CABINET

CONCLUSIONS of a Meeting of the Cabinet held at
10 Downing Street, S.W.1, on Thursday, 4th November, 1965,
at 10.30 a.m.

Present:
The Right Hon. HAROLD WILSON, M.P., Prime Minister
The Right Hon. GEORGE BROWN, M.P.,
First Secretary of State and Secretary of State for Economic Affairs
The Right Hon. LORD GARDINER,
Lord Chancellor
The Right Hon. DENIS HEALY, M.P.,
Secretary of State for Defence
The Right Hon. ARTHUR BOTTOMLEY,
M.P., Secretary of State for Commonwealth Relations
The Right Hon. JAMES GRIFFITHS, M.P.,
Secretary of State for Wales
The Right Hon. DOUGLAS JAY, M.P.,
President of the Board of Trade
The Right Hon. ANTHONY CROSSLAND,
M.P., Secretary of State for Education and Science
The Right Hon. DOUGLAS HOUGHTON,
M.P., Chancellor of the Duchy of Lancaster
The Right Hon. FRANK COUSINS, M.P.,
Minister of Technology
The Right Hon. FREDERICK LEE, M.P.,
Minister of Power
The Right Hon. HERBERT BOWDEN, M.P.,
Lord President of the Council (Items 1-5)
The Right Hon. JAMES CALLAGHAN, M.P.,
Chancellor of the Exchequer
The Right Hon. Sir FRANK SOKICE, Q.C.,
M.P., Secretary of State for the Home Department
The Right Hon. WILLIAM ROSS, M.P.,
Secretary of State for Scotland
The Right Hon. ANTHONY GREENWOOD,
M.P., Secretary of State for the Colonies
The Right Hon. THE EARL OF LONGFORD,
Lord Privy Seal
The Right Hon. RICHARD CROSSMAN,
M.P., Minister of Housing and Local Government (Items 1-5)
The Right Hon. R. J. GUNTER, M.P.,
Minister of Labour
The Right Hon. FRED PEART, M.P.,
Minister of Agriculture, Fisheries and Food
The Right Hon. TOM FRASER, M.P.,
Minister of Transport
The Right Hon. BARBARA CASTLE, M.P.,
Minister of Overseas Development
The following were also present:

The Right Hon. KENNETH ROBINSON, M.P., Minister of Health (Item 4)
Mr. GEORGE THOMSON, M.P., Minister of State for Foreign Affairs (Items 1–4)

The Right Hon. ANTHONY WEDGWOOD BENN, M.P., Postmaster-General (Item 6)
The Right Hon. Sir ELWYN JONES, Q.C., M.P., Attorney-General (Items 3–6)
Mr. MAURICE FOLEY, M.P., Joint Parliamentary Under-Secretary of State, Department of Economic Affairs (Item 4)

Secretariat:
SIR BURKE TREND
Mr. P. ROGERS
Miss J. J. NUNN
Mr. J. H. LOCKE

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1. The Cabinet were informed of the business to be taken in the House of Commons in the following week.

In the light of developments in the Rhodesian situation it might be necessary to postpone the Prorogation of Parliament from Friday, 5th November, to Monday, 8th November, in order that there should be only the minimum of interval between the Prorogation and the Opening of the new Session on Tuesday, 9th November.

2. The Prime Minister said that he had been concerned to observe that Parliamentary Private Secretaries were not always content to observe the necessary discretion in situations in which strong feelings were engaged and emotions tended to run high. This had been illustrated during the recent period of tension in relation to the Rhodesian situation; and, although no harm had resulted, it would be unfortunate if a precedent were created in this context which, if it were allowed to become established, could have embarrassing results on some future occasion. He therefore proposed to invite all Ministers to draw the attention of their Parliamentary Private Secretaries to the paragraphs in the Note on Questions of Procedure for Ministers (C (64) 1) which provided them with guidance on the manner in which they should conduct themselves; and he hoped that Ministers would impress upon their Parliamentary Private Secretaries that, before they intervened publicly in any matter affecting Government business, they should consult not only their own Ministers but also the Chief Whip.

3. The Commonwealth Secretary said that it appeared that the Prime Minister of Rhodesia, Mr. Ian Smith, was committed to the concept of appointing a Royal Commission to ascertain the acceptability of independence, on the basis of the 1961 Constitution, to the people of Rhodesia as a whole. But he faced powerful opposition within his own party, some of whose members clearly wished to make a unilateral declaration of independence (u.d.i.) immediately. Indeed, there was even an indication that one section contemplated the establishment of Rhodesia as a Republic. We could not be certain that Mr. Smith would be able to withstand the pressures from the extremists though there was reason to believe that the postponement of a u.d.i. as a result of the Prime Minister's visit had led to a widespread feeling of relief among the general body of Europeans in Rhodesia and this might provide sufficient public support for Mr. Smith to enable him to do so. It would not in any event be open to us to make any further concessions in order to preserve Mr. Smith's position. There were also signs that the economy of Rhodesia was already being adversely affected by the prospect of a u.d.i. The situation was still one of great delicacy.

The Cabinet—

Took note of the Commonwealth Secretary's statement.
4. The Cabinet considered a memorandum by the Home Secretary (C (65) 143) recommending the appointment of a committee to review the law on immigration.

The Home Secretary said that, in view of the omission from The Queen's Speech on the Opening of Parliament of a reference to a Bill on Commonwealth Immigration and of the need to renew the existing powers in relation to both Commonwealth and alien immigrants in the Expiring Laws (Continuance) Bill, it was desirable to announce in the Debate on the Address that it had been decided to appoint a committee to review the law on immigration. The Home Affairs Committee had concluded that it would be inopportune to initiate a comprehensive review of policy and of the general system of control, preferring a committee with terms of reference limited to the question of putting the existing temporary legislation on a permanent footing and conferring rights of appeal on immigrants refused entry or subsequently required to leave the country. They considered that neither the general system of control nor the problem of the short-term visitor should be within the purview of the inquiry.

It was proposed that the inquiry should be undertaken by a departmental committee of five or six independent persons, of whom two or more should be legally qualified. The membership would be discussed further with the Ministers principally concerned. A group of Ministers under the chairmanship of the Chancellor of the Duchy of Lancaster (MISC. 86/1st Meeting) who had considered the terms of reference had recommended that they should be: "To review the law affecting aliens and Commonwealth citizens who wished to enter and settle in this country (including the remedies available to those refused admission to, or subsequently required to leave, the country) and to make recommendations." On further consideration, however, it appeared that to require the committee to review the law might open the way to consideration of the policy on which the law was based, and it might be preferable to limit the terms of reference to the operation of the power of deportation and the provision of rights of appeal against it, although this might not entirely meet criticism on the deferment of the proposed Commonwealth Immigrants Bill.

In discussion the following principal points were made:

(a) The appointment of a committee to examine the powers which were criticised as illiberal should enable the Government to demonstrate that they intended to introduce permanent legislation as soon as possible and so to secure the extension of the existing temporary provisions. On the other hand, the principal criticism of the existing law was directed, not against the powers of deportation, but against the power to refuse entry to persons who wished to visit this country for a short period without any intention of settling here, and the exclusion of these powers from the purview of the committee was liable to be strongly criticised.

(b) The question of the medical examination of immigrants seeking entry to this country should not be within the committee's purview.

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Prices and Incomes Policy

Previous Reference: CC(65) 46th Conclusions, Minute 1

(c) It was important that overseas opinion should regard the committee as wholly independent and that it should accordingly be presented as a committee appointed by the Government, and not closely associated with the Home Office. The Secretary of State for Commonwealth Relations and the Colonial Secretary should be consulted on its membership.

(d) Members of the committee should include persons of known liberal views, and the appointment of a leading trade unionist should be considered. This would not necessarily involve appointing an industrialist also.

The Prime Minister, summing up the discussion, said that the Cabinet were agreed that an independent committee should be appointed with narrow terms of reference to examine the existing powers of deportation and the provision of rights of appeal in respect of both aliens and Commonwealth citizens. The terms of reference and composition of the committee should be considered in the light of their discussion as a matter of urgency by the group of Ministers under the chairmanship of the Chancellor of the Duchy of Lancaster, with the addition of the Attorney General, so that he might announce the decision to appoint the committee during the Debate on the Address. If agreement could not be reached on the terms of reference, the matter should be brought back to the Cabinet on 9th November, and a decision should be taken in the light of the suggestions put forward by the group of Ministers on whether the membership of the committee should be announced at that stage.

The Cabinet—

(1) Agreed that an independent committee should be appointed with narrow terms of reference on the lines proposed in their discussion.

(2) Invited the Chancellor of the Duchy of Lancaster to arrange for the group of Ministers under his chairmanship, with the addition of the Attorney-General, to give further consideration in the light of their discussion to the terms of reference and membership of the committee.

5. The Cabinet considered a memorandum by the First Secretary of State (C (65) 141) about the proposed legislation on prices and incomes policy.

The First Secretary of State said that work had been proceeding on the details of the legislation which had been approved in principle by the Cabinet on 1st September. The outline proposals for inclusion in the Bill had been approved by the Ministerial Committee on Economic Development. But the Cabinet should be fully alive to the difficulties which would inevitably arise, particularly as regards the creation of new offences affecting trade unions and their members. The National Board for Prices and Incomes (NBPI) would be placed
on a statutory basis and would be given power to require the production of documents and to require witnesses to give evidence. It would be made an offence for any person to refuse to do so; but individual trade unions might so refuse. In addition the Bill would provide reserve powers, which would be brought into operation by Order in Council, to require advance notification of price increases and pay claims and to impose a standstill on the introduction of price or wage increases. In particular, it would then become an offence for an employer to pay higher wages while the NBPI was considering the terms of a settlement. It would therefore be necessary to deal with the position which would arise if a trade union or its members tried by industrial action to coerce employers to act in breach of the standstill. Although these problems would not arise in practice unless the reserve powers had to be put into force because of the inadequacy of the voluntary arrangements, it would be necessary to include appropriate provisions in the Bill and to defend them in Parliament. The Ministerial Committee on Economic Development had considered whether the obligations could be placed on the employer alone and not on the trade unions and their members. But they had been forced to the conclusion that this would appear to be an indefensible form of discrimination. The Attorney-General had subsequently suggested provisions which would to some extent mitigate the impact of the Bill in relation to trade unions; but the fundamental problem was inescapable. It might be argued that these provisions would derogate from the legislation which had for long protected trade unions against liabilities which applied to other bodies. There would undoubtedly be criticism on this account; but there appeared to be no way of evading this problem.

The Attorney-General said that in order to make the legislation effective it was essential to make it an offence for an employer to act in breach of a standstill by paying higher wages before the NBPI had reported. As the law stood, this would have the automatic consequence that any industrial action taken by trade unions or individual workers to compel an employer to increase pay or to improve conditions in breach of the standstill would be illegal and would lay the union or workers open to actions for unlimited civil liability or to a charge of criminal conspiracy, both of which could be initiated by means of private prosecutions. He had therefore suggested that it should be made an offence under the Bill for trade unions or their members to seek to compel an employer to act in breach of a standstill; but that the penalties for this offence should be laid down in the Bill; and that the Bill should also provide that no action would lie for any other civil or criminal liabilities in respect of such an act. In this way trade unions and workers would not be at risk of actions for criminal conspiracy or civil proceedings for damages and would be liable, if found guilty, only for a fine. Moreover, the consent of the Attorney-General should be required for all prosecutions under the Bill; and this consent would normally be granted only in cases of significant importance. It was not possible to go further than this. The precise penalties would need further consideration.
In discussion the view was strongly expressed that it would be unwise to proceed with the legislation in the light of its probable effect on the normal activities and procedures of trade unions and the impossibility of operating it effectively. There were many industries in which national wage settlements were of relatively little importance; and it was impossible to operate the proposed system in respect of local settlements without bringing to a standstill the normal operations of major trade unions. It appeared that no provision for the exemption of local settlements affecting small numbers of workers was included in the Bill. But it would be impossible to secure the notification of the mass of local claims which arose every week. On the other hand if an exemption clause were introduced it would encourage the fragmentation of wage claims to avoid the provisions of the Bill. In view of these serious practical difficulties in the way of operating the arrangements properly, the clear risk that certain trade unions might refuse to observe the provisions and the generally retrogressive nature of the legislation in respect of trade unions, it would be wrong to proceed with the Bill.

On the other hand there was general agreement that the Government were committed in principle to introduce legislation on the lines indicated in C (65) 141 and that the inevitable difficulties must therefore be mitigated as far as possible. As regards the problems raised by local claims and settlements the Bill would include a power for the First Secretary of State to prescribe by Order the classes of claims and settlements (as well as the classes of goods and services) to which the Bill should apply. It was intended to give further consideration, in consultation with representatives of employers and trade unions, to the manner in which the provisions could be effectively administered by suitable limitations on the types of wage claims and price increases which were to be notified; and these administrative arrangements could be modified in the light of experience. It would be an error to include specific exemptions in the Bill itself. The Trades Union Congress (TUC) had been opposed to the inclusion of a formal exemption; and there was considerable evidence that many trade unions would co-operate fully in working the system and, indeed, were anxious to strengthen their authority over local questions. It was true that many local claims were not necessarily notified to trade union headquarters. But the employer would be under an obligation to notify local claims when he received them; and it was expected that notification would normally be made by the employer and not by the trade unions. Moreover, there was nothing to prevent the continuation of discussions and negotiations during the standstill period, provided that there was no question of giving effect to a settlement until the end of the period. Although there would undoubtedly be difficulties, it would be wrong to assume that the system was completely unworkable.

As regards the creation of offences and the imposition of penalties in relation to trade unions, considerable concern was expressed about
the effect even of the modified proposals suggested by the Attorney-General. Some trade unions or individual members might deliberately seek to challenge the law in order to enlist popular sympathy and support. On the other hand, the Opposition would undoubtedly criticise the limitations suggested by the Attorney-General in respect of the actions which might be brought in relation to industrial action designed to force employers to pay higher wages during the standstill period. It was suggested that the offences might be restricted to those committed by trade unions and not extend to those committed by individual union members; but it was generally agreed that this would merely destroy the authority of trade unions in respect of local action by their members. It would be desirable, however, to draft the relevant clauses in the Bill with a view to minimising the difficulties which would be created in relation to trade unions.

As regards prices, difficulties would arise in respect of the existing statutory arrangements for the approval of the prices of certain commodities, including steel, coal, gas and electricity. The relation between these statutory arrangements and the new proposals in the Bill needed further consideration.

The Prime Minister, summing up the discussion, said that the general view of the Cabinet was that legislation on the lines proposed in C (65) 141 should be introduced in the new Session of Parliament. The First Secretary of State should now discuss further with the Lord Chancellor, the Attorney-General and the Lord Advocate the issues raised during the discussion, particularly the various possible ways of mitigating the inevitable consequences of the Bill as regards offences and penalties in relation to the trade unions. The First Secretary of State should then undertake informal discussions with representatives of the TUC and the Confederation of British Industries (CBI), which would include consideration of the provisions for enforcement. Thereafter the Ministerial Committee on Economic Development and, if necessary, the Cabinet should be given a further opportunity to discuss the precise provisions of the legislation.

The Cabinet—

(1) Approved in principle the proposed legislation on prices and incomes summarised in Annex A to C (65) 141, subject to further consideration of its provisions in the light of the points made in their discussion.

(2) Invited the First Secretary of State, together with the Lord Chancellor, the Attorney-General and the Lord Advocate to examine in particular the proposals in relation to enforcement and penalties.

(3) Invited the First Secretary of State to arrange for the necessary legislation to be drafted and to discuss it informally with the Trades Union Congress and the Confederation of British Industries.

(4) Invited the First Secretary of State to bring before the Ministerial Committee on Economic Development the provisions of the Bill as they emerged after the further discussions contemplated in Conclusions (2) and (3) above.
6. The Postmaster-General said that the Exchange Telegraph Company operated a news-gathering service in a number of fields, in some of which it worked jointly with the Press Association. While its operations as a whole were profitable it had decided to discontinue its Parliamentary and general news service because they were running at a loss. This would result in the Press Association acquiring an effective monopoly in home news agency work and would make about 70 people redundant, of whom half were journalists. Intervention by the Government could only be justified on the ground that the public interest was involved. This could not be sustained on the ground of redundancy and the Board of Trade took the view that this was not an appropriate case for reference to the Monopolies Commission. The Post Office was concerned with the provision and maintenance of facilities to permit good communications and in 1934 had signed a Licence and Agreement with the Exchange Telegraph Company to regulate relations with them. It appeared that this agreement gave the Post Office power to acquire that part of the Company which was covered by the licence. There were various ways in which the services in the field of Parliamentary and general news hitherto operated by the Company might be maintained, but it was too early yet to determine the appropriate solution. In these circumstances the best course would be to enter into discussions with the Company to ascertain the position more clearly and to consider whether and if so how it might be possible to maintain the services in question.

The President of the Board of Trade confirmed that this would not in his view be a proper case for reference to the Monopolies Commission, since only in the most limited sense would a monopoly result from the action contemplated by the Company. Parliamentary news, for example, was provided not only by the Press Association, but by a large number of newspapers. It would therefore be premature to enter into discussions with the Company on the possibility of maintaining their services in these fields and further time was required to consider the position.

In discussion the Cabinet were informed of a report that the Universal News Service had expressed its intention of expanding its service to cover those which were being abandoned by the Exchange Telegraph Company. It was the general view that if this report were confirmed there would be no justification for Government intervention. In such circumstances the best course might be for the President of the Board of Trade merely to make further enquiries into the position and to inform Parliament in answer to a Question that afternoon in the House of Commons that he was doing so.

The Cabinet—

Invited the President of the Board of Trade, in consultation with the Postmaster-General—

(i) to enquire into the position which would obtain in the running of Parliamentary and general news services

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as a result of the withdrawal of the Exchange Telegraph Company from these fields and of the indication that the Universal News Service might correspondingly expand their services;

(ii) to consider in the light of these enquiries what, if any, Government action was required.

Cabinet Office, S.W.1,