CONCLUSIONS of a Meeting of the Cabinet held at 10 Downing Street, S.W. 1, on Tuesday, 8th October, 1963, at 10 a.m.

Present:

The Right Hon. HAROLD MACMILLAN, M.P., Prime Minister 
(in the Chair : Items 1-5)

The Right Hon. R. A. BUTLER, M.P., First Secretary of State (in the Chair : Items 6-8)

The Right Hon. VISCOUNT HAILSHAM, 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 for the Colonies

The Right Hon. PETER THORNEYCROFT, M.P., Minister of Defence

The Right Hon. EDWARD HEATH, M.P., Lord Privy Seal

The Right Hon. CHRISTOPHER SOAMES, M.P., Minister of Agriculture, Fisheries and Food

The Right Hon. JOHN BOYD-CARPENTER, M.P., Chief Secretary to the Treasury and Paymaster General

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 2)

The Right Hon. GEOFFREY RIPPON, M.P., Minister of Public Building and Works (Item 6)

The Right Hon. Sir JOHN HOBSON, Q.C., M.P., Attorney-General (Items 3-4)

The Right Hon. NIALL MACPHERSON, M.P., Minister of Pensions and National Insurance (Items 4-5)

The Right Hon. LORD CRAIGTEN, Minister of State, Scottish Office (Items 2-8)

The Right Hon. MARTIN REDMAYNE, M.P., Parliamentary Secretary, Treasury
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1. The Colonial Secretary said that he was still seeking to persuade the representatives of the Kenya African National Union (KANU) at the Kenya Independence Conference now in progress in London to accept changes in the existing Constitution which, while involving some strengthening of the central authority, would not so weaken regional safeguards as to lead to accusations of bad faith on the part of the United Kingdom Government. The prospect of further centralisation, however, might drive supporters of the Kenya African Democratic Union (KADU) to acts of violence; and, while the police forces were probably adequate to deal with a situation of this kind, its political effects would be damaging. So far the representatives of KANU had shown no disposition to compromise on the issues involved; and there remained a real risk that, although they might be prepared nominally to subscribe to the maintenance of a Constitution on the present lines, they would make it clear, in doing so, that they would repudiate it as soon as Kenya attained independence. Nevertheless, we must persist in the attempt to persuade them genuinely to endorse a reasonable settlement, even at some risk of alienating KADU.

The Cabinet—
Took note, with approval, of the statement by the Colonial Secretary.

2. The Cabinet had before them memoranda by the First Secretary of State (C. (63) 175) and the Chief Secretary, Treasury (C. (63) 173), on the recommendations of the Committee on Higher Education, under the chairmanship of Lord Robbins.

The First Secretary of State said that the Education Policy Committee had agreed that it was important that the Government should announce, early in the new Session of Parliament, their acceptance of the Committee's recommendations for the expansion of opportunities for higher education during the next five years, when demand would be abnormally high as a result of the post-war increase in the birth rate, and during the next 10 years. It was encouraging to find that plans already in train would achieve the greater part of this expansion. The Committee had also thought it possible to accept forthwith the recommendation that Colleges of Advanced Technology (CATS) should be given the status of universities; but the proposal that teacher training colleges should be removed from local authority control and the recommendation that responsibility for higher education, together with that for the Research Councils and the museums and art galleries, should be entrusted to a new Minister of Arts and Science, could not be considered until public opinion had had an opportunity to express itself. The points on which an immediate indication of the Government's intentions might be given were outlined in the Annex to C. (63) 175.

The Chief Secretary, Treasury, said that the report of the Robbins Committee recommended an increase in the number of places in the institutions of higher education from 216,000 in 1962–63 to 328,000 in 1967–68 and 390,000 in 1973–74. Of these 197,000 in the first period and 217,000 in the second would be in universities, including CATS and other institutions promoted to university status, compared with 129,000 at present. Expansion on this scale was not substantially greater, however, than that already implicit in the plans which had been announced for the next 10 years. During the emergency period up to 1967–68 the age group involved would be much larger than in recent years. Nevertheless, existing
plans would ensure that higher education would be available to the same proportion of the group as at present (although not to the still larger proportion which was likely to qualify owing to the trend towards later school leaving). It would be possible, however, to accelerate the provision of places in institutions of university status on an emergency basis at a cost rising to some £20 million in 1967-68. It should be possible, by some adjustment of priorities, to confine the additional cost to £15 million, which could be accommodated within the 5-9 per cent rate of growth approved recently by the Cabinet (C.C. 63) 52nd Conclusions, Minute 5). The 10-year programme, however, would involve an increase of more than 100 per cent in the cost of higher education by 1973-74; and its acceptance would involve giving higher education a clear measure of priority over other activities.

The number of places to be provided and the cost of the expansion could be reduced if the number of oversea students admitted to United Kingdom universities was held at the present level during the years up to 1967-68 and was not allowed to rise, as the Robbins Committee contemplated, pari passu with the number of home students. The co-operation of the institutions which normally accepted large numbers of oversea students should be sought for this purpose. Acceptance of the Robbins Committee's recommendation that university fees should be increased would effect some economy by reducing the considerable hidden subsidy which oversea students received as a result of existing methods of financing university education. A review of the system of finance in the light of the report, and with particular reference to the distribution of cost between the State, the local authorities and the students, had been initiated. It would be desirable to leave open for the present the issue of public accountability which was raised by the Committee's proposal to extend the freedom from financial control at present enjoyed by the universities to a wider range of institutions.

In discussion it was agreed that the scale of expansion recommended by the Robbins Committee should be accepted in principle, although the priority to be accorded to higher education in relation to other educational expenditure might have to be limited, during the years up to 1967-68, to the £15 million proposed by the Chief Secretary. On the remaining major recommendations, particularly those relating to responsibility for the teacher training colleges and the creation of a new Ministry of Arts and Science, informed public opinion might well differ. The Committee had made a strong case for the proposed new Ministry; but it would be unwise to under-estimate the possible strength of the support for a single Ministry of Education with responsibility for higher education and research.

The Government should seek the earliest opportunity after the publication of the report to indicate that they welcomed the Committee's recommendations, accepted their programme for expansion and had, in plans already laid, gone far to achieve it. Consideration should also be given to the publication, as soon as possible after the Robbins report, of the related report of the Committee on the Organisation of Civil Science.

The Cabinet—

(1) Approved in principle the proposals in C. (63) 175 and C. (63) 173.

(2) Invited the First Secretary of State, in consultation with the Lord President, the Chief Secretary, Treasury, the Secretary of State for Scotland, the Minister of Education and the Minister without Portfolio, to consider, in the light of their discussion, the arrangements for the publication of the Reports of the Committees on Higher Education and the Organisation of Civil Science.

SECRET
3. The Cabinet had before them a memorandum by the Home Secretary (C. (63) 168), proposing that power should be conferred on the Court of Criminal Appeal to order a new trial in certain cases.

The Home Secretary said that, as a result of the public interest aroused by a recent case in which the Court of Criminal Appeal had quashed a conviction, the Government were likely to be under strong pressure to introduce legislation to enable the Court to order a new trial where an appeal was based on fresh evidence.

The Criminal Appeal Act, 1907, empowered the Court to allow an appeal if it considered that the verdict of the jury in the court of first instance was unreasonable or could not be supported on the evidence or that there had been a wrong decision on a point of law or that there had been on any ground a miscarriage of justice. The Court had power to dismiss an appeal, notwithstanding some irregularity, if it considered that no substantial injustice had actually occurred; but it would do so only if it were satisfied that, on the whole of the facts and with a correct direction from the judge, the only proper verdict would have been one of guilty. Otherwise, it would allow the appeal, even though the appellant's guilt was hardly in doubt; and it had frequently expressed regret that it had no power to order a retrial in such cases.

In 1948 the House of Lords had accepted a Government amendment to the Criminal Justice Bill, empowering the Court to order a new trial; but the House of Commons had disagreed. Subsequently, a Departmental Committee under Lord Tucker had recommended unanimously that the Court should have power to order a new trial where the appeal was based on fresh admissible evidence. A minority of the Committee would have preferred the power not to be limited to this class of case; but the majority considered that an unrestricted power to order a new trial was open to objection in principle, that it might be unfair and oppressive to the appellant and that there was no evidence that public opinion was disturbed about the rare case in which a guilty man had to be allowed to go free. The Committee's disagreement reflected a difference of legal opinion, which had persisted; and their recommendation had not been implemented because it had not been possible to find Parliamentary time for a measure which was likely to be controversial.

The Home Affairs Committee had now agreed that the Court should be empowered to order a new trial where the appeal was based on fresh evidence but had disagreed about the wisdom of introducing legislation in the forthcoming Session of Parliament. The subject was still controversial; and the Government might be criticised for taking hasty action as a result of the particular case which had recently attracted considerable notoriety. On the other hand the revival of public interest in the subject might provide an opportunity for remedying an acknowledged defect in the law; and action to implement a report already nine years old could hardly be considered precipitate. The balance of advantage, therefore, appeared to lie in extending the powers of the Court, in the limited sense proposed, in the course of the next Session.

In discussion it was pointed out that the majority of legal opinion would probably prefer the Court of Criminal Appeal to be given an unrestricted power to order a new trial. A power confined to the relatively rare case where new evidence came to light after a trial would deal with only a part of the problem and would be liable to create further inequity in relation to a case where evidence had been available at the trial but had been wrongly excluded. Nevertheless, an unrestricted power to order a new trial would involve a much greater departure from the principle that a man should not be put in peril twice for the same offence and would prove highly
contraversial, whereas the more limited extension of powers now proposed might attract general support. Legislation need not extend to Scotland where, because of the special position of the Lord Advocate in relation to criminal proceedings, no similar problem arose. In view of the other demands on the legislative programme for the new Session, however, it would be unwise for the Government to be committed to legislation at this stage.

The Cabinet—

(1) Approved in principle the proposal to empower the Court of Criminal Appeal to order a new trial where an appeal or a reference to the Court by the Home Secretary was based on fresh and admissible evidence.

(2) Invited the Home Secretary to arrange for the necessary legislation to be drafted.

(3) Agreed to consider, at a subsequent meeting, whether a reference to legislation on this subject should be included in The Queen's Speech on the Opening of Parliament.

The Cabinet had before them a memorandum by the Home Secretary (C. (63) 179) on compensation for victims of crimes of violence.

The Home Secretary said that there was continuing public pressure for compensation to be provided in cases of this kind. The choice lay between two types of scheme—a "court" scheme and an ex gratia scheme. Under a "court" scheme the victim would have the right to make a claim against the Home Secretary and, if the claim could not be settled out of court, could have both his entitlement and the amount of his compensation decided by a court. The Home Secretary would effect recovery, if possible, from the aggressor. Under an ex gratia scheme both the entitlement and the amount of the payment would be settled by trustees, who would have unfettered discretion of judgment, would not be obliged to give reasons for their decisions and would not be subject to any form of appeal or of Ministerial or Parliamentary intervention.

A "court" scheme would be preferable for three main reasons:

(i) Disputes would be resolved by the judiciary; and the Home Secretary could not be held answerable for their decisions.

(ii) Parliament would not accept without question the findings of the trustees in an ex gratia scheme, particularly if no reasons were given. The Government would inevitably be expected to defend in Parliament decisions over which they would have had no control.

(iii) It would be impossible under an ex gratia scheme to recover compensation from the aggressor.

The Lord Chancellor favoured an ex gratia scheme, partly on the ground that trustees would be better placed than a court to reject fraudulent claims in cases where a presumption of fraud was not supported by adequate evidence and partly on the ground that a "court" scheme, by putting the Home Secretary in the position of defendant, would seem to recognise that the victim had a prescriptive right to compensation and that the State had a corresponding duty to protect citizens against crimes of violence. The implicit admission of such a duty could have wide repercussions, particularly as regards offences against property.
In discussion the following main points were made:

(a) It would be important to preserve the principle that the payment of compensation should be interpreted not as an acceptance of liability but as an expression of compassion. This suggested that payments should be *ex gratia* and that awards should be discretionary in character.

(b) While there were arguments against placing the responsibility for a scheme of compensation on the Home Secretary, there were perhaps stronger arguments against placing it on the Minister of Pensions and National Insurance. In the latter case it would be difficult to avoid the impression that the scheme was in some way analogous to a social service; and it would be harder to maintain a distinction between individuals who were the victims of crimes of violence and others who sustained injury in a good cause, for example while saving life.

(c) An *ex gratia* scheme would not require legislation and could be introduced, if necessary, as an experimental measure, which might subsequently be replaced by a “court” scheme if developments so required. It would be more difficult to revert from a “court” scheme, once it had been established by statute, to *ex gratia* arrangements.

The Prime Minister, summing up the discussion, said that it was generally agreed in principle that compensation should be paid to the victims of crimes of violence; and it could be made known that a statement of Government policy on this question would be made early in the new Session. The terms of this statement, however, would need further consideration.

The Cabinet—

(1) Authorised the Home Secretary to announce that the Government would make a statement, early in the new Session, about compensation for victims of crimes of violence.

(2) Agreed to give further consideration to the terms of such a statement at a subsequent meeting.

5. The Cabinet resumed their discussion of memoranda by the Secretary of State for Scotland (C. (63) 172) and the Minister of Housing and Local Government (C. (63) 167) about rates.

The Minister of Housing and Local Government said that it would be possible to increase the general grant to local authorities (rather than the Police grant, as had been suggested) as a means of easing their difficulties in relation to the forthcoming rise in rate demands, if this were judged an acceptable procedure. But, since its benefits would accrue indiscriminately to all local authorities, it would be an expensive means of redressing inequities which were confined to certain areas of the country; and for this purpose the discretionary arrangements proposed in C. (63) 167 were clearly preferable. It should be possible to meet the objection that they would represent a concession which the Government had refused two years earlier in the case of Scotland by adopting, in relation to Scotland, a modified formula governing the application of the relief.

In discussion some doubt was expressed about the advisability of proceeding on these lines. The proposed measures would appear to be directed to a limited number of areas which were of political importance to the Government; and this would not be to the Government's credit. Moreover, the assessment of hardship, which
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was an essential feature of the proposals in so far as they affected individual ratepayers, would rest with the various local authorities concerned; and the disparity of treatment which would inevitably result would accentuate the general impression of inequitable discrimination which the scheme would create. Basically, it represented an attempt to provide relief from taxation; and both principle and precedent endorsed the view that such relief should be impartial in its effect.

On the other hand the measures could reasonably be presented as an endeavour by the Government to provide assistance in those cases where the increase in rates would be unduly sharp; and, if they were declared to be explicitly interim in their nature, pending the report of Professor Allen's enquiry into the impact of rates on households and the Government's own review of the possibility of transferring certain expenditure from the ratepayer to the taxpayer, they could be justified as no more than a reasonable and temporary contribution to the relief of immediate distress. On balance, these considerations probably outweighed the admitted disadvantages of the proposals.

The Cabinet—
1. Approved in principle the proposals in C. (63) 167, on the understanding that they would be publicly presented as an interim measure, pending a more radical review of the incidence of rates and the possibility of transferring expenditure from the ratepayer to the taxpayer.
2. Authorised the Minister of Housing and Local Government to conduct informal and confidential consultations with selected local authorities about the detailed application of these proposals.

6. The Minister of Housing and Local Government said that the White Paper on Housing (Cmnd. 1713) published in May 1962 had established a housing target of 350,000 houses a year. The increasing use of new building techniques made it clear that this rate of construction would soon be achieved; and it would therefore be opportune to announce a revised target of 400,000 houses a year.

In discussion it was agreed that there would be advantage in this course, provided that the Government were not committed to reaching the new target by a specified date. In view of the competing demands of other sectors of the investment programme, particularly education and transport, it would be preferable that the projected increase in the rate of construction should be presented as attributable to new methods and greater productivity in the building industry rather than to any deliberate diversion of resources to house building.

The Cabinet—
Authorised the Minister of Housing to announce, in terms to be agreed with the Chancellor of the Exchequer, that the Government's housing target would be increased to 400,000 houses a year.

7. The Home Secretary said that the Government faced a revival of the demand for unrestricted postal voting facilities at future elections. At present such facilities were confined to certain classes, e.g., invalids, commercial travellers, etc., who had compelling personal or professional reasons for being unable to attend a polling station. The extension of the concession had always been resisted on the
grounds that it would be liable to alter the character of elections by diminishing the element of personal responsibility which was implicit in attendance at a polling station, extending the time required to complete the electoral process and, possibly, infringing the secrecy of the ballot.

In discussion it was suggested that an increase in postal voting facilities might be more reasonably conceded in the light of the extent to which, in modern circumstances, the holiday season had been enlarged. On balance, however, the considerations which had prevailed against the proposal in the past were still valid.

The Cabinet—
Agreed that any proposal to extend postal voting facilities should be resisted.

8. The Cabinet had before them a memorandum by the Minister of Transport (C. (63) 166) about the Anglo-French Report on the Channel Crossing.

The Minister of Transport said that General de Gaulle had already stated publicly that the French Government would favour the construction of a rail tunnel under the Channel, as proposed in the Report. He had also let it be understood that he would regard the United Kingdom Government's decision on this issue as a further test of their attitude towards European co-operation. From the political point of view, therefore, there would be advantage in deciding as soon as possible in favour of the construction of a tunnel; and this argument was reinforced by the impetus which would be given by such a decision to the modernisation of our harbour and transport facilities. On the other hand very large issues of economic policy were at stake; and it would be premature to seek to reach a decision on the project until they had been examined. He hoped to submit to the Cabinet, during November, a balanced appreciation of all the considerations involved.

The Cabinet—
Took note of C. (63) 166 and of the statement by the Minister of Transport.