CONCLUSIONS of a Meeting of the Cabinet held at Admiralty House, S.W. 1.
on Tuesday, 23rd October, 1962, at 10.30 a.m.

Present:
The Right Hon. HAROLD MACMILLAN, M.P., Prime Minister
The Right Hon. R. A. BUTLER, M.P.,
First Secretary of State
The Right Hon. VISCOUNT HAILESHAM,
Q.C., Lord President of the Council and Minister for Science
The Right Hon. REGINALD MAULDING,
M.P., Chancellor of the Exchequer
The Right Hon. DUNCAN SANDYS, M.P.,
Secretary of State for Commonwealth Relations and Secretary of State for the Colonies (Items 1–3)
The Right Hon. PETER THORNEYCROFT,
M.P., Minister of Defence
The Right Hon. ERNEST MARPLES, M.P.,
Minister of Transport
The Right Hon. JOHN BOYD-CARPENTER,
M.P., Chief Secretary to the Treasury and Paymaster General
The Right Hon. J. ENOCH POWELL,
M.P., Minister of Health
The Right Hon. Sir KEITH JOSEPH, M.P.,
Minister of Housing and Local Government and Minister for Welsh Affairs
The Right Hon. The EARL OF HOME,
First Secretary of State Secretary of State for Foreign Affairs (Items 1–6)
The Right Hon. LORD DILHORNE, Lord Chancellor
The Right Hon. HENRY BROOKE, M.P.,
Secretary of State for the Home Department
The Right Hon. IAIN MACLEOD, M.P.,
Chancellor of the Duchy of Lancaster
The Right Hon. JOHN HARE, M.P.,
Minister of Labour
The Right Hon. CHRISTOPHER SOAMES,
M.P., Minister of Agriculture, Fisheries and Food
The Right Hon. MICHAEL NOBLE, M.P.,
Secretary of State for Scotland
The Right Hon. Sir EDWARD BOYLE,
M.P., Minister of Education
The Right Hon. WILLIAM DEEDES, M.P.,
Minister without Portfolio
The following were also present:
The Right Hon. JULIAN AMERY, M.P.,
Minister of Aviation (Item 5)
The Right Hon. RICHARD WOOD, M.P.,
Minister of Power (Item 5)
The Right Hon. GEOFFREY RIPPON,
M.P., Minister of Public Building and Works (Item 5)
Sir JOHN HOBSON, Q.C., M.P., Attorney-General (Item 8)
The Right Hon. MARTIN REDMAYNE,
M.P., Parliamentary Secretary to the Treasury

Secretariat:
Mr. A. L. M. CARY
Mr. J. H. WADDELL
Mr. P. R. BALDWIN

SECRET
<table>
<thead>
<tr>
<th>Minute No.</th>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Secretary of the Cabinet</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>Europe</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Common Market Negotiations</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Cuba</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Yemen</td>
<td>8</td>
</tr>
<tr>
<td>5</td>
<td>Public Investment</td>
<td>8</td>
</tr>
<tr>
<td>6</td>
<td>United Nations</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Bond Issue</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Pensions</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>The Higher Judiciary</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Oversea Pensions</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Public Order</td>
<td>11</td>
</tr>
</tbody>
</table>
1. The Cabinet were informed of Sir Norman Brook's indisposition and asked that an expression of their sympathy and good wishes for a speedy recovery should be conveyed to him.

---

2. *The Prime Minister* said that it would be some little time before the negotiations for our entry into the European Economic Community could be brought to a conclusion. For the time being Ministers should, in their public speeches, avoid accepting specific commitments, or giving explanations of the Government's general commitments, which might prove embarrassing when the final terms became known in detail. It would be desirable to maintain the generalised tone of the speech which he had himself made at the recent conference in Llandudno. More detailed arguments might with advantage be left to the various organisations, such as the Federation of British Industries, who were likely to support the Government's general policy but whose statements could not be held to commit the Government. The object should be to maintain the sense of confidence and advance which had been engendered but to avoid bringing the campaign prematurely to a climax.

In discussion it was noted that one point which could usefully be stressed was that many of the younger economists were in favour of our entry into the Community; they did not accept the static view taken by some of their older colleagues and were persuaded that, on a more dynamic view, the economic advantages would heavily outweigh the disadvantages.

The Cabinet—

Took note of the Prime Minister's statement.

---

*3. *The Prime Minister* said that on the evening of Sunday, 20th October, he had been warned by the United States Ambassador in London to expect a personal message from President Kennedy. This was the first intimation to him of the chain of events which had led to the imposition of the United States blockade of Cuba.

In his first message President Kennedy had reported evidence of the build-up of a Soviet missile capability in Cuba, and had said that on his own responsibility he had decided to prevent any further build-up by sea and to demand the removal of this threat to the Western hemisphere. He recognised the seriousness of this step and the danger that action taken to contain the Cuban situation might have repercussions in Berlin. He had, however, felt it essential to demonstrate to the Soviet Government that if they had counted on weakness or irresolution, they had miscalculated. President Kennedy had added that he regretted the lack of consultation, which had been due to the fact that firm evidence of the Soviet capability had only come to light in the course of the preceding week, and that he had judged speed of decision to be essential. He hoped, however, that in the further development of the crisis the United States and United Kingdom Governments would act closely together.

A further and more detailed letter from President Kennedy had been received on 21st October and the United States Ambassador had provided information, although not in great detail, about the extent of the Soviet build-up. The most disturbing feature of this had been the identification of 21 medium-range ballistic missile sites and eight intermediate-range ballistic missile sites capable between
them of covering the whole of the United States. The presence of nuclear warheads in Cuba had not been definitely established.

President Kennedy's second letter had referred again to the evidence of the Soviet build-up, had recalled his previous public statement that the presence of ground-to-ground missiles in Cuba would be considered as an offensive threat, and the repeated statements of the Soviet authorities that such armaments and military equipment as had been sent to Cuba were exclusively defensive. In the light of this development he had decided to impose a blockade of Cuba with the object of preventing the Soviet Union from introducing additional missiles into Cuba and of securing the withdrawal of the missiles already in place. This decision would be conveyed in a public statement to be made that evening in Washington, of which an advance text would be sent to London in the course of the day.

President Kennedy had concluded his letter by saying that he had called an urgent meeting of the United Nations Security Council at which the United States would present a resolution calling for the withdrawal of offensive weapons from Cuba under United Nations supervision. In this event the United States would lift its blockade. He hoped that the United Kingdom would give him full support in the Security Council debate.

The Prime Minister said that there had been a considerable delay in the transmission of the text of President Kennedy's speech. This had, he believed, been caused by argument about the limitation to be imposed on the United States blockade. In the passage describing the nature of the blockade President Kennedy, while making clear that it would for the time being be confined to ships found to be containing cargoes of offensive weapons, had said that it would be extended, if needed, to other types of cargoes and carriers. The Prime Minister said that he felt that this possible extension of the blockade was the point which had caused most difficulty as it was clearly the most dangerous, since it envisaged the interception of aircraft and the reduction of Cuba by siege.

The Prime Minister said that in the course of 21st October he had considered various possible messages to President Kennedy, but had decided to wait for the text of his speech. When this had been received he had replied at once. He had started by expressing his understanding of the fierce reaction of American public opinion with which President Kennedy had to reckon. He had promised full support in the Security Council, but had asked for help in preparing a legal case to support the broad moral position; the international lawyers would be bound to make the point that a blockade involving the search of ships of all countries was difficult to defend in peacetime and had indeed been the subject of controversy in war. He had, however, accepted that precedents were little guide to conditions in the nuclear age.

His letter had then dealt with Mr. Khrushchev's likely reaction if the Security Council resolution were vetoed and if the General Assembly, as was to be expected, failed to recommend any conclusive action. Mr. Khrushchev might content himself with demanding the removal of American bases in Europe. Alternatively, he might act—either in the Caribbean or elsewhere. In the Caribbean his obvious course would be to escort Russian ships and to force the Americans to fire first: this was a dilemma with which we had always hoped to confront the Russians and might now find it turned upon ourselves. If Mr. Khrushchev decided to act elsewhere it might be in South-East Asia, in Iran, possibly in Turkey, but more likely in Berlin. The obvious way to answer a blockade in Cuba would be by imposing a blockade elsewhere. Soviet retaliation in Berlin would lead either to an escalation to world war or to the holding of a conference. He
and President Kennedy should concert their policy as soon as the Russian reaction was known and decide in what direction it should be their object to steer the course of events both within the North Atlantic Alliance and elsewhere.

His letter to President Kennedy had ended by mentioning two aspects of his decision which would be bound to cause concern. In the first place, European countries had lived for so long within range of Russian missiles of the most devastating kind that they had got used to it and might not fully understand the strength of the United States reaction. Secondly, Mr. Khrushchev would be likely, at any conference, to try to trade Cuba for Berlin. This must be avoided at all costs since it would endanger the unity of the Alliance.

President Kennedy had replied to this letter late on 21st October. He had promised immediate consultation on the legal issues, based in the first instance on the Rio Treaty of 1947. In defence of his general action he had explained that he did not regard this as conditioned by American public opinion or by the existence of a missile threat. The United States had been under threat from inter-Continental ballistic missiles for some time. He did, however, consider that the Soviet action in Cuba constituted so deep a breach in the conventions of the international stalemate, that if unchallenged it would deeply shake confidence in the United States and would encourage Mr. Khrushchev to further and more dangerous moves. Action was admittedly dangerous. But inaction would be still more so. His action had not been influenced by feelings against Cuba. It was rather the first step in a major showdown with Mr. Khrushchev, whose action in Cuba had been so much at variance with all prediction that it was necessary to revise previous estimates of his level of desperation or ambition. He had agreed on the importance of taking account of European public opinion and of keeping in the closest touch about Berlin. He had admitted that he knew of no escape from the problem of the first shot, although his naval commanders had been instructed to use the minimum of force.

The Prime Minister said that in the early hours of the morning he had spoken to President Kennedy. The President had reiterated his view that firmness offered the best chance of avoiding the outbreak of a third world war and had recalled the lesson of Hitler. He had clearly not formed a definite view about the nature of the next step; whether to work for a conference at Head of Government level or to persist in the attempt to secure by force, or threat of force, the removal of offensive weapons from Cuba.

The Prime Minister said that he had also been in touch with General de Gaulle. General de Gaulle had said that he had himself received a message from President Kennedy and had discussed the situation with Mr. Acheson, who had produced photographs of Soviet installations in Cuba. General de Gaulle said that he had instructed the French representative at the Security Council to support the United States representative, though he attached little importance to the Security Council debate. He had, however, emphasised that if Mr. Khrushchev reacted to the blockade of Cuba by a blockade or some other measure directed at Berlin, the question immediately affected France and the United Kingdom as well as the United States, and he would expect immediate and continuous consultation between the three Powers. He was sceptical about the effectiveness of the Cuban blockade and considered that the Soviet build-up in Cuba might be designed to secure the withdrawal of United States bases in Europe. He had, however, agreed that the United States Government could not have been expected to ignore the Soviet threat.
The Prime Minister said that he would welcome the views of his colleagues.

The Foreign Secretary said that it was at present difficult to assess the policy behind Mr. Khrushchev's action in Cuba. President Kennedy had suggested that it might be either desperation or ambition and both were possible. Soviet setbacks in agriculture and the failure of their economy to meet earlier hopes of overtaking the West might be leading Mr. Khrushchev into a military gamble, and it would be consistent with such an intention to have covered the initial moves with professions of peaceful intent. But he himself thought it unlikely that Mr. Khrushchev wanted to start a war. It was more probable that he was seeking to improve his bargaining position, particularly in relation to Berlin, and that he wanted the United States Government to appreciate from their own experience the Soviet reaction to the presence of United States' missile bases in Europe close to Russia and their determination to secure their removal.

In discussion the following points were made:

(a) It was possible that substance could be given to the legal case for the United States blockade of Cuba in the context of regional defence arrangements of a type specifically allowed for under the Charter of the United Nations. The Lord Chancellor undertook to examine this point with a view to preparing a brief for the United Kingdom representative at the United Nations.

(b) The British shipping industry had already declared its willingness to co-operate with the United States authorities, e.g., by routing ships to prearranged rendezvous for search. It was, however, doubtful whether such a course of action would be acceptable to Parliament. There were objections in principle to allowing British ships in peacetime to be searched on the high seas. Since the Government had already asked shipowners to refrain from carrying military cargoes to Cuba and since there was no reason to think that this request had not been complied with, it was possible that the United States authorities might be prepared to let British ships through without search. It should not, however, be forgotten that President Kennedy's speech had intimated that the blockade might be extended to cover cargoes other than military equipment. The Foreign Secretary and the Minister of Transport undertook to examine this question further and to determine a course of action which would meet the needs of the United States Government and would be most likely to be acceptable to Parliament.

(c) The country would expect to be informed at once of the Government's reaction to President Kennedy's speech. It was agreed that when immediate comment on the situation Ministers should take the line that the Government were deeply concerned at the provocation presented by Soviet action in Cuba, that they had been kept fully informed by the United States authorities, that they would give full support to the United States in the forthcoming debate in the Security Council and that the United Kingdom representative was being instructed accordingly; and that they had no objection to the imposition of the blockade since British ships had already been instructed not to carry arms to Cuba.

(d) There would be serious repercussions in Parliament. The Leader of the Opposition, who had been informed of the situation on 21st October, had given no undertaking to refrain from condemning the United States action and some of his supporters would almost certainly do so. Consideration should be given to the advisability of a statement in Parliament on 25th October before the Prorogation. A fuller debate might be expected at the beginning of the Debate on the Address on 30th October. It would also be necessary to include
references to the Cuban situation in The Queen's speeches both on the Prorogation and on the Opening of Parliament. The Foreign Secretary undertook to prepare suitable drafts.

(e) Reports had appeared in the Press that a large Russian convoy was on its way to Cuba although this had not been confirmed from intelligence sources. Whatever the truth of the report, Mr. Khrushchev would sooner or later be faced with a decision between attempting to force the United States blockade or of diverting Soviet ships. It appeared that up to the present no publicity had been given in Moscow to the United States blockade; and to this extent Mr. Khrushchev had left himself room for manoeuvre. To divert Russian ships would represent an immediate loss of prestige and seemed inconsistent with the deliberate provocation of the Soviet military build-up in Cuba itself. As against this, it could be argued that by avoiding a resort to force at this stage Mr. Khrushchev would greatly strengthen his position at the United Nations, particularly with the Afro-Asian group.

(f) Among the many dangers in the present situation the risk of a serious division between the United States and Europe, or between the United States, the United Kingdom and the other countries of the North Atlantic Alliance was potentially the most serious, and would give the greatest advantage to the Soviet cause.

Summing up the Prime Minister said that it was clear that no decision on policy could be taken until some firmer indication had been obtained of the probable nature of Mr. Khrushchev's reaction to the United States blockade of Cuba. It would be necessary to keep the situation under close and continuous review. He would be in touch with President Kennedy as also with the other European Governments concerned. It had been useful for the Cabinet to review the facts as now known and to discuss their possible implications, and the Cabinet would resume their discussion as soon as the development of the situation warranted it.

The Cabinet—

(1) Agreed that in any immediate comment on the situation Ministers should take the line that the Government were deeply concerned at the provocation presented by Soviet action in Cuba, that they had been kept fully informed of developments by the United States authorities, that they would give full support to the United States in the forthcoming debate in the Security Council and that the United Kingdom representative was being instructed accordingly; and that they had no objection to the imposition of the blockade since British ships had already been instructed not to carry arms to Cuba.

(2) Invited the Foreign Secretary to arrange for the drafting of suitable passages on the situation in Cuba for inclusion in The Queen's speeches on the Prorogation and Opening of Parliament.

(3) Took note that the Prime Minister would consider the advisability of making a statement in Parliament on 25th October before the Prorogation.

(4) Invited the Lord Chancellor to consider the legal justification for the imposition by the United States of a blockade of Cuba with a view to briefing the United Kingdom Permanent Representative at the United Nations for the forthcoming debate in the Security Council.
5. The Cabinet had before them a memorandum by the Chief Secretary, Treasury (C. (62) 159), covering a draft White Paper on public investment for the period to March 1964.

The Chief Secretary, Treasury, said that it had become the custom to lay a White Paper on public investment at the beginning of each session of Parliament. The White Paper would be debated towards the end of November or early in December. The draft was largely factual and set out information on investment under two broad heads; first, the nationalised industries and public corporations and, second, public service investment on schools, housing, roads and other services of central and local government. The figures in the draft showed substantial increases under both heads. These followed largely from decisions which the Cabinet had taken on 1st August, 1962. Since private investment was now showing some tendency to decline, this was an appropriate time for the announcement of increases in the public sector. Two important figures remained to
be determined, namely, the increases in investment of the Central Electricity Generating Board and of the Post Office. In both these cases, as in all nationalised industries to a greater or lesser extent, present policy was that investment should be determined largely by commercial criteria, including the return to be expected on capital invested. He hoped that the debate on the White Paper would provide a suitable opportunity to explain in greater detail how the proposed investment would be distributed across the country to take account of variations in the load on the building and civil engineering industries.

In discussion it was generally agreed that it would be unwise to try to make points of presentation in the text of a White Paper which was essentially factual. But there would be some danger of misconception in the public mind unless, when the White Paper was published, guidance was also given to the Press on the main features and implications of the investment figures. This should draw attention, for instance, to the significance of increased investment in housing; to the doubling of investment in roads in the North-East, and to the difficulty of giving figures of investment in the railways before the programme of closures had been finally settled.

Various drafting amendments were suggested and approved.

The Cabinet—

(1) Approved the White Paper for publication, subject to the drafting amendments suggested in discussion.

(2) Invited the Minister without Portfolio, in consultation with the Chief Secretary, Treasury, and other Ministers concerned, to prepare information for the guidance of the Press, for issue when the White Paper was published, on the main features of the investment figures.

6. The Cabinet had before them a memorandum by the Foreign Secretary (C. (62) 160) about the purchase of United Nations bonds. The Foreign Secretary recalled that on 29th January Parliament had been informed that we would buy United Nations bonds within a maximum of $12 million subject to the cash requirements of the Organisation and the extent to which other countries subscribed. The purpose of the bond issue had been to pay off a United Nations deficit amounting at the end of 1961 to about $100 million; and it now seemed likely that by the end of the current year the deficit would approach $200 million. Forty-nine member nations, including the United States, had made or pledged purchases totalling about $150 million. In these circumstances we had little ground on which to refuse to honour our announced undertaking. We had not yet done so because most of the money so far subscribed had been used for current expenses, including those of the United Nations operations in the Congo. It was still possible that United Nations policy in the Congo might not accord with our views. But the situation had changed in that, whereas until recently the danger had been that the United Nations would exert undue pressure on Katanga, their attention had now been turned to exerting pressure on the Central Congolese Government. Canada had already purchased bonds, and it was believed that Australia was on the point of doing so. It was unlikely that there would be a more suitable moment than the present for our purchase, and if action by the United Nations caused further criticism in Parliament, the purchase might be defended on the ground that its object was to defray old bills, rather than to meet the cost of current operations. Given the present favourable circumstances, he suggested that the full quota of $12 million should be purchased now.
In discussion the following points were made:

(a) It would be difficult to justify contributing a larger sum than had at the time been contributed by the United States. So far $34 million had been subscribed by various member States; within a few days it was expected that the United States would match this with an equal amount. Whatever our subscription was, it would likewise fall to be matched by a contribution from the United States within a total of $100 million.

(b) While there might be a case for purchasing only half our quota of $12 million at this stage, on the ground that other member States had so far contributed only $34 million, there would be advantage in making a single purchase. Two separate purchases might provide a double opportunity for criticism of United Kingdom co-operation with the United Nations in the Congo.

The Cabinet—

Approved the immediate purchase of United Nations bonds to the value of $12 million.

7. The Cabinet had before them a memorandum by the Lord Chancellor (C. (62) 154) suggesting the inclusion of the higher judiciary within the Pensions Increase Bill.

The Lord Chancellor said that, in accordance with past practice, the current Pensions Increase Bill had been drafted to provide increases in the pensions of retired members of the lower judiciary and in the pensions of widows of former members of both the lower and the higher judiciary, but the Cabinet had not so far been asked for authority for the inclusion in the Bill of provision for increases in the pensions of former members of the higher judiciary. There had been no need to include the pensions of the higher judiciary in previous pensions increase measures because it was not until the Judicial Pensions Act of 1959 that the pensions of such judges already in retirement fell to a lower level than those of judges currently retiring. The Judicial Pensions Act, 1959, had granted increases in the pensions of members of the higher judiciary who had already retired, so that to include these pensions in the new Pensions Increase Bill would not be a new departure in principle. Moreover, to the extent that the Bill restored in some measure the purchasing power of older pensions, it was difficult to see why it should not be extended to pensions of members of the higher judiciary which had declined in purchasing power in the same way as other public service pensions. The difficulty was simply that the increases granted under the Bill to members of the higher judiciary would be the largest under the Bill; in one case as much as £504. But the total cost of these increases would be only £2,422 for the whole of Great Britain, and no Northern Ireland judge would qualify.

In discussion the view was expressed that, since the Bill would, for the most part, deal only with pensions of moderate size and provide increases of much smaller amounts than members of the higher judiciary would receive, the addition of the higher judiciary might be embarrassing. On the other hand, the necessary provision for the judges would be made by adding a further item to a list of provisions in a schedule to the Bill, and contrasts would be drawn in any case between the increases granted for relatively high pensions and the position of those, whether covered by the Bill or not, who were living on small pensions.

The Cabinet—

(1) Agreed that the pensions of the higher judiciary who retired before 1959 should be included among those to be increased under the forthcoming Pensions Increase Bill.

SECRET
The Chief Secretary, Treasury, said that the Legislation Committee had invited him to report to the Cabinet that provision had been included in the draft of the Pensions Increase Bill for the Secretary of Technical Co-operation to supplement the pensions of certain oversea pensioners where the Government by whom they had been employed had not granted increases equivalent to those provided under domestic legislation for pensions of the British public services. This provision, which would cost about £1½ million a year initially, had been recommended by a working party under the Secretary for Technical Co-operation, and he, for his part, was prepared to accept it.

The Cabinet—
(2) Agreed to the inclusion in the forthcoming Pensions Increase Bill of provision for the pensions of British servants of oversea Governments to be increased to provide benefit equivalent to that of United Kingdom Pensions Increase Acts.

8. The Cabinet had before them a memorandum by the Home Secretary (C. (62) 156) about Fascist activities and public order.

The Home Secretary said that the Government would be expected to bring forward proposals to strengthen the law for dealing with the activities of bodies such as the Union Movement and the National Socialist Movement. Although there were difficulties about any action which might upset the delicate balance between the rights of free speech and the need to preserve law and order, the Government would be criticised if they appeared to be doing nothing to restrain both those who offered provocation and those who responded with violence. If the law were strengthened against the Fascist bodies, those who broke up their meetings would have no excuse for doing so and would forfeit public sympathy if they persisted.

There would be no difficulty in, and there would be general support for, increasing the penalties for offences under section 5 of the Public Order Act, 1936. But the Government would be expected to go further. The idea which had been most freely canvassed (and would be revived in a Private Member's Bill which Mr. Iremonger, M.P., intended to introduce in the coming session of Parliament) was that there should be added to section 5 an explicit reference to incitement to "hatred of any racial group". This might not add anything material to the law as it stood, and a decision on whether to support the proposed change could not be taken until the courts had settled one of the two cases which were pending. The amendment suggested would certainly be ineffectual against the Union Movement, whose speakers were now at pains to avoid using words which could be held to incite racial hatred; and it would not deal with offensive written matter. Suggestions had also been made for legislation in general terms to make incitement of racial hatred in public speech or in writing a criminal offence, regardless of its effect on public order. The weaknesses of legislation of this kind were the difficulties of definition and enforcement which would arise and the fact that it would again make no impact on the problem presented by the Union Movement; but these weaknesses were not necessarily conclusive. A third possibility would be to take powers to enable the police to ban meetings in advance on general grounds. This, however, would take the Government into very deep waters.

In the forthcoming Debate on the Address, when the Government would be asked about their legislative intentions, it
would be appropriate to say (as he had suggested in paragraph 14 of C. (62) 156) that until the cases now sub judice were decided it would be impossible to hold that the present law was inadequate; the situation would be reviewed in the light of decisions on those cases and if the law were shown to be inadequate immediate attention would be given to amendment. A promise could be given that steps would be taken to bring about an increase in penalties under the existing law as soon as a suitable opportunity arose.

In discussion the following points were raised:

(a) There was no doubt about the need to increase the penalties for offences under section 5 of the Public Order Act. It would be for later consideration whether this should be done in general legislation to bring penalties up to date or in a measure dealing specifically with public order.

(b) Although the words suggested for inclusion in section 5 of the Public Order Act might be unnecessary and could not in any case deal with some aspects of the problem, there might be some advantage in accepting them. Acceptance of words which implied determination to suppress incitement of racial hatred might make it easier to resist less sensible proposals for the prohibition of racial discrimination.

(c) General legislation to make incitement to racial hatred an offence regardless of its effect on public order would raise problems about the criteria to be adopted in judging incitement and the introduction of such legislation might lay the Government open to the charge that they were embarking on a course which would lead eventually to censorship of the expression of religious and even political views.

(d) As the law stood at present, the only way of dealing with offensive leaflets was to take proceedings for seditious libel. The chance of success in such proceedings depended on showing that the leaflets had been given widespread distribution for the purpose of promoting disorder, and it was not easy to prove this. The law of seditious libel was in any case difficult and obscure and might with advantage be brought up to date. But amendments of the kind required seemed likely to prove politically unattractive and it would be useful to examine whether the distribution of offensive leaflets could be prevented without amending the law of seditious libel.

Summing up the discussion the Prime Minister said that it would be right to speak in the Debate on the Address on the lines which had been suggested by the Home Secretary. There were difficulties about the various suggestions which had been made for amendment of the law but the subject was of much political importance. The Ministers particularly concerned should examine the possibilities further and the Cabinet should consider them again at a later meeting.

The Cabinet—

(1) Took note that the Home Secretary would submit to the Prime Minister for use in the forthcoming Debate on the Address the draft of a passage on the lines indicated in paragraph 14 of C. (62) 156.

(2) Invited the Home Secretary, in consultation with the First Secretary of State, the Lord Chancellor and the Attorney-General, to consider further, in the light of the Cabinet’s discussion, ways in which the law might be amended to deal with incitement to racial hatred; and to bring the question before them again at a later meeting.

Cabinet Office, S.W.1.
23rd October, 1962.