12th February, 1968

CABINET

IMMIGRATION LEGISLATION

Memorandum by the Secretary of State for Commonwealth Affairs

I must record my dissent from the Home Secretary's proposal to extend immigration control to citizens of the United Kingdom and Colonies (C(68) 34).

2. I accept without reservation that this is a most serious problem and I am anxious to contribute in any way possible to its mitigation. But I believe the legislation proposed would

(i) be widely condemned as an act of racial discrimination;

(ii) be construed as a breach of faith towards those Asian residents in Kenya who were accorded as recently as 1963 by a British Government full United Kingdom citizenship without reserve or condition;

(iii) be contrary to international principle and practice;

(iv) be unworkable in practice in respect of any Asians refused continued residence in Kenya.

3. These basic considerations are discussed in paragraphs 6, 9, 10 and 11 of the Annex to the Home Secretary's memorandum. The proposal is undesirable because it creates a second-class category of citizens of this country (i.e. the United Kingdom and Colonies) who have no right of entry into any part of it. Since their United Kingdom citizenship is the only one that most of them possess, they would be left with no legal right of entry into any country at all. We would in practice, if not in law, be rendering them stateless. The proposal lays us open to the charge of breaking faith with many Kenyan Asians who, because of actions by past British Governments for their own purposes, now find themselves possessing citizenship of the United Kingdom and Colonies. There is a moral issue of fundamental importance here. The proposal raises difficulties in relation to international agreements by which we are bound, and to customary international law. It would undoubtedly come under challenge internationally. The practical problems it raises are very considerable. I cannot accept the contention in paragraph 10 of the Annex to the Home Secretary's memorandum that the onus for preventing these people from leaving Kenya (the country from which the majority of them would come) could be placed on the airline companies. The problem would be much more complicated. Numbers would undoubtedly arrive here having lost
the right to re-enter Kenya, and much odium would attach to us for a refusal to allow airlines to land these people, carrying a United Kingdom passport. I am doubtful whether we could successfully keep out people in this category in face of the Parliamentary and public outcry which would follow. The proposal is certain to provoke great bitterness in many Commonwealth countries. There would be strong criticism by certain Governments on the score that Her Majesty's Government, motivated by racial prejudice, were openly discriminating against coloured citizens.

4. I believe therefore that the right course is to impose the restrictions on dependent children and clandestine entry proposed by the Home Secretary, which I fully support, and bring maximum pressure to bear on the Kenya Government to control the flow of Asian emigration to this country. Reports over the weekend indicate growing criticism within Kenya of the policies responsible for the emigration.

G. M. T.

Commonwealth Office, S. W. 1.

13th February, 1968