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HC(80) 29th
Conclusions

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CABINET

CONCLUSIONS of a Meeting of the Cabinet
held at 10 Downing Street on

THURSDAY 17 JULY 1980

at 10.30 am

PRESENT

The Rt Hon Margaret Thatcher MP
Prime MinisterThe Rt Hon William Whitelaw MP
Secretary of State for the Home DepartmentThe Rt Hon Lord Hailsham
Lord ChancellorThe Rt Hon Lord Carrington
Secretary of State for Foreign and
Commonwealth AffairsThe Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the ExchequerThe Rt Hon Sir Keith Joseph MP
Secretary of State for IndustryThe Rt Hon Francis Pym MP
Secretary of State for DefenceThe Rt Hon Lord Soames
Lord President of the CouncilThe Rt Hon James Prior MP
Secretary of State for EmploymentThe Rt Hon Sir Ian Gilmour MP
Lord Privy SealThe Rt Hon Peter Walker MP
Minister of Agriculture, Fisheries
and FoodThe Rt Hon Michael Heseltine MP
Secretary of State for the EnvironmentThe Rt Hon George Younger MP
Secretary of State for ScotlandThe Rt Hon Nicholas Edwards MP
Secretary of State for WalesThe Rt Hon Humphrey Atkins MP
Secretary of State for Northern IrelandThe Rt Hon Patrick Jenkin MP
Secretary of State for Social ServicesThe Rt Hon Norman St John-Stevas MP
Chancellor of the Duchy of LancasterThe Rt Hon John Nott MP
Secretary of State for TradeThe Rt Hon David Howell MP
Secretary of State for Energy

SECRET

The Rt Hon Mark Carlisle QC MP
Secretary of State for Education and Science

The Rt Hon John Biffen MP
Chief Secretary, Treasury

The Rt Hon Angus Maude MP
Paymaster General

THE FOLLOWING WERE ALSO PRESENT

Sir Ian Percival QC MP
Solicitor General (Item 1)

The Rt Hon Norman Fowler MP
Minister of Transport

The Rt Hon Michael Jopling MP
Parliamentary Secretary, Treasury

SECRETARIAT

Sir Robert Armstrong
Mr M D M Franklin (Items 2 and 3)
Mr P Le Cheminant (Item 4)
Mr R L Wade-Gery (Items 2 and 3)
Mr W N Hyde (Items 1, 5 and 6)
Mr D J L Moore (Item 4)
Mr L J Harris (Item 1)
Mr J M Lyon (Items 5 and 6)

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PARLIAMENTARY
AFFAIRS

1. THE CHANCELLOR OF THE DUCHY OF LANCASTER informed the Cabinet of the business to be taken in the House of Commons during the following week. The Secretary of State for Social Services would make an oral statement on 23 July on the reorganisation of the National Health Service in England.

THE PRIME MINISTER, summing up a brief discussion, said that between now and the Recess the attack of the Opposition would be concentrated on the rise in unemployment. The figures for July, which were to be announced on Tuesday 22 July, included those who had just left school, and would therefore show a sizeable increase on the previous month. The Secretary of State for Energy should make his announcement about oil depletion policy in his speech during a Supply Day debate on Government policy on the public sector on Monday 21 July rather than as a separate statement. The Chancellor of the Duchy of Lancaster should discuss further with the Secretary of State for Scotland the latter's wish to make an oral statement about the reorganisation of the Health Service in Scotland. The Secretary of State for Wales was content to answer a Written Question on the reorganisation in Wales.

The Cabinet -

1. Took note.
2. Invited the Chancellor of the Duchy of Lancaster, in consultation with the Secretary of State for Scotland, the Secretary of State for Wales, the Secretary of State for Social Services and the Chief Whip, to consider whether an oral statement should be made about the reorganisation of the National Health Service in Scotland.

Housing Bill:
avoidance
measures

THE SECRETARY OF STATE FOR THE ENVIRONMENT said that there was a serious danger that Labour-controlled local authorities would seek to frustrate Government policy by transferring leases of council-owned houses to housing associations or other bodies, thus depriving tenants of their right under the Housing Bill to buy the freehold. The Home and Social Affairs Committee had agreed the previous day that an amendment should be tabled to the Bill at Report Stage in the House of Lords to make watertight the requirement in Section 128 of the Local Government Act 1972 for local authorities to obtain his approval to dispose of property. Tabling the amendment would, however, alert local authorities to the possibility of arranging leases for up to seven years, which did not at present require his consent. The Bill would block this loophole when it became law, but

local authorities could exploit it between the time the Bill left the House of Lords (and was therefore incapable of further amendment) and Royal Assent. In theory the sales of up to half a million properties could be blocked in this way and, although avoidance would clearly not be on this scale, he believed that once one authority had exploited the loophole others would follow suit. He had therefore asked the Home and Social Affairs Committee to agree to a second amendment providing that, with effect from the date on which the amendment was put down, his consent would be required for leases of up to seven years. The Committee had rejected this solution because they felt that it involved unacceptable retrospective legislation. He doubted if such a provision was truly retrospective. There were in any event precedents in tax legislation and the nationalisation measures of Labour Administrations for anti-avoidance provisions taking effect from the date on which the proposed legislation was introduced. No alternative way of effectively blocking the loophole had been found, and he sought the approval of the Cabinet for tabling an amendment at Report Stage on the lines which he had suggested.

THE HOME SECRETARY confirmed that the Home and Social Affairs Committee had accepted in principle the first of the two amendments proposed by the Secretary of State for the Environment, though with considerable reluctance on the part of some members of the Committee. The majority of the Committee had, however, opposed the further amendment for which the Secretary of State for the Environment now sought Cabinet approval, believing that it was objectionable in principle and in law and would expose the Government to criticism disproportionate, on the evidence available, to the risk involved. Such a controversial amendment would occupy considerable time in debate in both Houses. The Law Officers had been invited to consider with the Secretary of State for the Environment other solutions suggested during the Committee's discussion, but had not in the time available been able to find a satisfactory answer.

THE LORD CHANCELLOR said that he and his colleagues had been given wholly insufficient time for proper consideration of the problem. Even the first amendment, to which he had been reluctantly prepared to agree, had now been tabled in a defective form. He could agree to it only if it were corrected on Third Reading. The second proposal was, in his view, open to severe constitutional legal and political objections. The analogy with tax provisions and nationalisation measures was untenable. The Conservative Party when in Opposition had vigorously attacked the principle of retrospective legislation. The problem outlined by the Secretary of State for the Environment was short-term and hypothetical. In the last resort, if the local authorities deliberately disposed of leases in the three weeks between Report Stage and Royal Assent or acted in other ways to frustrate the provisions of a very

complicated Bill the Government could introduce a further short Bill next Session giving the tenants concerned the right to buy. Such fresh legislation, if it proved necessary, would not be retrospective.

In discussion it was argued that the Housing Bill fulfilled a fundamental Manifesto commitment, and that the Government would be exposed to criticism if it did not take all reasonable measures to see that its intention was not circumvented. Although the time available for local authorities to dispose of property was short, there was no doubt that many of them had already taken legal advice and would be ready to act quickly. There was no evidence that any of them were about to exploit the loophole, but they would obviously be very unlikely to advertise their intentions while the Bill was still before Parliament. The constitutional arguments against retrospective legislation were of considerably less force when the intention was to confer additional rights or benefits on individuals. Although it might be possible to correct any avoidance which took place by means of a further Bill next Session, there would still be a period of four or five months in which local authorities hostile to the Government would be able to claim a political victory. On the other hand, there was massive public support for allowing local authority tenants to buy their own homes, and any authority which tried to frustrate the Government's intention would be putting itself in a very weak political position. There should be no difficulty about making it clear in the debates on the remaining stages of the Bill that any steps taken by local authorities to undermine their tenants' rights would be set aside by subsequent legislation.

THE PRIME MINISTER, summing up the discussion, said that the Cabinet agreed that the first priority was to take every possible step to secure that tenants could exercise the right to buy their own homes which would be conferred by the Housing Bill. They agreed that one loophole should be closed by amendment to Clause 128 of the Local Government Act 1972, as proposed by the Secretary of State for the Environment and agreed by the Home and Social Affairs Committee, subject to correction of any drafting errors on Third Reading in the House of Lords. They noted the advice of the Lord Chancellor and the Solicitor General that the Secretary of State for the Environment's proposal for dealing with the short-term risk of the grant of leases before Royal Assent involved retrospective legislation open to legal and constitutional objections. The Secretary of State for the Environment should consider urgently with the Lord Chancellor and the Law Officers whether an amendment which met those objections could be prepared. If agreement was reached on such an amendment, it would be preferable to proceed by those means. If this proved not to be possible, the Government spokesman on the Bill in the House of Lords should make abundantly clear in debate that any attempt by local authorities to circumvent the provisions of the law would be countered by further legislation at the beginning of next Session.

The Cabinet -

3. Invited the Secretary of State for the Environment to consult the Lord Chancellor and the Law Officers about the drafting of the amendment tabled to amend Section 128 of the Local Government Act 1972, and to make any necessary drafting alterations on Third Reading of the Bill.

4. Invited the Secretary of State for the Environment, in consultation with the Lord Chancellor and the Law Officers, to consider urgently whether an amendment to the Bill which would not be open to the objections he had identified in discussion could be tabled to prevent the disposal of dwellings by the grant of leases in the period before Royal Assent, and to arrange for the tabling of such an amendment, if it proved possible to agree it.

5. Invited the Secretary of State for the Environment, if it proved impossible to devise an acceptable amendment, to arrange for a statement as indicated in the Prime Minister's summing up of their discussion to be made by the Government spokesman in the House of Lords.

THE CHANCELLOR OF THE DUCHY OF LANCASTER said that he had told the House of Commons on 4 March that the Top Salaries Review Body (TSRB) would continue to conduct annual reviews of Ministers' and Members' pay. He was likely to be pressed for confirmation of this undertaking during the debate arranged for Monday 21 July. Although there was no formal commitment to review the secretarial allowance of Members annually, there had in practice been such reviews since 1974, and it would be helpful in containing the likely pressure for linkage between the pay of Members and the Civil Service if he were able to announce that the TSRB would continue to conduct annual reviews of both pay and allowances, and to confirm the undertaking that their recommendations would be implemented except in the most exceptional circumstances.

In the course of a brief discussion it was suggested that there would be much to be said for getting back to a system under which the remuneration of Ministers and Members of Parliament was reviewed

only once in each Parliament, at the beginning of the Parliament. It was recognised, however, that this was unlikely to be acceptable until the rate of inflation had been brought down to a much lower level than at present.

THE PRIME MINISTER, summing up the discussion, said that the Cabinet recognised that the future of the TSRB and other pay comparability arrangements had still to be decided. It would be inappropriate to enter into any commitment now about the long-term future of the procedure for a particular group. The Government had however already agreed to a TSRB review of next year's third-stage increase of Members' pay to £13,150. There was no reason why the Chancellor of the Duchy of Lancaster should not confirm during the debate that that review would take place; but he should be careful to avoid any implication that its recommendations would necessarily be implemented in full, or that annual reviews would be conducted thereafter.

The Cabinet -

6. Invited the Chancellor of the Duchy of Lancaster to confirm during the House of Commons debate on 21 July that the commitment to allow a review of the third-stage increase in Members' pay next year would be honoured, while avoiding any longer-term commitment.

THE PRIME MINISTER said that it had been her intention to raise at this meeting of the Cabinet the proposal to replace Polaris with the Trident I missile under arrangements which had been agreed with the President of the United States. It had been essential to limit very strictly, on both sides of the Atlantic, knowledge of the negotiations involved. Regrettably, however, there had been a leak in the United States which had made it necessary for a public announcement to be made at very short notice on 15 July. The Secretary of State for Defence was to be congratulated on the skill with which he had handled the matter in Parliament.

The Cabinet -

7. Took note.

FOREIGN
AFFAIRS

New Hebrides

Previous

Reference:

(80) 25th

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2. THE FOREIGN AND COMMONWEALTH SECRETARY said that Anglo-French attempts to reach a peaceful settlement of the New Hebrides crisis had failed because of the obduracy of the secessionist leader, Mr Jimmy Stevens. It was still hoped to bring the territory to independence on the agreed date of 30 July, but time was now very short. As he himself had made clear to the French Foreign Minister, Monsieur Francois-Poncet, the best course would now be for Britain and France to end the secession by taking joint military action, which would almost certainly be unopposed. It was not clear whether the French Government would agree to this, given the risk of a clash between French forces and French settlers. The Minister of State, Foreign and Commonwealth Office, Mr Blaker, hoped to discuss the matter in the near future with the French Minister for Overseas Territories, Monsieur Dijoud, despite the latter having regrettably postponed one recently agreed meeting at short notice. Unilateral military action by Britain was not an attractive alternative: it might be contrary to the Condominium Protocol and was also more likely to involve bloodshed. The attitude of the French Government was coloured by their sensitivity to the repercussions which events in the New Hebrides might have in New Caledonia and their other Pacific territories, which were of particular importance to them in the context of nuclear weapon tests.

Zimbabwe

Previous

Reference:

(80) 17th

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THE FOREIGN AND COMMONWEALTH SECRETARY said that the British Press, which had earlier taken an over-optimistic line on Zimbabwe, was now being over-pessimistic. It was unlikely that Mr Nkomo would in fact break away from the Government, and there seemed to be no sinister significance behind his recent private visit to London. But it was most unfortunate that General Walls now wished to retire and to begin his terminal leave as early as the end of July. His health was not good, and he might not prove responsive to the efforts which were being made to persuade him to stay on. There was no black or white Zimbabwean who would be an acceptable successor at the present stage, and the idea of bringing in someone from elsewhere in Africa (eg Nigeria) was unattractive. It might be necessary to put forward a British candidate, perhaps from the retired list.

Botswana

THE FOREIGN AND COMMONWEALTH SECRETARY said that the prospects for stability in Botswana were uncertain following the death of the President, Sir Seretse Khama. His son, who was the obvious candidate to succeed him, was only 27 and thus under the constitution three years too young to be eligible.

The Cabinet -

Took note.

COMMUNITY
AFFAIRS

Common
Fisheries
Policy

Previous
reference:
C(80) 24th
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3. THE MINISTER OF AGRICULTURE, FISHERIES AND FOOD said that he had been having a series of bilateral meetings with the Fisheries Ministers of other Community countries. There was now widespread understanding of the problems which would need to be resolved in negotiating a Common Fisheries Policy. It was however disappointing that the Commission had just issued quota proposals which did not take sufficient account of our special requirements. At the Council of Ministers (Fisheries) on 21 July it should be possible to agree on certain conservation measures which would form part of the eventual overall settlement and this would be helpful to the Germans who were anxious to see some progress on fisheries before their elections. Negotiations on the other major issues would probably not take place before the end of September. The fishing industry had put in a case which was now under examination for additional assistance to meet their financial difficulties over the next six months which arose from lower prices and higher costs.

Portugal

THE FOREIGN AND COMMONWEALTH SECRETARY said that at the Council of Ministers (Foreign Affairs) in the following week it seemed likely that the United Kingdom would be the only member country opposing a proposal to give financial help to Portugal in the period prior to her accession to the European Communities. This could create political problems which he would discuss with the Prime Minister and the Chancellor of the Exchequer.

The Cabinet -

Took note.

INTERNATIONAL
CONFERENCE
CENTRE

4. The Cabinet considered a memorandum by the Secretary of State for the Environment (C(80) 36) on the case for building an international conference centre at Broad Sanctuary, Parliament Square.

THE SECRETARY OF STATE FOR THE ENVIRONMENT said that, if it were accepted that the Government should build an international conference centre, the Broad Sanctuary site offered the only practicable solution. There were no other suitable sites within a three-mile radius of Whitehall and to adapt existing buildings, such as Somerset House and Richmond Terrace, would cost more and take longer. The cost of the project, which totalled £29.5 million at 1979 prices, could be accommodated within the Property Services Agency's (PSA's) programme; and he would also be willing to find the further £1 million necessary to cover the full cost of the Parliamentary Telephone Exchange from within this programme. The design of the building had been approved by the local planning authority and the Royal Fine Art Commission.

THE FOREIGN AND COMMONWEALTH SECRETARY said that it was essential to have a Government conference centre in London. It was needed not only for the meetings associated with the United Kingdom Presidency of the European Community in 1987 but also for other major international conferences. Lancaster House was becoming increasingly inadequate for these purposes and the temporary facilities which had to be provided in the absence of a purpose-built centre were costly and unsuitable.

In discussion the following points were made -

- a. A decision to build a conference centre would be severely criticised at a time when the Government was cutting back on other public expenditure programmes. Although there was provision for the project within the PSA's programme, it would be at the expense of other projects which many people would feel rated higher priority.
- b. Planning permission had been given for the building. It had not so far attracted adverse public comment, and there had been some approving comment, though it was likely that many would feel that Broad Sanctuary was not a suitable site for a building of that type and size.
- c. The Broad Sanctuary site had been empty and an eyesore for 30 years. There could be no question of simply selling it for commercial development. Moreover the United Kingdom

was the only major Western country without a suitable centre for international conferences. Such conferences generated considerable economic benefits, even though the gains were difficult to quantify.

d. The local authorities and the police had advised that satisfactory arrangements could be made for dealing with traffic if the building were to be at Broad Sanctuary. While this view seemed implausible in view of the present heavy congestion of traffic in Parliament Square and nearby, it was nevertheless the considered judgment of those responsible for these matters.

THE PRIME MINISTER, summing up the discussion, said that while the majority of the Cabinet were in favour of building an international conference centre on the Broad Sanctuary site there were major objections to committing public expenditure for this purpose in present circumstances. The Cabinet therefore agreed that the project could go ahead only if it could be financed from the private sector. The cost of clearing the site and providing for the Parliamentary Telephone Exchange extension could however be borne on public funds.

The Cabinet -

1. Took note, with approval, of the Prime Minister's summing up of their discussion.
2. Invited the Secretary of State for the Environment to explore how the proposed international conference centre on the Broad Sanctuary site could be financed from the private sector.

The Cabinet -

OF
COMMONS
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5. The Cabinet considered a memorandum by the Chancellor of the Duchy of Lancaster (C(80) 41) proposing how the Government should respond to the outstanding recommendations of the First Report from the Select Committee on Procedure (the Procedure Committee) for Session 1977-78.

THE CHANCELLOR OF THE DUCHY OF LANCASTER said that the Conservative Election Manifesto had supported the approach of the Procedure Committee for improving the procedures of the House of Commons. The House had already considered their recommendations to set up departmental select committees and about sessions and sittings. The Government were committed to giving the House an opportunity to reach decisions on the outstanding recommendations of the report. He had promised the House that a debate would be held before the summer recess. There was considerable support for procedural reform: over 130 Members had, for example, signed an Early Day Motion supporting the Procedure Committee's recommendation for changes in the way Bills were considered in Standing Committee. His consultations with influential Members on all sides of the House suggested that the opportunity to reach further decisions on the Procedure Committee's report would be welcomed. He had, however, just received a letter from the Opposition spokesman on procedural matters (Mr Merlyn Rees MP) asking that the debate be deferred until October so that the Opposition could have more time to consider the recommendations. He proposed that he should discuss this approach with the Opposition to see whether it might still be possible to arrange an acceptable time for a debate before the recess and thus implement the pledge he had given. In the meantime, he invited the Cabinet to consider the proposals set out in his memorandum.

THE PRIME MINISTER, summing up a brief discussion, said that in the light of the official letter from the Opposition the Cabinet did not consider it would now be opportune to hold a debate on procedural reform before the summer recess. The Chancellor of the Duchy of Lancaster should make clear that he was deferring the debate at the request of the Opposition and that the Government would look for an opportunity to allow the House to debate the outstanding recommendations in October. He should give no firm commitment, however, that the debate would take place in the "spill-over" period before prorogation: circumstances in October might make it necessary to defer the debate until next session. The Cabinet should consider the Government response to the Procedure Committee's outstanding recommendations nearer the time when the debate would be held.

The Cabinet -

1. Agreed to defer consideration of the outstanding recommendations of the Procedure Committee's Report.

CONFIDENTIAL

2. Invited the Chancellor of the Duchy of Lancaster to make clear in the House of Commons that a debate would not now be held before the summer recess, but that the Government would look for a suitable opportunity to provide the House with time for a debate after the Summer Recess.

6. The Cabinet considered a memorandum by the Chancellor of the Duchy of Lancaster (C(80) 42) about the cost of Parliament.

THE CHANCELLOR OF THE DUCHY OF LANCASTER said that, following the last discussion by the Cabinet of the cost of Parliament, he had had a helpful private discussion with the Speaker, and had subsequently discussed with the House of Commons Commission the various measures outlined in his previous memorandum (C(80) 28). The Speaker was to seek the advice of his Counsel on measures to give the Commission more direct control over staff increases, and an Inspector of Staffing was to be appointed. A number of Members of Parliament were to be selected to supervise the administration of all Departments of the House. The Commission were jealous of their independence and were unwilling to consult the Government formally about proposals involving significant increases in expenditure, but as Leader of the House, and a member of the Commission, he would be able to represent the Government's views. The Commission would not agree to the imposition of cash limits by the Government, but had indicated that it would impose its own limits in due course, when it had the necessary information as a basis for doing so. A further report was to be obtained on the proposal that printing costs should be met from the House of Parliament vote on a repayment basis. He thought these measures represented reasonable progress towards better control of the expenditure of the House.

In discussion it was acknowledged that the House authorities were jealous of the independence granted them by the House of Commons (Administration) Act 1978 and that it was difficult to impose satisfactory measures of control on them. Nevertheless, the progress which had so far been made fell well short of the objectives set out in the Chancellor of the Duchy of Lancaster's original memorandum, and it appeared that the House authorities regarded themselves as exempt from the financial and manpower constraints which applied elsewhere in the public sector. A review of possible staff economies had not yet been commissioned, and it was not obvious that the appointment of an Inspector of Staffing would necessarily improve the situation. The need to apply to the House the principles which governed complementing, pay and grading in the Civil Service should be urged on the Commission, and they should be

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encouraged to seek the advice and guidance of the Civil Service Department. The basis and timing of the Commission's proposed imposition of their own cash limits was unclear, and they should be invited to seek help from the Treasury in working out their proposals. It should be confirmed that the further report on the method of financing printing would extend to stationery and computing. There was some danger that the supervisory bodies which it was proposed to set up to oversee the expenditure of individual departments would themselves become pressure groups for increasing expenditure, while the Select Committees were making increasing demands on the resources both of the House and of Government Departments called to give evidence. A major weakness appeared to be the lack of any clear distinction in the Commission between those responsible for the formulation of policy and those responsible for financial control.

THE PRIME MINISTER, summing up the discussion, said that the Cabinet noted that some progress had been made towards the objectives set out in the earlier memorandum by the Chancellor of the Duchy of Lancaster, but considered that further pressure must be exerted on the authorities of the House to subject their control of staffing and expenditure to the same disciplines as those now being applied elsewhere in the public sector. The Chancellor of the Duchy of Lancaster should seek further consultations with the House of Commons Commission to press them to adopt more positive and satisfactory measures of control in the near future and should, if appropriate, arrange for the Chancellor of the Exchequer to be involved in these discussions.

The Cabinet -

Invited the Chancellor of the Duchy of Lancaster, in consultation with the Chancellor of the Exchequer, to continue to press the authorities of the House of Commons to adopt more rigorous methods of financial and staffing control on the lines set out in C(80) 28, and to make a further report to the Cabinet in due course.

Cabinet Office

17 July 1980