

6. Reduction of the number of hereditary Peers. A number of Peers including Lord Salisbury wish the Bill to include a limit on the number of hereditary Peers who may sit. They would arrive at a number by election or selection.

7. Lord Salisbury will pursue this as he argues that now that the Socialists have declared themselves against the hereditary system there is nothing to lose by going for a comprehensive scheme of reform and in effect daring the Socialists to repeal it when they take office. He does not believe that they would do it.

8. There can be no doubt that an imposed limit on hereditary Peers would arouse the strongest feelings in our Party and we are sure that the best way to deal with the backwoodsmen is to try the proposals of the Swinton Committee which recommended that the House could grant leave of absence. This, at the time, was supported by all the Parties and came well out of the recent debate.

9. Payment. This question received attention from many speakers and fears were genuinely expressed that, unless some better financial provision is made, it may still be difficult to get new blood into the House. At the same time there was general appreciation of the dilemma, namely, the impossibility of paying a salary to a large number of Peers in an unreformed House, and the unwillingness of a large section of opinion to see a reformed House incorporating any considerable hereditary element.

10. Renunciation of Peerages. Lords Attlee, Silkin and others backed this proposal and it received some support. The Lord Chancellor made it clear that the Government regard this question as essentially one for the House of Commons.

11. Hereditary Peeresses. There was a general, but not universal, welcome for the proposal to admit women as life Peers. There was some backing for the admission of hereditary Peeresses, and the pressure for them might increase.

12. Conclusion. We consider that the course of the debate as a whole confirms the wisdom of the Cabinet's decision not to proceed at present beyond a simple life Peerages Bill. The advocates of radical reform are fairly numerous and will certainly work behind the scenes and during the passage of the Bill in an endeavour to get us to change our
minds. Moreover, there are a number who have "injustices" which they wish to see remedied. It is clear that we shall get badly bogged unless we stick firmly to the principle of the limited Bill.

13. We attach to this memorandum a copy of a Bill to permit the creation of life Peerages for men and women without any limitation on numbers. If the Cabinet approve, the Lord Chancellor does not consider it appropriate or necessary for the Bill to be brought before the Legislation Committee, of which he is Chairman. He has arranged for copies to be sent to the Attorney-General and the Lord Advocate. We shall be seeing the Independent Unionist Peers again on 21st November and we suggest that the Bill should be introduced in the House of Lords immediately thereafter.

14. We accordingly recommend -

(1) that, in the light of the debate in the House of Lords, the Cabinet should adhere to its previous decision to confine its legislation on House of Lords Reform in the current session to taking power to create life Peerages for men and women;

(2) that authority be given for the introduction of the attached Bill in the House of Lords.

K.
H.

House of Lords, S.W.1.

12th November, 1957.
DRAFT
OF A
BILL

Make provision for the creation of life peerages carrying the right to sit and vote in the House of Lords.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Without prejudice to Her Majesty's powers as to the appointment of Lords of Appeal in Ordinary, Her Majesty shall have power by letters patent to confer on any person a life peerage (that is to say a peerage expiring on his death) having the incidents specified in subsection (2) of this section.

2. The holder of a life peerage conferred under this section shall, by virtue of that peerage—

   (a) rank during his life as a baron under such style as may be appointed by the letters patent; and
   (b) subject to subsection (4) of this section, be entitled during his life to receive writs of summons to attend the House of Lords and sit and vote therein accordingly.

3. A life peerage may be conferred under this section on a woman.

4. Nothing in this section shall enable any person to receive a writ of summons to attend the House of Lords, or to sit and vote in that House, at any time when he is by law disqualified therefor.

2. This Act may be cited as the Life Peers Act, 1957.

A.D. 1957
CONFIDENTIAL

Life Peers

DRAFT OF A BILL

To make provision for the creation of life peerages carrying the right to sit and vote in the House of Lords.

CXCVI—L (2)

11th November, 1957

16—1 (38619)
WAGES: COLLECTIVE BARGAINING AND ARBITRATION

MEMORANDUM BY THE MINISTER OF LABOUR AND NATIONAL SERVICE

Normal Methods of Wage Determination

Terms and conditions of employment in this country are determined almost always by industry itself through voluntary negotiations between employers and workers. There are 22 million workers in the country, of whom nearly 10 million are members of trade unions. Although public attention concentrates on the activities of a small number of the principal trade unions, there are in fact some 700 unions that negotiate on wages matters. It is true that the wages of some workers, particularly in commerce and the professions, are determined on an individual basis, but they are none the less influenced by the current trend of settlements reached between employers (or their organisations) and the trade unions.

2. Settlements of this kind may be reached by the parties in three ways:—
   (a) by voluntary negotiations—covering single employers or, more commonly, employers in an industry associated together for the purpose, who undertake to observe the wages agreement;
   (b) by joint industrial councils containing representatives only of employers and workers—covering some well-organised industries. In the public sector Whitley Councils in Government Departments and the health services and national joint councils for local authority services and nationalised undertakings are the counterparts;
   (c) by statutory wage regulation through wage boards and councils which consist of representatives of employers and workers together with independent members (including the chairman) appointed by the Minister of Labour or (Agricultural Wages Boards) by the Minister of Agriculture and Secretary of State for Scotland—covering certain less well-organised industries. To some extent the independent members act both as conciliators and as arbitrators since if the employers' and workers' sides fail to agree after discussion, the independent members will try to resolve the differences and finally have the deciding vote in reaching a decision.

3. The approximate number of workers corresponding broadly to categories (b) and (c) above are:
   (b) Industries covered by Joint Industrial Councils  4,500,000
      Central Government  1,100,000
      Local Government  1,500,000
      Nationalised Industries (including Health Service)  2,500,000
   (c) Industries covered by Wages Councils and Catering
      Wages Boards  3,000,000
      Agricultural Wages Boards  750,000

The remainder of the employed population (about 9 million) will also be covered by voluntary arrangements, ranging from the direct employer-worker relationship to negotiations between employers' organisations and trade unions on an industry-wide basis.
Conciliation

4. An officer of the Ministry of Labour does not formally intervene in any dispute on terms and conditions of employment until it is clear that the negotiating machinery available has been fully utilised and has not produced a settlement. The conciliation officer’s advice and assistance will, however, be available if required during the course of negotiations. His activities are unlikely to range into central and local government employments or those covered by Wages Boards and Councils, and he is less concerned with nationalised industries and joint industrial council industries than with the miscellaneous field described in 2 (a) above.

Failure of Joint Negotiations

5. When it becomes clear that no settlement can be reached by the parties directly, or as the result of conciliation, the arbitration facilities provided by the State may become available. Exceptionally the Minister may consider that it is necessary to inquire into the causes and circumstances of the dispute in which case he appoints a formal Court of Inquiry or less formal Committee of Investigation to do this and prepare a report. Both these methods are referred to below.

Arbitration

6. Provided the Minister is satisfied that existing machinery has been used to the full extent there are available two main types of arbitration:

(a) Voluntary arbitration: in which both parties agree to go to arbitration, is usually provided by the Industrial Court (President, Sir John Forster) but arbitration by a special board or by a single independent person is available. Awards of these bodies are not legally binding but in practice the parties agree at some time (usually beforehand) to accept the awards.

(b) Arbitration at the wish of one party only: which is provided through the Industrial Disputes Order, 1951, by the Industrial Disputes Tribunal (Chairman, Lord Terrington). Under this procedure, provided certain requirements are fulfilled, a dispute referred to the Minister by one of the parties must be referred by him to the Tribunal, whose award becomes part of the implied terms of contract between the employer(s) and workers concerned. The Industrial Disputes Order is dependent on Defence Regulations and will disappear with them. I am at present in consultation with the Trades Union Congress and the British Employers’ Confederation on the provision of “compulsory” arbitration on something like the Industrial Disputes Tribunal model. This would need legislation.

7. During the five years up to the end of 1956, the Industrial Court issued 280 awards and the Industrial Disputes Tribunal 857 awards. Of the 151 awards of the Industrial Disputes Tribunal in 1956, 28 were concerned with local authorities and 19 with the health services, many of these of minor importance. The most considerable disputes dealt with were those in the building industry (1 million workers); local authorities (360,000 workers); cotton spinning (240,000 workers). No other disputes involved more than 5,000 workers.

8. With few exceptions all the nationalised industries have joint agreements for referring disputes to arbitration and for the form arbitration should take. Details of these arrangements are given in Appendix A.

Arbitration arrangements for the Civil Service are given in Appendix B.

9. At hearings of both the Industrial Court and the Industrial Disputes Tribunal these bodies have one representative of employers and one of workers, but whereas the Industrial Court has also one independent member (the chairman), the Industrial Disputes Tribunal normally has three independent members (including the chairman). On the Industrial Court membership seldom varies; but for the Industrial Disputes Tribunal all the members, other than the chairman, are drawn from panels, so that the membership varies from hearing to hearing. All members of arbitration bodies set up under the Industrial Courts Act, 1919, and the Industrial Disputes Order, 1951, are appointed by the Minister of Labour and paid from public funds. Representatives of employers and workers are appointed after consultation with the British Employers’ Confederation and the Trades Union Congress but independent members are appointed without consultation with an outside body.
Courts of Inquiry

10. A Court of Inquiry can be appointed by the Minister of Labour without the agreement of the parties, but in practice this is usually forthcoming. It is reserved for matters of major importance, where no agreed settlement seems possible even through arbitration, and when an unbiased and independent examination of the facts is considered to be in the public interest. The membership of a Court of Inquiry follows the familiar pattern—indirectly chairman and one representative each of employers and workers and it usually consist of persons who are active members of arbitration bodies. The Court of Inquiry is not specifically an instrument of conciliation or arbitration, though its findings or recommendations usually form the basis for settlement in subsequent negotiations between the parties.

Courts of Inquiry have been set up in the last few years as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Concerned directly with wages</th>
<th>Concerned primarily with other considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>3</td>
<td>---</td>
</tr>
<tr>
<td>1955</td>
<td>2</td>
<td>---</td>
</tr>
<tr>
<td>1956</td>
<td>2</td>
<td>---</td>
</tr>
<tr>
<td>1957</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

How Wages Settlements are Reached

11. The table following shows the composition of the addition to the weekly wage bill 1951–56 by methods of settlement:

<table>
<thead>
<tr>
<th>Year</th>
<th>Through arbitration</th>
<th>Wages Councils, Catering Wages Boards and Agricultural Wages Boards</th>
<th>Under sliding scale arrangements based on the Retail Prices Index</th>
<th>By direct negotiation between employers and workers</th>
<th>On Joint Industrial Councils</th>
<th>Other voluntary arrangements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951</td>
<td>4.8</td>
<td>17.5</td>
<td>5.5</td>
<td>45.7</td>
<td>24.4</td>
<td>2.1</td>
</tr>
<tr>
<td>1952</td>
<td>12.8</td>
<td>19.2</td>
<td>14.6</td>
<td>28.2</td>
<td>22.7</td>
<td>1.5</td>
</tr>
<tr>
<td>1953</td>
<td>20.0</td>
<td>35.7</td>
<td>19.4</td>
<td>13.7</td>
<td>9.9</td>
<td>1.3</td>
</tr>
<tr>
<td>1954</td>
<td>11.9</td>
<td>7.6</td>
<td>8.3</td>
<td>45.2</td>
<td>23.3</td>
<td>3.7</td>
</tr>
<tr>
<td>1955</td>
<td>4.8</td>
<td>15.3</td>
<td>5.8</td>
<td>39.5</td>
<td>31.9</td>
<td>3.6</td>
</tr>
<tr>
<td>1956</td>
<td>3.1</td>
<td>21.2</td>
<td>6.4</td>
<td>40.2</td>
<td>26.7</td>
<td>2.4</td>
</tr>
</tbody>
</table>

Wages settlements in which there has been Ministry of Labour conciliation at some stage are not statistically recorded, but in 1956 the percentage of the wage bill affected was about 1.7 per cent. Settlements were finally reached directly by the parties or through arbitration.

Role of a Conciliator

12. The Conciliation Act 1896 required that a conciliator shall "inquire into the causes and circumstances of the difference by communication with the parties and otherwise shall endeavour to bring about a settlement of the difference." His function is one of bringing the parties in dispute together so that they may reach agreement, not to suggest what the basis of settlement should be.

Role of an Arbitrator

13. The arbitrator’s function, as expressed in legislation, is the settlement of trade disputes. He has no rules for guidance and he is not required to give reasons for his findings. He has before him the statements and submissions of the parties and he bases his award on practical considerations, such as

1. The capacity of the employer(s) to pay;
2. The "fairness" of his award in relation to movements in wages, &c., for comparable groups of workers;
3. Movements in the cost of living;
4. Increasing productivity;
5. The prospect of his award resulting in a settlement.
Supplying Information to Arbitrators

14. At present the Ministry of Labour do not supply information to arbitrators or to members of Wages Councils to assist them in their deliberations. The Ministry of Agriculture have for some years supplied the Agricultural Wages Board for England and Wales with factual data about wages and earnings in agriculture and industry and with particulars of Government statements on economic policy. This was supplied at the request of members; no similar request has come from the other bodies referred to.

15. We should not underestimate the profound significance, to the trade union mind, of the Chancellor’s statement that “those who arbitrate” should take into account the country’s economic position. It seems to us unanswerable that in an adjudication of wages the national interest should be considered, but to the trade unionist concerned and to his leaders this generally appears as a direction to the tribunal or court and also to some extent as an irrelevance in an issue as to whether or not his pay claim should succeed.

16. We have a tightrope to walk in regard to this matter of collective bargaining and arbitration and I suggest that the following conclusions are the right ones to draw:

1. We should stick firmly to our belief that the right place for pronouncements by the Government on economic affairs in this country is the despatch box in the House of Commons and also to our belief that everyone in the country should as far as it lies within our power be made aware of what we think could happen if restraint is not shown.

2. We must try to make it clear not only that we have not got a national wages policy but that we neither intend to have one nor is it possible to have one. We do not intend any attack on collective bargaining nor do we seek to interfere with arbitration. We should continue to make it clear that the Government do not intend themselves to decline or to encourage others to decline arbitration awards. Indeed, far from our doctrines being an attack on arbitration, it would be a more valid criticism to say we are relying too much on arbitration. For the natural result of our policies is that more offers considered inadequate by the unions will be made and therefore more cases might go to arbitration.

3. We should make clear, as we did in the Economic Debate, that we are not sending official advice to the arbitrators nor unofficially do we intend to warn them privately against the dangers of any particular claim.

I. M.

Ministry of Labour and National Service,
8, St. James's Square, S.W. 1,
8th November, 1957.
APPENDIX A

ARBITRATION ARRANGEMENTS IN THE NATIONALISED INDUSTRIES

<table>
<thead>
<tr>
<th>Nationalised Industry</th>
<th>Form of arbitration (if any)</th>
<th>Whether agreed beforehand that award will be accepted</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Coal Mining</td>
<td>Within the industry—at pit, district and national levels (National Reference Tribunal)</td>
<td>Yes</td>
</tr>
<tr>
<td>(a) Railways—</td>
<td>Within the industry—Railway Staff National Tribunal</td>
<td>No</td>
</tr>
<tr>
<td>(b) Railway shopmen</td>
<td>If both parties agree, reference to the Industrial Court</td>
<td>No (but generally likely to be accepted)</td>
</tr>
<tr>
<td>Electricity Supply</td>
<td>Reference to Industrial Court or other agreed tribunal at request of majority of either side of Joint Council</td>
<td>Yes (if reference is made to Industrial Disputes Tribunal the award is legally binding)</td>
</tr>
<tr>
<td>Gas Industry</td>
<td>Reference to Industrial Disputes Tribunal or other agreed tribunal at request of majority of either side of Joint Council</td>
<td>Yes</td>
</tr>
<tr>
<td>Civil Aviation</td>
<td>Reference to Industrial Court at request of either side of Joint Council</td>
<td>Yes</td>
</tr>
<tr>
<td>Road haulage (British Road Service)</td>
<td>Reference to Industrial Court or other agreed tribunal at request of majority of either side of Joint Council</td>
<td>Yes</td>
</tr>
<tr>
<td>Atomic Energy</td>
<td>At request of majority of either side of National Joint Industrial Council (manual workers) to arbitration (unspecified), or similarly by Whitley Council (non-manual workers) to Board of Arbitration under Industrial Courts Act</td>
<td>Yes</td>
</tr>
<tr>
<td>London Transport Executive</td>
<td>No arbitration procedure (but see footnote)</td>
<td>No specific agreement but both sides morally bound to implement the award</td>
</tr>
<tr>
<td>(a) Omnibuses</td>
<td>Not strictly arbitration but a reference is possible to a “Wages Board” within the industry whose findings if not accepted by both parties are referred for consideration by a joint conference of L.T.E. and the unions</td>
<td></td>
</tr>
<tr>
<td>(b) Underground railways</td>
<td>Not strictly arbitration but a reference is possible to a “Wages Board” within the industry whose findings if not accepted by both parties are referred for consideration by a joint conference of L.T.E. and the unions</td>
<td></td>
</tr>
</tbody>
</table>

Footnote.—The statutory arbitration machinery of the Industrial Courts Act, 1919, and the Industrial Disputes Order, 1951, is available in cases where arbitration is not otherwise agreed between the parties.

APPENDIX B

ARBITRATION IN THE CIVIL SERVICE

For classes within the ambit of the Civil Service National Whitley Council, i.e., “non-industrial civil servants together with Post Office engineering and allied grades but excluding the Foreign Service” an agreement known as the Civil Service Arbitration Agreement provides that failing agreement by negotiation reference may be made by Government departments on the one hand and recognised Associations of Civil Servants on the other to the Civil Service Arbitration Tribunal. This Tribunal deals with questions affecting the emoluments, weekly hours of work and leave of classes of Civil Servants on which Government departments and recognised Associations of Civil Servants have failed to reach agreement by negotiation. The Tribunal consists of an independent Chairman, one member drawn from a Panel appointed by the Minister of Labour and National Service as representing the Chancellor of the Exchequer for the time being, and one member drawn from a Panel similarly appointed representing the Staff Side of the National Whitley Council. This arbitration machinery does not apply to the “Higher Civil Service” for whom the Coleraine Committee may make recommendations in respect of pay, &c.

For civil servants employed in Government Industrial Establishments matters in dispute are referred by joint agreement to the Industrial Court for settlement.

SECRET
TOP SECRET

C. (57) 265

12th November, 1957

CABINET

CYPRUS

MEMORANDUM BY THE MINISTER OF DEFENCE

The Cabinet on 30th July, 1957 (C.C. (57) 59th Conclusions, Minute 2), invited me—

(i) to arrange for an examination of the possibility of establishing adequate control over the areas of territory indicated in the map annexed to C. (57) 178, other than the enclaves of Akrotiri-Episkopi and Dhekelia-Pergamos, by means of the acquisition of leases in perpetuity;

(ii) in consultation with the Colonial Secretary, to arrange for further consideration to be given to the desirability of enlarging the Dhekelia-Pergamos enclave to include the whole of the Cape Greco peninsula south of Famagusta.

Desirability of Securing Facilities by Means of Bases

2. The facilities outside the Akrotiri-Episkopi and Dhekelia-Pergamos enclaves which we require to retain are as follows:—

(a) Nicosia Airfield—to accommodate fighter and transport aircraft, and to provide alternative airfield facilities;

(b) Cape Greco and Cape Kormakiti—for deployment of radar early warning facilities;

(c) Mount Troodos—containing a radar homing beacon for R.A.F. aircraft;

(d) Heraklis—containing the R.A.F. transmitting station covering normal R.A.F. signals and also the transmission to London of intelligence intercepts by the Y stations at Ayios Nikolaos and Pergamos;

(e) four small outposts providing search and rescue and meteorological services;

(f) Zyghi—containing the Foreign Office medium wave transmitter now used for B.B.C. broadcasts to the Arabs;

(g) SCANT "STUDIO"—(the site marked "B" near Athna on the map attached to C. (57) 178) and SCANT transmitter (site "B" south of Larnaca on the map)—covering both overt and covert Foreign Office wireless activities;

(h) Ayios Nikolaos—containing the Army Y station, the R.A.F. message centre and the Army ordnance depot.

3. It is essential that we should be able to continue to use these various installations after the introduction of condominium to the same extent as we do now.

4. Although for all practical purposes it would be possible to secure this by means of leases, I do not favour this course. Leases would depend on some form of agreement with the new Government of Cyprus and we know from experience how vulnerable such agreements are to unilateral renunciation. Our rights are less
liable to be disputed if we retain actual sovereignty. The only point of going for leases in preference to sovereignty would be to make the arrangement more palatable to the Greek Government. But I doubt whether in fact leases would be more palatable to the Greeks than our retention of sovereignty. The Greek Government would have to give their positive approval to a lease arrangement and they might well find this more embarrassing than to be faced with a firm decision on our part that in transferring Cyprus to the condominium we must retain certain small areas under our sovereignty.

5. In the case of Nicosia airfield, we would naturally grant to the condominium all the facilities necessary to operate it for civil aircraft.

Desirability of Extending Dhekelia-Pergamos Enclave

6. If the Dhekelia-Pergamos enclave were to be extended to include the whole of the South-East corner of the island, it would comprise a good self-contained area and would have the advantage of incorporating in one enclave Dhekelia-Pergamos, Ayios Nikolaos, Cape Greco and SCANT "STUDIO."

7. But there would be serious disadvantages. Instead of the negligible number of Greeks who would be included within the smaller Dhekelia-Pergamos enclave, there would be some 17,000 Greeks and eleven villages. The larger area contains fertile land including valuable citrus plantations and market gardens. The ejection of the local population would be strongly resented; yet, if they were allowed to remain, they would create a considerable administrative problem.

8. On balance, I am satisfied that the disadvantages of extending the Dhekelia-Pergamos enclave in the manner proposed would outweigh any possible advantages.

Conclusions

9. My conclusions are that:—

(a) The negotiation of leases would be less satisfactory to us and not necessarily more acceptable to the Greek Government, than our retention of sovereignty over these areas.

(b) The local resentment and the administrative problems which the proposed extension of the Dhekelia-Pergamos enclave would cause would greatly outweigh the advantages.

Ministry of Defence, S.W.1,

11th November, 1957.

D. S.
CABINET

KENYA

Memorandum by the Secretary of State for the Colonies

On 8th November in Nairobi I make a statement to the Elected and Corporate Members of the Legislative Council of Kenya on new constitutional arrangements. This statement is attached; it will be presented as a White Paper to Parliament on 14th November.

2. I negotiated for two weeks with the various groups of members of the Legislative Council. The position of the Africans was that they would not discuss any other constitutional issue until their claim for fifteen additional seats for communally elected African representatives had been accepted and the agreement implemented. The position of the Europeans was that they were ready to negotiate on all constitutional issues together but they attached particular importance to some built-in safeguards for the minority communities and implementation of the agreement reached between the groups in the Legislative Council last year for the creation of some additional seats to strengthen the non-Government side of the Legislative Council and to provide a place for some Ministers who would draw their support from more than a single communal constituency. There were some Europeans who wished to insist on the implementation of this agreement before discussion on other issues. The Asians were on the fence.

3. It became clear that, if I remained bound by the pledge in the 1954 constitutional settlement not myself to initiate changes so long as the constitutional arrangements remained workable, a situation of deadlock with growing bitterness would persist. Some of the leading Europeans realised, as I did, that this would not be to anyone's advantage. The European and Asian Elected Ministers therefore decided to help me to declare the Constitution unworkable and resume the initiative by putting their resignations in the hands of the Governor.

4. In these circumstances I made the attached statement. The main features of the settlement proposed are as follows -

   (a) Six additional seats should be provided for African Members to be elected by communal electorates from constituencies subsequently to be determined. With the proposal that the two seats at present filled by Corporate Members should not remain beyond 1960, this addition will bring the African Elected Members into equality of communal representation with the Europeans.
(b) The additional seats contemplated in last year’s agreement should be twelve in number, four to be filled by Europeans, four by Africans and four by Asians. These seats should be filled through election by the whole Legislative Council sitting as an electoral college and voting by free and secret ballot. They can, perhaps, best be described as inter-communal seats. The number of such seats may be increased during the next ten years but during that period the proportions between the groups (and within the various divisions of the Asian group) should not be varied. Any changes in the total number of such seats and the method of filling them should be subject to the approval of the Council of State, which is also a feature of the proposals.

(c) In any future expansion of the Legislative Council there will be no additional seats based on election by purely communal electorates.

(d) The two portfolios available to African Ministers will be increased in importance and the European and Asian Ministers without Portfolio will be given defined responsibilities.

(e) In order to protect any one community against discriminatory legislation harmful to its interests, there should be created a Council of State with certain defined powers of delay, revision and reference. This would not be a standing second chamber but would be convened, rather like a Privy Council, when occasion arose for it to exercise its powers.

5. This solution has the merit from the African point of view of increasing their communal representation on a scale which is reasonable in relation to the demarcation of constituencies (on which I have yet to have the Governor's final recommendation) and in relation to the other groups, since the Africans will now have as many Elected Members, either from communal constituencies or by indirect election by the Legislative Council, as the Europeans. It also replaces the previous constitutional arrangements known to and opposed by the Africans as the "Lyttelton Plan".

6. From the European point of view the settlement has the virtues of placing a barrier on the creation of further purely communal constituencies and closing the door to the racialist advance of African numbers. It also creates an instrument with powers of revision, delay and reference to Her Majesty's Government, the Council of State, which will have within its functions the right to give advice, which the Secretary of State must respect, on any subsequent changes in the numbers and methods of election to the non-communal seats. This does not preclude the possibility of moving in future in the development of this type of seat to a common roll, but such a move would not at present meet with a welcome from any group in Kenya. The settlement also maintains the numerical relationship of four Europeans to two Africans to two Asians among the elected Ministers in the Council of Ministers, although these proportions are not frozen in the settlement.

7. From the point of view of the Asians and Arabs, while they have gained no additional communal seats, they have been as a group allotted inter-communal seats on a basis of equality with the other two groups.
8. There is, of course, provision that in all circumstances the Governor will be able to maintain a Government majority in the Legislative Council. This, taken with the statement which I made to the Press before leaving Kenya, that I believe that for many years to come it will be necessary for the Government of Kenya to include a certain number of official members and for ultimate control to remain with a Governor responsible to Her Majesty's Government in the United Kingdom, should promote a feeling of stability and confidence in the country which I am confident will be widely shared by responsible Africans as well as by the immigrant communities.

9. There are two matters of importance which remain to be settled. The first is the method of nomination of candidates for election to the inter-communal seats. The second is the composition, functions and powers of the Council of State.

10. I therefore recommend -

(a) that I should be authorised, as I said in my statement, to confirm to the Governor as the decision of Her Majesty's Government, the intention to initiate the constitutional changes described in this paper;

(b) that I should be authorised to determine, in consultation with the Governor, the remaining issues referred to in paragraph 9 above.

A.L.-B.

Colonial Office, S.W.1.
12th November, 1957
KENYA

PROPOSALS FOR NEW CONSTITUTIONAL ARRANGEMENTS

The following statement was made by the Secretary of State for the Colonies at a meeting with the Elected and Corporate Members of the Legislative Council held in Nairobi on 8th November, 1957 -

"(1) I have had many talks with the various groups and with Ministers on the constitutional position, in which I have done my utmost to create a situation in which local agreement was possible. I am grateful for the many courtesies I have been shown, but I have reached the disappointing conclusion that local agreement is not in sight. Throughout these talks I have naturally been considering, in consultation with His Excellency, the elements of what I would myself regard as a fair and durable solution of current political problems. In doing so I have attempted to form a judgment on what I could approve as legitimate aspirations and what I could sympathise with as justifiable anxieties. All this time it has been my earnest hope that my role would be that of a conciliator and that I would succeed in bringing the various races together so that they could secure an agreement acceptable to all. But it was not to be.

(2) So far I have been inhibited from taking an initiative in this matter by the undertakings given by Her Majesty's Government at the time of the wise settlement arranged by my predecessor in 1954. I have consistently adhered to the view that I was bound by these undertakings and that, so long as the Government so constituted remained workable, all pledges given at that time must be honoured. Neither I nor my predecessor have ever considered that the refusal of any one racial group to abide by these arrangements would necessarily make them unworkable. I have now however been informed that the three European Elected Ministers - the Minister for Agriculture and Natural Resources, the Minister for Local Government, Health and Housing, and the European Minister without Portfolio, who is a Member of the War Council - and the two Asian Elected Ministers - the Minister for Works and the Asian Minister without Portfolio - have reached the conclusion that the present lack of effective understanding, if it persists for long, will not be to the advantage of Kenya. They have therefore decided that the interests of Kenya would best be served by my being free to take the initiative. For this purpose they have tendered their resignations to His Excellency. He has accepted these resignations but has asked the Ministers to continue in office until the new constitutional arrangements, which I shall outline in this statement, have been introduced. As a result of these resignations I am satisfied that the constitutional arrangements introduced by my predecessor have now become unworkable, and that in these circumstances, as he made clear at the time might happen, the position has reverted to what it was before the Emergency and Her Majesty's Government are free to take such action as they think fit. You will find the actual words in paragraph 11 of the Annexure to the Colonial Office despatch of 15th April, 1954. I have asked you to come here to-day in order to tell you what I, as Secretary of State, intend to do in these circumstances. I will, on my return to London and
with the authority of the Prime Minister and my other colleagues in Her Majesty's Government, confirm to His Excellency the decision I am now conveying to you.

(3) I have decided, with His Excellency's agreement, to initiate constitutional changes designed to meet the main needs, aspirations and anxieties of the people of Kenya as a whole. Before leaving for the United Kingdom I wish to give you a general outline of my intentions. These intentions are clear and definite. Subject to Her Majesty's pleasure I will arrange for them to be expressed subsequently in proper constitutional form, which will incorporate any consequential changes of detail.

(4) To deal first with the constitution of the Legislative Council. I recognise that on merits the African population is under-represented, in terms of members returned by a communal electorate, in relation to other groups. I therefore intend to provide for the addition of six such seats for the African population from constituencies to be subsequently determined. It is also intended to provide for one seat on the Government benches to be filled by a nominated representative from the Northern Province, which so many of us still think of as the Northern Frontier District. It is a further intention that the two seats at present filled by Corporate Members shall not remain beyond 1960.

(5) Proposals were made last year by all groups for the creation of additional seats to reduce the disparity between the Government and non-Government sides of the House and to provide a place in Legislative Council for Ministers who draw support from more than one community. I intend in this connection to provide for the creation now of twelve such seats, four to be filled by Europeans, four by Africans and four by Asians, of whom one shall be an Arab, one shall be an Asian Muslim, and two Indians who are not Muslims. These seats will be filled through election by the whole Legislative Council sitting as an electoral college, voting by free and secret ballot. Methods of nominating candidates for election to these seats will be decided later.

(6) The number of such seats designed to provide representation not based on a purely communal electorate may be increased during the next ten years, but during this period the proportions between and within the groups which I have indicated will not be varied. In addition, any alteration in the total number of such seats, or in the method of filling them will be subject to the approval of the Council of State, to which I will refer later.

(7) These additional seats of all kinds may add considerably to the non-Government side of the House. Provision will be made to ensure that His Excellency will at all times be able to appoint such numbers of nominated members as will secure an adequate Government majority.

(8) In any future expansion of the Legislative Council there will be no additional seats based on election by purely communal electorates.

(9) Once the extra African seats and the non-communal seats now proposed have been filled two Ministers will be selected from the African Members. Of the two African Ministers one will hold the portfolio of Housing and the other a portfolio which will include Adult Education and
Community Development. The European and Asian Ministers without Portfolio will be given defined responsibilities. It will be seen that the total size of the Council of Ministers remains as fixed last year. It will be fully large enough and I do not think that efficiency would be served by any further increase.

(10) The division of Ministerial offices as between members of the public service and unofficials will remain as at present, subject to the Governor's discretion to make adjustments in the burden of responsibility carried by individual Ministers. The portfolios of Finance and of Forest Development, Game and Fisheries may be filled from within or without the public service. Of the remaining Unofficial Ministers four will be Europeans, two Africans and two Asians. The position of the Adviser on Arab Affairs, who is entitled to participate in the Council of Ministers, will remain unchanged.

(11) There will be not less than three, and not more than six Parliamentary Secretaries, whose office will be changed to that of Assistant Minister. It is the present intention that two of the Assistant Ministers will be African, one an Asian and one an Arab.

(12) If, in the opinion of the Governor, there is no suitable member of the Legislative Council who is willing to accept office as an Unofficial Minister or Assistant Minister, it will be open to the Governor, subject to the instructions of Her Majesty, to appoint a suitable person, preferably but not necessarily of the race in question. A person so appointed may be within or without the public service and, if not already a nominated member on the Government side of the Legislative Council, would be nominated to such membership.

(13) In order to protect any one community against discriminatory legislation harmful to its interests, there will be created a Council of State with certain defined powers of delay, revision and reference. I shall in consultation with my colleagues in Her Majesty's Government and with His Excellency, determine the powers, functions and composition of the Council of State. It will be convened whenever occasion arises to exercise its functions.

(14) When the present constitution was introduced, my predecessor addressed a despatch to the Governor, to which I have already referred. This despatch conveyed certain of Her Majesty's instructions and dealt also with matters arising out of the policy laid down by my predecessor. In the same way I shall subsequently address a despatch to His Excellency, dealing with any additional matters not covered by this statement which remain relevant to the changed conditions since 1954.

(15) These arrangements, taken as a whole, make many changes in the existing Constitution introduced in 1954. But an important feature of that Constitution, namely the presence of Elected Ministers on the Council of Ministers, is preserved.

(16) I believe that these arrangements should command the support of responsible people of all communities. I pray that they will give to the people of Kenya of all races an opportunity for constructive and co-operative endeavour and a long period of stability and peace."
Note by the Prime Minister

We hold the following assets belonging to the Egyptian Government:

No. 2 Account: About £53 millions net.

No. 1 Account (ordinary): £18 millions (it is in fact £26 millions but £8 millions are earmarked for agreed purposes - mostly to our advantage.

Both these are blocked.

No. 1 Special Account: This is the in-and-out of the Canal dues.

2. Our claims against the Egyptians fall into two categories:

(a) Egyptianised or nationalised property - about £100 millions.

This includes £55 millions for the Shell Refinery.

(b) Sequestrated property, valued by the owners at about £60 millions; thought by the Egyptians to be too high; probably is too high.

Proposal

3. We give them £18 millions - that is the money in the No. 1 Account, for their own use. They give us £X millions from the No. 2 Account for us to use as we think fit as compensation. It would be for us to say how far this should be spread to meet sequestrated property and how far used for Egyptianised property. We have suggested £37 millions for £X. The Egyptians appear to have offered £25 millions. It is proposed to instruct our delegation to get the most they can but not below £30 millions.
4. In addition the Egyptians undertake to desesquestrate the property they have seized. The owners will then go back and either sell it - if it is furniture or house accommodation; or live in it if they have business to do; or, if it is a business asset, try to carry on or sell it to somebody else.

5. Of course the snag is that however the owners sell out they will not be able to transfer the Egyptian currency unless this is provided for in the agreement.

6. Finally, if this agreement goes through it will release us from the obligation to release £20 millions from the No. 2 Account.

H.M.

10, Downing Street, S.W.1.

12th November, 1957.
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H.M.

10, Downing Street, S.W.1.

12th November, 1957.
Draft Heads of Agreement

It is agreed between the United Kingdom and Egyptian Delegations that an Agreement regarding Anglo-Egyptian financial and commercial relations and British property, rights and interests in Egypt should now be drafted on the following lines.

2. The Agreement shall not apply to United Kingdom property situated in the Suez Canal Base (as defined in paragraph 1 of part A of Annex II to the Suez Canal Base Agreement of 19th October, 1954), but shall apply to all other property, rights and interests in Egypt of the United Kingdom and its nationals as they existed on 31st October, 1956.

3. The Egyptian Government shall -

(a) nullify all measures, including seizure, sequestration or control, taken by it against such property, rights or interests between 31st October, 1956, and the coming into force of the agreement;

(b) make provision for the orderly return of all such property, rights and interests unless the owner has freely disposed thereof without duress or fraud;

(c) pay compensation in cases where such property, rights or interests cannot be returned or have suffered injury or damage as a result of the measures referred to in sub-paragraph (a) of this paragraph, or as a result of the Egyptian Government's failure to protect such property, rights or interests between 31st October, 1956 and the return of the same to the owners.
4. The two Governments will establish agreed machinery for the settlement by impartial arbitration of any disputes which may arise in giving effect to paragraphs 3(b) or (c) hereof.

5. (a) The Egyptian Government shall facilitate the transfer to persons not resident in Egypt of sums paid by way of compensation under paragraph 3(c) hereof.

(b) The Egyptian Government shall pay to the United Kingdom Government as an advance in respect of compensation payable under paragraph 3(c) hereof the sum of £X millions, comprising £A millions from the No. 1 Accounts of the National Bank of Egypt and £B millions from the No. 2 Account.

6. The Egyptian Government will provide transfer facilities for sums realised by the sale of such property, rights or interests in cases where the owners decide not to resume residence or carry on business in Egypt.

7. Upon the Egyptian Government complying with the requirements of paragraphs 3(a) and 5(b) hereof the United Kingdom Government shall forthwith remove the restrictions imposed on 27th July, 1956 on the No. 1 Accounts of the National Bank of Egypt and on the accounts of Egyptian residents, and the restrictions subsequently imposed on the movement of sterling securities owned by Egyptian nationals. This paragraph shall not, however, apply to accounts in the name of the Suez Canal Company.

8. Notwithstanding the provisions of the Sterling Releases Agreement of 1st July, 1951, as modified by the Exchange of Notes of 30th August, 1955, the question of any future release of sums standing to the credit of the No. 2 Account (other than that provided for in paragraph 5(b) hereof) shall be examined from time to time by the two Governments in the light of progress made in effecting payment of compensation under paragraph 3(c) hereof.
9. The two Governments will take steps to resume normal commercial relations between the two countries on a sterling basis.

10. Without prejudice to the generality of the provisions of paragraph 3 hereof, the Egyptian Government shall –

   (a) assess and pay the compensation due to British officials dismissed in 1951 in respect of which an Exchange of Notes dated 19th October, 1954 provided for the establishment of a Commission;

   (b) provide for the release to the beneficial owners of securities held on behalf of United Kingdom nationals and British schools and charitable organisations to the order of Banks in Egypt by United Kingdom or other Banks outside Egypt;

   (c) permit at an early date capital transfers to the sterling area for which application had been made prior to 27th July, 1956, in accordance with the system established by the Exchange of Notes of 30th August, 1955.

11. The two Governments shall accord such visas and other facilities as may be necessary for the implementation of the Agreement and in particular shall arrange for the expeditious issue of exit visas on request.
CABINET

MALTA: THE NAVAL DOCKYARD

MEMORANDUM BY THE SECRETARY OF STATE FOR THE COLONIES

The problem of the dockyard in Malta can be looked at from two points of view. There is the question of defence expenditure and the interests of the Maltese economy. This paper deals with the second aspect.

2. The dockyard is in effect Malta's only industry. It provides direct employment for nearly 12,000 including most of the skilled and best-paid workers in the Island. The largest private industry is a brewery employing 400. There are only ten other establishments employing more than 100 people each.

3. The contribution from dockyard employment and other Royal Navy expenditure in Malta to Malta's National Income is £11.4 millions. Expenditure by the other Service Departments in Malta totals £8.3 millions. In addition, Her Majesty's Government are currently contributing £6 millions towards Malta's budgetary deficit. This goes mainly towards capital expenditure on the basic services (water, electricity, harbour, &c), which must be developed in order to attract industries to Malta. All this income provides the source for most of Malta's ancillary business which in its turn makes up virtually the whole balance of the country's national income.

4. The net product of Malta's agriculture is only about £2 millions. There is no other natural product of any significance. The only other large employer is the Maltese Government, employing about 14,000 people. This employment of course depends on the revenue they receive from taxation. Maltese Government expenditure is currently £15.7 millions, of which £8.2 millions comes from taxation. As indicated above, the sources of money on which this tax revenue depends arise by and large out of dockyard employment, Services expenditure and Her Majesty's Government's contribution to the Budget.

5. Malta's livelihood thus depends in a unique way on the dockyard, and if this is to be closed or substantially run down, Malta faces economic ruin, and could not sustain anything approaching its present population of 315,000. Emigration is a possible long-term solution, but it is essentially that, particularly as the major receiving countries, e.g., United States and Australia, impose very severe limitations on immigration from Malta which may not be affected by making Malta part of the United Kingdom. The introduction of alternative industries may help in due course, but the building up of alternative employment will be very difficult and slow, and nothing spectacular can be expected in the foreseeable future. The fact is that Malta has no natural resources other than its fortress position, the potential skill of the work-people, and possible, though this is largely speculative, oil.

6. Her Majesty's Government are already committed by the July declaration of 1955 to work together with the Maltese to avoid unemployment, to diversify the economy, and to raise the standard of living. In the Memorandum of Agreement on economic and financial arrangements consequent upon the new constitutional status (C. (57) 183), which it is proposed should come into force with the new Constitution after a General Election in Malta in, say, October 1958, Her Majesty's Government have agreed that if as a consequence of any drastic change in Imperial defence policy affecting Malta, "the level of unemployment
in Malta should reach and for six months remain at a higher level than the rate of unemployment in the United Kingdom at the time, the United Kingdom Government would be willing to assist the Maltese Government in taking remedial measures to be agreed.” The closure or substantial running down of the dockyard would undoubtedly bring this obligation into effect.

7. The cost of complete closure would appear prohibitive until such time as alternative measures could if possible be worked out and brought into effect. An indication of what is involved is contained in a paper prepared by the Maltese Government, with which I hesitate to burden my colleagues but copies are available if required.

8. At the same time, I recognise that the state of affairs outlined above, which in a sense holds Her Majesty's Government to ransom, is most undesirable. We are therefore proposing to do what we can to encourage the establishment of new industry and tourism in Malta, and have encouraged the establishment of the Industrial Advisory Committee headed by Lord Hives, which was announced on 6th November. This Committee will no doubt put forward some early recommendations about financial inducements to industry, and will bring to a head any outstanding negotiations, e.g., for the construction of an oil refinery or dry docks. We are, of course, committed to provide capital grants amounting to £25 millions over a period of five years and percentage grants for education and social services, particularly education which should, but only in the long term, make emigration easier.

9. In time these measures might lead to an easing of the situation and allow a transfer of employment from the dockyard. It cannot be contemplated that any substantial run-down of employment in the dockyard could be brought about however for many years.

10. I, therefore, recommend my colleagues to agree that in so far as the future of the naval dockyard in Malta is concerned, the Admiralty should be authorised to work out plans for the retention of employment in the dockyard at much the present level. We could then consider adjusting these plans if the measures outlined above are successful in creating alternative employment.

A. L.-B.

Colonial Office, S.W. 1,
12th November, 1957.
Governments should from time to time review their methods of conducting their business. I have recently been considering this in the light of the growing complexity of the problems which confront a modern Government and the increasing burden on individual Ministers; and I have had from Lord Attlee the report to which I referred in the Debate on the Address which, though it contains no revolutionary proposals, has at least served to stimulate thought. As a result I now put forward the following suggestions:

(i) Ministers in charge of Departments should seek to devolve on their Junior Ministers, particularly in connection with Parliament, responsibility for a defined range of Departmental work. They must of course ensure that decisions of major policy remain in their own hands and that they will be kept generally informed of all the activities of their Department—for which they will continue to be ultimately accountable to Parliament.

(ii) Neither the Cabinet nor its Committees should be burdened with business which can properly be settled in direct consultation between the Ministers concerned.

(iii) Cabinet Committees should be used to reduce the burden on the Cabinet by ensuring that, wherever possible, a decision is reached below Cabinet level or that, if an issue has to be submitted to Cabinet, it has been adequately discussed and prepared in advance.

(iv) Brevity in memoranda for the Cabinet and Cabinet Committees is important, and constant vigilance is required to secure it.
(v) Ministers should seek to reduce the demands on their time and energy which are made by the vast mass of material which they are required to read. They can do so by insisting on brevity in Departmental minutes and correspondence.

(vi) We should try gradually to establish new conventions which will reduce the time spent by Ministers in the routine social functions, and in meeting foreign visitors at airports. As a start, we might discontinue the practice by which Commonwealth visitors to London are met by a Minister at the airport.

(vii) Ministers could exercise a finer discretion in accepting invitations to public functions. While it is important that Ministers should use such opportunities to keep in touch with public opinion and to ensure that the Government’s policies are given adequate publicity, it is doubtful whether many functions need be graced by the attendance of, say, four Ministers, of whom three will constitute an audience for the fourth. Before accepting invitations to public functions where they are not expected to speak, Ministers should ascertain how many of their colleagues have been invited and intend to accept the invitation.

H. M.

10 Downing Street, S.W. 1,
25th November, 1957.
MEMORANDUM BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT AND LORD PRIVY SEAL

I circulate a draft statement which the Crown Estate Commissioners propose to make on the future of the Regent's Park Terraces. The terraces are shown on the attached map. The decisions which the Commissioners propose to announce are briefly:

(a) that a number of the terraces will in any event be preserved. The include Park Crescent, Park Square (East and West), York Gate, Hanover Terrace, Kent Terrace and Cumberland Terrace;

(b) that every effort will be made to preserve other Nash Terraces, and that no immediate decision to demolish any of them will be taken;

(c) that Cambridge Gate and Someries House will be demolished and new buildings erected on the site.

2. The only part of the statement which may excite some controversy is the decision to demolish Cambridge Gate (built only in 1876) and Someries House. Neither of these buildings has any great architectural merit and the Gorell Committee, in considering "the future of the terraces in 1946, recommended that both of them should be demolished. It does not therefore seem likely that there will be any serious criticism of the Commissioner's decision.

3. Under the terms of the Crown Estate Act, 1956, the Commissioners are responsible for the management of the estates in their care, subject to any "orders, instructions and directions" which may be given to them by the responsible Minister, who is, in England and Wales, the Lord Privy Seal. I do not consider that I should be justified in using the power of direction to prevent the Commissioners from proceeding with the demolition of Cambridge Gate and Someries House.

4. The remainder of the draft statement seems to me to be a well-argued paper with the objective of preserving as many of the Nash Terraces as possible, at the least reasonable public expense. Whether the Commissioners will attain their objective remains to be seen, but I think that they should be allowed to have a try.

5. I would therefore propose to inform the Commissioners that I see no objection to the issue of the proposed statement, and to arrange for its terms to be circulated in the Official Report at the same time as it is made public by the Commissioners.

R. A. B.

Home Office, S.W.1.
14th November, 1957.
THE FUTURE OF THE REGENT'S PARK TERRACES

DRAFT OF STATEMENT BY THE CROWN ESTATE COMMISSIONERS

On our appointment a year ago as Crown Estate Commissioners one of the most important problems we found was the future of the buildings surrounding and leading to Regent's Park. This problem has existed at least since 1946 when a Government Committee, under Lord Gorell, considered the future of the Terraces. There are 374 houses in the twenty-two Terraces around the Park or forming its entrances. We make no apology for not having made an earlier public statement about these buildings—first, because of the difficulties of the problem, and, secondly, because nearly all the buildings are occupied and are not, at least at present, deteriorating. Most of the terraces and buildings concerned, but not all, were designed by John Nash, who was the architect employed by our predecessors, about 130 years ago.

2. We now announce:—

(i) That a number of Nash Terraces will definitely be preserved for effective use for many years to come.

(ii) That an attempt will be made to secure the same result for all the other Terraces designed by Nash or his contemporary, Decimus Burton, if this can be achieved without undue capital cost.

(iii) That, while an assured future cannot yet be foreseen for all the Nash and Decimus Burton Terraces, present plans do not provide for the demolition of any such Terrace, or for the elevation of any such Terrace to be altered.

The accompanying note and its schedule give some of the history and facts about the Regent's Park Terraces and adjacent buildings.

GENERAL PRINCIPLES

3. Perhaps the major contribution of Nash was his creation of Regent's Park itself, its entrances, and gardens. None of these can, or will, be altered, except perhaps in detail. We therefore speak only of his Terraces and not of his great planning layout.

4. Accepting the unique character of Nash's Terraces in Regent's Park, we are clear that they—

(a) cannot be left in their present state, doomed to early decay;

(b) cannot be demolished merely to erect modern replicas; and

(c) cannot all be restored to effective use if the cost would be anything like £8 to £10 millions—the present equivalent of the estimates put before the Gorell Committee.

Equally we are clear that, before considering demolition, we must try to secure some effective use for them by restoration, coupled with a moderate financial return on the capital to be employed.

5. We first thought that, side by side with our investigation into the preservation of the Terraces, we should institute a national competition for a master plan for new buildings surrounding Regent's Park so that a comparison could be made between the appearance and cost of buildings erected by modern architects, and of Nash Terraces converted to modern use. Decisions would then have been deferred until the results of the proposed competition for a "master plan" for the Estate were available. After seeking advice, we have decided to omit such a competition at this stage, and to concentrate entirely on the possible methods of preserving by conversion the present Terraces for effective use.

6. The biggest problem is the structural condition of the Terraces. We could not recommend very large amounts of capital being expended unless they
would result in a further life for the buildings of at least 60 years. Alarming evidence was given before the Gorell Committee on this subject. We do not yet accept or reject this evidence given over 10 years ago. Experience has been gained in the meantime by our predecessors, by the Ministry of Works and by developers who have been converting old houses in various places. We propose to test this matter by practical samples carried out by ourselves and others, and we shall try to interest any expert who can suggest a lowering of the costs.

DECISIONS TAKEN

Park Crescent, Park Square East and West, and York Gate

7. We have decided to preserve and rebuild, where destroyed or damaged, Park Crescent, Park Square East and West, and York Gate, and to complete the extensive works already carried out to restore as far as possible their original facades. These Terraces, comprising 61 houses, constitute the main Southern entrances to the Park, and are, in our view, its most important features. Leases will be granted or extended, and it is our hope that the restorations can be carried out without any subsidy. We must, however, continue to be given some latitude in departing from purely residential use and, in this connection, we acknowledge with gratitude the help already given by the London County Council. We may have to ask for some further help in order to justify a return on the large capital expenditure involved.

Hanover and Kent Terraces

8. We shall retain all the 38 houses in Hanover Terrace and Kent Terrace. None of these has been used as offices, and nearly all are occupied by one, or at the most two, families as houses or maisonettes. We think that the houses in these two terraces have a further “economic” life of at least 20 years. We shall, therefore, offer to grant or extend leases throughout each of these Terraces for about this period in return for the carrying out of improvements or the payment of increased rents. It would be premature now to consider their future after that period but it is possible that the period could later be extended.

Cumberland Terrace

9. Some evidence exists of the large cost of converting the houses in Nash Terraces into modern accommodation comprising flats. We think it is vital that we should obtain up-to-date and practical experience of the actual cost of a large sample. Cumberland Terrace (33 houses) is largely unoccupied, and we have decided ourselves to convert the Terrace within its present main walls, together with some houses adjoining and the Mews property behind. It is clear that we cannot expect anything like a normal commercial return from this expenditure. We feel, however, that any large landowner with the necessary means should be ready to make some unprofitable contribution to preserve lovely buildings. This will be our main contribution in Regent’s Park.

Immediately after the war St. Pancras Borough Council expressed some interest in Cumberland Terrace for their housing purposes, and later London University showed similar interest in taking over the Terrace as a University Hostel. Each authority, after obtaining advice, came to the conclusion that the conversion would be too expensive for it to contemplate.

We have engaged Mr. Louis de Soissons, R.A., to design and supervise these conversions, and preparations are well advanced. Our present information is that the cost would be not less than £750,000. The plans involve the production of 6 small houses, 48 high-rented flats and 29 single or two-roomed flats, with 44 garages. The north block would be retained as 6 single houses. We have engaged a structural engineer and a quantity surveyor, and intend that work should start as soon as possible.

Cambridge Gate, Someries House and Cambridge Terrace

10. The only Terrace we propose to demolish, as soon as possession can be obtained, is Cambridge Gate (10 houses). The site of this Terrace was formerly occupied by the Colosseum, designed by Decimus Burton. When this building was demolished, the present Terrace was erected in 1876 in its place. It has no
architectural merit. Next to Cambridge Gate is a single building now known as Someries House. The original building was designed by Nash for an Adult Orphanage, but little remains of his design. It is now being used as Government offices, and a temporary canteen building has been erected in the garden. The Gorell Committee not only recommended that this Terrace and this building could be demolished, but that they should be. We propose to choose a skilled developer, advised by an architect acceptable to us, to redevelop the sites in harmony with the surrounding Nash buildings and Terraces. We have taken this decision not only because the buildings are not worthy of preservation, but also because it is important to discover how best modern buildings of really good quality can be fitted into the Nash design. For this same reason we approved the impending erection of a new building for the Royal College of Obstetricians and Gynaecologists, to a design by Mr. de Soissons, on the site between Sussex Place and Hanover Terrace formerly occupied by Sussex Lodge, which has been demolished.

Next to Cambridge Gate is Cambridge Terrace. This is a Nash Terrace, but the Gorell Committee thought it had the least merit of all, and should be demolished. Four of its ten houses are gutted and only two are used as residences. We do not, therefore, rule out the possibility of including this Terrace later in the redevelopment scheme.

THE REMAINING TERRACES

11. These decisions will deal with 153 houses out of a total of 374 houses in the Terraces around Regent’s Park. The remaining 221 houses are at present occupied either by lessees for residential accommodation until dates ranging from 1962 to 1969, or as offices by the Government. The larger of these Terraces are Sussex Place and Cornwall, York and Chester Terraces (145 houses). In addition, there are 9 smaller Terraces containing 76 houses.

12. We have already been approached by experienced developers asking whether they could be given an opportunity of trying to convert a Nash Terrace into first-class accommodation on a commercial basis. We propose to give these developers every opportunity to consider the problem and to satisfy us that they can carry out this objective. Indeed, we are anxious to receive offers from other experienced developers, provided that they are advised by architects acceptable to us. As a result, it may be possible that, after large-scale conversions, all the buildings facing Regent’s Park will contain modern residential accommodation. To assist these conversions, we shall need latitude to use parts of the buildings not facing the Park for offices or other suitable uses. It is our intention to allow a period of at least one year to enable these and other experts to give us their advice on this very important matter. If we, and they, are successful, these Terraces will be able to be preserved. If not, we must then give further urgent thought to their future.

13. It has been suggested to us that we ought now to ask the Government either to make a grant of a large sum of money for the preservation of the Nash Terraces or to authorise us by statute to use our income for this purpose. The time, however, is not, in our view, ripe to ask for grants. We must first establish beyond doubt whether or not the restoration of Nash Terraces in Regent’s Park can be carried out without a large subsidy. It is our view that the Government, who are occupying as offices about half the main buildings, can now best help by retaining them as offices for the necessary periods.

Crown Estate Office, S.W. 1,
14th November, 1957.
THE REGENT'S PARK TERRACES
ANGLO-AMERICAN CO-OPERATION

NOTE BY THE PRIME MINISTER

The results of my talks with President Eisenhower are set forth in the "Declaration of Common Purpose" which was issued at the end of the meeting. This is in effect a declaration of inter-dependence, recognising that the old concept of national self-sufficiency is out of date and that the countries of the free world can maintain their security only by combining their resources and sharing their tasks. The United Kingdom and United States Governments have agreed to act henceforth in accordance with this principle.

2. It is important that this principle should be understood and effectively applied in practice at the lower levels of administration in both countries. The President has issued a confidential instruction to all the American agencies concerned that they should give practical effect to the Declaration of Common Purpose. I should be glad if my colleagues would give similar instructions to all concerned within their Departments, emphasising the importance of consulting the Foreign Office at an early stage on any matter which may have a bearing on Anglo-American co-operation.

H. M.

10 Downing Street, S.W.1,
14th November, 1957.
CABINET

ADMINISTRATIVE TRIBUNALS AND ENQUIRIES

NOTE BY THE LORD CHANCELLOR

The summary of the findings of the Ministerial Committee on Administrative Tribunals on each of the 95 Recommendations in Cmd. 218 which was circulated with C. (57) 254 was intended to serve as a convenient work of reference for the future consideration of matters arising out of the Report of the Franks Committee. I now circulate a revised version of the summary, amended to incorporate various corrections which my colleagues have made.

2. This revision has entailed a recount of the classification of the findings of the Ministerial Committee which was given in paragraph 5 of C. (57) 251. It now appears—with the figures for the earlier count shown for comparison in brackets—that some 72 (71) out of the 95 Recommendations are either completely or broadly acceptable; 8 (8) are acceptable to a lesser or minor degree; 11 (12) must be reserved, in whole or in part, for further consideration; and 4 (4) must be considered as rejected. This classification, which is necessarily somewhat arbitrary, is merely intended to indicate the proportions in which the Report as a whole is acceptable.

K.

House of Lords, S.W. 1,
25th November, 1957.
COMMITTEE ON ADMINISTRATIVE TRIBUNALS

Findings of the Committee on the Recommendations in the Report of the Committee on Administrative Tribunals and Enquiries

PART A.—TRIBUNALS IN GENERAL

“(1) Two standing Councils* on Tribunals, one for England and Wales and one for Scotland, should be set up to keep the constitution and working of tribunals under continuous review. The Council for England and Wales should be appointed by and report to the Lord Chancellor. The Scottish Council should be appointed by and report to the Secretary of State for Scotland. (Paragraph 43.)”

Substantially accepted.—Because of the number of tribunals organised on a basis common to Great Britain as a whole a single Council (to be appointed jointly by the Lord Chancellor and the Secretary of State for Scotland) with provision for setting up a special Scottish panel is preferable to two Councils.

“(2) Chairmen of tribunals should be appointed by the Lord Chancellor (or alternatively in Scotland, by the Lord President of the Court of Session or the Lord Advocate). Members should be appointed by the Council on Tribunals. Recommendations for appointment by the Crown should be made by the Lord Chancellor. (Paragraphs 48–49, 53–54.)”

Partly accepted.—With few exceptions, it is practicable for chairmen to be appointed by the Lord Chancellor and the Lord President of the Court of Session. To preserve accountability to Parliament and avoid duplication of work members of tribunals will in general be appointed by the Minister concerned, but in consultation with the Council on Tribunals. Recommendations for appointments by the Crown will be made by the Lord Chancellor, or, for appointments to Scottish tribunals, by the Secretary of State for Scotland.

“(3) Responsibility for the removal of chairmen and members should rest with the Lord Chancellor or, alternatively, in Scotland, with the Lord President of the Court of Session. (Paragraphs 51, 53.)”

Substantially accepted.—With a few specific exceptions in the case of chairmen, dismissal in England and Wales will rest with the Lord Chancellor, and in Scotland with the Lord President of the Court of Session.

“(4) All chairmen of tribunals exercising appellate functions should have legal qualifications; chairmen of tribunals of first instance should ordinarily have legal qualifications. (Paragraphs 55, 58.)”

Substantially accepted.—The qualification is that “ordinarily” would not involve the dismissal of competent lay chairmen or preclude the employment of a substantial number of lay chairmen in special classes of tribunal (e.g., National Assistance Tribunals).

“(5) In general, tribunal service should not be whole-time or salaried. (Paragraph 57.)”

Entirely accepted.

“(6) Some appointments should be paid, and remuneration should be reviewed by the Council on Tribunals. (Paragraph 57.)”

Entirely accepted.—The Council should, however, confine its recommendations regarding remuneration to general terms.

“(7) The present arrangements for providing clerks of tribunals should continue. The duties of a clerk should be confined to secretarial work, the taking

* For simplicity, elsewhere in the Summary of Main Recommendations, except in recommendations (29)–(33), which relate to the proposed constitution and functions of the Councils, we refer to the “Council on Tribunals.” This term covers either or both Councils as appropriate.
of notes of evidence, and advice on the tribunals functions. Unless sent for to advise he should be debarred from retiring with the tribunal. (Paragraph 61.)”

Substantially accepted.—The Council should be asked to advise on detailed application of the recommendation to debar the clerk from retiring with the tribunal unless sent for.

“(8) The detailed procedure for each tribunal should be designed to meet its particular circumstances and should be formulated by the Council on Tribunals in the light of the general principles enunciated in this Report. The aim should generally be to combine an orderly procedure with an informal atmosphere. (Paragraphs 63–64.)”

Entirely accepted.—The Council on Tribunals will not be the rule-making authority, but will act in an advisory capacity in this matter.

“(9) Every care should be taken to ensure that the citizen is aware of and fully understands his right to apply to a tribunal. (Paragraph 67.)”

Entirely accepted.

“(10) The citizen should know in good time before the hearing of the case which he will have to meet. He should accordingly receive a document setting out the main points of the opposing case. (Paragraphs 71–72.)”

Entirely accepted.

“(11) Documents relating to tribunal proceedings should be clearly designated as documents of the tribunal and should come from the tribunal and not from a Government Department. (Paragraph 73.)”

Entirely accepted.

“(12) An adequate opportunity of attending the hearing or inspection should be given to the parties. (Paragraph 74.)”

Entirely accepted.

“(13) Hearings before tribunals should be held in public, except in cases where:— (i) considerations of public security are involved; (ii) intimate personal or financial circumstances have to be disclosed; or (iii) the hearing is a preliminary investigation of a case involving professional capacity and reputation. A tribunal concerned almost exclusively with any of these types of case should sit in private. (Paragraphs 77–81.)”

Substantially accepted.—The qualification is that hearings before the National Health Service Tribunal should continue to be in private (i.e., not only the “preliminary investigation” by the appropriate Service Committee).

“(14) Consideration should be given to the conferment of absolute privilege on witnesses before tribunals, at any rate on those giving evidence on oath. (Paragraph 82.)”

Substantially accepted.—It is agreed that sworn witnesses should have absolute privilege; the conferment of privilege on other witnesses and on documentary evidence should be considered by the Council.

“(15) The right to legal representation before tribunals should be curtailed only in the most exceptional circumstances. (Paragraph 87.)”

Substantially accepted.—In fact, it is proposed to go further and remove all restrictions on legal representation before tribunals. But further consideration will need to be given to the position of Local Service Committees under the National Health Service.

“(16) The official scheme of legal aid should be extended at once to tribunals which are formal and expensive and to final appellate tribunals. Any extension of the scheme to cover a wider range of proceedings in courts should be accompanied by an extension to other tribunals. (Paragraph 89.)”

Rejected.—The proposal to extend legal aid to certain tribunals must take its place in the queue of prior and competing claims for the extension of this service.
“(17) Tribunals should have power to administer the oath. Those most akin to courts of law should always take evidence on oath. Others should not normally do so. (Paragraph 91.)”

Substantially accepted. —The qualification is that in some cases, for the sake of informality and simplicity, it may be undesirable for the tribunal to have the power. On this basis the recommendation should be referred to the Council.

“(18) Tribunals should have power to subpoena witnesses to give evidence or produce documents. (Paragraph 92.)”

Substantially accepted. —The Council should be invited to consider whether the power should rest with the tribunal or be exercisable only by the higher courts.

“(19) Parties should be free to question witnesses directly and not only through the chairman. (Paragraph 93.)”

Entirely accepted.

“(20) Present arrangements for the award of costs and payment of expenses of parties should be reviewed by the Council on Tribunals. The general principles should be that: — (i) a successful applicant should be given a reasonable allowance in respect of his expenses, including in some cases an allowance for the cost of legal representation; (ii) an unsuccessful applicant should never have to pay any costs but before social service and most other tribunals should be entitled to the same reasonable allowance as the successful applicant. In dispute between private parties, however, the parties should bear their own expenses and costs, except at the appellate level or where a party has acted frivolously or vexatiously, when the tribunal should have power to order the unsuccessful party to pay a sum towards the other’s costs and expenses. (Paragraphs 94-96.)”

Reserved. —The payment of applicants’ legal expenses would lead to the excessive employment of lawyers and consequently to delay and undue formality, but the payment of legal expenses in cases taken to appeal by the Department concerned in order to obtain a clarifying judgment on a point of principle will be considered. The recommendation should be remitted to the Council for advice on this basis. Meanwhile no undertaking should be given that the award of costs would be considered sympathetically in certain types of case.

“(21) Notwithstanding recommendation (20), no change should be made in the powers of the Lands Tribunal and the Transport Tribunal to award costs or in the power of the Minister of Labour and National Service to pay allowances to parties or witnesses before Re-instatement Committees or the Umpire. (Paragraph 97.)”

Entirely accepted.

“(22) Decisions of tribunals should be reasoned and as full as possible. (Paragraph 98.)”

Substantially accepted. —In some categories of case, as the Franks Committee recognised, reasons cannot be formally stated. Detailed consideration of the application of the recommendation should be referred to the Council.

“(23) As soon as possible after the hearing a tribunal should send to the parties a written notice of decision, which should set out the decision itself, the findings of fact by the tribunal, the reasons for the decision and the rights of appeal against the decision. (Paragraphs 99-100.)”

Substantially accepted. —The qualification is that noted in connection with recommendation (22) above.
"(24) Final appellate tribunals should publish selected decisions and circulate them to lower tribunals. (Paragraph 102.)"

Substantially accepted.—Subject to (i) the qualification noted in connection with recommendation (22) above so far as relevant; and (ii) the fact that there are some tribunals to which it would be impracticable or undesirable to apply this particular procedure.

"(25) There should be an appeal on fact, law and merits from a tribunal of first instance to an appellate tribunal, except where the tribunal of first instance is exceptionally strong and well qualified. (Paragraphs 105–106.)"

Substantially accepted.—This recommendation, which substantially reflects present practice, is accepted in principle but its application to particular cases requires further consideration.

"(26) As a matter of general principle appeal should not lie from a tribunal to a Minister. (Paragraph 105.)"

Entirely accepted.

"(27) An appeal on a point of law should lie to the courts from a tribunal decision, except from a decision of the National Insurance Commissioner, the Industrial Injuries Commissioner or National Assistance Appeal Tribunals. The machinery for such appeals should be simple, cheap and expeditious and should be formulated in detail by the appropriate Rule Committees. Decisions of the National Insurance Commissioner, the Industrial Injuries Commissioner or National Assistance Appeal Tribunals should remain subject to review by certiorari. (Paragraphs 107–112.)"

Substantially accepted.—(See note on recommendation (25) above.)

"(28) No statute should contain words purporting to oust the remedies by way of certiorari, prohibition and mandamus. (Paragraph 117.)"

Entirely accepted.

"(29) The Lord Chancellor and the Secretary of State for Scotland, respectively, should be responsible for the statutory action to give effect to recommendations of the Council on Tribunals for England and Wales and the Scottish Council. (Paragraphs 131–132.)"

Partly accepted.—The two qualifications are: (i) existing rule-making powers should not in general be transferred to the Lord Chancellor because of the administrative burden this would place on his Department; and (ii) it would be inappropriate for regulations on certain matters (notably tribunal remuneration) to be made by the Lord Chancellor rather than the departmental Minister. The rule-making authority for Scottish tribunals will be the Lord President of the Court of Session.

"(30) The main function of the Councils should be to advise on the detailed application to the various tribunals of the general principles of constitution, organisation and procedure enunciated in this Report. (Paragraph 133.)"

Entirely accepted.

"(31) Any proposal to establish a new tribunal should be referred to the Councils for their advice. (Paragraph 133.)"

Substantially accepted.—But consultation with the Council about future tribunals should not include the questions whether a tribunal was to be established and what issues should be decided by the tribunal.

"(32) The Councils should have power to take evidence, and their reports should be published. (Paragraph 133.)"

Entirely accepted.

"(33) The Councils should comprise both lay and legally qualified members, with a lay majority. The chairmen should be salaried and need not be lawyers. (Paragraph 134.)"

Entirely accepted.
PART B.—PARTICULAR TRIBUNALS

“(34) The general principles enunciated in Part II should, unless otherwise stated, be applied to all tribunals within our terms of reference (except those mentioned in paragraphs 4 and 5 of Appendix II) (Paragraph 135.)”

Substantially accepted.—This recommendation is clearly right in principle but the Government cannot commit itself to complete acceptance. A number of recommendations have to be referred to the Council for advice on their particular application, and it will clearly take the Council some time to review the constitution and working of the many tribunals within their purview.

“(35) Whenever it is proposed to establish a new tribunal consideration should first be given to the possibility of vesting the jurisdiction in an existing tribunal. (Paragraph 139.)”

Entirely accepted.

“(36) The adjudicating functions now exercised by County Agricultural Executive Committees should be entrusted to new independent tribunals from which appeal should lie to an Agricultural Land Tribunal or to the Scottish Land Court. (Paragraph 148.)”

“(37) All chairmen of these new tribunals should have legal qualifications and be wholly independent of the area concerned. (Paragraph 149.)”

“(38) These tribunals should have the right, on giving due notice, to inspect the land. (Paragraph 150.)”

“(39) A proposal to make a supervision order should be heard by one of the new tribunals, and an appeal should lie to an Agricultural Land Tribunal or to the Scottish Land Court against approval of the making of an order. (Paragraph 152.)”

*Accepted in principle, or in substance (4 Recommendations).—The question of transferring to independent tribunals the adjudicating functions of the County Agricultural Executive Committees in regard to agricultural discipline will not now arise, as it has been decided to repeal the disciplinary powers contained in the Agriculture Acts of 1947 and 1948. The judicial functions now exercised by these Committees in disputes over notices to quit will be transferred, under forthcoming legislation, to the Agricultural Land Tribunals or, in Scotland, to the Scottish Land Court. Both these latter bodies are independent of the agricultural Ministers. Consideration is also being given to transferring to the Agricultural Land Tribunals and the Scottish Land Court other judicial functions now exercised by the County Committees including that of dealing with applications from tenants wishing to carry out long-term improvements to which the landlord does not consent.

“(40) The numbers of representatives of local authorities on Local Valuation Courts in England and Wales should be reduced. Persons acting as chairmen should be independent of any local authority, and members of local authorities should not hear any case relating to property within the electoral area which they represent on the local authority or within the electoral area in which they live. (Paragraphs 155–156.)”

Reserved.—No change should be made for the present in the method of appointment of chairmen and members of Local Valuation Courts. The panels (from which the Courts are selected) are appointed by local authorities and the work is unpaid; it would be very difficult to find many people, not local

*The note under recommendations (36)–(39) above summarises the relevant proposals in C. (57) 240 which were approved by the Cabinet.
authority members, willing and competent to do the work—and there has been
very little criticism of the work of the Courts. (Further consideration will be
given to the proposal in paragraph 156.)
The Council on Tribunals will be asked to review this work in due course.

“(41) All chairmen of Rent Tribunals should have legal qualifications.
(Paragraph 163.)”

Substantially accepted.—Legally qualified chairmen are being appointed
in most cases; but it is not proposed to dismiss competent lay-chairmen, nor
to preclude the occasional appointment of well-qualified laymen in future.

“(42) The panels from which Rent Tribunals are constituted should include
valuers to serve when required. (Paragraph 163.)”

Partly accepted.—The contribution which valuers could make is now
limited, especially in view of the curtailment of the jurisdiction of Rent
Tribunals by the Rent Act, 1957, particularly in England and Wales.

“(43) An appeal should lie from a Rent Tribunal to an appellate tribunal
consisting of a County Court judge or sheriff, sitting with a valuer as assessor.
(Paragraphs 165-166)”

Accepted in principle.—If Rent Tribunals were to be a permanent feature
the Government would think it appropriate to provide for an appeal from
their findings. But they are only kept alive from year to year under the
Expiring Laws Continuance Act and their work is shrinking. The tribunals
may not continue to be needed for very much longer.

“(44) Legal representation should be permitted before a National Insurance
Local Tribunal when the chairman considers that the claimant cannot satisfactorily
present his case unless allowed to employ a lawyer. (Paragraph 174.)”

Entirely accepted.—This recommendation is in fact superseded by the
decision to remove all restrictions on legal representation before tribunals.

“(45) National Insurance Local Tribunals should sit in public except when
a case involves the disclosure of intimate personal or financial circumstances.
(Paragraph 175)”

Entirely accepted.—This is a consequential of recommendation (13).

“(46) In both national insurance and industrial injuries cases all parties
should have an automatic right of appeal to the appropriate Commissioner.
(Paragraph 177)”

Entirely accepted.

“(47) National Assistance Appeal Tribunals should continue to sit in private.
(Paragraph 180)”

Entirely accepted.—This is a consequential of recommendation (13).

“(48) Legal representation before National Assistance Appeal Tribunals
should be permitted on the same basis as that recommended for National Insurance
Local Tribunals—see recommendation (44) above. (Paragraph 183.)”

Entirely accepted.—See note on recommendation (44).

“(49) The functions of Family Allowance Referees should be transferred to
National Insurance Local Tribunals, with appeal to the National Insurance
Commissioner. (Paragraph 184)”

Entirely accepted.—Some matters of detail will require further
consideration.

“(50) Appeals from the Medical Practices Committee should continue to lie
to the Minister. The general recommendations in Part II should not be strictly
applied to this Committee because of its special character. (Paragraph 193)”

Entirely accepted.
“(51) Complaints against practitioners should continue to be first heard by Service Committees and decided thereafter by Executive Councils, subject to further appeal. (Paragraphs 192, 194.)”

Entirely accepted.

“(52) Service Committees should continue to sit in private. (Paragraph 195.)”

Entirely accepted.

“(53) Service Committees should normally administer the oath. (Paragraph 196.)”

Entirely accepted.

“(54) Complainants should be entitled to apply for the assistance of an official representative at hearings before Service Committees. Clerks to Executive Councils should continue to assist complainants in preparing their statements of case. (Paragraph 200.)”

Partly accepted.—The last part is acceptable. The first part has still to be considered in the light of the provisional decision to permit legal representation before these tribunals, but any such official representation should be provided by Executive Councils and not the Health Departments.

“(55) The general recommendations in Part II should not be strictly applied to Executive Councils, which are principally administrative bodies. (Paragraph 201.)”

Entirely accepted.

“(56) The National Health Service Tribunal should in general sit in public. (Paragraph 203.)”

Rejected.—The Tribunal’s jurisdiction is confined to National Health Service practice. Only the Disciplinary Committee of the General Medical Council can debar a practitioner from all practice and since this Committee sits in public there is no need for the National Health Service Tribunal to do so.

“(57) The right of appeal from the National Health Service Tribunal to the Minister should be abolished, and the right of appeal from Executive Councils to the Minister in certain cases should be replaced by a right of appeal to the Tribunal. As a safeguard for practitioners appeals by individual complainants should be heard by the Tribunal in private. (Paragraphs 205-207.)”

Partly accepted.—The first point, the abolition of appeal from the Tribunal to the Minister is accepted. The last point, that certain appeals should be heard in private, is covered by the rejection of recommendation (56). The remaining point that the appellate jurisdiction of the Minister in minor disciplinary cases is reserved for discussion with professional associations.

“(58) Hearings before Military Service (Hardship) Committees should be in public unless intimate personal or financial circumstances have to be disclosed. Legal representation should be permitted, and there should be an automatic right of appeal to the Umpire, at least on any point of law. (Paragraphs 214-216.)”

Substantially accepted.—The qualification is that some restriction will be maintained in appeals to the Umpire in hardship cases not involving points of law, in order to avoid an excessive number of appeals.

“(59) It is particularly important that the general recommendations in Part II concerning the atmosphere of tribunal hearings and the publication of selected appellate decisions should be applied to Conscientious Objectors Tribunals; an age-limit for members should also be considered. (Paragraphs 217-219.)”

Entirely accepted.—The atmosphere of hearings and the publication of selected Appellate decisions are in the control of the Tribunals themselves and their attention will be drawn to these points. The consideration of age limits is a matter for reference to the Council.
"(60) Pensions Appeal Tribunals should each include a practitioner with recent clinical experience as far as possible directly related to the disability in the case. (Paragraph 221.)"

Reserved. — There are practical difficulties to be discussed with ex-Service organisations.

"(61) We recommend no change in existing arrangements for appeals from the Licensing Authorities for Public Service and Goods Vehicles. From appeal decisions by the Minister a further appeal should lie to the courts on a point of law. (Paragraphs 229-231.)"

Entirely accepted.

"(62) The general recommendations in Part II should not be strictly applied to the Transport Tribunals. (Paragraph 232.)"

Entirely accepted.

"(63) We have not examined the constitution and working of the General and Special Commissioners of Income Tax, which have recently been examined fully by the Royal Commission on the Taxation of Profits and Income, but it may be desirable to include the Commissioners within the terms of reference of the proposed Council on Tribunals. (Paragraph 236.)"

Entirely accepted.

"(64) Compensation Appeal Tribunals should be strengthened by vesting the appointment of both chairmen and members in the Lord Chancellor. We do not recommend the establishment of a further appellate tribunal, but there should be an appeal to the courts on a point of law. (Paragraphs 238–239.)"

Substantially accepted. — The qualification is that members should continue to be appointed by the Minister of Labour, but in consultation with the Council on Tribunals. This is consequential on the general decision on the appointment of members—see note on recommendation (2). The Chairman of the Scottish Tribunal will of course be appointed by the Lord President of the Court of Session.

"(65) The Council on Tribunals should consider the question of providing a further appeal from the decisions of Independent Schools Tribunals. (Paragraph 241.)"

Entirely accepted. — The Council should be invited to do this in the light of experience gained from actual working of the Tribunals when they are set up.

PART C.—ADMINISTRATIVE PROCEDURES (GENERAL QUESTIONS)

"(66) Although we confine ourselves to procedures relating to land the broad principles enunciated in Part IV should ordinarily be applied to other procedures clearly within the second part of our terms of reference. (Paragraph 242.)"

Reserved. — The application of the general principles to procedures other than land procedures has not yet been considered.

"(67) An acquiring or planning authority should be required to make available, in good time, before the enquiry, a written statement giving full particulars of its case. (Paragraph 281.)"

Substantially accepted. — The proposal in paragraph 281 of the Report that this requirement should be statutory is not acceptable. To avoid the courts of appeal being able to enquire into the merits of the case the obligation should be to state an adequate case and should be included in rules of procedure for enquiries to be made by the Lord Chancellor (or the Lord President of the Court of Session) with the advice of the Council on Tribunals.
“(68) The deciding Minister should, whenever possible, make available before
the enquiry a statement of the policy relevant to the particular case, but should
be free to direct that the statement be wholly or partly excluded from discussion
at the enquiry. (Paragraphs 287–288.)”

Rejected.—Not only do the dimensions of the problem in practical terms
preclude acceptance, but the issue of a policy statement in relation to a
particular case before it is enquired into might seem to prejudge the case.
Steps will be taken, however, to make more generally known the policies
which Ministers are applying in these fields.

“(69) If the policy changes after the enquiry the letter conveying the Minister’s
decision should explain the change and its relation to the decision.
(Paragraph 289.)”

Partly accepted.—Since the proposal (recommendation (68) above) that
Ministers should issue statements of policy in advance is rejected, this does
not directly arise. But if the local authority have said on what policy they are
relying (as they should do) and if that policy changes, the Minister’s letter
of decision would of course explain the change.

“(70) The main body of inspectors in England and Wales should be placed
under the control of the Lord Chancellor, but inspectors may be kept in contact
with policy developments in the Departments responsible for enquiries. The
preference of certain Departments for independent inspectors appointed ad hoc
need not be disturbed. If a corps of inspectors is established for Scotland, the
Lord Advocate should assume responsibility for it. (Paragraphs 303–304.)”

Partly accepted.—The Minister of Housing must be able to exercise close
control over his inspectorate because of the need to deal expeditiously with
a very large number of enquiries. The Minister of Power’s electrical
inspectors are engaged more on departmental administrative and advisory
work than on the quasi-judicial functions involved in enquiries and hearings.
Whilst the transfer of inspectorates to the Lord Chancellor is, therefore,
impracticable, it is proposed that inspectors should be appointed by the
Departmental Minister after consultation with the Lord Chancellor and
dismissed only with his consent. But the existing practice whereby the
Scottish Departments and the Ministry of Education appoint persons from
outside the Public Service will continue.

“(71) The initiating authority, whether a Minister or a local or other
authority, should be required at the enquiry to explain its proposals fully and
support them by oral evidence. (Paragraph 308.)”

Substantially accepted.—As with recommendation (67) this requirement
should be embodied in the rules of procedure.

“(72) The code or codes of procedure for enquiries should be formulated by
the Council on Tribunals and made statutory; the procedure should be simple and
inexpensive but orderly. (Paragraphs 310, 312.)”

Substantially accepted.—The rules of procedure should be made by the
Lord Chancellor or the Lord President of the Court of Session on the advice
of the Council.

“(73) In connection with the compulsory acquisition of land (and schemes
which imply later acquisition), development plans, planning appeals and clearance
schemes, a public enquiry should be held in preference to a private hearing unless
for special reasons the Minister otherwise decides. (Paragraph 311.)”

Entirely accepted.

“(74) The proceedings should be opened by the initiating party. Strict rules
of evidence are not required, but the inspector should have power to administer the
oath and subpoena witnesses. He should have a wide discretion in controlling the
proceedings and should give rulings on the scope of the proposed ministerial policy
statements. (Paragraphs 312–313.)”

Substantially accepted.—The qualification is that, since it is proposed to
reject recommendation (68) the need for the inspector to give rulings on the
scope of the policy statements does not arise.
“(75) Officials of the Department of the deciding Minister should be required to give evidence if the enquiry is into a proposal initiated by that Minister, but not otherwise. Officials of other Departments should, if required, give factual evidence in support of the views of their Department if these views are referred to by a public authority in its explanatory written statement (see recommendation 67) or in its evidence at the enquiry. (Paragraphs 317-318.)”

Substantially accepted. — The qualification is that officials of the Agriculture Department should not be required to give evidence in cases where their Department has expressed no view on proposals to alienate agricultural land (see paragraph 319 of the Report).

“(76) In compulsory acquisition cases and clearance schemes reasonable costs should generally be awarded to successful objectors directly interested in the land; they should only be awarded to unsuccessful objectors if the initiating authority has acted unreasonably. Costs should only be awarded against an unsuccessful objector if he has acted frivolously or vexatiously. (Paragraph 323.)”

Reserved. — It may be right to award costs more frequently but the question in cases of compulsory acquisition as elsewhere, is not as straightforward as the Franks Committee seemed to think. The recommendations on costs require further consideration in consultation with the Council.

“(77) In planning appeals reasonable costs should generally be awarded to owner appellants if their appeals succeed or if the local planning authority has acted unreasonably. Costs should exceptionally be awarded to other successful appellants. (Paragraph 324.)”

Reserved. — See note on recommendation (76) above.

“(78) Any award of costs should be made by the Minister. The inspector should hear submissions by the parties on costs and, where appropriate, make recommendations in his report. (Paragraph 325.)”

 Entirely accepted. — But see note on recommendation (76) above.

“(79) The Council on Tribunals should consider the basis on which “reasonable costs” should be assessed and keep under review the arrangements regarding the award of costs. (Paragraph 326.)”

 Entirely accepted. — See note on recommendation (76) above.

“(80) Reports should be divided into two parts: — (i) summary of evidence, findings of fact and inferences of fact; and (ii) reasoning from facts, including application of policy, and (normally) recommendations. (Paragraph 328.)”

 Entirely accepted.

“(81) The complete text of the report should accompany the Minister’s letter of decision and also be available on request centrally and locally. (Paragraph 344.)”

Accepted in principle. — Reports will be published where desired, but the method of publication needs to be further considered. The Government are anxious to limit the distribution of paper to the minimum necessary to enable anyone who wants to see the report to do so.

“(82) Additionally, if any of the following parties desires an opportunity to propose corrections of fact, the first part of the report should, as soon as possible after the enquiry, be sent to: — (i) the promoting authority (or local planning authority) and any other authority which gave evidence; and (ii) all persons who lodged written objections (in planning appeals the applicants). Recipients should be allowed fourteen days in which to propose corrections. The inspector should decide whether to accept any proposed correction. (Paragraph 345.)”

Reserved. — An effort will be made to find satisfactory ways and means of giving effect to this recommendation. Nevertheless, the Departments concerned see considerable difficulties in applying this recommendation, partly because of the invitation it would give to objectors to re-open the argument and because a strict dividing line between facts and conclusions cannot always be drawn.

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"(83) The deciding Minister should be required to submit to the parties concerned for their observations any factual evidence, including expert evidence, obtained after the enquiry. (Paragraph 350.)"

Substantially accepted.—The qualification is that "expert evidence" should not include technical or other advice given by civil servants.

"(84) The Minister's letter of decision should set out in full his findings and inferences of fact and the reasons for the decision. (Paragraph 352.)"

Entirely accepted.

"(85) The present special form of appeal to the courts in procedures relating to land should be retained and also applied to decisions on planning appeals. The time-limit for lodging such appeals could be reduced if recommendation (82) is accepted. (Paragraph 359.)"

Entirely accepted.

PART D.—PARTICULAR ADMINISTRATIVE PROCEDURES RELATING TO LAND

"(86) Acquiring authorities should notify as early as possible those likely to be affected by their proposals. (Paragraph 367.)"

Entirely accepted.

"(87) Save in time of emergency or threat of emergency or in special security cases the Service Departments should be required to adopt the same procedure for acquiring land as other Departments. (Paragraph 370.)"

Partly accepted.—Two main considerations prevent acceptance of the recommendation as it stands: (i) the great urgency of some land requirements for defence purposes at times where there is no emergency or threat of emergency; and (ii) the need to avoid spotlighting cases involving security. An alternative procedure is, therefore, proposed for safeguarding the rights of the individual in these cases. Private owners and occupiers would be given a statutory right to object and to have an independent hearing of their objections by a person of suitable status and judicial qualifications appointed by the Lord Chancellor (or, in Scotland, by the Secretary of State for Scotland). The inspector would have discretion to grant a public hearing in cases not involving security. He would submit his recommendations to the Service Minister concerned who must retain an overriding right of rejection, but would be subject to an obligation to inform the appellant that the inspector had recommended in the latter's favour, when that was the case. While the inspector's recommendations would not be published as such, the appellant would be informed of them in as much detail as security considerations would permit. Subject to these additional arrangements, the existing procedures for Services' land acquisitions would continue.

"(88) Objectors should give advance written notice of proposals for alternative sites; discussion of such sites at the enquiry should otherwise be disallowed. (Paragraph 372.)"

Reserved.—Proposals for alternative sites should not be discussed in the absence of owners. It might be difficult to insist on their attendance, and it would be pointless to do so unless the alternative site offered real prospects. While further consideration will need to be given to this recommendation, its acceptance would present the Ministry of Power with serious difficulties, partly because a private amenity interest raising objections could scarcely be expected to bear the cost of advertising his proposed alternative site under the statutory procedures provided; and partly because an alternative site for a particular electricity pylon is likely to interfere with the main route of the line over a considerable distance.
"(89) Compulsory purchase orders requiring confirmation should be restyled 'draft compulsory purchase orders.' (Paragraph 374.)"  
Entirely accepted.

"(90) The Minister should publish any modifications which he proposes to make to a development plan, and twenty-one days should be allowed for the lodging of objections to them. Any further enquiry should be limited to opposed modifications. (Paragraph 377.)"  
Reserved.—The recommendation is equitable but would add considerably to the length of time required to reach decisions on these plans. It requires further consideration.

"(91) An appeal should lie to the courts on a point of law against a determination by the Minister as to what constitutes 'development.' (Paragraph 381.)"  
Entirely accepted.

"(92) Local planning authorities should discuss applications with applicants. (Paragraph 382.)"  
Entirely accepted.

"(93) Owners and others directly interested in the land should be informed of third party planning applications and allowed to state their views. They should also be informed of the decision of the local planning authority and of the lodging of an appeal. (Paragraph 384.)"  
Reserved.—The Government sympathise with this proposal but there are practical difficulties. Being further considered.

"(94) The weight of planning appeal work falling upon the Government Departments concerned should be reduced by delegating some decisions to inspectors. (Paragraph 392.)"  
Rejected.—It would not be appropriate to empower individual civil servants to give decisions for which the Minister could take no responsibility.

"(95) There should be an appeal to the Lands Tribunal (in Scotland to an independent arbitrator) against a decision by the Minister that a property is 'unfit' or against a refusal by the Minister to sanction a 'well maintained' payment. (Paragraph 399.)"  
Reserved.—The provision of an appeal against refusal of a "well maintained" payment will be further considered. The provision of an appeal to a tribunal on "unfitness" is impracticable for two main reasons: (i) the fact of unfitness must be established before the Minister confirms the clearance or compulsory purchase order; and (ii) the criterion of unfitness cannot be fully codified.
CABINET

THE SEVERN BRIDGE

MEMORANDUM BY THE MINISTER OF HOUSING AND LOCAL GOVERNMENT AND MINISTER FOR WELSH AFFAIRS

The Minister of Transport, with my support, has proposed that a start shall be made on the Severn Bridge in the financial year 1960-61. The scheme, which will take several years to complete, will comprise the bridge structure and the immediate approach roads. It will cost some £15½ millions, for which, I understand, room can be found within the total expenditure approved by the Treasury for the roads programme.

2. The Chancellor of the Exchequer has stated, however, that he cannot agree that this particular project should be included in the 1960-61 programme, on the ground that it does not deserve a place in it.

3. The Severn Bridge is such a burning issue in Wales that I must raise it with my colleagues. It is imperative in my view that a decision should be taken to build the bridge and to announce the decision now—even though work on it cannot start for 3 years. It will take at least 5 years to build the bridge, and the payments will be spread over 8 years from the date of starting the work.

4. Politically, public opinion in Wales is at present very disturbed. My advice to Parliament in July to pass the Liverpool Corporation Bill enabling Liverpool to flood the Tryweryn Valley in Merioneth, while quite unavoidable, has aroused deep and widespread distrust of the Government's attitude towards Wales. The recent sharp fear of unemployment in the Llanelly area as the result of the closing of old tinplate mills has produced a fresh and more justified feeling of unsettlement. Truth to tell, many people in Wales are inclined to say just now that the Prime Minister may have chosen a well-intentioned man to be the new Minister for Welsh Affairs, but that ever since his appointment things have turned out badly for Wales.

5. A refusal to proceed with the Severn Bridge would, naturally, be contrasted in Wales with what is happening in other parts of Great Britain. The decision to proceed with the Forth Bridge is by no means forgotten. If it now became known that the Tyne Tunnel was to be approved, but that the Severn Bridge was still to remain out of the programme, it would inflame the belief in Wales that the Government refuses to give Wales a fair crack of the whip.

6. There are economic arguments fully justifying the great importance which Welsh opinion attaches to this bridge. The road approach to the South Wales industrial area is, I believe, less adequate than for any comparable industrial area in the United Kingdom. As the attached map illustrates, the worst defect is the absence of a road crossing of the River Severn below Gloucester.

7. The bridge would greatly improve communications between South Wales and London and the whole of the South of England. It would transform the communications with the Bristol area. Bristol is 40 miles from Cardiff by rail, 90 by road.
8. South Wales has well over the national average of unemployment. Further industrial growth is needed to give stability, but it will depend on there being the necessary facilities, including proper communications.

9. The existing road from Newport to Gloucester (the only road to London and Bristol) is—at any rate in my view—so twisty and narrow over much of its length that, if the Severn Bridge were postponed, expensive road improvements which the bridge would render superfluous would have to be put in hand. This would surely be a foolish way to spend money.

10. For these reasons, I ask that the Severn Bridge should be in the roads programme for 1960–61, and that this decision should now be announced.

H. B.

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

15th November, 1957.
CABINET

THE SEVERN BRIDGE AND THE ROADS PROGRAMME

MEMORANDUM BY THE CHANCELLOR OF THE EXCHEQUER

The Minister for Welsh Affairs, in his paper on the Severn Bridge (C. (57) 273) supports the proposal originally put to me by the Minister of Transport, that a start should be made on the Severn Bridge in the financial year 1960-61 and that the decision should be announced now. The suggestion is that room can be found for it within the total expenditure approved for the roads programme. There can in my judgment be no question of such an announcement in existing circumstances.

2. The agreed roads programme for England and Wales provides for expenditure on new construction and major improvements rising to a total of annual payments from the Exchequer exceeding £60 millions. The figure I originally put forward in discussion was £50 millions, and this was increased to £60 millions on the urgent plea, as I understood it, that anything smaller would not enable us to deal with the difficulties arising from increasing congestion on the existing roads with the growth of traffic. Indeed I specifically asked the Minister of Transport to assure me that this higher figure, which was by no means easy to accept, did not provide for such a project as the Severn Bridge. It is therefore with surprise that I hear it argued that room can be found within this programme for the addition of this project.

3. The Severn Bridge is an expensive project. With its immediate approaches it will cost £15½ millions. To link it with the Midlands (in the region of the Ross Spur) would cost a further £11½ millions. To link it with Chippenham (and London) would cost £6 millions. This makes a total of £33 millions, quite apart from any further works which it may make necessary to allow for the increased traffic flow to London.

4. If it be argued that the links with Chippenham and with the Midlands can wait for some years until after the Bridge is completed, so that its cost can be kept down to £15½ millions, I am bound to ask if the Bridge is of only local importance. It seems to me that we cannot make such a major addition to the road system of the country without catering for the resulting traffic properly, and that in fact we are faced with a total expenditure which, making some provision for a possible rise in costs, may not be less than £40 millions and could in certain circumstances be substantially more.

5. Nor can I accept that Wales is being unfairly treated. In 1953 the Lloyd Committee recommended the Ross Spur and the Heads of the Valleys Road (linking with the Midlands) as giving quicker relief to South Wales than the much more expensive Severn Bridge, which would mainly improve communications with London. Physical work on the Ross Spur may start this year, and the cost of this alone is expected to be £7½ millions. The Heads of the Valleys Road will cost over £6½ millions, and will start next year. As regards the political aspect, one end of the Severn Bridge would be in my constituency. I have already publicly...
defended its absence from any programme on the basis of the arguments outlined above, and there is no difficulty whatever in holding this further. Indeed to reverse would be very hard to explain.

6. I am accordingly convinced that it is premature to consider any decision now about starting the Severn Bridge in three years' time. I am even more convinced that it would be folly to announce such a project in the present economic climate.

7. Indeed, I must go further and ask whether the provision which we have made in the roads programme is not over-generous, and whether we ought not to consider some reduction. When I consider the limits which have had to be imposed in other fields it does appear open to doubt whether provision which appears now to be far more generous than I had supposed can be justified for the roads programme. I would however propose to defer a decision on this till we settle the investment programme for 1960–61 in the spring of next year. In the meantime announcements of specific projects for 1960–61 and later should not be announced by some Departments to the prejudice of others.

P. T.

Treasury Chambers, S.W. 1,
21st November, 1957.
CABINET

CYPRUS

NOTE BY THE SECRETARY OF THE CABINET

On 30th July (C.C. (57) 59th Conclusions, Minute 2), the Cabinet instructed me to arrange for officials of the Treasury, Colonial Office and Board of Trade to examine the problems of economic and commercial policy which would arise under the proposed condominium in Cyprus and to submit a further report on these aspects of the proposal.

The attached report by officials has been prepared for this purpose.

(Signed) NORMAN BROOK.

Cabinet Office, S.W. 1,
15th November, 1957.
ECONOMIC ASPECTS OF CYPRUS CONDOMINIUM

NOTE BY OFFICIALS

The Cabinet on 30th July referred to the economic problems which would have to be considered in the event of a condominium being established in Cyprus. We have examined these problems and our conclusions are in the attached report. A summary of our main conclusions is as follows.

I.—Arrangements for Handling Commercial Questions

(a) Rights and Obligations of Cyprus under Existing Treaties

The arrangements between the co-domini should provide for the assumption by the condominium of treaty rights and obligations previously assumed by Her Majesty's Government in the United Kingdom on behalf of Cyprus, and any subsequent decisions with a view to revising commercial treaties should require the consent of all three co-domini (paragraph 3).

(b) Representation of Cypriot Interests in International Commercial Discussions

The most practical arrangement would be for one of the co-domini to be charged with this by the other two co-domini; the alternative would be for all three co-domini to act jointly, possibly through chosen Cypriot delegates (paragraph 4).

(c) Imperial Preference

There is nothing in the General Agreement on Tariffs and Trade (G.A.T.T.) which would prevent the continuation of the present Imperial Preference granted by and to Cyprus. The decision whether the United Kingdom or other countries would continue to give preferences to Cyprus might depend most on whether they continued to enjoy preference in Cyprus (paragraph 6).

II.—Provision of Financial and Technical Assistance to Cyprus

(a) Under a condominium there should be no question of a permanent contribution to the Cyprus Ordinary Budget from United Kingdom sources as envisaged in the Radcliffe report. If any temporary assistance were required the amount should be shared by the co-domini (paragraph 7).

(b) Development Finance

Any United Kingdom financial commitment to assist the development programme of Cyprus should be reduced to the minimum. But this should not rule out in principle the making available to Cyprus of assistance already promised under the current Colonial Development and Welfare Act, i.e., up to 1960. It would, however, seem preferable that this should not continue to be provided under Colonial Development and Welfare machinery. The eligibility of Cyprus for Colonial Development Corporation assistance would need to be reviewed (paragraph 8).

(c) Technical Aid

There would be no objection in principle to Cyprus continuing to receive technical assistance from the United Kingdom (paragraph 10).

III.—Relationship with the Sterling Area

There are three theoretical possibilities:—

(i) to carry on as at present, i.e., for Cyprus to remain within the sterling area and to maintain exchange control restrictions against all countries
outside the sterling area (although there might be certain administrative relaxations in favour of Greece and Turkey, e.g., an increase in the travel allowances);

(ii) to adopt an arrangement on the lines of the present Hong Kong system, i.e., Cyprus would not impose any exchange restrictions against Greece and Turkey but would apply the normal restrictions to transactions with the rest of the non-sterling world;

(iii) to exclude Cyprus from the sterling area, i.e., the United Kingdom would maintain an exchange barrier against Cyprus (possibly making certain administrative relaxations) and Cyprus would make whatever arrangements she considered appropriate with Greece and Turkey.

On general grounds, course (i) would be the most satisfactory both for the United Kingdom and for Cyprus, even if it involved allowing Cyprus to make certain relaxations in favour of Greece and Turkey; this is the course to aim at in negotiations but it may not be acceptable to Greece and Turkey. Course (ii) could not be accepted by the United Kingdom because it would risk the development of a new gap in the sterling area’s defences in the Middle East. The special consideration in the case of Hong Kong, i.e., ability to maintain a traditional entrepôt trade, has no parallel in Cyprus’ case. Course (iii) is therefore the only alternative if Greece and Turkey will not accept (i). For the United Kingdom, course (iii) would not entail any direct economic disadvantage. For Cyprus, however, the full range of economic consequences of exclusion from the sterling area would be harmful. It would involve the restriction of outward investment from the United Kingdom, the blocking of sterling securities held by Cyprus residents, no access to the sterling area gold and dollar reserves, or to the London market for new money. Although these economic consequences could be mitigated to some extent by giving Cyprus preferential exchange control treatment (as at present for the Sudan), the general effect might still be undesirable both on the economy of Cyprus and on sterling area cohesion. There might also be certain political disadvantages in excluding Cyprus from the sterling area. For example, it might be taken as an indication that the United Kingdom was trying to abdicate future responsibility for the island. On the whole, therefore, course (iii) would be a poor second best to course (i) (paragraphs 11-15).

IV.—External Loans, Currency and Banking

(a) London Market Loans

Even if Cyprus remained within the sterling area it is unlikely that she would be able to raise any loans on the London market in the foreseeable future. But an immediate problem would have to be faced, namely that of securing that the rights of the holders of existing Cyprus loan stock issued in London were fully protected. (This issue has in fact already been confidentially guaranteed by Her Majesty’s Government in certain circumstances.) This might be done by seeking to retain powers analogous to those of disallowance, or by obtaining undertakings analogous to those entered into by certain Commonwealth Governments concerning legislation which might prejudice the rights of stockholders (paragraph 16).

(b) Currency

The most sensible course would be for Cyprus to retain her own separate currency as at present, even if she had to leave the sterling area. Any Bill affecting the currency of Cyprus should require the consent of the three co-dominii. It seems unlikely that Greece or Turkey would press for their currencies to become legal tender in Cyprus, but if they did the proposal should be resisted. It seems more likely that they would press for part of the currency backing to be invested in Greece and Turkey. This would be wrong in principle if the Cyprus pound retained its link with sterling (paragraph 17).

(c) Banking

The establishment of condominium would not of itself cause complications in the field of banking, but it would be desirable to ensure that Bills regulating the business of banking should require the consent of the three co-dominii (paragraph 18).
ANNEX

CYPRUS: ECONOMIC AND COMMERCIAL QUESTIONS UNDER CONDOMINIUM

Assumption

There has been general agreement in Cabinet that if genuine goodwill between the three co-domini could be assumed and the cooperation of the local inhabitants assured, a reasonable basis of negotiation might include the following arrangements:

(a) the Governor's powers defined, as regards the internal administration of the Island, by the Radcliffe constitution, amended as necessary;

(b) all decisions relating to external affairs would have to command the assent of each of the co-domini. Failing such assent the status quo would be maintained.

The following paragraphs are based on the assumption that such arrangements would be made.

Proposed Arrangements in Radcliffe Constitution

2. The arrangements envisaged in the Radcliffe constitution provided for a Ministry of Development, a Ministry for Natural Resources (including mines), and a Ministry of Finance, embracing Budget, Estimates, Inland Revenue, Treasury, Audit, under Financial Affairs, and Economic Policy, Banking, Customs, Commerce, &c., under Economic Affairs. Importation of goods and relations with other States, the United Nations and its agencies were enumerated in the Radcliffe report among “matters which in some cases it will always and in other cases it may sometimes be necessary to treat as included within the range of Governor's matters by virtue of the fact that they involve external affairs, defence or internal security.” The Governor would be empowered to make Ordinances in respect of such matters. The Governor would withhold assent to a Bill passed by the Legislative Assembly if he were of opinion that it dealt either in whole or in part with any matter that was one of the Governor's matters. The Governor would not, without having previously obtained Her Majesty's instructions through a Secretary of State, signify assent to any Bill which in his opinion fell within the following classes:

(i) a Bill affecting the currency of Cyprus or its coinage or affecting foreign exchange or its control;

(ii) a Bill affecting the Trustee Status of any Cyprus Government Stock;

any such Bill after enactment would be capable of being disallowed by Her Majesty.

I.—Possible Arrangements for Handling Commercial Questions

Rights and Obligations under Existing Treaties

3. The arrangements between the co-domini should provide for the assumption by the condominium of treaty rights and obligations previously assumed by Her Majesty's Government in the United Kingdom for or in respect of Cyprus. All decisions with a view to revising commercial treaties should be treated on the same basis as other external affairs. It would be open to the self-governing side of the Administration to propose revisions, but any such proposal would have to command the assent of each of the co-domini to effect any change.

International Commercial Discussions

4. The representation of the interests of Cyprus in international commercial discussion would need to be settled in the instruments establishing the condominium. It may be important in future, e.g., if G.A.T.T. sets up machinery to keep under...
review the putting into force of the European Economic Community. The following are the alternative possible arrangements:

(i) One of the co-domini alone to be charged with this. This might be the most convenient arrangement and in the Cypriots' own interests it might be best if this responsibility were assigned to the United Kingdom.

(ii) All three co-domini to act jointly on behalf of Cyprus. As a permanent arrangement this might be administratively clumsy (though the Secretariat of the proposed Three-Power Council might be able to undertake it). The interests of Cyprus might be sacrificed since their crops compete with those of Greece and Turkey in overseas markets.

The choice between the two alternatives is principally a political one; either could be accepted if it attracted greater support from Greece and Turkey and Cypriot representatives.

In practice the Cyprus authorities could, if the co-domini agreed, be allowed to select delegates to represent the condominium at international conferences; but, since the co-domini would bear the responsibility for any commitments accepted on behalf of Cyprus, they would have to reserve the right to reject any particular selection (and to make their own selection if necessary).

Strategic Exports

5. Maintenance of existing controls of strategic exports would be important, but it should be possible to secure this by reserving adequate powers to the Governor and co-domini as in paragraph 1 (a) and (b) above.

Imperial Preference

6. The continuation of the present Imperial Preference granted by, and to, Cyprus would not be vulnerable in G.A.T.T. in the event of condominium. Cyprus would doubtless wish to maintain its present protection in the United Kingdom market since this is its main market for agricultural produce. Precedents are mixed for having Commonwealth preference arrangements with condominiums and territories which have left the Commonwealth. There have never been any preference arrangements with the New Hebrides or the Sudan condominium; on the other hand, when the Irish Republic and Burma left the Commonwealth, preference arrangements with the former were maintained, and the grant of preference to the latter was continued. The decision whether the United Kingdom or other countries would continue to give preference to Cyprus might depend most on whether they continued to enjoy preference in Cyprus. The extension of preferential treatment by Cyprus to Greece and Turkey (other perhaps than through the association of Cyprus with the European Free Trade Area) would require a waiver under the no-new preference rule of G.A.T.T.

II.—Financial and Technical Assistance to Cyprus

7. The Radcliffe report envisaged that Her Majesty's Government would make a substantial annual contribution towards the cost of the Cyprus Police Force and Prison Service, and that the United Kingdom would bear the cost of inter-communal education.

These arrangements would be inappropriate in the changed circumstances and there should be no question of a permanent contribution to the Cyprus Ordinary Budget from United Kingdom sources. Cyprus' financial position should be examined with a view to ensuring that, from the start of the condominium or at most within a short period, ordinary expenditure and local revenue should be in balance. If it emerged that there was a real financial need for any temporary assistance, the amount should be shared between the co-domini.

Development Finance

8. It would also be necessary to review the development programme of Cyprus in the changed circumstances with a view to limiting to the minimum any United Kingdom financial commitment. We should not rule out in principle the making available to Cyprus of the balance of financial assistance already promised to her under the current Colonial Development and Welfare Act (i.e., up to March
though the precise method by which this assistance should be made available would require consideration. Since one of the main objects of the establishment of the condominium would be to give Cyprus a special status different from that of a Colony, it would scarcely seem appropriate or politically desirable to provide such assistance to Cyprus through the Colonial Development and Welfare Act which is designed for United Kingdom dependent territories (although it has been extended to the Anglo-French Condominium of the New Hebrides). Some other more suitable method would therefore need to be devised.

Cyprus is at present eligible for assistance from the Colonial Development Corporation (C.D.C.), although the Corporation has not so far made any investment in Cyprus. The activities of the C.D.C. are governed by the Overseas Resources Development Acts, 1948-56. As they stand at present, no legislative action would be needed in order to preserve the eligibility of Cyprus for assistance from the C.D.C. under a condominium arrangement. It is however the intention to amend the Acts so as to provide that the C.D.C. shall not be able to undertake new projects in territories which become independent. If it were desired to preserve the eligibility of Cyprus under a condominium for assistance from the C.D.C., it would be necessary to ensure that the amending legislation did not preclude this. For the reasons given above, however, it would scarcely seem appropriate that the C.D.C., which was set up to assist in the economic development of the United Kingdom dependent territories, should be permitted to invest in Cyprus under a condominium arrangement—nor is it likely that the Corporation would be interested in doing so.

Budget Control

9. As envisaged in the Radcliffe report, budget control would have to remain in local control but it would be important that the Governor should be capable of maintaining a sound financial system. It would not be desirable to provide for approval of the budget by the co-domini. If at any time a situation developed in which Cyprus had to be given a grant-in-aid of administration it would then be necessary to devise some form of financial control.

Technical Aid

10. At present Cyprus has access to the various advisory services and other forms of technical assistance provided by the Colonial Office. There is no reason why she should not continue to benefit from these services under a condominium—subject to suitable financial arrangements being made in cases where such services are provided under Colonial Development and Welfare schemes.

III—Relationship with the Sterling Area

11. Before examining the problems that would arise in the fields of currency, banking and external payments, it is necessary to consider how a condominium would affect the relationship of Cyprus with the sterling area. There would seem to be three theoretical possibilities:

(1) To carry on as at present; i.e., for Cyprus to remain within the sterling area and to apply exchange restrictions on the existing basis to all other countries outside the sterling area but perhaps making certain relaxations in favour of Greece and Turkey, e.g., an increase in the travel allowance.

(2) To adopt an arrangement on the lines of the present Hong Kong system; i.e., Cyprus would not apply exchange control to Greece and Turkey but would apply exchange control and import licensing arrangements to the rest of the non-sterling world.

(3) To exclude Cyprus from the sterling area; i.e., for the United Kingdom to put Cyprus into the transferable account area and to impose the usual exchange restrictions though they could be administered preferentially, as for the Sudan; Cyprus would be left to make appropriate arrangements with Greece and Turkey.

These possibilities are discussed below.
12. Full Membership of Sterling Area.—With the first alternative there would, as at present, be no exchange restrictions on current or capital transactions between the United Kingdom and Cyprus, and Cyprus would retain all the benefits of membership of the sterling area; in particular, access to the central reserves of gold and dollars to finance her normal deficit with the dollar area, the advantage of a currency and banking system based on sterling, unrestricted flow of private capital from the United Kingdom, access to the London market for the investment of her reserves and for the raising of new money — though the last would probably be only a hypothetical benefit for some years.

On general grounds a continuance of the present system would be the most satisfactory both for the United Kingdom and for Cyprus herself. However, as co-domini Greece and Turkey might well object because the Cyprus Government at present restricts transfers to Greece and Turkey in connection with travel, education, emigration and investment in the same way as it restricts these transactions with other non-sterling countries.

The United Kingdom could try to overcome these objections in the following way. First, by pointing out that it would not be illogical for a condominium to belong technically to the monetary area of only one of its co-domini if that area has certain definite advantages. Secondly, the United Kingdom could argue that the removal of the exchange barrier between Cyprus and Greece/Turkey might well be against the interests of the latter. If Cyprus removed her exchange barrier against Greece and Turkey she would have grounds for insisting that they should remove theirs against her. As there is no exchange barrier between Cyprus and the United Kingdom the way would then be open for Greek and Turkish residents to escape their respective exchange controls via Cyprus. This might well lead to a flight of capital since local firms in those countries might transfer their reserve via Cyprus to the comparative safety of the London market, while United Kingdom firms operating in Greece and Turkey would probably seek to remit substantial sums that had hitherto been blocked in those countries (the United Kingdom has large commercial arrears in Turkey).

Thirdly, however, the United Kingdom could offer to modify the existing system: Cyprus could be allowed to administer her exchange control so as to give preferential treatment to transfers to Greece and Turkey in certain clearly defined respects and with proper safeguards; e.g., preferential treatment for travel allowances could be given to residents of Cyprus for Greece and Turkey (just as United Kingdom residents get increased allowances for Scandinavia).

13. Special Status within the Sterling Area.—The second possibility is of an arrangement on the lines of the present Hong Kong system. Hong Kong applies the normal sterling area exchange restrictions to transactions with all non-sterling countries except its four neighbouring ones. On this analogy Cyprus would cease to apply exchange restrictions against Greece and Turkey but would continue to do so against all other non-sterling countries. The special arrangements for Hong Kong were however permitted because they represented the only way in which Hong Kong could maintain its traditional entrepôt trade; the circumstances in Cyprus are completely different. Moreover, experience in Hong Kong has shown that these arrangements are difficult to administer and despite safeguards have led to the development of a gap in the defences of the sterling area. The United Kingdom cannot afford to risk the development of a new gap of this kind in the Middle East. This alternative should therefore be regarded as unacceptable to the United Kingdom.

14. Exclusion of Cyprus from the Sterling Area.—The third possibility would be to exclude Cyprus from the sterling area and to regard her as part of the transferable account area; this would mean that the United Kingdom would maintain an exchange barrier between herself and Cyprus while Cyprus would be free to make whatever arrangements she considered appropriate with Greece and Turkey. (If Cyprus became a condominium, she would automatically cease to be a Scheduled Territory unless special steps were taken to include her in the list.)

In general, the exclusion of Cyprus from the sterling area would have little effect on direct current transactions between the United Kingdom and Cyprus (since the United Kingdom has now removed most restrictions on current payments to the transferable account area). Strict exclusion from the sterling area would however, affect capital and other transactions in the following way:

(a) all outward investment from the United Kingdom to Cyprus would be subject to exchange control restrictions;

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(b) sterling securities held by Cyprus residents (including the banks and Currency Commissioners) would be blocked, i.e., the proceeds from sales of these securities would be available only for credit to a blocked account (and therefore transferable to Cyprus only at the "security sterling" discount), or for reinvestment in certain securities with a maturity of more than five years;

c) Cyprus would have no access to the sterling area's gold and dollars reserves: i.e., Cyprus would have to finance her dollar deficit by buying dollars at the free market rate at Zurich (which is usually less favourable than the official rate of exchange);

d) the Government would no longer have access to the London capital market for the raising of new money (but if Cyprus became a condominium she would anyway have little credit standing in the London Market for some years).

In view of the special position of Cyprus as a condominium, it would, however, be possible for the United Kingdom to mitigate the effect of (a) and (b) by giving preferential exchange control treatment on the same lines as at present for the Sudan, and to mitigate the effect of (c) by providing that, on certain conditions, Cyprus could continue to be allocated dollars from the central reserves. However, the interposition of a barrier between Cyprus and the sterling area could hardly take place without undesirable repercussions on her commercial community and general economy.

For the United Kingdom there would be no direct economic disadvantages in excluding Cyprus from the sterling area since Cyprus is at present more of a liability than an asset; she has a dollar deficit as well as an overall deficit on current account (financed to a large extent by United Kingdom Government grants and Cyprus Government borrowing on the London Market). There is a risk that if Cyprus were to leave the sterling area but to retain several advantages of membership, some other countries might wish to follow suit; it would therefore be essential to emphasise the special status of Cyprus as a condominium.

In short, the full range of economic consequences of exclusion from the sterling area would have substantial disadvantages for Cyprus. These could, however, be mitigated to some extent by administrative action; for the United Kingdom itself there would be no direct economic disadvantage. The political effect might, however, be unfortunate. Exclusion from the sterling area as a consequence of condominium could be taken both by the Cypriots and by the other co-domini as an indication that the United Kingdom was trying to abdicate future responsibility for the Island as far and as fast as possible. The commercial and economic links with London would probably in any case be weakened and this loosening of ties with Britain might further encourage Greece to use the condominium as a stepping-stone to Enosis.

15. It is therefore suggested that, in negotiations, the United Kingdom should begin by offering to keep Cyprus in the sterling area on the present basis, i.e., her existing exchange control restrictions against Greece and Turkey would remain in force; in discussion with Greece and Turkey the danger to them of lifting their restrictions on capital movements via Cyprus to the sterling area should be emphasised. If Greece and Turkey object, the United Kingdom should offer to allow Cyprus to remain in the sterling area but to make certain relaxations in their favour. If, nevertheless, this alternative is not acceptable the only other possibility would be to remove Cyprus from the list of Scheduled Territories and to treat her as in the transferable account area. It would be for consideration at the time whether the United Kingdom should offer to mitigate the full consequences of this action by administrative arrangements to take account of the special status of Cyprus as a condominium.

IV.—External Loans, Currency and Banking

The raising of external loans

loans made by the International Bank to Colonial Governments, but it does not appear that the terms of those Acts would enable us to guarantee I.B.R.D. loans to Cyprus as a condominium. Presumably therefore legislation would be required in one form or another to enable such guarantee to be given.

The Cyprus Government could only have access to the London Market for the raising of loans if Cyprus were to remain within the sterling area (see paragraph 14 (d) above). This would however be purely academic for some time: the condominium would need to have been established for some years and to show real prospects of providing a lasting arrangement in the eyes of the investors before there could be any question of a loan on the London Market.

There would however be an immediate problem to face, namely that of securing that the rights of holders of existing Cyprus loan stock issued in London were fully protected. The outstanding London stock is the Cyprus Government 3½ per cent. loan 1969/71, of which £7,848 millions has been issued. Of this, £2,54 millions was issued in August, 1950, £1,7 millions in December, 1952, and a further tranche of £3,608 millions in 1955. The 1955 tranche was taken up wholly by the Crown Agents for other Colonial Government funds, against a confidential guarantee on the part of Her Majesty's Government which had necessarily to extend to the whole of the issue. The terms of that guarantee, as conveyed to the Crown Agents by the Colonial Office, with Treasury concurrence in November, 1955, are set out in the appendix.

It would be undesirable if the terms of the guarantee had to be made public on the establishment of a condominium, but it might well be impossible to avoid this. In order to protect the rights of stockholders after the establishment of a condominium we would have to seek to retain powers analogous to those of disallowance, or to obtain undertakings analogous to those entered into by certain Commonwealth Governments, in relation to legislation which, in the opinion of Her Majesty's Government, would prejudicially affect the rights of stockholders. This might present considerable difficulties vis-à-vis the Greeks and the Turks (though it should be noted that the range of legislation regarded as injurious to stockholders under the Colonial Stock Act, 1934, Section 1(l)(a) has been interpreted (in discussions with the Indians) as referring to the general legislation governing the raising, administration and redemption of loans and not to broad economic measures). The precise nature of legislation that might be required is receiving further study.

Currency

17. Cyprus has a separate currency of its own, statutorily linked with sterling. It is automatically interchangeable with sterling at a fixed rate of exchange, and the Currency Ordinance requires full backing to be maintained in the Currency Fund. At present this backing is in sterling securities, but we have authorised the Cyprus Government to invest up to 20 per cent. of the Fund in locally issued securities, and are now considering increasing this to 30 per cent.

The most sensible course would be that the present currency arrangements should continue unchanged under a condominium even if Cyprus were outside the sterling area. It would be desirable to ensure that any Bill affecting the currency of Cyprus required the consent of the three co-domini.

It seems unlikely that the Greeks or the Turks would wish Greek and Turkish currency to be made legal tender in Cyprus. Cyprus has its own currency, and the case for making Greek and Turkish currency legal tender as well would be no stronger than that for making United Kingdom currency legal tender. Moreover, such a proposal would be open to the objection from a Cypriot point of view that it would limit the Cyprus Government's powers to regulate its own financial affairs. If the legal tender status of Greek and Turkish currency were unqualified so that contracts expressed in Cyprus pounds (a currency pegged to and backed by sterling which is an international currency) could legally be discharged by payment in Greek or Turkish currency, the likely effect would be—

(a) to dislocate the currency system by driving Cyprus pounds out of circulation—an example of "Gresham's Law"; all holders of Cyprus pounds and debtors in Cyprus pounds would tend to make a profit;

(b) to provide Greece and Turkey with a means of acquiring sterling against their own currencies at the expense of Cyprus.

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(e) to cause a loss of revenue to the Cyprus Government from the currency issue;

(d) to make nonsense of any exchange control restrictions as between Cyprus on the one hand and Greece and Turkey on the other.

However, it would doubtless provide a stimulus to, or facilitate, trade between Turkey and Greece and Cyprus. If the legal tender status of Greek and Turkish currency were qualified so that contracts expressed in one of the three currencies could be legally discharged only by payment in that particular currency, it is questionable whether Greek and Turkish currency would circulate to any significant extent, in which case there would seem to be little advantage to be derived by Greece and Turkey from such a proposal but rather the reverse, in terms of prestige.

It seems more likely that Greece and Turkey might press for part of the currency backing to be invested in Greece and Turkey. This would be wrong in principle if the Cyprus pound retained its link with sterling and it seems unlikely that the Cypriots themselves would see any advantage in replacing currency cover held in an international currency by cover consisting of inconvertible national currencies such as those of Greece and Turkey. This is particularly true when Cyprus is considering investing part of the sterling cover in local development. This entails greater need for the balance of cover to be in an international currency.

On a point of detail, it might be necessary to replace the present notes and coin if, as is likely, objection were taken to the continued use of the design which includes the Royal effigy. This would be a purely mechanical exercise; it would involve expense but no important point of principle.

Banking

18. The overseas banks operating in Cyprus are the Ottoman Bank, Barclays D.C. & O., the Ionian Bank, the National Bank of Greece and Athens, and the Turkye Is Bankasi.

The establishment of a condominium would not itself cause complications, though it would be desirable to ensure that Bills regulating the business of banking should require the consent of the three co-domini.

APPENDIX

Extract from Colonial Office Letter to the Crown Agents dated 9th November, 1955

(a) Provided that the Crown Agents agree to take up an additional amount of stock of the Cyprus 3½ per cent. 1969–71 issue sufficient to make available to the Government of Cyprus the net sum of £3 millions, Her Majesty’s Government undertakes—

(i) in the event of Her Majesty’s Government itself relinquishing control in Cyprus at any time during the life of the loan to ensure that any successor Government undertakes to discharge the liability in respect of the interest and sinking fund payments on, and repayment at maturity of the whole of the 1969–71 Cyprus Government issue, including the original issue and the additional tranche;

(ii) if any successor Government defaults on any such liability which it has undertaken or refuses to accept such liability Her Majesty’s Government will, subject to parliamentary approval, itself assume the liability.

(b) The terms of the undertaking by Her Majesty’s Government set out in (a) above may be communicated by the Crown Agents in the strictest confidence to any of their principals who ask for an explanation of their action in taking up Cyprus stock.

(c) No further issue of this stock should be made without the consent of Her Majesty’s Government.
20th November, 1957

CABINET

CYPRUS

Memorandum by the Secretary of State for Foreign Affairs

I summarise for the information of my colleagues the action that has been taken in the diplomatic field to further a solution of the Cyprus problem (C. (57) 178 and C.C. (57) 59th Conclusions, Minute 2 refer).

2. After prior consultation with the United States Government and M. Spaak, the Secretary-General of the North Atlantic Treaty Organisation (N.A.T.O.), our suggestion for an international conference was put informally to the Greek and Turkish Governments. The United States Government and M. Spaak each informed the Greek and Turkish Governments of their general support, though the United States Government were initially hesitant about attending such a conference themselves. The Turkish Government accepted our proposal, but made it plain that they would find it exceedingly difficult to attend a conference before their own elections on 27th October. After some prevarication, the Greek Government said they could attend a conference only if agreement on the substance of the Cyprus question had been reached beforehand. It was also clear that they were in any case unwilling to make any move until after the United Nations debate.

3. As no progress was possible for the time being with either the Greeks or the Turks, secret, exploratory and informal talks were held first with the United States Government and subsequently with M. Spaak.

Talks with the Americans

4. We reviewed all possible solutions in very frank discussion with the United States Government, and at one time it looked as if they would come out in favour of tripartite condominium. However, on second thoughts they decided in favour of exploratory talks by M. Spaak with the Greek and Turkish Governments on all possible solutions, with no expressed preference for any one.

Talks with M. Spaak

5. Like the Americans, M. Spaak accepted our view that any solution must fulfil the following conditions:

(a) Her Majesty's Government should retain their minimum essential military facilities under British sovereignty;

(b) the island should be protected from Communist infiltration;

SECRET
(c) peace and tranquillity in the island should be ensured;

(d) the solution should be acceptable to Her Majesty's Government and the Greek and Turkish Governments.

M. Spaak has a strong preference for guaranteed independence. His ideas are summarised in the attached note. During my recent discussion with him in London he recognised that any proposed solution must have an element of attraction for the Turks. I told him that his ideas contained difficult points for ourselves. I said, however, that any scheme which was acceptable to both the Greek and Turkish Governments would be considered most sympathetically by Her Majesty's Government. M. Spaak suggested that the settlement might include provision for N.A.T.O. bases entrusted to Turkey.

6. After consultation with the Prime Minister and the Minister of State for Colonial Affairs, I informed M. Spaak, who was shortly to see the Greek Foreign Minister, that if he could tell us that his ideas, including recognition of the substantial Turkish interest in the future of the island, commended themselves to the Greek Government, we would certainly be ready to regard them as one of the solutions to be discussed among others at any meeting that Her Majesty's Government or M. Spaak in his personal capacity might be able to arrange.

7. We have now had from M. Spaak an account of his conversation with the Greek Foreign Minister. The latter was "negative" about the idea of a Turkish base. Nothing new or concrete has emerged from this exchange to justify hopes of narrowing the gap between the Greek and Turkish positions.

8. In order to keep matters in play with the Greek Government, H. M. Ambassador at Athens had told the Greek Foreign Minister on instructions on 25th October that we would be prepared to give the most sympathetic consideration to any proposal which commended itself to both the Greek and Turkish Governments. That being so we should be interested to know whether he had put to the Turks the ideas which he outlined to me in New York and, if not, whether he proposed to do so. These ideas were:

(a) that Cyprus should have Dominion status subject to the condition that she could not change that status for a maximum period of 20 years;

(b) that Cyprus should have Dominion status provided that after 12 years the question of changing that status should be put to the United Nations;

(c) that there should be self-government on lines agreeable to the Greeks for ten years, after which there would be a plebiscite.

So far as we know, these ideas have still not been put to the Turks by the Greeks.
9. To sum up, we have quite a good record of activity - the prolonged but unsuccessful soundings for a conference, the talks with the Americans, the talks with M. Spaak, the talks with the Greeks, M. Spaak's talks with the Greeks - and now we are also to have talks with the Turks. Some of these efforts can be quoted effectively in the case which we can lay before the United Nations.

S.L.,

Foreign Office, S.W.1.

19th November, 1957.

____________________________________________________

SUMMARY OF M. SPAAK'S PROPOSALS

I. To give the island independence and make it a member of the British Commonwealth. Is this possible? What would be the reactions of the interested parties? It seems that the Greeks and Cypriots would accept it in principle. The British doubtless would do so also. It seems that the Turks would not oppose this solution, on condition that it could not be considered as a first stage towards the attachment of the island to Greece. How can this fear be dispelled? There would have to be an international conference at which the three Governments principally interested would be represented, together with the Americans and perhaps one or the other country (sic), which would take a decision in principle.

The agreement to be reached should also include arrangements that, if in the future the Cypriots were to leave the Commonwealth, there would be a new international conference, with similar representation, which should decide their new status.

The new international entity created by the independence of Cyprus could become a member of N.A.T.O. This would enable an agreement to be reached on the bases, whether they are to be British or international.

II. Could one not seek the solution in another way, that formulated by the French and the Germans to regulate the Saar question (Agreement of 23rd October, 1954)? It would be a matter of giving independence to the island but also of nominating for it - in the Council of N.A.T.O., for example - a High Commissioner whose task would be to ensure observance of the internal status of the island as well as its international status. Each status would be fixed by an international conference.

The arrangements of the Agreement of 23rd October, 1954, which one could take as a model would naturally be adapted to the particular situation of Cyprus.

As it seems probable that the conference proposed by the British cannot take place, and as it seems necessary in the meantime to find a solution without further delay, it could perhaps be put to the N.A.T.O.
countries, apart from the three principally concerned, to recommend the holding of a conference to which would be submitted two proposals; the one revolving on the independence of Cyprus within the Commonwealth; the other revolving on independence with a High Commissioner nominated by the Council of N.A.T.O.

An initiative of this sort could not be taken if in the meantime the agreement in principle of the three Governments principally concerned were not assured in advance.
CABINET

LIBYA

MEMORANDUM BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS

C.P. (57) 14 of 9th January outlined the course proposed for reducing the United Kingdom commitment in Libya while continuing to preserve our essential interest and discharge our Treaty obligations there.

The Future Commitment

2. Our financial contribution to Libya in the current year is £4½ millions, devoted to budgetary support and development aid. We wish to reduce this and to get the United States Government to cover the gap. We also want the United States Government to take over responsibility for equipping and training the Libyan armed forces. And we are reducing the number of British forces stationed in Libya.

United Kingdom Interests in Libya

3. These were described in C.P. (57) 14.

They are:—

(a) to check Egyptian influence and to keep Libya within the Western orbit;

(b) to maintain influence of King Idris and strengthen internal security;

(c) to secure specific military, naval and air facilities.

The Libyan Political Situation

4. Since the beginning of the year, there has been a slight movement against us with potentialities for a further worsening of the position. In May the Prime Minister Ben Halim resigned, ostensibly at his own request but in fact because he had made powerful enemies whom he could no longer withstand. Under him the Libyan Government was committed to a pro-Western line and his relations with the Egyptians and the Russians were bad. He has been succeeded by a weak man who is himself, as are most of his colleagues, pro-Western, but whose Cabinet now contains pro-Egyptian elements, notably the Minister of Defence, who was previously Ambassador in Cairo. With a weak Government, the influence of the King has become more important. King Idris remains firmly pro-British, but he has reservations about the United States. He does not attend thoroughly to the details of Government, however, and his Household includes pro-Egyptian elements. These are behind the recent gift of armoured cars and arms from Egypt.

5. The effect of these changes is that there may be a greater tendency to turn towards Egypt if the West, and particularly the United Kingdom, is thought to be providing inadequate help.

SECRET
The United States Position

6. The United States Government are willing to take over the training and equipment of the Libyan Army and the necessary approach has been made jointly to the Libyan Government. As regards the financial side the United States Government have never agreed, despite continued pressure, to make good the balance between Libya's needs and the £1½ millions which we stated to be our maximum annual contribution for the next five years. In the context of the Prime Minister's visit to Washington I promised the United States Secretary of State, Mr. Dulles, to re-examine our figure though I held out no hope that we should be able to increase it. Mr. Dulles has now sent me a personal message pointing out that the United States Administration has in making long-term financial commitments particularly where, as in Libya, a deficit in the ordinary budget is involved. He points out, quite rightly, that this absence of certainty and continuity is disturbing the Libyans as well. In short he urges us to maintain our aid at its present level or failing this at least to assume responsibility for supporting the ordinary budget as in the past, while the United States Government does its best to maintain an adequate level of economic development.

7. I would recall the discussion in Cabinet on 15th January when it was agreed that our commitments should be reduced to the minimum necessary to safeguard our essential needs in North Africa (C. (57) 1st Conclusions, Minute 2). Quite apart from the difficulty with the United States it seems very important that our cut in the subsidy, the payment of which depends on a contractual obligation, does not drive the Libyan Government to demand a review of the Treaty and a curtailment of our staging and over-flying rights.

8. In the circumstances I hope that my colleagues will agree that our contribution will have to be increased and that we should so inform the United States Government. We should allow the latter to look after Libya's development needs and devote the whole of our subsidy to the budget. It would have to be clearly understood, however, that we could not assume any responsibility for the budget of the Libyan Army, let alone any other forces which the Libyans may try to persuade the Americans to give them, and that our contribution to the budget would in any case be limited to a given figure, say £2½ to £3 millions.

9. On this basis I should hope that the United States Government would agree, despite their present reluctance, to the future level of aid to Libya being taken up jointly by our two Ambassadors with the Libyan Government. The latter already know that there will have to be some reduction in our aid; and the basis of the joint approach would be that there should be a tripartite examination of Libya's needs, so that, with the facts before us, we can see how the United Kingdom and United States Governments could best meet those needs. During the initial fact-finding stage we would not quote to the Libyans any figures on our United Kingdom aid.

Reduction and Redeployment of Our Forces

10. Our military forces will be down to two major units with a few supporting troops by March 1958. I have agreed with my colleagues directly concerned that for reasons of administrative convenience these forces should be concentrated in Tripolitania leaving one company in Tobruk to be near the King and to meet his desire that some troops should be left in Cyrenaica.

11. To meet local political requirements, the forces in Tripolitania will have to be stationed outside the capital and it is proposed that they should be in barracks on the outskirts of Tripoli and at HomS.

12. The Libyan Government have been informed of these moves and have been given a list of the premises and installations which we are prepared to give up (Annex). It is important that we should not go back on the undertakings thus given to the Libyan Government.

Future of British Troops in Libya

13. The Defence Committee on 13th November invited the Minister of Defence, in consultation with me, to review the plans for reducing British forces in Libya, which at present fix March 1959 as the planning date for final withdrawal
I welcome this decision; and, pending action as directed by the Committee, I would only mention the following considerations which tend to support the Committee's decision:

(a) the King and the Libyan Government are already worried about the effect of our reduction on their ability to maintain internal security. The prospect of our total withdrawal would have a marked effect on their confidence about keeping the country stable, and would play into the hands of the pro-Egyptian elements;

(b) with the Libyan Government in this state of mind there would be a serious danger to the staging and overflying rights which are of cardinal importance for the strategic mobility of our smaller forces and for our communications with the Middle and Far East;

(c) the Americans, who are by no means anxious to adopt the major role in Libya, have made it clear that they want us to keep some troops there until they have been able to strengthen the Libyan army. At the rate of expansion which the Americans can contemplate, it will be some time before the army is of value as an internal security force. We must be frank about our intentions with the Americans.

The Libyan Army and the British Military Mission

14. On 22nd October, H.M. Ambassador informed the Libyan Prime Minister that Her Majesty's Government would have to give up responsibility for training the Libyan army and the United States Ambassador, who was present, said that his Government were prepared to take this on and to provide the necessary equipment. The immediate Libyan reaction was non-committal, but I have secret information that they much dislike this development and may return to the charge. The King himself has also expressed regret and has urged that the British Military Mission should continue in being.

15. Plans for the run-down of the British Military Mission worked out by its Commanding Officer with the Head of the newly-established American Military Mission provide for a gradual reduction over the coming year, to be completed by October 1958 when one Arabic-speaking officer would be left to assist the Americans. In view of the King's pressure on us, I think we should try to keep the British Military Mission at about its present strength for the next few years. It might continue as a separate Mission working in close co-operation with the Americans, or as part of a joint Mission. It would take some time for American equipment to displace the existing British equipment and it is likely that for a few years considerable numbers of Libyan forces will be equipped with British arms. The Foreign Office and the War Office are discussing this and, subject to agreement, I propose to explore the question with the United States Government.

Recommendations

16. My chief recommendations are, therefore:

(i) we should handle the question of financial aid with the United States Government on the lines indicated above;

(ii) we should adhere strictly to the programme for the evacuation of barracks given in the Annex;

(iii) we should retain our remaining troops in Libya beyond March 1959 until further notice;

(iv) we should maintain the British Military Mission for a few more years provided we can make the necessary arrangements with the Americans.

S. L.

Foreign Office, S.W.1,
27th November, 1957.
ANNEX

TIMETABLE FOR WITHDRAWAL OF TROOPS AS GIVEN TO LIBYAN GOVERNMENT IN SEPTEMBER 1957

1. TRIPOLITANIA
   (a) Sabratha barracks to be vacated in December 1957 by The Queen's Bays.
   (b) Gialo barracks to be vacated in Mid-December 1957 by the 22nd Field Engineers.
   (c) Lancia-Alfa-Romeo workshops will cease production in November 1957 and close down about March 1958.
   (d) Ambulance units, signals and military police, at present in Miani and Azzizia barracks, are in the process of being run down.

2. CYRENAICA
   (a) Derna will be vacated by the 1st K.R.R.C. who will move to Tripolitania probably by the end of 1957.
   (b) Barce will be vacated by the 6th Royal Tanks who will also move to Tripolitania probably by the end of 1957.
   (c) Lumsden-Auchinleck barracks will be vacated in December 1957 by various administrative units now there.
   (d) Wavell barracks (hospital and married quarters) will be vacated early in 1958.
   (e) Duc d'Aosta barracks will be vacated by administrative units shortly afterwards.
CABINET

MALTA: NAVAL DOCKYARDS

NOTE BY THE SECRETARY OF STATE FOR THE COLONIES

I circulate for the information of my colleagues a paper by the Maltese Government giving their observations on the problem of the naval dockyard. This is the paper referred to in my Memorandum C. (57) 268.

A. L.-B.

Colonial Office, S.W. 1,  
15th November, 1957.
MEMORANDUM BY THE MALTESE GOVERNMENT ON THE MALTA DOCKYARD

It is understood that Her Majesty's Government are considering the economic and strategic aspects of maintaining Naval dockyards at home and overseas. The Maltese Government have not been made aware of the facts on the basis of which this problem is being decided. Accordingly they limit themselves to the following observations of a general character.

2. The Maltese Government believe there are substantial advantages in having forward bases to deal with sudden local crises. This was proved in the case of Suez last year. Moreover, in a global war there should be advantages in not having "all one's eggs in one basket."

3. So far as the economics of the matter are concerned, it is certainly less costly to retain the Maltese base as the economic dislocation would undoubtedly be far greater in Malta than in the United Kingdom. In the following paragraphs it is demonstrated that the only feasible method of dealing with this problem is to keep the Malta dockyard going for as long as possible in order to allow for the transformation of the Maltese economy from one based almost entirely on defence to one less dependent on Service expenditure.

4. There are two alternative ways of dealing with the unemployment created by discontinuing the Naval dockyard in Malta:—

(a) the people now employed in the dockyard and others whose incomes depend on their expenditure have to be transferred elsewhere, i.e., either to Britain or Australia; or

(b) new employment has to be found by the Government and/or private firms;

(or a mixture of the two).

5. We shall first consider the case that the Maltese dockyard is closed down without any period of adjustment being provided for—if only to demonstrate the terrible social and economic consequences of this extreme policy.

6. The total national income of Malta in 1956 was £38·1 millions. The output which was generated by activities wholly independent of the Services was a mere fraction of this, about £2·5 millions, with a maximum of £3·5 millions. The rest of the national income depended directly or indirectly on Service expenditure and British grants amounting to £25·1 millions in toto. Thus the closing of the dockyard and the discontinuance of Naval activities in Malta now generating £11·4 millions would require an emigration of at least three times the discharges plus families. This would represent some 42,000 wage-earners plus families, or nearly 50 per cent, of the Maltese population. This figure assumes that the War Department, Air Ministry, NATO and United States expenditure would be maintained at the 1956 level and the British Government maintained its help to the finances of the Maltese Government, at least at the present level.

7. If no alternative employment were provided the cost of transplanting some 42,000 men plus dependants—say conservatively altogether 150,000—would have to be met. The cost of emigrant flights is about £12 per head. Even if a large saving is envisaged and the movement is staggered the cost of transport, of providing reception centres, &c., will certainly not be less than £13 per person, or say £2 millions. The Maltese immigrants would represent a net addition to the British population whose growth is already higher than the rate of house-building. One way or another additional houses will have to be built especially if the Maltese are settled in areas of great labour shortage. The cost of housing and social services including education for 35,000-37,000 families would not be less than £50 millions and the current cost of hospitals, schools and family allowances will be higher for these migrants than for the average British employee (and additional capital expenditure will become inevitable).
8. The Australian Government has made it clear to the Maltese Government that under no circumstances would they be prepared to accept more than 5,000 migrants per year. Even so, for every thousand taken by Australia, the shipping charges would increase by £100,000. Against this, however, for every thousand who emigrate to Australia, the United Kingdom expenditure on housing would decrease pari passu, i.e., in the previous example by £350,000.

9. Even if this operation could be successfully accomplished, severe losses would be suffered in Malta. The capital and the income of the higher-income classes, including land and house-owners, doctors, lawyers, &c., would shrink and Government revenue would drop much more than in proportion to the loss of population. This would happen both if these classes were to emigrate or if they stayed at home. The few Maltese industries and agriculture would see their market shrink and lose accordingly. Yet certain basic services, such as education, would have to be maintained, and Maltese Government services would have to be subsidised by greater absolute amounts than they are now. On a first rough estimate the maximum possible saving in Government expenditure would not be more than some £1·8 millions per annum, while revenue is likely to decline by more than £4·5 millions. The actual loss would thus be some £2·7 millions. It is true of course that there would be some saving in capital expenditure, but this will not more than partly offset the continuous drain that could be expected. These calculations leave out of account entirely the hardships suffered inevitably by the uprooting of a considerable proportion of an island population which is so closely knit and which will find living conditions in England in the circumstances of mass-emigration far from satisfactory.

10. The provision of alternative employment will now be considered. If the Maltese Government is to provide direct employment for 14,000 additional people, it will find it extremely difficult to do so on the present basis. At the moment the cost of employing labour is only about twice the amount of wages paid out, because the cost of material and machines required for the bulk of the public works in Malta is roughly the same as the amount of wages. But the bulk of these public works are rather of a simple nature, e.g., water-works, roads, sewers and simple buildings. If the manpower in direct Malta Government employment is to be doubled (and the absorption of 14,000 men would in fact mean doubling the manpower) much more housing would have to be undertaken and some industrial employment would have to be found as the size of the present public works programme could not be doubled. In any case, skilled dockyard workers cannot be put on road and sewer works for any length of time. Even if the disastrous social consequences of keeping people idle on the dole, or giving them makeshift work, are ignored, the cost would be prohibitive.

11. There is no doubt that the cheapest remedial measure is the setting up of new industries on the Island. Under normal conditions and without the additional pressure of having to fulfil the moral obligation of providing alternative employment to men who are being discharged, the attraction of potential industries to Malta implies inducements at least comparable to those in operation in Italy and Northern Ireland. These incentives are of the order of 25 per cent. to 35 per cent. by way of capital grants and the subsidisation of recurrent costs, e.g., fuel and subsidies to other current expenses. On the basis of two potential projects which were submitted to the Maltese Government quite recently (one having a high labour content and the other one having lower manpower requirements) it is estimated that in order to provide employment for 14,000 men (the total Maltese Admiralty complement) a total capital investment of £52 millions would be required. Therefore a grant of, say, 25 per cent. would bring the initial cost of inducing industrialisation to about £13 millions. If capital investment were to be guaranteed the initial cost would no doubt be smaller, but the eventual liability would be much greater.* But to force the pace at this very unfavourable time and set up industries at short notice would obviously necessitate greater capital inducements, and a larger measure of recurrent subsidisation. The shorter the period which one allows for the process of industrialisation the greater the cost. On the other hand, careful synchronisation of discharges with the provision of alternative employment would lower costs to a minimum. The success of technical education would much facilitate the process of industrialisation but it will necessarily take time.

* The Maltese Government is fully convinced that this method would not work in the case of Malta.
12. During the Round Table Conference doubts were expressed about the feasibility of making Malta completely independent of the Services even in 25 years. Any lesser period will certainly involve drastic subsidies. Moreover, the European Common Market and Free Trade Area plans have imparted a new uncertainty into the picture. Thus in the short run (and it is impossible to define the duration of this because we do not know how long the uncertainties about these problems will last) there is no hope for substantial progress in industrialisation in industries depending mainly on the commercial arrangements between Britain and the Continent.

13. In any case a Committee has now been formed with the full support and encouragement of the United Kingdom Government of highly placed and public spirited industrialists in the United Kingdom to advise on and promote the diversification of the Maltese economy. From a preliminary meeting between the Prime Minister and the Chairman of this Committee it became clear that members would feel greatly discouraged and embarrassed if before they have even been given the chance of sizing up the problem and deciding on what action to take to promote industrialisation, the British Government took steps which would destroy overnight the existing source of national income. Their advice on the possibilities of obtaining the co-operation of British industrialists is essential. On the other hand, their task must not be frustrated by a premature crisis brought on by the creation of additional uncertainties through threats of closing the dockyard. The very fact that the British Government is considering the closing down of the Malta dockyard has already led to a breakdown of the plans of a Danish/Dutch group to start work on a commercial dry dock scheme. So long as it is not known what use will be made of the existing dockyard facilities no industrial group will risk their capital in this urgently needed extension of work opportunities, while work is proceeding in Taranto on competitive dry-docking schemes.

14. The possibility of the dockyard being taken over by a commercial firm or firms has also been investigated. British firms have examined in detail their manpower requirements on two assumptions; firstly if they receive no work from the Navy and secondly if Naval work is forthcoming. In the first instance, the full complement would not exceed 2-3,000 men, and in the second, not more than 5-7,000.

15. Even in the best case, the workless would number 7,000. A large number—some 3,500—would be non-manual workers; clerks and minor manipulative staff for whom employment in Malta could not possibly be found. It would be extremely difficult for these non-industrial workers to find employment overseas. But assuming that they do, the loss of Maltese national income would bring about similar problems in respect of some additional 7,000 wage-earners. Thus, even if this operation were successful, a total emigration programme of some 10,000 workers plus their families would be necessary.

16. This leaves 3,500 older and less skilled manual workers to be placed in employment. Two possibilities exist: either they will be given direct employment by the Government (very unsatisfactory in the long run) in which case the cost would be roughly £2 millions per annum; or alternative private employment in new industries has to be found. The cost of this exercise has been indicated in paragraph 11.

17. If the Navy did not supplement the work of the private dockyard, the total number of unemployed would be 11-12,000. Thus, the magnitude of the problem will not be considerably reduced by the transfer of the dockyard to private firms. (This is not necessarily so, since the Naval dockyards were built and organised to fulfil special Naval requirements). The cost that would have to be incurred for emigration or the provision of alternative employment in Malta can be easily deduced from calculations already supplied.

18. From the foregoing it is clear that if the solemn undertaking assumed by Her Majesty's Government in the June/July 1955 Declaration is to be honoured, it would be considerably cheaper to close, for example, Chatham dockyard, as workers there may be expected to be able to find alternative employment on account of the great labour shortage in that area.
19. The calculations in paragraph 10 onwards have been made on the assumption that only the Dockyard would be closed and the Naval expenditure cut, but that the activities of the other defence departments in Malta would continue undiminished and the British Government continue its help at the present level. Should this assumption not hold good, the unemployment would be heavier and the ensuing problems more complex. Thus the reduction of the activities of the Services must be co-ordinated with the provision of alternative local employment.

20. It has also been shown that the cost of providing alternative employment can be considerably reduced if cuts in defence expenditure were to be postponed until industrialisation is well under way.

8th November, 1957.
CABINET

COMMISSION FOR TECHNICAL CO-OPERATION IN AFRICA SOUTH OF THE SAHARA

MEMORANDUM BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS AND THE SECRETARY OF STATE FOR THE COLONIES

On 31st July, 1952, the Cabinet "asked the Foreign Secretary to give them early notice of any new proposal to extend similar immunities and privileges to other international agencies" C.C. (52) 75 Conclusions, Minute 6. We are accordingly bringing to the attention of the Cabinet a proposal to extend certain privileges and immunities to the Commission for Technical Co-operation in Africa South of the Sahara (C.C.T.A.).

2. The Commission is an international organisation, with its Secretariat in London, which has been in effective existence since 1950, and consists of States having interests in Africa. The present membership comprises the Governments of the United Kingdom, Belgium, France, Portugal, the Federation of Rhodesia and Nyasaland, and South Africa: the admission of Ghana and Liberia to membership will shortly be completed. It is also hoped that the Sudan and Ethiopia will join. The organisation has already proved its usefulness in fostering technical co-operation in many fields, but from the political point of view it also provides convenient machinery for Governments with direct responsibilities in tropical Africa to discuss more general problems. And it is hoped that in future, with an expanding membership, it may serve to strengthen the links with the West of the newly-emerging African States. Considerable political importance is also attached to the Commission by other member Governments, notably those of South Africa, Belgium and Portugal, who see in it an organisation which can control international interest in Africa and channel it into useful activities.

3. When the C.C.T.A. Agreement (Cmd. 9066) was originally drawn up it provided only that the Commission should have the legal capacity of a body corporate and made no provision for the grant of privileges or immunities. Having regard to its increasing importance to member Governments, and to the scale of privileges and immunities which had been considered necessary for the efficient working of other international organisations, there has recently been increasing pressure in the Commission for comparable treatment. The other member Governments have lent their general support and it has been clearly indicated that if Her Majesty's Government do not accord the Commission and its staff more generous treatment than at present, we may be faced with a recommendation that the Secretariat should be transferred to Lisbon, where it is believed the Portuguese Government would be prepared to accord full diplomatic privileges. Such a move would deprive the United Kingdom of the special influence which we are able to exert over the Commission on account of its presence in London. It might also impair the standing of the Commission in the eyes of the African States who mistrust the Colonial policy of the Portuguese Government.

4. At its Twelfth Session in March 1957 the Commission asked for the early views of member Governments on the granting of privileges and immunities and a decision on the attitude of Her Majesty's Government is now needed.
5. The problem has been kept under continuous review by the Working
Party on Privileges and Immunities in which the Foreign Office and Colonial Office
have advocated the grant of those privileges and immunities which are listed in
the attached appendix. The modest scale proposed would, it is thought, satisfy
the Commission and other member Governments and constitute a reasonable
minimum which would promote the efficient working of the organisation. For
this reason, and those summarised in paragraphs 2 and 3 above, this scale was
strongly advocated by the Foreign and Colonial Offices, who have in mind the
importance, at any reasonable cost, of ensuring that the Secretariat remains in
London. The proposal has not however received the unanimous support of the
members of the Working Party. Of the other Departments particularly concerned,
the Treasury and Board of Inland Revenue recognised the considerations of
political expediency but were of the opinion that a case had not been made out on
merits for extending privileges and immunities to the C.C.T.A. and that there
was little evidence that the Commission has yet been hindered in its operations
by the fact that it does not enjoy these concessions. The proposed scale was,
however, acceptable to the representatives of the Home Office and Lord
Chancellor’s Office.

6. In bringing this matter before the Cabinet we wish to point out that the
scale of privileges and immunities proposed for C.C.T.A. is substantially less
generous than that conferred on the United Nations Specialised Agencies or indeed
upon the majority of other international organisations; it does not include, for
example, the controversial “personal” immunity conferred upon certain high
officials of other organisations. In our opinion any international organisation of
the character of C.C.T.A. with its seat in this country might reasonably expect to
be granted, to facilitate its work and interests, a scale of privileges approximating
to that which is now proposed. It is, moreover, likely that this constitutes the
minimum that will ensure that we retain the seat of C.C.T.A. in this country, with
the considerable political advantages which that entails.

Recommendation

7. We accordingly invite the Cabinet to—

(a) approve in principle the grant to the C.C.T.A., its organs and its staff,
the privileges and immunities which are set forth in the appendix to
this memorandum;

(b) and, to this end, to authorise the opening of negotiations for the conclusion
of a Protocol, or other appropriate amendments, to the C.C.T.A.
Agreement.

S. L.
A. L.-B.

19th November, 1957.

APPENDIX

PROPOSED SCALE OF PRIVILEGES AND IMMUNITIES FOR
THE C.C.T.A.

1. For the Commission and its Organs (see Note 1)
   *(i) Immunity from suit and legal process (see Note 2).
   *(ii) Inviolability of archives and premises.
   *(iii) Exemption from import taxes and restrictions on the importation of
        official supplies.
   *(iv) Exemption from taxes and the non-beneficial portion of local rates.
        (v) Currency transfer facilities of the kind granted to certain other
            international organisations.

2. For the Secretary-General and other officers and servants
   *(i) Immunity from suit in respect of official words and acts.
   *(ii) Exemption from income tax in respect of emoluments received from the
        organisation (except in the case of local nationals) (see Note 3).

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(iii) Provision for staff and families to be allowed to import their personal effects (including their furniture and a private motor-car) duty free, on the occasion of their first taking up duty in the country concerned.

(iv) Exemption from immigration formalities and alien registration.

In addition, Article X (6) of the C.C.T.A. Agreement should be strengthened on the lines of Section 28 of the Specialised Agencies Convention (Cmd. 7673) which deals with the issue of visas "as speedily as possible" and "facilities for speedy travel." It is not considered necessary to propose the provision of any special passport or laissez-passer, but if other member Governments press for such an arrangement, some general clause could be included to encourage member Governments where possible to issue such documents.

3. For representatives of member Governments attending C.C.T.A. meetings (other than representatives of the United Kingdom)—

   (i) Similar facilities to those mentioned in sub-paragraph (iv) of the preceding paragraph.

   *(ii) Immunity from suit in respect of official words and acts.*

   It is not considered necessary to provide for similar facilities for observers and representatives of non-member Governments.

Notes

1. It is doubtful whether the Scientific Council for Africa South of the Sahara and the other C.C.T.A.-sponsored bodies mentioned in Article 1 of the C.C.T.A. Agreement can at present be considered to be "organs" of the C.C.T.A., and so to qualify for immunities and privileges under the International Organisations (Immunities and Privileges) Act, 1950, but it may be possible to take action within C.C.T.A. to remove this difficulty. This will be for later consideration.

2. The items marked with an asterisk in the above list are concessions which will need in due course to be the subject of an Order in Council made under the 1950 Act.

3. As salaries were determined with reference to tax liability, adjustments may need to be made, e.g., by the institution within the Organisation of its own internal tax system.
CABINET

WAGES: NATIONAL HEALTH SERVICE

MEMORANDUM BY THE MINISTER OF HEALTH

The Cabinet will be aware of the ban on overtime, beginning on 18th November, by the National Health Service staffs affected by the recent decision in respect of the Whitley agreement. The question of arbitration had been raised and discussed at a meeting between both Sides of the Whitley Council for Administrative and Clerical Staffs and the Under-Secretary of State for Scotland and myself; but no request for it was then, or has so far been, made by the Staff Side. They may, however, request it at any time and I understand that they are seeking Counsel's opinion about it. Further, by reason of the ban it is to be expected that the question will be raised in other quarters. My colleagues therefore will wish to be aware of the considerations which will arise.

2. The Law Officers have advised that, in the event of a dispute between the Ministers concerned and the Staff Side, which would arise if one were formally "reported," the matter could be referred, with the consent of those Ministers, to the Industrial Court or to arbitration under the Industrial Courts Act, 1919. They further advised that the present dispute with the Ministers could not be referred for decision under the Industrial Disputes Order, 1951, but they left open the question whether the matter could be dealt with under that Order as an issue between an individual Regional Hospital Board or Executive Council or a number of Boards and Councils and their employees for final decision when that question eventually arose.

3. There are therefore three possible ways in which this matter might come to arbitration:—
   (a) as a dispute with Ministers under the Act of 1919;
   (b) as a dispute with the management side collusively arranged on a resubmission of this claim;
   (c) as a dispute with an individual hospital authority under the Industrial Disputes Order, 1951.

(b) and (c) are open to the serious disadvantage that they would really be sham fights. In neither case would the respondents have any interest in representing the Government's point of view; and in case (b) there would be the further difficulty that as the arbitration would be on a resubmission the award could and might easily be in excess of the original 3 per cent. agreement which is the cause of the present dispute. Such an award would, of course, be confidently represented as demonstrating objectively and conclusively the unreasonableness of the Government's original decision.

4. It is therefore clear that if in the event this issue is to be arbitrated the advantage lies in having an arbitration between the Staff Side and the Secretary of State for Scotland and myself. The fact that arbitration is not excluded in this case has been made clear to the deputation from the Whitley Council, in both Houses of Parliament and on television. The failure of the Staff Side to ask for it, so far may only be due to a desire to clarify the legal position. It may be, however, that their proclaimed enthusiasm for arbitration in principle is tempered by a cautious hesitancy to ask for it in this particular case. If the question of arbitration is raised I would propose, subject to the views of the Cabinet, to consent.
to procedure under the Industrial Courts Act and to announce in advance that I would hold myself bound by the results.

5. It would be wrong, however, to cloak the great difficulties for the National Health Service in the acceptance of arbitration awards made by arbitrators fixed with no more precise responsibility in the general economic context than a presumed awareness of pronouncements by Ministers on economic affairs. It may be that this presumption will be insufficient to influence the decisions of arbitrators in the desired direction. An arbitrator into any dispute, industrial or otherwise, is basically performing the judicial function of trying a *lis* between two parties. An industrial arbitrator, however, has to do so without the advantage either of statutory guidance or of case law. It may be difficult for him, therefore, to do other than take into account primarily cost of living, comparability and conciliation and compound from the trio an inevitably inflationary brew. But arbitrators are trying according to their lights to do the duty entrusted to them, i.e., to decide an issue between the parties before them. They may well take the view that if they are to take into account wider economic considerations and the interests of the “unheard party,” they should be fixed with a clear responsibility in law in the shape of statutory guidance; in default of it they may well continue to do the normal duty of an arbitrator and leave wider considerations to the Government. If events take this course, the anticipated increase in the number of wage increases settled by arbitration will, of course, result in an addition to the national wage bill.

6. The National Health Service shares to the full in these general difficulties. But it has others besides. The disputes over the general industrial field which result in arbitration arise out of negotiations where the parties are at arms length. Over part at any rate of the National Health Service field, the parties, conscious perhaps of the disadvantageous position of the National Health Service in comparison with other employments, tend to negotiate arm in arm. It follows that it is impossible always to rely on the offers of Management Sides being as low as they would be in the case of employers who have to find the money to implement them. At the same time, Staff Sides are likely to reject offers made even on this basis so as to be certain to secure arbitration, and thereby sidestep the possibility of Ministerial disapproval of the agreement. With arbitration in view from the outset, they may, of course, also pitch their claims higher so as to increase the amount of an award based on splitting the difference between claim and offer. In the National Health Service field therefore—even more than in the general field—the increase in the proportion of wage claims settled by the awards of arbitrators, without statutory guidance and not fixed with direct responsibility to take into account the requirements of the general economic position, is likely to add considerably to the wages bill.

7. This raises the question of finding the money to meet any increase that might be awarded. On this question I am already in correspondence with the Chancellor of the Exchequer, who is taking the general line that increases in wages must be met by retrenchment. I hope to be able to discuss this question further with him but in the meantime it is impossible to consider policy on arbitration without taking it into account. It does not seem to me practical politics to meet the cost of an award accepted by the Government by legislating to increase charges or Health Service contributions or by reducing services available to patients. It may be that there is still room for a certain reduction in paper work, leading possibly to some small reduction in staff, but this may depend on the abandonment of some existing central requirements. The administrative and clerical staffs of every hospital authority have been reviewed by visiting teams which secured reductions between 1951 and 1955; and since 1951 all additional appointments have needed prior approval. The results to be expected from any special review by my own O. and M. branch (which is in any case continually at work) or by the Treasury O. and M. or with outside assistance must be assessed in this context. A reduction in paper work depending on the reduction of central requirements is also not an easy solution because of its implications on, for example, the collecting of costing or other information designed to promote economy and efficiency. In any event, however, in spite of these difficulties, if ultimately the administrative and clerical workers, whose 3 per cent. increase has so far been withheld, should get that increase (or more) by an arbitration award, I should propose, subject to the views of the Cabinet, to announce, if only for presentational reasons, that I was seeking a diminution of the paper work for which they are
responsible. Subject to the possibility of further economies I should like to be assured that additions to meet the cost of an arbitrator’s award (or approved Whitley agreements) will be forthcoming from the Exchequer.

8. While I am naturally apprehensive of the consequences of widespread increases in National Health Service wages following an arbitration award, I must remind the Cabinet that National Health Service employees are not in the van of inflation; on the contrary they are panting distinctly, if doggedly, in the rear. It would be wrong that the need for disinflationary policies should fix them at a permanent disadvantage. This raises the question not only of their relation to others engaged in socially useful, but not directly productive work; but the more general question of what should be our policy regarding the remuneration of people doing such work. It would seem reasonable to take the view that while these people should not lead the van in a period of increasing wage rates, they should not be allowed to fall substantially behind increases granted to productive workers. Here again there is a danger in unguided arbitration. Arbitrators into industrial wage disputes, left without guidance, may well be inclined to award the whole of any increase in the gross national product to direct industrial producers, with the result that further increases for the other group are inflationary if made: if on the other hand they are not made, this group is denied a share in an expanding economy. It should be recognised that present relativities between different types of workers in this group and between one group and the other are not necessarily right and revaluation involving increased remuneration should not be ruled out.

9. I should perhaps mention that there are certain other Whitley agreements requiring my approval, which will shortly have to be dealt with. Some of these give cost-of-living increases on salaries in operation for a relatively long time, some are revaluation and some a combination of the two: all are within authorities from the Treasury. In promulgating these decisions I shall seek to make clear in each case the principle on which the decision is taken and its relation to the decisions taken on the administrative and clerical officers with salaries up to £1,200 and over £1,200 respectively.

10. To summarise the lines on which I suggest we should proceed:—

(a) Consent should be given to arbitration under the Industrial Courts Act if asked for, and the Health Ministers should announce in advance that they would be bound by the results.

(b) The position of the National Health Service, and any other comparable parts of the public sector, should be taken into account in deciding on policies in regard to arbitration.

(c) If an arbitration award gave increases to administrative and clerical staffs, the paper work of the Service should be reviewed to see if reductions in staff are practicable.

(d) Subject to paragraph (c), additions to National Health Service estimates required to cover the cost of an arbitrator’s award (or approved Whitley agreements) should be met.

(e) Wage claims in respect of people doing socially useful but not directly productive work should be dealt with on the lines that, while these people should not lead the van, they should not be allowed to fall substantially behind productive workers. Revaluation of certain types of work should not be ruled out.

D. W. S.

Ministry of Health, W. I.
20th November, 1957.
I agree with the Lord Chancellor and the Commonwealth Secretary on the detail of the proposals which they make for legislating on the reform of the House of Lords (with the exception of the proposal for limiting the attendance of hereditary Peers).

2. But I find it hard to believe that it is wise to embark on legislation for a reform which could be regarded as so insignificant. Most people regard the introduction of women as inevitable and, if anything, slightly funny rather than a desirable and important improvement. There will, of course, be a certain number of people who will come in as life Peers and will strengthen the House but who would be very reluctant to accept hereditary Peerages. It will inevitably be politically very difficult to create three or four times as many Socialist life Peers as those from other Parties or no Party. To my mind the result will be a House which will inevitably be as open to attack as it is at the present time and with not much more authority.

3. This is generally recognised but anxiety is felt on two scores. Firstly, a wider measure of reform would be difficult to get through the House of Lords; and secondly, it involves controversy with the Socialists who might intemperately pledge themselves to some sweeping reform instead of letting the matter pass quietly.

4. So far as the House of Lords itself is concerned, the old and more respected members are all for a wider measure of reform, as also are the younger and more energetic ones. The Liberals want to go further, and the Socialists hardly dare to express an opinion whatever they personally may think. I believe it may prove difficult to prevent a more far-reaching measure being carried against the Government and I have little doubt that the Government could themselves carry a measure for further reform if they so wished.

5. With regard to the second point, if the Socialists want to abolish the House of Lords they will do so whatever they do now. One of the benefits of a minor controversy is that it makes the Socialists and others think a little more closely as to what in fact they do want to do. I am sure this is desirable as, apart from other things, there have been many new members of the House of Commons since the controversies of 1947. When they come to look at it more closely they will eventually find that with the final abolition of an hereditary element there will be no stopping place between the abolition of an hereditary element and (a) a single Chamber Government, or (b) an elected Senate. A purely nominated Chamber would never last in this country.
6. I recognise that Lord Salisbury's proposals have been turned down for the present. I would only ask that if during the Committee Stage some such proposals were put forward, the Government would not automatically commit itself to a blind negative.

S.

Admiralty, S.W.1.

20th November, 1957
Supplementary Estimates are presented to Parliament in February, and I have been considering the provisional figures collected by the Treasury of the amounts which Departments expect to ask for. I must warn my colleagues that they show a formidable total.

2. On the figures at present before me, it would seem that Government spending, in spite of the Prime Minister's Minute of 10th August, will have so far outrun the existing Estimate provision that there will be the following consequences, which are as unwelcome presentationally as they are financially:

(i) Civil Supplementary Estimates will be the highest for 4 years.
(ii) We shall run out of cash before the Supplementary Estimates can be voted and further Supply obtained from Parliament through the normal March Consolidated Fund Bill, because the excess spending will be more than can be covered by the normal method, viz., temporary recourse to the Civil Contingencies Fund. This will force us to go to Parliament immediately after the Christmas recess for a special additional Consolidated Fund Bill for the purpose (it will be said) of bailing us out of our profligacy.

3. I ask my colleagues to be rigorous in reducing, and if possible eliminating, Supplementary Estimates which are at present contemplated. They damage us. I ask them too to cut their Estimates for next year, so that, even if we have to present substantial spring Supplementary Estimates, we shall at least be able to claim in our defence that we are achieving the maximum offset by pruning next year's expenditure.

P. T.
23rd November, 1957

CABINET

THE SEVERN BRIDGE AND THE ROADS PROGRAMME

Memorandum by the Minister of Transport and Civil Aviation

There seems to be some misapprehension about the effect of my proposal that we should announce now a decision to go ahead in 1960/61 with the scheme for the construction of the Severn Bridge and its immediate approaches.

2. The cost, which will be fully recovered by tolls, will be about £15½ millions. But none of this expenditure will be incurred until 1960/61, and none of it, therefore, will fall within the period covered by the current review of capital expenditure. In 1960/61 only £3½ million will be expended and only £1 million in 1961/62 so that even in the period covered by the current four year roads programme ending in 1961/62 the amount expended will be only £1½ millions in all. This compares with expenditure of £120 millions in these two years for the roads programme as a whole. The rest of the expenditure will be spread over a further six years and will not exceed £3 millions in any one year.

3. Whatever may be the feelings elsewhere there can be no doubt that there is the strongest pressure for the scheme in industrial South Wales and the West of England. I am being continually pressed both inside and outside the House of Commons and in my view a decision cannot be postponed much longer without considerable political damage. For a scheme like this, which is necessarily spread over so many years, the only time when the Government will get any credit for it is when the announcement is made that a decision has been taken to go ahead. That is one reason why I feel that the Government should announce their decisions in the very near future.

4. It seems to me that for schemes of this magnitude we must have some faith in the future or our critics will be quick to point out - with some reason - that we ourselves have no faith in the ultimate success of our own policies.

5. I must make it clear that apart altogether from the political expediency of going forward with the scheme it is fully justified on its own merits. The Chancellor is right in saying that in earlier discussions with him about the road programme it was the understanding that the Severn Bridge should not be included in the four year programme. The sums in question were then £15½ millions (for the smaller scheme) or £33 million (for the complete scheme) from the current programme.
Since then I have considered the matter further with the Minister for Welsh Affairs and have looked again and its phasing and merits and I am satisfied that the scheme consisting of the construction of the bridge and its immediate approach roads only (costing about £15 million) is entirely justified on economic grounds when phased out in this way. Nor can I accept the view that because we cannot in the foreseeable future carry out the entire scheme including the motorways to link the bridge more easily with London and Birmingham, the scheme should not be carried out at all. The bridge by itself linked to existing roads will make an immense contribution to easing traffic problems in this area.

6. The benefits will be mainly to industrial traffic from South Wales to the South of England generally. The bridge will reduce the distance from South Wales to London by about fifteen miles, and to Bristol and the South West by some fifty miles. One South Wales steel firm estimates that the saving on steel on a journey from Cardiff to South West England will amount to 9s. 2d. a ton. The annual savings for one large organisation operating a fleet of about 230 vehicles a day between South Wales and London and South West England are estimated to be of the order of £62,500 a year for operating costs alone, quite apart from time. So important is the facility to those who will make use of it that they are willing to pay for it themselves by means of tolls and the local authorities would be prepared to go ahead with the scheme themselves without any Exchequer assistance if they were permitted to do so.

7. With regard to the last paragraph of the Chancellor’s paper (C.(57) 274), the road programme has been publicly announced and the Prime Minister has publicly stated that it will go ahead despite the cuts in capital expenditure. This has been extremely well received in Parliament and by the public and the Press and I could not agree to any reduction in it now. I must again make it plain that even this programme is in my view nothing like adequate to deal with congestion on the roads and the future growth of traffic. It is mere the minimum that I am prepared to defend.

H.W.

Ministry of Transport and Civil Aviation, W. 1.

22nd November, 1957
CABINET

WELSH AFFAIRS

MEMORANDUM BY THE PRIME MINISTER

In January the Council for Wales and Monmouthshire presented their Third Memorandum. In it they made a number of recommendations about Government administration in Wales, the most notable of which was that there should be a Secretary of State with executive responsibility, comparable with that of the Secretary of State for Scotland, for Government administration in Wales. This proposal has already been considered and rejected by the Cabinet.

2. The Debate on Welsh affairs in the House of Commons must take place before the Christmas recess. Before then I have to convey to the Council our decision on their recommendation that there should be a Secretary of State and also to tell them what changes, if any, the Government propose to make in handling Welsh affairs. There is a growing feeling among Welsh people that their particular interests are not receiving the attention which they should and we shall need to be specially careful and sympathetic in our handling of Welsh affairs at the present time if we are to prevent the Welsh Nationalist movement from gaining ground. Our proposals, therefore, need careful presentation. I have with the Minister for Welsh Affairs been considering this topic under two main heads: Ministerial responsibility and the devolution of administration.

3. We have rejected the proposal that there should be a Secretary of State on the Scottish model. With the Minister for Welsh Affairs I have examined the
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3. We have rejected the proposal that there should be a Secretary of State on the Scottish model. With the Minister for Welsh Affairs I have examined the
possibility of changes which without going that length might improve administration and demonstrate to the people of Wales the care that is taken to safeguard their interests. As a result I propose to create a new office of Minister of State for Welsh Affairs. I have it in mind that the holder of this office would be in the House of Lords.

4. In considering what further measures of administrative devolution can be taken we must bear in mind that there can never be exact uniformity of practice in all the different Departments. I believe, however, that it is in this sphere that we can give most practical help to Wales and I think that we can usefully do more than we are doing at present. I have asked the Ministers of Agriculture, Transport and Education to consider what measures of devolution they can adopt in their Departments. Preliminary consultations with them suggest that we shall be able to make some satisfactory practical progress in this direction.

5. When we have considered this matter, I have it in mind to see the Chairman of the Council for Wales and Monmouthshire to explain our proposals to him. I will then send a detailed written reply to the Council. Finally I will, in answer to a Question in the House of Commons on 10th December, briefly announce the Government’s plans.

H. M.
26th November, 1957

CABINET

HEBRIDES ROCKET RANGE

Memorandum by the Minister of Defence

A proposal to set up a range in the Hebrides for Service trials and training with guided weapons, was approved by the Defence Committee on 13th July, 1955 (D.C. (55) 6th Meeting, Item 2). The estimated cost of this scheme is about £18 millions (excluding the radar station on North Uist, costing £2 millions).

2. Since then considerable reductions have been made in the weapon development and training programmes, following upon the changes in defence policy announced in the White Paper. The Service Departments and the Ministry of Supply have consequently re-examined their requirements. As a result, they have come to the conclusion that, subject to certain acceptable limitations, the training facilities for air-to-air and surface-to-air weapons likely to be needed in the next five years or so, could be undertaken on the Welsh ranges of the Ministry of Supply at Aberporth and of the War Office at Ty Croes.

3. This would necessitate extending the Aberporth range out to sea from 50,000 to 100,000 yards and the Ty Croes range from 28,000 to 35,000 yards; and certain additional facilities would have to be provided at these two ranges, costing about £2½ millions.

4. There has not been time for the Welsh Office, the Ministry of Transport and the Ministry of Agriculture and Fisheries to consult the various shipping, fishing and local interests concerned. But, provided that existing safety measures are maintained and safeguards are incorporated in the missiles for breaking them up should they go off course, these Departments do not foresee any insuperable difficulties.

5. The Welsh ranges are, however, too small for Army training with surface-to-surface guided weapons, and it would still be necessary to provide facilities for this in the Hebrides. The estimated cost is about £1.8 millions, which includes £0.6 million already spent or unavoidable (i.e. an additional expenditure of only about £1.2 millions).

6. It will thus be seen that, if the use of the Hebrides range is limited to Army surface-to-surface weapons, and if training with air-to-air and surface-to-air weapons is carried out on the Welsh ranges, the cost of the whole scheme could be reduced from about £18 millions to about £4.3 millions.

7. I accordingly recommend -

(a) that the range facilities in the Hebrides should for the present be confined to those required for surface-to-surface guided weapons;
(b) that Service trials and training with air-to-air and surface-to-air guided weapons should be carried out on the Welsh ranges and that the necessary additional facilities should be provided on them;

(c) that an early announcement should be made to Parliament.

D.S.

Ministry of Defence, S.W.1.

25th November, 1957
Cabinet

Wages

Memorandum by the Chancellor of the Exchequer

The Cabinet considered on 28th November the specific issues raised in C.(57) 286 by the Minister of Health on "Wages in the National Health Service" (C.C.(57) 82nd Conclusions, Minute 5). That paper also raised some general issues in regard to wages and arbitration, which are discussed also in C.(57) 264, by the Minister of Labour, on "Wages: Collective Bargaining and Arbitration". I have asked that the paper which I circulated to the Cabinet last April on "Wages, Prices and the Pound Sterling" (C.(57) 103) should be made available for further discussion.

2. These papers bear on two aspects of our problem - one short term and the other longer term. The first is how to avoid in the immediate future a repetition of wage increases on the disastrous scale of the past few years. The second is whether we can devise a generally acceptable method of preventing wage increases from outstripping production when expansion can again be encouraged.

3. We have already formulated and publicly announced, as far as is appropriate, our policy in regard to the shorter term, both as regards wages generally and in regard to wages in the public sector in particular. I summarised the guiding principles as follows in the House of Commons:

"The role of the Government and its policy can be quite clearly stated. First, the Government should state with absolute clarity their own view of the economic situation, and where they consider the national interest to lie. Secondly, they should, by their monetary, fiscal and spending policies, create conditions and an economic climate consistent with this view. Thirdly, they should not interfere with collective bargaining, and fourthly, they should, where they are themselves the employer, seek to follow policies similar to those which they urge upon others."

These guiding principles were subsequently re-stated by the Prime Minister in C.(57) 261.

4. We have no reason to be dissatisfied with the results of our short-term policy so far. We must, however, keep one fact in the front of our minds. However rough the going or unpopular the cause, we must do everything we can to hold wage increases. Because much
of the field is outside our control, there is an added importance in what we do ourselves. A tolerable case can be made out for almost any wage increase looked at in isolation. A halt at any point in what is now regarded as the almost automatic right to an annual rise in response to the self-generated price increases, will catch someone out of line. Nonetheless, we must try to slow down the pace of wage increases in the public sector and as far as possible seek to avoid settlements on the Government front ahead of the main wage struggle in the industrial field.

5. It is upon our own actions that industry will judge us, and to a large extent decide their own attitude. When the Minister of Labour and I met the British Employers' Confederation recently it was plain that they attached the highest importance to the fact that we had said "NO": that we meant "NO": and that we showed no signs of wavering.

6. Our short-term policy seems to be provoking constructive thought on all sides about the future. Lord Chandos has suggested long-term wage agreements with a 2½ per cent annual increase. The Economic Committee of the Trades Union Congress (T.U.C.), although critical of the Government, recognise that solution of the problem "can only be achieved if all sections of the community are willing to limit to some degree their freedom of action". Lord Cohen's Committee are at work on some of these questions. We should, therefore, in public utterances avoid committing ourselves firmly to the present forms of collective bargaining and arbitration. While I agree with some of the points made in paragraph 16 of C. (57) 264 by the Minister of Labour, I do not think that we should reiterate in the words of his paper "we have not got a national wages policy but we neither intend to have one nor is it possible to have one". Nor should we exclude the possibility that in one way or another we may have to bring home to arbitrators the national aspect of particular wage claims. Before we are finished, we may have to have some - resembling both. The questions posed by the Minister of Health in his paper on these points are relevant: and they were referred to in my paper C. (57) 103.

7. Meanwhile we are entering rough water and we need to keep ourselves free in the next few months to seize any opportunity which may present itself. It is conceivable that the Government might during this period have an opportunity to express its attitude to the long-term wage problem with constructive effect. This might be before or after a strike, or in response to a T. U. C. offer, or in response to some wave of public opinion, or arising from a Report of the Cohen Committee. We need at any rate to be ready. I consider that we should put in hand a study by officials of the proposals set out in C. (57) 103, together with those which have since come to light, including those dealt with in the papers of the two Ministers.

8. To sum up, I recommend that we should:

(i) persevere in our policies as already announced;

(ii)
(ii) avoid saying anything in public which commits us to maintaining existing forms of arbitration or collective bargaining; and

(iii) authorise study of the proposals set out in C. (57) 103, together with others which have since come to light.

P.T.

Treasury Chambers, S.W.1.

29th November, 1957.
CABINET

WAGES: NATIONAL HEALTH SERVICE

Memorandum by the Minister of Labour and National Service

I do not wish in this memorandum to deal with all the considerations raised by the Minister of Health in his paper C.(57) 280, some of which might appropriately be discussed on my paper C.(57) 264, which I have prepared on arbitration and allied matters. This memorandum is therefore concerned solely with the proposal made in paragraph 10(a) of C.(57) 280.

2. It seems to me that with all its difficulties the decision taken by the Secretary of State for Scotland and the Minister of Health not to approve the Whitley Council recommendation was the right one. It has created the atmosphere which we wanted to create. Beyond question it has had a profound effect in convincing people both at home and abroad that the Government are serious about their attack on inflation.

3. Nevertheless it is right that we should look ahead and consider our future attitude. There seem to be three courses:

(a) To regard the Ministers’ decision as final and to refuse to reconsider this particular recommendation.

(b) To give consent to a case going to arbitration if this is asked for by the Staff Side.

(c) To reconsider the recommendation after an appropriate interval. (This review would be in line with the Ministers’ original letter.)

4. I feel that (a) is indefensible. We could not, in taking up this stand, at the same time deny the Unions both arbitration and review within a reasonable period. In these matters public opinion is of great importance. We cannot hope to urge arbitration on the Trade Union movement following on disagreement and at the same time refuse arbitration (or even review) where there is none. Especially when, as in this case, the workers are ill-paid, ill-organised, and where recruitment is entirely inadequate.

5. Nor would I wish to accept alternative (b), which is what the Minister of Health proposes. In my view it would be wrong for Ministers to consent to subject themselves to arbitration in respect of decisions taken by them in the exercise of their statutory duties. To do so is to place upon the arbitrators the responsibility of stating whether the Minister was right or wrong in the decision reached in the use of his
Ministerial prerogative. I cannot help feeling too that reference to arbitration in such circumstances might also have a profound effect on the future relations between the Whitley Council and the Minister.

6. In my view, alternative (c) is the one to pursue. But to undertake a review within a stated period might give the impression that the economic position was likely to be so much improved by a certain date as to justify a loosening in wage restraint generally. This could have undesirable repercussions in outside industry.

7. A promise to review must therefore be based on some other circumstances and it occurs to me that, if it could be foreseen that the proposals in the Noel Hall Report could be worked out within say 3-6 months, this would form a useful peg on which to hang a more comprehensive review of the wages structure. I realise that the result of the Whitley Council's examination of the Noel Hall Report might be a heavier wages bill for the administrative and clerical staffs and that all its proposals might not be acceptable. But in my view the revaluation of the work which the Report recommends cannot be compared in terms of inflationary effect and repercussions with a straight wages increase.

8. In these circumstances I propose that the Staff Side of the Whitley Council should be informed that, in the light of the consideration which will be given in due course to the Whitley Council's views on the Noel Hall Report, the Minister will be prepared at the same time to take into account the representations which have been made on the wages rates of officers now receiving less than £1,200 per annum.

I.M.

Ministry of Labour and National Service, S.W.1.

26th November, 1957.
CABINET

WAGE PROBLEMS

MEMORANDUM BY THE CHANCELLOR OF THE EXCHEQUER AND THE MINISTER OF LABOUR

It may be useful to have a summary of the present position and outlook.

2. The Government statement of 19th September represented a marked shift in the emphasis of economic policy. Previously the objective was full employment, with the hope for price stability through restraint by industry. Now the primary objective is maintenance of the value of the currency, i.e., price stability, and the Government has made it plain that, unless restraint is exercised, employment prospects are bound to be damaged.

3. The measures of 19th September could only be expected to be felt with the passage of time, and at present economic activity is at a high level and not likely to fall off much during the winter.

4. But public response to Government announcements has been on the whole encouraging, and especially where Government actions have showed that we mean what we say. We should continue with our policies to slow down the pace of wage increases generally, and avoid, as far as we can, settlements on the Government front ahead of the main struggle in the industrial field. The trade unions clearly do not wish public opinion to regard them as the main barrier to stable prices, and though they continue to put in the usual exaggerated wage claims, they are pursuing them cautiously and slowly.

5. We shall be judged by the extent to which we maintain a firm front, and the immediate success of our policy depends on this. The best chance of avoiding severe strikes is to see that the country is convinced that we mean what we have said and that we will face these if we must.

6. Subject to this general attitude, we will have to deal with particular problems as they arise. We cannot decide on tactics except in the light of tactical situations.

7. In the short term at least no alteration is possible in the present system of collective bargaining, arbitration, wages councils, &c. For example, the Minister is obliged to provide, in certain cases, for arbitration, and to confirm awards by wages councils. The conciliation service of the Ministry (which, of course, deals with many disputes unconnected with wages) must continue to be available to industry if required, but we have clearly reached the point where even a serious strike is more tolerable than a continuance of inflationary wage-settlements.

8. In present circumstances, arbitration can be a useful safety-valve. We have made our point that arbitrators should have regard to the national interest and cannot usefully develop that line further at present. Otherwise we may find that
arbitration is universally avoided. We have made it clear that in the public field we will accept arbitration awards, but that additional Exchequer moneys to meet them will not be provided: they will thus have to be met as far as practicable out of economies in working and services. It is not desirable for us to say in public that at all costs prices will be kept from rising in the public sector, because in some cases that may be inevitable, especially where the only alternative would be an additional burden on the Exchequer. Through what we have already said and the kind of actions we have already taken in this field, we have given as much guidance as we can at this stage to private industry.

9. There is not very much more that can be done in the short run. If we have to make speeches we should continue to make clear where we think the national interest lies and the consequences for employment if we have a repetition of recent experience in regard to wages, salaries and other incomes. In order to preserve a balance we should continue the recent line of stressing the need and opportunities for some price reductions, e.g., through lower import costs and improved techniques and investment. It may be helpful also to repeat what we said in the House of Commons on 29th October, that general restraint in distribution of profits would help our national purpose.

10. On the wider question of future wage policy, a number of fundamental problems are involved. It would not be right, even if it were possible, to reach final answers on this in a hurry. No doubt our own attitude would be somewhat affected by the outcome of this winter's wage round. Officials have already begun work on the report for which we asked. In the meantime it would be well to avoid dogmatic statements on the future of arbitration or collective bargaining, lest thereby we limit our freedom for subsequent manoeuvre.

11. To sum up:—

(i) We should persevere in our general policies as already announced.
(ii) Subject to this we must leave tactics in particular cases to be decided in the light of the tactical situation.
(iii) We should continue with public utterances on existing lines, including the fresh emphasis on the possibility of some price reductions.
(iv) We should avoid committal statements about the future forms of arbitration or collective bargaining.
(v) On general policy we should await the report of officials.

P. T.
I. M.

13th December, 1957.
CABINET

SEVERN BRIDGE AND THE ROADS PROGRAMME

MEMORANDUM BY THE CHANCELLOR OF THE EXCHEQUER, THE MINISTER OF HOUSING AND LOCAL GOVERNMENT AND MINISTER FOR WELSH AFFAIRS AND THE MINISTER OF TRANSPORT AND CIVIL AVIATION

The Prime Minister has asked us to circulate an agreed statement on what the expenditure on the Severn Road Scheme would be and how it would be phased over the next few years.

2. The £15.5 millions scheme for the Severn Bridge includes the cost of linking it with the trunk road between Bristol and Gloucester (and Birmingham) (A.38) on the English side, and with the Swansea–Cardiff–Gloucester Road (A.48) on the Welsh side. It is common ground that at some time in the future the bridge ought to be linked more directly with the main road to London (A.4) and, to the North, with the new motor road which will be constructed to link the Ross Spur with the Midlands. These further schemes for providing connections for the bridge are estimated to cost an additional £20½ millions; once the decision to construct the bridge was taken pressure to carry out this work would build up, although its place in the programme would depend on an estimation of its merits at the time compared with other schemes (there should, of course, be some consequential savings elsewhere, in so far as use of the bridge relieves existing roads, especially the Chepstow–Gloucester Road).

3. The preparation of the scheme will take some time to complete. Work could not start before 1960–61. The Ministry of Transport take the view that it would take about five years to finish, but the actual payments would be spread over about eight years. In detail, they estimate that the payments for the £15½ millions for the bridge would be—

<table>
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<td>1967–68</td>
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Total 15.5

* Last year of the 4-year road programme.

The above excludes any provision in respect of the £20½ millions for the further road links. The Treasury feel that costs may in practice turn out higher than estimated, and that the payments may be more concentrated as one cannot reckon on a large part of the cost of the bridge remaining unpaid when the bridge is completed.

P. T.
H. B.
H. W.

3rd December, 1957.
STATUES OF SIR WALTER RALEIGH
AND JAMES II

Memorandum by the Minister of Works

A number of public spirited business men and companies have subscribed the money necessary to erect in London a statue of Sir Walter Raleigh. I have promised to find a site and Mr. William McMillan has been commissioned to execute the statue. I am of the opinion that the most suitable place for this statue is balancing George Washington in front of the National Gallery.

2. It is, I think, important to give prominence to the links between the United States and Britain, and Americans visiting London should see that we honour those who have played a part in the foundation of the United States and perhaps particularly those whose careers may be regarded as common to the history of both countries. I think it would be most suitable that two such distinguished Virginians as Sir Walter Raleigh and George Washington should stand on opposite sides of the entrance to the National Gallery.

3. This would involve the removal of Grinling Gibbons' statue of James II and I welcome this opportunity of removing it to a more suitable place. This fine statue was only put in front of the National Gallery after the war as a temporary measure. Previously the statue had stood in St. James's Park close to the Admiralty on the site now occupied by the Citadel. James II was a very distinguished naval commander and seaman. It is therefore appropriate that he should stand in naval surroundings. My first intention had been to put the statue in the middle of the courtyard in front of Admiralty House, but the First Lord regretfully came to the conclusion that there was not room if he is to provide space for cars. I also considered the Royal Hospital, Chelsea, of which James II was one of the three royal founders.

4. My present proposal is that this statue should stand in front of the steps of the Queen's House at Greenwich. (A photograph of this site is appended to this paper.) Not only is Greenwich the centre of naval history and tradition, but the buildings are the finest example we retain of Stuart architecture. The Queen's House, one of the few buildings known to be by Inigo Jones, is surely the perfect architectural background to a statue by Grinling Gibbons. The Queen's House was built by Charles I for Henrietta Maria who occupied it in her husband's reign and again after the restoration of Charles II. It is certain that James II frequently visited his mother while she was living there. The fact that the house has been turned into the Maritime Museum is an additional reason why my proposal is appropriate.
5. The Trustees of the National Gallery naturally do not wish to lose this statue. In 1946 when the statue was placed where it now is, the Royal Fine Art Commission "felt that a more suitable site might be found . . . . that the choice of a new site for the statue of James II should be deferred until it is decided whether there is likely to be a statue erected to Pepys, as it is felt that the two should be associated with the Admiralty. Further . . . . the public should be able to get close up to and see all round a statue of such merit and that it would not in effect balance the Washington statue". The Royal Fine Art Commission have now changed their views and wish the statue to stay where it is in Central London so that it can be seen by the multitudes. They would prefer me to remove the statue of Washington, despite the fact that it is a replica of a work by Houdon and was presented by the Commonwealth of Virginia. This suggestion seems to me to have nothing aesthetic, historical or sentimental to commend it.

Conclusion

6. I propose -

(i) to put the statue of Raleigh in front of the National Gallery, and

(ii) to put the statue of James II in front of the Queen's House at Greenwich.

7. If the Cabinet disagree with these proposals, I should suggest that the latter statue be put once more in St. James's Park on the grass to the west of the Citadel, or alternatively in the grounds of the Royal Hospital, Chelsea.

A.H.E.M.

Ministry of Works, S.E.1.

5th December, 1957
THE QUEEN'S HOUSE, GREENWICH

THE NORTH FRONT

The site proposed for the status of James II is in front of the steps.
THE QUEEN'S HOUSE, GREENWICH

THE NORTH FRONT

The site proposed for the status of James II is in front of the steps.
CABINET

MALTA : CONSTITUTIONAL DEVELOPMENT

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

At our meeting on 14th November I was asked, in consultation with the Commonwealth Secretary, the Colonial Secretary and the Law Officers, to examine in greater detail the legal and constitutional implications of the proposals in C. (57) 262 for constitutional development in Malta. (C.C. (57) 80th Conclusions, Minute 4). This memorandum, in which these colleagues concur, reports the result of this examination.

2. We were advised by the Law Officers, a copy of whose memorandum is appended, that the proposals in C. (57) 262 in regard to the future status of Malta and the proposed affirmations on status and on legislation by the United Kingdom Parliament were in some respects objectionable. The points they raised were discussed at a meeting with the Lord Chancellor on 2nd December, at which the following changes in the proposals previously submitted were agreed:

(i) the second, short draft on the status of Malta (C. (57) 262, Annex C, Alternative II), the effect of which is to include Malta within the territories of the United Kingdom without altering the title of the United Kingdom of Great Britain and Northern Ireland, should be adopted, with the omission of sub-section (3);

(ii) the first affirmation on the status of Malta and on representation at Westminster should be retained in the body of the Bill, though only the principle and not the extent of such representation should be affirmed. It was felt by some of us that the part of the first affirmation relating to status should if possible be expressed in terms of the union being for ever after. The provision that there should be not less than three members for Westminster would be dealt with by amendment of the House of Commons (Redistribution of Seats) Act, 1949, which governs the representation of the constituent parts of the United Kingdom; and

(iii) the second affirmation on legislation by the United Kingdom Parliament should not be in the body of the Bill but should be placed in the preamble.

3. It was also agreed at the meeting that I should circulate for consideration drafts showing the lines along which these conclusions might be expressed. These are attached as Annexes A and B.

4. Annex A contains draft clauses incorporating the first affirmation; the affirmation relating to the status of Malta appears as sub-section (2) of the first clause, and the affirmation on representation at Westminster is in sub-section (1) of the second clause. I ought to draw the attention of my colleagues to the apparent inconsistency between sub-sections (1) and (2) of the first clause if the words "and for ever after" were to be included in which case integration would be "for ever after," whereas sub-section (2) contemplates the possibility at any rate that integration might be terminated with the consent of the Maltese Parliament.

6. I invite my colleagues to agree with the modified proposals summarised at (i) to (iii) in paragraph 2 above and to authorise the Colonial Secretary to resume negotiations with the Maltese Government on this basis. For this purpose it will also be necessary to decide, in general terms and not in matters of drafting detail, whether we approve the draft contained in Annex A and which of the alternative versions set out in Annex B we prefer.

7. Two other points requiring decisions were raised in C. (57) 262. The first dealt with the phasing of the Integration Bill. As explained in paragraph 2 of C. (57) 262, the plan now is that the Bill, covering both representation and the new constitution, will only come into effect after the Maltese General Election. The question arises whether the Bill should be so framed that its provisions come into effect automatically on the passing of a resolution by the new Maltese Parliament by whatever majority, even a single vote. The Maltese Government strongly press that the Bill should come into effect on the passing of a resolution. A decision on this point is necessary.

8. It was also proposed in C. (57) 262 that there should be an exchange of letters with the Maltese Government on the subject of equality of treatment of Maltese citizens of the United Kingdom and Colonies. The wording of the letter proposed in paragraph 7 of C. (57) 262 has been revised in consultation with the Commonwealth Secretary. It may need some further revision, but the Colonial Secretary seeks authority for an exchange of letters on the lines indicated.

R. A. B.

Home Office, S.W. 1,
10th December, 1957.
ANNEX A

FIRST AFFIRMATION

Draft clauses incorporating the two limbs of first affirmation

1. As from the appointed day [and for ever after], Malta shall be included among the territories comprised in the United Kingdom of Great Britain and Northern Ireland, and any reference to the United Kingdom or to the United Kingdom of Great Britain and Northern Ireland, in any enactment passed or public document issued on or after that day shall be construed accordingly.

2. It is hereby affirmed that in no event will Malta cease to be part of the United Kingdom without the consent of the Parliament of Malta.

3. Nothing in this section shall be construed as extending to Malta any enactment or instrument passed or made before the appointed day, or any rule of law in force immediately before that day, or as otherwise affecting the operation in relation to Malta of any such enactment, instrument or rule of law.

1. As from the appointed day, Malta shall be represented in the Parliament of the United Kingdom and it is hereby affirmed that in no event will Malta cease to be represented in the Parliament of the United Kingdom without the consent of the Parliament of Malta.

2. [Provision for representation of Malta.]

ANNEX B

SECOND AFFIRMATION: VERSION I (PREAMBLE ONLY)

Draft Preamble regarding relationship between Westminster Parliament and Maltese Parliament

Whereas in the Report of the Malta Round Table Conference which was laid before Parliament by Command of Her Majesty in December 1955, it was recommended that Malta should be represented in Parliament at Westminster:

And Whereas under the constitutional arrangements whereby effect is being given to that and other recommendations in the said Report provision is to be made for Malta to be included in the territories comprised in the United Kingdom:

And Whereas the Parliament of the United Kingdom hereby affirms that it is in accordance with the constitutional position which Malta is to have as part of the United Kingdom under those arrangements that the Parliament of the United Kingdom will not, unless at the request of the Parliament of Malta, pass laws extending to Malta in relation to matters with respect to which the Parliament of Malta has power to make laws except so far as the United Kingdom Parliament may judge it necessary for the fulfilment of the responsibilities of the United Kingdom Government for defence and external affairs and except with regard to the following subjects, that is to say, merchant shipping, civil aviation, coinage, currency and legal tender, and exchange control.

Now, therefore, &c.

SECOND AFFIRMATION: VERSION II (PREAMBLE AND SCHEDULE)

Draft Preamble regarding relationship between Westminster Parliament and Parliament of Malta

Whereas in the Report of the Malta Round Table Conference which was laid before Parliament by Command of Her Majesty in December 1955, it was recommended that Malta should be represented in Parliament at Westminster:

And Whereas under the constitutional arrangements whereby effect is being given to that and other recommendations in the said Report provision is to be made for Malta to be included in the territories comprised in the United Kingdom:

And Whereas under those arrangements Malta is to continue to have a separate legislature responsible for legislation on all domestic affairs and, in particular, on such matters as the position of the Church, education and family life:

And Whereas, by the Exchange of Despatches set out in the Schedule to this Act, the relationship between the Parliament of the United Kingdom and the legislature in Malta has been further defined:

Now, therefore, &c.
Draft Schedule of Malta Bill

SCHEDULE

RELATIONSHIP BETWEEN THE PARLIAMENT OF THE UNITED KINGDOM AND THE PARLIAMENT OF MALTA

Exchange of Despatches

2. We recognise that it is in accordance with the constitutional position which Malta is to have as part of the United Kingdom that, after Malta has become part of the United Kingdom, the United Kingdom Parliament will not, unless at the request of the Parliament of Malta, pass laws extending to Malta in relation to matters with respect to which the Parliament of Malta has power to make laws except so far as the United Kingdom Parliament may judge it necessary for the fulfilment of the responsibilities of the United Kingdom Government for defence and external affairs and except with regard to the following subjects:

- Merchant shipping
- Civil aviation
- Coinage, currency and legal tender
- Exchange control

3. We also recognise that it is the wish of the Government of Malta that this letter should appear in the legislation passed to make Malta part of the United Kingdom.

Second Affirmation: Note by the Draftsman

Versions I and II are intended to record a detailed and rigid rule which will be observed by Parliament at Westminster. The details of the rule are, it is thought, just those which the Maltese delegation have accepted but, in addition to this general restriction on Westminster legislation, the delegation want to see a rigid rule that the Westminster Parliament will not change the constitutional arrangements worked out under the Integration Act. The details of such a rule have not yet been worked out and cannot, therefore, be set out in the draft preambles.

The main difference between Versions I and II is that Version II relies on an Exchange of Despatches which could be scheduled to the Integration Act, as indicated in Version II, or, if preferred, summarised in the preamble itself.
APPENDIX

MALTA

MEMORANDUM BY THE ATTORNEY-GENERAL

In paragraph 4 of C. (57) 262 the Colonial Secretary states that “the Maltese have maintained that the new constitutional arrangements must reflect equality of status for Malta and its people.” He says (in paragraph 10) “apart from the question of equality of status with the United Kingdom the Maltese Government attach great importance to having an explicit provision in the Bill to make Malta part of the United Kingdom.” In paragraph 14 he recommends that “the fullest and most explicit expression should be given in the new arrangements to Malta’s equality of status with us.”

2. The provisions contemplated do not appear to me to give Malta and its people equality of status with us. That equality could be secured by Malta becoming a Dominion. That is not contemplated. If Malta becomes part of the United Kingdom, it does not thereby secure equality of status with the United Kingdom. The two things are mutually inconsistent.

3. It is suggested that “as Malta must no longer be a Colony, a new status is needed and Northern Ireland provides the closest analogy.” If, however, the proposals are implemented the Maltese people will enjoy far greater control over their own affairs than not only the Scots and the Welsh but also the people of Northern Ireland.

In the first place, whereas the Government of Ireland Act, 1920, provides that the power of the United Kingdom Parliament to legislate for Northern Ireland shall remain “unaffected and undiminished,” it is proposed that the Bill contemplated should exclude legislation by the United Kingdom Parliament on matters within the Maltese Parliament’s competence without their consent. In the second place, Malta will possess a far greater degree of autonomy than Northern Ireland. It will be free to legislate over a far wider field. It will have greater executive power.

For ease of reference I have set out in Annex I hereto the proposed powers of Malta and the powers of Northern Ireland.

4. Malta will in future participate, through its representatives in the House of Commons, in the exercise, should occasion arise, of the power of the United Kingdom Parliament to legislate for Northern Ireland. The people of Malta will however continue to be subject to the laws of Malta and future Acts of Parliament will not apply to Malta unless that is specially provided for. Existing Acts having effect as part of the law of Malta will be capable of amendment by the Maltese Parliament where they deal with matters within the competence of that Parliament.

5. Mr. Mintoff has been told that “it is the reality of the constitutional relationship which will count and not any descriptive title.” Apart from the reality of sending three representatives to the House of Commons, I must confess that, for the reasons given in the preceding paragraph, I am unable to see any reality in the proposed integration. It is not even proposed to treat Malta as part of the United Kingdom vis-à-vis foreign States. It does not follow from integration that the Maltese will receive equality of treatment with the inhabitants of these islands at the hands of the Commonwealth countries.

THE AFFIRMATIONS

6. The proposal that the body of the Bill should contain the proposed affirmations appears to me unnecessary and objectionable. One Parliament cannot bind another Parliament and though there are precedents in the Statute of Westminster and the Ireland Act, 1949, Section 1(2), for Parliament purporting so to do, it would in my view be wrong to add to these precedents unless it is absolutely essential and wholly unavoidable. We should seek to maintain the sovereign right of the Parliament of the United Kingdom to legislate for the United Kingdom. Such affirmations in the body of the Bill imply a statutory limitation of that right.
7. With regard to the first affirmation, in my view it would be preferable to follow the precedents of the Union with Scotland Act, 1706, and the Union with Ireland Act, 1800, which recited the intention to integrate and enacted that the union should be “for ever after.”

I could not resist the inclusion of that part of the first affirmation which corresponds with Section 1(2) of the Ireland Act, 1949, but I do very strongly object to a provision which purports to secure that there will always, unless Malta consents to a change, be three Maltese Members of Parliament.

The statutory provision in the House of Commons (Redistribution of Seats) Act, 1949, that Scotland shall have not less than 71 Members, Wales not less than 35 and Northern Ireland 12 can be altered by Parliament. It is not likely that it will be. I really cannot see any ground for purporting to give Malta a prescriptive right to three seats in perpetuity, a right which Scotland, Wales and Northern Ireland do not enjoy. Parliament should not appear to divest itself of control over the membership of the House of Commons. Provision for membership of the Commons should in my view be made by amendment of the House of Commons (Redistribution of Seats) Act, 1949.

8. If it is essential to have something on the lines of the second affirmation, then it should be in the preamble. I do not understand why the Colonial Secretary says “there is no real parallel between the Statute of Westminster and this affirmation.” To me they appear closely associated. The limitation on the sovereignty of the United Kingdom Parliament in the Statute of Westminster was appropriate as a limitation on the right to legislate for independent sovereign States. The limitation here proposed is a limitation of the right of the United Kingdom Parliament to legislate for part of the United Kingdom.

9. I do not know to what extent the Government are committed to recording these affirmations in a statutory form. An agreement to integrate and an assurance not to intervene do not imply an undertaking to give statutory effect to the agreement and assurance.

THE ALTERNATIVE DRAFTS
(Annex C to C. (57) 262)

10. Of the two Alternatives I think the second is to be preferred.

11. The words “United Kingdom” denote a political and geographical entity. Merely expanding the meaning of the words “United Kingdom” does not alter the geographical situation nor, for the reasons I have given in paragraph 4 of this memorandum, will it be followed by substantial changes in the political entity.

12. To avoid tampering with the Royal Style and Title Alternative I combines the new name of the United Kingdom with the express preservation of the existing Royal Title. Alternative II does not alter the description of the United Kingdom; it retains the title of the United Kingdom of Great Britain and Northern Ireland while including Malta within its territories.

Alternative I results in a discrepancy between the Royal Style and Title and the territories of the United Kingdom. Alternative II avoids this discrepancy and is consequently in my opinion to be preferred. Under Alternative II the words “United Kingdom” will have a different meaning in Acts of Parliament before integration from the meaning after integration.

13. The presumption of law referred to in paragraph 3 of Alternative II is that Acts of the United Kingdom Parliament, because they are Acts of that Parliament, extend to the United Kingdom. Without paragraph 3 of Alternative II (or paragraph 5 of Alternative I) the inclusion of Malta in the United Kingdom would mean that future Acts would be presumed to apply to the “United Kingdom” (including Malta).

The object of paragraph 3 is to avoid this consequence, as it is proposed to limit the power of the United Kingdom Parliament to legislate for Malta and as the United Kingdom Parliament is unlikely in practice often to legislate for Malta. It is also intended to avoid the necessity of express exclusion of Malta from future Acts of Parliament. Paragraph 5 of Alternative I achieves the same
object by providing that despite the inclusion of Malta in the United Kingdom, Acts of Parliament of the United Kingdom are not to apply to Malta unless Malta is expressly included.

Northern Ireland is in practice either expressly included or expressly excluded unless the context makes the extent of the Act apparent without express reference. I feel this precedent should be followed.

14. The effect of paragraph 5 of Alternative I and paragraph 3 of Alternative II is that in the event of the United Kingdom Parliament wishing to pass a law applying only to Great Britain, Northern Ireland and Malta there will have to be express reference to “the United Kingdom” (i.e., the United Kingdom including Malta). In all other cases the legislation of the United Kingdom Parliament will have effect just as if Malta were not part of the United Kingdom. These paragraphs clearly reveal the absence of legal reality behind the proposal that Malta should become part of the United Kingdom and in my opinion they should therefore be omitted.

15. I have shown this memorandum to the Lord Advocate, the Solicitor-General and the Solicitor-General for Scotland, who have told me that they agree with it.

R. E. M.-B.

Law Officers' Department, S.W. 1,
25th November, 1957.
ANNEX I

PART I: PROPOSED POWERS OF THE MALTESE PARLIAMENT

1. The Maltese Parliament will have power to legislate on all matters save those referred to below. It will have power to amend (by a two-thirds majority) the constitution to be established under the Bill. Bills of the Maltese Parliament dealing with certain matters such as civil aviation, coinage and currency will be reserved for Her Majesty's pleasure.

2. The Maltese Parliament will not have power to legislate on defence, certain matters relating to the Crown, nationality and such other matters as may be excluded in a Schedule to the Bill.

3. The executive authority of the Maltese Government will be co-extensive with the legislative competence of the Maltese Parliament. It is proposed also to delegate to the Maltese Government certain executive powers in the field of external affairs, notably to negotiate and conclude trade agreements with neighbouring countries.

4. The Maltese Government will also be able to decide whether an international agreement signed or ratified by the United Kingdom relating inter alia to matters within the field of authority of the Maltese Government should apply to Malta.

PART II: POWERS OF THE NORTHERN IRELAND GOVERNMENT AND PARLIAMENT

1. The Northern Ireland Parliament has no power to repeal or alter any provision of the Government of Ireland Act, 1920, or to legislate so as to interfere with religious liberty or equality or (in general) so as to take property without compensation.

2. The Northern Ireland Parliament has power to legislate on all other matters except those expressly reserved to the Imperial Parliament, the most important of which are:

   (a) certain matters relating to the Crown,
   (b) external affairs,
   (c) the Armed Forces,
   (d) Nationality,
   (e) trade with any place outside Northern Ireland,
   (f) submarine cables,
   (g) wireless telegraphy,
   (h) aerial navigation,
   (i) coinage and negotiable instruments,
   (j) trade marks, copyright and patent rights.
   (k) postal services,
   (l) Supreme Court of Northern Ireland.
   (m) Customs and Excise duties, taxation on profits, Income Tax and tax upon capital.

3. The executive power of the Government of Northern Ireland is co-extensive with the legislative powers of the Northern Ireland Parliament.

SECRET.
RENTS IN SCOTLAND

MEMORANDUM BY THE SECRETARY OF STATE FOR SCOTLAND

On 20th November the Home Affairs Committee approved in principle proposals now before me for increasing the rents of some 50,000 houses in Scotland belonging to certain Government-sponsored bodies—the Scottish Special Housing Association, the First and Second Scottish National Housing Companies, and the New Town Corporations of East Kilbride and Glenrothes.

2. The Committee felt, however, that in view of the possibility of political and industrial repercussions, the matter should be reported to the Cabinet.

3. Briefly, what is involved is that the average rent of these houses (exclusive of rates) is to be doubled, with the proviso, however, that no tenant will be asked to pay an increase of more than 1s. 6d. a week.

4. The rents of Association houses are already higher than those of comparable local authority houses in most districts, and the proposed increases would accentuate the disparity. In the district where the disparity would be greatest, there would be a difference of 13s. 11d. a week in the total burden for rent and rates but in this instance the local authority's rent—for a four-apartment house—is only 2s. 4d. a week.

5. A rent rebate scheme is to be operated to meet any cases of hardship.

6. The proposals are reasonable but their approval will almost certainly be followed by strong opposition in several districts. Representations and protests have indeed already been received from local authorities and from organisations claiming to speak for the tenants, who have indicated their intention to resist the increases by all legal means.

7. The opposition is likely to take the form of rent strikes, involving court action for recovery of arrears and probably the arrestment of wages. In mining districts all this may be backed by industrial stoppages. This was the pattern of the opposition to increases of rent imposed earlier this year by Dumfries County Council—opposition which is at present in abeyance pending a decision on an action for interdict (i.e., an injunction) taken on behalf of some of the tenants against the County Council in the Court of Session.

8. The Scottish Law Officers have advised that in view of the terms of agreements entered into with certain local authorities in respect of houses built before the war, the Association should consult all the 84 local authorities in whose districts the Association have built houses, before the increases in rent are put into operation.

9. I consider that it is important, before these consultations are embarked upon, that a preliminary announcement should be made in the Press presenting the rent increase proposals in proper perspective to forestall deliberate attempts to misrepresent or distort them. The Minister of Labour has suggested, in the context of wage claims, that this announcement should be made in early January.
10. I propose, therefore, to ask the Association to announce the rent proposals and begin consultations with local authorities on 15th January. Allowing a maximum of two months for the consultations, and providing for a period of three months' notice to be given to the tenants thereafter, the increases would come into operation in June or July 1958. I should seek to secure that the increases in the New Towns would operate from about the same time.

11. I should be glad to know that my colleagues agree that I should proceed as proposed.

J. S. M.

Scottish Office, S.W. 1,
13th December, 1957.
CABINET

NORTH ATLANTIC TREATY ORGANISATION:
CABINET ARRANGEMENTS

Note by the Secretary of State for the Home Department
and Lord Privy Seal

I have been in touch with the Prime Minister about the
North Atlantic Council Meeting. On present indications it may be
necessary for the Cabinet to meet later in the week, but there is
unlikely to be sufficient material for a Cabinet discussion tomorrow.

R.A.B.

Home Office, S.W.1.

16th December, 1957.
There is a good deal of public interest in the recent reports of the affairs of the Electrical Trades Union (E.T.U.) and my colleagues may wish to know how I see the position.

2. The allegations against the E.T.U. Executive Council fall into two categories -

(a) manipulation of elections;

(b) alterations of rules to strengthen the powers of the Executive Council against its members.

3. Manipulation of elections has been alleged against the Executive by anti-Communist members from the time the Communists gained control of the union in 1948. As, however, the only authoritative investigating body is the Executive itself it has never been possible to bring these allegations home.

In the present case Mr. Cannon (an ex-Communist), was standing against Mr. Frazer (a Communist) for the position of Executive Council member for the No. 9 Division (which covers S.W. London, Surrey, Berkshire, Hampshire, the Isle of Wight and the Channel Islands). His election would have been a severe blow to the Executive Council and they took steps to lobby against him with all their resources. It is alleged that the Executive Council disallowed on insufficient grounds the returns from several of the known anti-Communist branches, in particular the Mitcham Electronic Branch and the London Station Engineers No. 14 Branch. The Executive Council have quoted detailed figures supporting their action in rejecting the returns from the Branches and stated that even if all the votes from these two Branches had been counted Mr. Frazer would still have been elected. The representatives of the Branches concerned have not only challenged the figures quoted by the Executive Council but have alleged that irregularities occurred in other Branches which were pro-Communist and that these have not been investigated or disallowed by the Executive Council: they have also reiterated their view that on a fair count Mr. Cannon would have been returned.
4. The remedies open to the anti-Communist Party are -

(i) An appeal to the Executive Council against their decision. Under the rules the support of 10 per cent of the Branches is required. The Executive Council are required either to convene a special Policy Conference or to take a ballot vote.

(ii) Mr. Cannon might appeal to the High Court for an injunction against the Executive Council alleging that they acted in contravention of the rules of the union.

(iii) The members could appeal to the Trades Union Congress (T.U.C.) who, under their rule 13, have power to intervene in certain circumstances and in particular when the conduct of any affiliated organisation may be regarded as detrimental to the interests of the trade union movement.

It is known that (i) and (ii) are under active consideration. The possibility of an intervention by the T.U.C. cannot be entirely dismissed though they would naturally be reluctant to intervene in the internal affairs of a single trade union.

5. The new rules have not yet been published, but there is some reason for believing that they will have the effect of strengthening the Executive Council's position as against its members and also that they contemplate some alteration of the election machinery. On the other hand, the alterations appear to have been reached constitutionally and seem unlikely to conflict with the limited requirements for continued registration with the Registrar of Friendly Societies. They could be appealed against by 10 per cent of the total branches of the union, as could any other decision of the Executive Council.

Conclusion

6. There is little or no evidence of the truth of the various allegations. Indeed I would be fairly confident that everything done has been within the rules. But this does not dispose of the matter. The rules themselves have probably been unfairly and unevenly applied.

(i) The best solution of course is for the members of the union (if they will and if they can) to rally against the Communist leadership. There is a chance that they will. I feel in present circumstances we should do nothing and say nothing that will hinder them from doing this.

(ii) If it transpires that the members themselves are unable to put matters right the T.U.C. can and should take action under rule 13. But I doubt if they will.

(iii) If neither the union members nor the T.U.C. are willing or able to find a remedy we must consider the possibilities of Government action. I attach a brief note of
some of the suggestions which have been made. All of them raise issues of great difficulty. But we need not decide yet whether, and if so how, to intervene. I will of course bring the matter back to Cabinet if any decision is needed.

I.M.

Ministry of Labour and National Service, S.W.1.

15th December, 1957
APPENDIX

POSSIBILITIES OF GOVERNMENT ACTION

Under the Trade Union Act, 1871 there is power to make Regulations governing matters of procedure whereby trade unions may be registered, but fresh legislation would be needed to make it a condition of registration that e.g. election ballots should be held under independent auspices.

2. Legislation would also be needed if it were proposed to make trade unions publicly accountable, rather on the lines of the Companies Acts, by extending the powers of the Registrar to enable him to institute an inquiry into the operation of the rules and also require more detailed information about the trade union's accounts, procedures for election and so on. It is argued in favour of this proposal that the equivalent provisions under the Companies Act exist for the benefit of shareholders and that similarly such provisions in respect of trade unions would be for the protection of trade union members. The trade union movement would not of course accept this argument.

3. The main practical objection to proposals for dealing with the situation by strengthening the powers of the Registrar is that withdrawal of registration alone would not be very effective. It would only deprive a union of certain advantages (e.g. the investment income of a registered trade union is exempt from income tax in so far as it is applied to provident benefit; on a change of trustees the property of a registered trade union vests automatically in the succeeding trustees without any conveyance, transfer or assignment; and a registered trade union may sue in its registered name).

4. Withdrawal of registration would not prevent a trade union from continuing to function, nor deprive the union of the advantages conferred on trade unions (whether registered or not) by the Trade Unions Acts, e.g. the immunity from actions of tort conferred by Section 4(1) of the Trade Disputes Act, 1906. Any proposal to increase the sanctions following on withdrawal of registration, e.g. by providing that only a registered union would have the protection of Section 4(1) of the Trade Disputes Act, 1906, would be an extremely explosive issue.

5. A suggestion was made in a Parliamentary Question to the Prime Minister on 5th December (Hansard, Column 609) that a tribunal should be appointed under the Tribunals of Inquiry (Evidence) Act, 1921. This was rejected by the Prime Minister on the facts then before him and he said in reply to supplementaries that "this is a matter which it is primarily the duty of the members of the union to cure, but for which other bodies have a responsibility which I feel sure they will not shirk". It would, of course, be possible to appoint a committee under general powers but such a body would have no power to compel witnesses or call for documents.

16th December, 1957
Memorandum by the Chancellor of the Exchequer

We have very difficult decisions to take about expenditure. We must however take them or we shall be faced with still more difficult decisions later.

2. On 19th September we stated that we were no longer prepared to finance inflation. In the public sector we have limited investment, and in the private sector, bank advances. Our reply to those who ask about the Government's own current expenditure was to say that "steps have been taken and are being taken to limit current civil and defence expenditure".

3. In the event, Supplementary Estimates this year will amount to about £100 million above the Budget estimate. Worse still, the Civil Estimates as submitted for 1958/59 show the largest increase ever recorded in peace-time. They are £275 million higher than the original Estimates for this year, and £175 million higher than the total Estimates. My colleagues will no doubt understand my attitude, however much they may deplore the need for difficult decisions which flow from it, when I say that I cannot in any circumstances approve estimates of this magnitude.

4. It has been argued that since the Gross National Product (G.N.P.) is increasing, we can afford some increase in Government expenditure without inflation. Most of the increase has of course been in money terms and to count on this would be...
be to take credit in advance for the very inflation which we seek to cure. The increase in the real national income looks like running at about 1½% per annum. If we take credit for the Government’s share in the whole of this at present rates of taxation – which we certainly ought not to do in the face of continuing inflationary pressure – it only represents an extra £75 million. I emphasise that of course this assumes no reduction whatsoever in taxation.

5. Moreover, before we take this questionable credit, there are also certain debits which we must record. Next year we face maturing debts of £1,268 million, which represents an increase of £365 million above the figure of this year, we face increased charges on the National Debt, and no reduction appears in prospect of the Defence Budget. It would be unwise to count on a greater volume of non-inflationary lending to the Government. It suffices for me to say at present that the line of argument based on a growth in G.N.P., itself dangerous in an inflationary context, would not justify anything like the increases now in prospect.

6. In fact we are still in an inflationary condition. The note issue has just hit a new record high level. The floating debt is more than £500 million above what it was this time last year. Profits are still too high and relatively easy to get; unemployment is low. There are many in the business world who do not really believe that we mean what we say. Confidence in sterling is suspended rather than established. We do not know the outcome of the struggle on the wages front, but inflationary Government expenditure is no way to ensure success and failure would in any case demand quick deflationary action.
7. It is clear, therefore, that any substantial increase in the Civil Estimates over this year's swollen out-turn is not economically or politically practicable. It would make tax increases probable and it would increase inflation. Above all it would make clear to the world that we were unwilling to carry out in our own house-keeping the policy we are enforcing both in public (investment) and in private spending.

8. I am sometimes asked what we should do to end this annual crisis over the Estimates. I fear that the answer remains that these crises will recur so long as we continue to attempt more than we can manage. With relatively few assets and large debts we continue to live upon the scale of a great power. We have the most expensive defence forces in Europe. We have joined the nuclear "club". We claim at the same time a very high standard of life. We seek to lead the world in the Social Services which we provide. All of this is very hard to change. But we must recognise that our failure in one year adequately to face the problem sows the seeds of precisely the same kind of problem in the year which follows.

9. There is, therefore, no easy solution. The draft Civil Estimates are now being discussed between the Treasury and Departments. I have instructed the Treasury - and in this I am sure I shall have my colleagues' support - to adopt a very restrictive attitude towards new services, at home and overseas, which are not yet approved or begun, and to press wherever possible for the deferral of expenditure which is not immediately necessary. It is too soon as yet to say how much the Estimates can be reduced by the ordinary procedures stringently applied but, short of any major policy decisions, the total reduction is not likely to be more than £40 million.

\( \text{(This} \)
(This comparatively meagre figure is of course largely due to
the efforts made by my colleagues, which I gladly recognise,
to reduce their draft Estimates as nearly as possible to the
present year's figure.)

10. This reduction is not nearly enough. It is clear that
there will remain a sizeable gap, which can only be bridged by
major decisions of policy. I am considering what form such
decisions might best take and shall be making suggestions in the
very near future.

P.T.

Treasury Chambers, S.W.1.
24th December, 1957.
CURRENT AFFAIRS

MEMORANDUM BY THE PRIME MINISTER

We are faced at the present time by an unusually large number of difficult problems of varying importance. We must make every effort to get the broad terms of solutions settled before I leave. After that, I must depend upon the co-operation of my colleagues, under the leadership of the Lord Privy Seal, to grapple with them. I shall of course be in full communication all the time.

2. Foreign Affairs

(a) Russia.—We have the whole problem of the Western attitude towards Russia and the reply we are to make to the Russian peace offensive. Public opinion at home is disturbed and confused. I shall try to do a broadcast before leaving which I hope may be helpful.

(b) Cyprus.—The Governor is returning for discussion with the Foreign Secretary, the Colonial Secretary and myself which I hope will take place on 1st or 2nd January. We must try to fix a line of policy for the immediate future.

(c) Support Costs.—The recent rejection both of the Centurion Tank and of the Saunders Roe 177 Fighter are not very favourable signs. I had a private discussion with Chancellor Adenauer on the question of the cost of our troops in Germany and he promised to deal with the matter personally. I shall send him a further message before I leave.
3. Defence
We have the problem of the Defence Estimates which I hope to get settled in general terms but there are special difficulties with regard to certain aspects of air defence on which we are still working, and on which we must reach a conclusion without delay.

4. Home Affairs
(a) We have to try and get the Civil Estimates settled and the question of meeting the Chancellor's needs for some economies to offset the large growth in the expenditure which seems inevitable as a result of commitments and policies entered into long ago.

(b) We have the question of the Report of the Tribunal on the so-called "leak" and its possible effects upon the future structure of the Bank of England and its relations with the Treasury.

(c) Developments are bound to take place on the wages front, but our policy is fairly settled here and for the moment we can only watch and pray.

5. Malta
While the policy of the Government is settled in principle, we do not yet know what will be Mr. Mintoff's attitude to the constitutional proposals. We have the delicate task of steering our Party opinion, which is certainly divided.

6. Any one of these matters would have occupied the political field in the old days for a whole session. All of them involve big difficulties in handling, and possibly legitimate divergencies of opinion in the Cabinet.

7. The only conclusion I can draw from this picture is that we shall need a high degree of co-operation and loyalty to each other and to the main causes which we serve if we are to succeed.

H. M.

10 Downing Street, S.W.1,
30th December, 1957.
CABINET

DEFENCE EXPENDITURE, 1958/59

Memorandum by the Minister of Defence

The Defence Estimates (excluding receipts from the United States and Germany) were £1,483 millions for the current year 1957/58. Actual expenditure is likely to be about £1,515 millions. The excess is largely due to increases in wages and prices.

2. In a memorandum to the Defence Committee on 26th July, (D.(57) 13) I estimated that defence requirements in 1958/59 would be likely to cost about £1,500 millions. However, in view of the country's economic difficulties, I undertook to try and reduce this to £1,450 millions on the basis of costs then prevailing.

3. This I have done. However, since last summer there have been substantial rises in prices and wages which will have the effect of increasing the figure by between £40 millions and £50 millions. As a result, the total defence estimates for 1958/59 look like amounting to about £1,490 millions as shown below:

<table>
<thead>
<tr>
<th></th>
<th>1957/58 (Estimates)</th>
<th>1957/58 (Actual Forecast)</th>
<th>1958/59 (Sketch Estimate)</th>
</tr>
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<tbody>
<tr>
<td>Admiralty</td>
<td>316</td>
<td>341</td>
<td>343.4</td>
</tr>
<tr>
<td>War Office</td>
<td>445</td>
<td>445</td>
<td>444.9</td>
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<tr>
<td>Air Ministry</td>
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<tr>
<td>Ministry of Defence</td>
<td>18</td>
<td>17</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>1,483</td>
<td>1,514</td>
<td>1,492</td>
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4. The figure of £1,492 millions includes several new items, such as £35 millions for improvements in pay and allowances and about £20 millions for compensation to Service personnel who are prematurely retired. Notwithstanding this, it will be seen that the Estimates are some £22 millions below the level of expenditure expected to be incurred this year.

5. Furthermore, I should point out that, owing to the progressive change-over of the R.A.F. from non-dutiable to dutiable aircraft fuel, the Estimates include no less than £20 millions in respect of import duty which will go back to the Exchequer.
6. The original proposals which I made for improvements in pay, allowances and amenities were estimated to cost about £39 millions next year. The Chancellor of the Exchequer has asked that expenditure should be limited to £30 millions. I am willing to accept some reduction, but I am satisfied that £35 millions is the absolute minimum needed to stimulate recruiting.

7. My discussions with the Service Departments are not yet entirely completed. It may be possible to effect some small reductions on the figures in paragraph 3, but no further large savings can be expected.

8. I invite the Cabinet -

   (a) to approve a Defence Budget of £1,492 millions for 1958/59, subject to such further small savings as may prove possible; and

   (b) to agree to the inclusion within the overall figure of a sum of £35 millions for improvements in pay, allowances and amenities.

D.S.

Ministry of Defence, S.W.1.

30th December, 1957.
31st December, 1957

CABINET

DEFENCE ESTIMATES, 1958/59

Memorandum by the Chancellor of the Exchequer

I recognise that the Minister of Defence has made very considerable savings in defence expenditure as a result of the policy instituted in his White Paper earlier this year. But economic circumstances compel me to draw attention to certain other considerations which are relevant.

2. It was agreed by the Defence Committee last August that the provisional target for the total defence expenditure in 1958/59 should be £1,450 millions. This figure seemed to me to be a fair but not a low one, having regard to the overriding need to keep Government expenditure down to a minimum. Nothing has happened since August to alter my view. On the contrary, if economy in Government expenditure was necessary then, it is even more necessary to-day. Our whole economic strategy depends upon our holding down the level of Government expenditure on current account, of which a very substantial proportion goes of course on defence.

3. Moreover, the difficulties which we are encountering in obtaining support costs from Germany (from whom in the current year we are receiving £50 millions), and the very fact that costs have increased, make it all the more important that defence expenditure, now and in the future, should be at a lower level. It is against this background that the Minister's suggestion for Defence Estimates for 1958/59 of £1,492 millions, £42 millions above the target figure, have to be considered.

4. I must first remind my colleagues that some £60 millions of defence expenditure is not, under the existing arrangements, included in the conventional "Defence Budget" but regarded as "civil". For instance, the bulk of the provision for next year's programme of megaton experiments, amounting to some £15 millions or more, is not included in the "Defence Budget" at all.

5. There is then a gap of £42 millions between the Minister of Defence's minimum and my own maximum. If this is to be bridged, a number of possibilities seem worth examining. First, there are the savings which should result from an early decision to run down fighter command. Secondly, the total for inducements should be £28 millions
instead of £35 millions - and perhaps still less. The provision for research and development by the Ministry of Supply should be reduced by, I suggest, another £10 millions. And the Service Departments should be asked to accept the detailed reductions which have already been discussed between themselves and the Treasury.

6. On "inducements", I have made it clear in correspondence with the Minister of Defence that the size of the provision must depend on the total defence estimates not exceeding £1,450 millions. Further, if inducements can be afforded at all, my view is that £28 millions rather than £35 millions should suffice in 1958/59, and £30 millions rather than £37 millions in a full year. These amounts would fully restore the relativity established by the generous settlement of 1956 between Service pay and civilian wages, whereas the higher figure proposed by the Minister of Defence includes a substantial "betterment" factor. I think it would be wrong to incur substantial additional expenditures on "betterment" until the Grigg Committee have reported.

7. The proposed provision for research and development expenditure concerns me greatly. It is more than we can afford next year; in the future the cost may, it seems to me, become still more intolerable. I fear that we are overloading our resources in this field with defence work without being clear about our ability to carry out our programme satisfactorily or even our need to undertake so much. I am particularly concerned at the heavy expenditure proposed for a number of highly sophisticated weapons, some of which seem to insure against another weapon's failure, while others may be out-of-date soon after (if not before) they are available. Despite our acceptance of the American ballistic missile, we seem to be planning the development of a number of deterrent weapons, costing some £200 millions quite apart from the cost of developing the nuclear warheads, and all due to come into service by 1965/66 or earlier. I believe that there should be a full-scale re-appraisal of all our defence effort in the research and development field.

8. In conclusion, I believe that we can, and must ensure that defence expenditure next year is kept down to £1,450 millions. If the proposals I have sketched in paragraph 5 above cannot achieve this - and I believe they can - we should seek to make further savings by reducing the "inducements" which it is proposed to offer.

P.T.

Treasury Chambers, S.W.1.

31st December, 1957.