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E(79) 1st Meeting

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51

CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

—
MINUTES of a Meeting held at
10 Downing Street on
MONDAY 14 MAY 1979 at 2.30 pm
—

PRESENT

The Rt Hon Margaret Thatcher MP
Prime Minister

The Rt Hon William Whitelaw MP
Secretary of State for
the Home Department

The Rt Hon Lord Carrington
Secretary of State for Foreign
and Commonwealth Affairs

The Rt Hon Sir Keith Joseph MP
Secretary of State for Industry

The Rt Hon Lord Soames
Lord President of the Council

The Rt Hon James Prior MP
Secretary of State for Employment

The Rt Hon John Nott MP
Secretary of State for Trade

The Rt Hon David Howell MP
Secretary of State for Energy

The Rt Hon John Biffen MP
Chief Secretary, Treasury

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon George Younger MP
Secretary of State for Scotland
Item 2

Qc.

The Rt Hon Mark Carlisle MP
Secretary of State for
Education and Science
Item 2

Earl Ferrers
Minister of State, Ministry
of Agriculture, Fisheries and Food
Item 1

SECRETARIAT

Sir John Hunt
Mr P Le Cheminant
Mr C H Wilson
Dr N B W Thompson

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1. FUTURE OF THE PRICE COMMISSION

The Committee considered a memorandum by the Secretary of State for Trade (E(79) 2) on the future of the Price Commission. The Committee also had before them a minute dated 7 May 1979 from the Secretary of State for Trade to the Prime Minister; a reply dated 9 May from the Prime Minister's Private Secretary to the Private Secretary of the Secretary of State for Trade; and minutes to the Prime Minister from the Chancellor of the Exchequer and the Secretary of State for Industry of 9 and 10 May respectively.

THE SECRETARY OF STATE FOR TRADE said that his memorandum set out three main options: abolition of the Price Commission but with new powers to enable him to refer to ad hoc boards price issues of major concern until a wider review of the Office of Fair Trading and the Monopolies and Mergers Commission was complete; abolition of the Price Commission but with additional powers to enable the Director General of Fair Trading (DGFT) to investigate major price issues, including nationalised industry prices; and retention of the Price Commission without a power to freeze prices but substituting a new power to enable him to roll back prices in the light of an adverse report from the Commission. Of these he strongly favoured the second (abolishing the Commission and at the same time strengthening the powers of the DGFT). This would be in accordance with the Government's announced policies and it would free industry quickly from the burdensome obligations associated with the Price Commission. But the problem would be to find Parliamentary time for the necessary legislation. Parliamentary Council and the Chief Whip had advised in favour of two separate bills, one very short bill to abolish the Commission and a somewhat longer bill to deal with the new powers to strengthen competition policy. If this were accepted, the aim would be to get the first bill through all its stages by the summer recess. Not only would this avoid the potential embarrassment for the Government if it were still to be engaged in legislation to abolish the Commission at a time when the next round of pay negotiations began in the autumn, but it would also be convenient to have the Commission wound up in July when the contracts of the Chairman and other senior officers expired. He was aware that some of his colleagues might view with concern the extension of the powers of the DGFT to include nationalised industry prices, but he emphasised that no executive action could result without a

specific Ministerial decision following a report by the Monopolies and Mergers Commission on a reference made by the DGFT. He had informally sounded out the views of the Director General of the Confederation of British Industries who had declared himself in favour of the course of action which he was proposing.

In discussion there was strong support for proceeding with legislation to abolish the Price Commission coupled with new powers for the Director General of Fair Trading to strengthen competition policy. But it was argued that it would be undesirable to proceed with two separate bills. It was important that the two measures should be seen as part of a single policy aimed not only at reducing the burden on industry but at strengthening the protection of the consumer. In any case, it was to be doubted whether even a short bill to abolish the Commission could complete all its stages before the summer recess. It was however desirable that the bill should be drafted quickly and an announcement of the Government's policy made in the next few days. The aim should be to complete at least the Second Reading before the summer recess, whilst enabling proper consideration to be given to the competition policy aspects of the legislation. Most of the controversy over the proposals would follow the announcement of the Government's intentions and it would not therefore be too serious if Parliamentary consideration of the later stages of the bill had to be deferred to the autumn. This would mean that for the remaining few months of the Commission's existence, a caretaker Chairman would have to be found, but this would be acceptable.

In further discussion, consideration was given to the timing of a Government announcement. As there was a reference to the Price Commission in The Queen's Speech, the Prime Minister would have to be prepared to respond to questions if pressed. It would however be preferable if the announcement were made by the Secretary of State for Trade a day or so later during the course of the debate. An announcement should not be delayed, especially as the present Chairman of the Commission was considering making a public announcement himself which was likely to be critical of the Government. A subsidiary reason for quick action was the need for an urgent announcement of the Government's position on the report on United Biscuits Ltd. As for

the investigations of RHM Bakeries and Allied Bakeries, there was a strong case for terminating these. Investigations of Area Electricity Board prices and Gas prices however needed further consideration. Work on the sectoral examination of car spares, children's toys and games, and estate agents was nearly complete. It would be embarrassing to the Government if they were wound up at this stage or if the reports were not published, especially as the first and the last would be critical of existing practices.

THE PRIME MINISTER, summing up the discussion, said that the Committee were agreed that the Price Commission should be abolished, but there should be additional powers for the Director General of Fair Trading to enable him to investigate price issues of major concern, as the Secretary of State for Trade had proposed in paragraph 5(b) of E(79) 2. If such investigations revealed that a monopoly was abusing its position and competition was being restricted, the DGFT could refer the matter to the Monopolies and Mergers Commission; and if that Commission reported adversely, the Secretary of State for Trade would be enabled to order firms to discontinue a specified practice. The Secretary of State for Trade should proceed to prepare a single bill to provide for both the abolition of the Price Commission and the new powers for the Director General of Fair Trading. But it would not be realistic to expect the legislation to be through all its stages by the summer recess. Indeed it was important that there should be sufficient time to consider thoroughly the proposed measures to strengthen competition policy. The Committee however accepted the need for an urgent announcement of the Government's proposals. She herself might be pressed on this in early stages of the debate on The Queen's Speech and the Secretary of State for Trade should ensure that she was adequately briefed for this purpose. But it would be preferable if the announcement were made by the Secretary of State for Trade a little later. One possibility would be for him to open the debate for the Government on Wednesday 16 May. He should consult the Chancellor of the Duchy of Lancaster and the Leader of the House of Commons urgently to settle these arrangements. It was important that the abolition of the Price Commission should be presented in the context of the Government's policy for strengthening competition in the interests of the consumer. As for investigations recently completed and in progress, the Committee endorsed

the proposals of the Secretary of State for Trade to take no further action on the investigation of United Biscuits and on stopping the investigations of RHM Bakeries and Allied Bakeries. On the terms and timing of the announcement of the latter he had undertaken to consult the Minister of Agriculture, Fisheries and Food. He had also undertaken to consult the Secretary of State for Energy and other Ministers concerned on what action might be taken on the investigations of the British Gas Corporation and of the area Electricity Boards. In considering these matters, the Minister concerned would no doubt take into account the beneficial effects of nationalised industry price increases on the Public Sector borrowing requirement and the fact that the price increases for electricity and gas had been prepared by the previous administration. As for the sectoral examinations of car spares, children's toys and games, and estate agents, the Committee agreed that as they were so far advanced they should be completed and in due course published.

The Committee -

Took note, with approval, of the Prime Minister's summing up of their discussion and invited the Secretary of State for Trade to be guided accordingly.

2. TEACHERS' PAY

The Committee considered minutes from the Secretary of State for Education and Science, dated 9 May, and the Secretary of State for Scotland, dated 10 May, to the Prime Minister about the teachers' pay dispute.

THE SECRETARY OF STATE FOR EDUCATION AND SCIENCE said that, in considering the handling of the teachers' pay dispute, account had to be taken of the position reached when negotiations broke down before the Election; the statutory right of the teachers to go to arbitration the results of which were binding unless overturned by Parliament; and the political desirability of a speedy end to the current industrial action. The basis of the teachers' case was their claim for restoration of the relativities established by the Houghton Report in 1974. Last year the Management Panel of the Burnham Committee had reaffirmed their support for the Houghton principles and had agreed to the setting up of a joint Working Party to establish the movement in salaries since Houghton. The Working Party's report provided the evidence for the teachers' claim of 36.5 per cent though it was possible to argue for a lower figure of 31 per cent. The results of other pay reviews - for example the Civil Service and the Armed Services - were broadly in line with the Working Party results. In the negotiations so far the Management Panel had seen a reference to the Standing Commission on Pay Comparability as a way of getting away from perpetuation of the Houghton relativities. In the context of a reference to the Commission the Management Panel had offered 9 per cent from 1 April 1979 plus staging of subsequent increases on 1 April 1980 and 1 April 1981. Terms of reference had also been agreed; the Government representative on the Management Panel had dissented but the Government veto related only to the quantum of offers and could not be used against terms of reference. Reference to the Commission could, however, only be made by the Government. The possibilities now open were to aim for a reference to the Commission, or to see the dispute go to arbitration. It would theoretically be possible to attempt to settle the dispute through negotiations but, unless an offer were made which in large measure met the teachers' claim, negotiations would end in arbitration. The advantages of allowing a reference to the Commission as against arbitration were that it was likely to be cheaper because of the scope for staging and the likelihood of a lower award; and that it would provide a possible means

of breaking the teachers' link to Houghton whereas arbitration would not. The terms of reference agreed between the Panels needed to be strengthened but he thought that it would be a mistake to attempt to remove the reference to Houghton which the teachers regarded as essential. The teachers would in any case place emphasis on Houghton in their evidence. It had to be remembered also that the work of the Commission, as defined by the previous Administration, emphasised the need for proper comparability studies not just indexation exercises; the Government would be able to reinforce this approach if they submitted general evi to the Commission. On balance therefore he favoured an initiative to get teachers' pay referred to the Commission, with, if possible, strengthened terms of reference. If this failed and there had to be recourse to arbitration then the Management Panel would have to make an improvement in its present offer before the Chairman of the Burnham Committee could formally deem the talks to have broken down. The offer might have to refer to an overall figure - perhaps 25 per cent, to be paid in stages of 9 per cent, 8 per cent and 8 per cent, but the details would need to be discussed with the local authorities.

THE SECRETARY OF STATE FOR SCOTLAND said that he supported the broad approach favoured by the Secretary of State for Education and Science.

In discussion it was argued that, whether teachers' pay was referred to the Commission or went to arbitration, the dispute provided the Government with an opportunity to indicate publicly the implications in future for high pay settlements in public services. The Government could not underwrite the cost of excessive settlements; rather they should emphasise publicly the consequences in terms of the savings which would have to be made in these services in order to meet them. It could for example, be made clear that the Government were not prepared to increase expenditure per pupil in real terms. On the other hand it was argued that whatever method was used to arrive at new salary scales it had to be recognised that teachers' pay had fallen behind and that substantial pay increases were inevitable. In coming to a decision it would be helpful to have more information, for example, about the costs of the various possibilities outlined; about the demand for and supply of teachers, including numbers in training, now and at the time of Houghton and of wastage within the education services.

In further discussion of the two options it was argued that it might strengthen the Government's hand in persuading the teachers to accept a disciplinary comparability exercise, if they announced in advance that they would be willing to ask Parliament to reject the results of arbitration. On the other hand it

was argued that this course could be counter-productive: and Parliamentary approval could not be assumed. If the dispute went to arbitration, nevertheless the Government would have little opportunity to affect the size of the award and there was a strong prospect that the award would have to be implemented without staging. The teachers would continue to be able to argue in future for restoration of Houghton relativities. On the other hand a reference to the Commission on the terms of reference so far agreed between the parties could have an outcome which was just as unsatisfactory. By their lack of any reference to conditions of service as well as pay and their emphasis on the importance of the Houghton report the present terms carried a serious risk that the Commission would simply undertake an indexation exercise. It had also to be kept in mind that if the Government referred the teachers to the Commission they would find it more difficult to refuse similar treatment to other groups who might press for a similar reference, and that they might be held to have endorsed the comparability approach to public service pay generally. Finally it was argued that, if the terms of reference could be improved by inclusion of a reference to conditions as well as pay and by omission of the qualifying words "in particular" before the reference to Houghton, then the balance of advantage would be in referring the teachers to the Commission. The next step might be to take informal soundings to establish the likely acceptability of such changes while recognising that the parties might wish to see some improvement in the offer so far made to the teachers before giving ground on this issue. If this course were followed Ministers would wish to consider the matter again before deciding whether any particular concession was worth making. In particular it would be undesirable to enter into any commitment to provide support through the rate support grant for any improved offer, or to imply that such support would be forthcoming. Similarly no assurance or guarantee should be given about the Government's willingness to provide rate support grant cover for an arbitration award. If it proved impossible to amend the terms of reference in the way the Government wished the Government would be able to publicise the fact that the teachers, unlike all the other groups so far referred to the Commission, had refused to accept that their conditions of service were relevant to the pay they received. This would give the Government a good public posture when the claim went to arbitration.

THE PRIME MINISTER, summing up the discussion, said that on balance the Committee regarded a reference to the Standing Commission on Pay Comparability as preferable to recourse to arbitration provided that the terms of reference for the Standing Commission study could be improved in certain important respects. The minimum changes the Committee required were a specific reference to conditions of service

as well as pay and to the removal of the qualifying words "in particular" before the reference to the Houghton Report. In arriving at their conclusions the Committee were expressly not intending to prejudge the view Cabinet might later take on the principle of comparability as such but seeking the least disadvantage outcome in the particular circumstances of the teachers' pay negotiations. The Secretary of State for Education and Science should accordingly explore with the parties the possibilities of amending the terms of reference in these ways and report back to colleagues so that a decision could be taken, if necessary, at the meeting of the Cabinet arranged for Thursday 17th May. The Committee recognised that some concessions to the teachers might be needed, as part of a bargain on the terms of reference. The Secretary of State should not however commit the Government to any such concessions before a further collective discussion had taken place. It would be particularly important to avoid implying new commitments by the Government in respect of Rate Support Grant. It would be helpful for the Cabinet if the Secretary of State for Education and Science in consultation with the Secretary of State for Scotland and other colleagues as necessary, could include additional factual information before Wednesday evening at the latest setting out the cost of the various likely options for a settlement of the teachers' pay issue both for central and local Government; the cost of the possible concessions he had described in his note; how these costs compared with the total education budget and what would be involved in absorbing them within this budget; the extent of the Government's prior commitments to the local authorities on Rate Support Grant in respect of teachers' pay under the various options; the numbers of teachers and teacher/pupil ratios now and at the time of the Houghton Report; the annual waste rate of teachers and other staff in the education services; the split of teachers in post between educational and administrative functions; and the current supply and demand position for teachers, including the supply of teachers from the present teacher training programme, as compared with the position at the time of Houghton

The Committee -

Took note, with approval, of the Prime Minister's summing up of their discussion.

Cabinet Office

15 May 1979

Min. Ch/Ex-PM
9/5/79



cc Sir K. Berrill
Mr. Harvey
Mr. C. Clarke
Mr. Faulkner
Mr. Mountfords
AG/Dr Thompson

Treasury Chambers, Parliament Street, SW1P 3J

01-233-3000
CABINET OFFICE
A 233.....
10 MAY 1979
FILING INSTRUCTIONS
FILE No. 41720/4

PRIME MINISTER

My Pl include in
- brief. *

RM

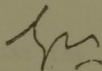
QUEEN'S SPEECH - ABOLITION OF THE PRICE COMMISSION

I have seen a copy of John Nott's minute of 7th May about the future of the Price Commission.

- The wording we have agreed for the Queen's Speech leaves open the exact form of legislation we will be proposing and it is not therefore necessary to take final decisions this week.
- My present view is that there is no need for the Price Commission to survive as a separate organisation. It could be absorbed into the Monopolies and Mergers Commission with the resulting body being given added powers to investigate matters referred to them quickly. We can decide exactly what would be appropriate when we have reviewed the operations of the Price Commission, the Monopolies and Mergers Commission, and the Office of Fair Trading.
- At the moment the immediate need is to relieve industry and the nationalised industries of the burden of Price Commission investigations and prenotification of proposed price increases, and to remove from the Price Commission its powers of independent initiative. I do not think that Sally Oppenheim's proposals go nearly far enough in this direction. On the other hand I would not favour John Nott's suggestion for establishing ad hoc boards. If, as I think will prove to be the case, we need to have a small outside body who can

undertake independent investigations at the request of the Government, then this is best done by a standing body rather than trying to assemble individuals for a particular enquiry when cases arise.

5. I suggest that, before decisions are taken, the Ministers concerned should discuss John Nott's proposals when the further option which I have put forward could be considered. I am copying this minute to other members of the Cabinet and to Sir John Hunt.



(G.H.)

9 May, 1979



*cc to Mr. Nott
Mr. Nott
Mr. C. Chenier
Mr. Faulkner
Mr. Mansfield D*

25

10 DOWNING STREET

From the Private Secretary

9 May 1979

CABINET OFFICE
A 187.....
- 9 MAY 1979
FILING INSTRUCTIONS
FILE No. 387/4

by 9/15

Mr. Tom.

Future of the Price Commission

The Prime Minister has considered your Secretary of State's minute of 7 May and your letter of 8 May on the above subject.

- A123.

FOLIO
24

The Prime Minister's view is that the issue raised by your Secretary of State is too important for a decision on it to be rushed this week. But she would be happy if Mr. Nott circulated a paper outlining the options which could be considered by Ministers early next week. She would herself like to chair the meeting which will discuss the paper, and the Cabinet Office will be trying to set up a meeting of the Ministerial Committee on Economic Strategy for Monday.

The Prime Minister's initial predisposition is to prefer the course favoured by Mrs. Oppenheim - i.e. to introduce a short Bill to abolish the Commission's powers to freeze prices during an inquiry and to replace this with a power to roll back prices following an inquiry, subject to minimum safeguards. But she will of course wish to have the views of colleagues.

The Prime Minister would be grateful if Mr. Nott's paper would include an assessment of the investigations which are currently underway with a view to seeing whether any of them should be stopped. In this connection, the paper should make it clear what powers the Government has under existing legislation to stop these investigations.

I am sending a copy of this letter to Private Secretaries to the Cabinet and to Martin Vile (Cabinet Office).

Tom

Tim Lambert

T.G. Harris, Esq.,
Department of Trade.

CONFIDENTIAL



CABINET OFFICE
A 123.....
- 8 MAY 1979
FLING INSTRUCTIONS
FILE No. 2222

cc Sir K. Brown
 Mr. Hartop
 Mr. C. Cunningham
 Mr. Faulkner
 Mr. Mansfield
 [Signature]

PRIME MINISTER

QUEEN'S SPEECH: ABOLITION OF THE PRICE COMMISSION

Keith Joseph and I have had a quick word about the future of the Price Commission. As you know, we all discussed this subject pretty fully before the election and agreed on a very early Bill which would be sufficiently short and simple to enable us to push it through the House without too much delay. During the election we only talked of a "review" of all institutions in the field and Sally Oppenheim stuck to this line throughout the campaign. Nevertheless, in my view, there is everything to be said for accomplishing the removal or emasculation of the Commission before the summer recess since if we wait until the autumn it may be the end of the year before it receives Royal Assent. Industry is in dire need of a boost in its confidence and I feel that we should act fast. (I am advised that we could produce the necessary short Bill in time).

I think we have two options:

(1) To introduce a short Bill to abolish the Price Commission, but reserve, as a purely temporary measure, certain powers of the Secretary of State to refer sectors and specific companies for review to ad hoc Boards appointed for this purpose. I suggest we may need some sanction to reverse prices retrospectively but I would envisage that this power would only be used in the most exceptional cases of a strictly emergency nature. The Secretary of State's powers would be available until such time as we would be able to place prices firmly in the field of competition policy following the review of this field promised in the manifesto.

(2) To introduce a short Bill to abolish the Commission's power to freeze prices during an enquiry and to replace this with a power to roll back prices following an enquiry, subject to minimum safeguards. The present Chairman of the Commission would be replaced.

Despite the risks involved, my own preference would be for the first of these options, although Sally Oppenheim prefers the second option as she feels there would be less political risks involved. A quick abolition Bill may seem extremely hasty and drastic to the trade unions but I think it will have less adverse impact on the mood of the autumn pay round if we act now and clear the decks completely. In my view there does not seem a lot of purpose in keeping the full organisation in being when we have effectively drawn its teeth. I want to keep the temporary reserve Ministerial powers purely as a gesture to trade union sentiment. A decision on this issue will clearly need to be reflected in the Queen's Speech and you may wish to include this in our discussions at Cabinet. 14



Handwritten notes in the top right corner, including the name 'John Hunt' and other illegible scribbles.

I am copying this minute to Cabinet colleagues and to Sir John Hunt.

Department of Trade
1 Victoria Street

7 May 1979

JW
JN



PRIME MINISTER

CABINET OFFICE
A 253
10 MAY 1979
FILING INSTRUCTIONS
FILE No. 387/4

E. J. ...
Mr. Carrill
Mr. Harvey
Mr. Le ...
Mr. Faulkner
Mr. Mountfield
 1979

John Nott did discuss the gist of his minute of 7 May with me but now that I have seen his minute I would like to restate my preference for immediate abolition - John's option (i) - but I would resist the idea of our reserving powers for ad hoc Boards to review individual prices or for individual price increases to be reversed retrospectively. There are many objections to the Price Commission but among the most important are that it involves interference by Government in the pricing decisions of individual firms and that it creates uncertainty among firms about the possibility of Price Commission interference. The possibility of ad hoc Boards of investigation would not remove that uncertainty but would in fact create new and unknown uncertainties, and would cancel out any boost to business confidence which John believes, as I do, to be necessary.

I appreciate the risk that outright abolition of the Commission might have political repercussions and an adverse impact on the autumn pay round. But we should be careful not to exaggerate the impact of the Price Commission on union sentiment; the abolition of the profit safeguards last winter did nothing to moderate union wage demands and most people already understand that the Price Commission has had no effective impact on price increases. If we want to offer a sop to trade union sentiment we can draw attention to the fact that we already possess powers to control many prices under the Fair Trading Act. Provided a monopoly situation which operates against the public interest can be found to exist, a Monopolies Commission investigation can empower us to order more extensive price reductions than are



possible following a Price Commission investigation. I suggest that, when announcing the abolition of the Price Commission, we should also refer to our ability, should it be needed, to use the Monopolies Commission machinery for price investigations. (I understand that we can instruct the Monopolies Commission to limit their investigation only to pricing practices of monopolists and to report within a relatively short time scale).

No doubt it will be necessary to consider what interim arrangements should be made for the period between the announcement of the intention to abolish the Price Commission, if that is the decision, and the enactment of the legislation, in order to curtail the Commission's activities during that time.

I am copying this minute to Cabinet colleagues and Sir John Hunt.

KJ

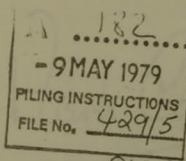
K J

10 May 1979

Department of Industry
Ashdown House

PRIME MINISTER

TEACHERS' PAY



The most immediate problem facing me on taking office is the impasse over teachers' pay and related industrial action already being taken by the National Union of Teachers (NUT) and about to be begun by the National Association of Schoolmasters/Union of Women Teachers (NAS/UWT). I know you want to see an early resolution of this. Moreover the atmosphere will become even worse if a Burnham Committee meeting is delayed beyond the beginning of next week.

2. I attach a paper which sets out the problem. Before any substantive move can be made we have to decide whether to go for arbitration or a reference to the Standing Commission on Comparability.

3. Arbitration might more quickly resolve this year's dispute, but would leave unresolved the teachers' claim to indefinite maintenance of Houghton relativities. One particular problem would be the likely need of the Management Panel to make a positive response to the teachers claim of 36.5% instead of referring it to the Standing Commission.

4. A Standing Commission reference raises the question of the future of that body. If it continues, teachers are just the sort of group for which it was designed. A Standing Commission report should resolve the dispute over Houghton relativities and might provide continuing machinery which reduced the likelihood of annual disputes with accompanying growing militancy. One particular problem would be the entrenched NAS/UWT line that arbitration is the only "legal" way forward. They might continue industrial action after a Burnham decision to go to the Standing Commission, but would be very isolated and would probably find a way off the hook.

5. I would on balance favour a further attempt to use the Standing Commission (recognising that the teachers have at all times a unilateral right to insist on arbitration). If this route is to have any chance of success my representatives on the Management Panel must be able to authorise the offer described in paragraph 10, and to deal with the question of terms of reference as indicated in paragraphs 8 and 9. I accordingly seek agreement to my proceeding in this way.

6. I am sending copies of this minute to the Chancellor of the Exchequer, the Secretaries of State for Employment, Scotland and Wales and to Sir John Hunt.

Mark Carlisle

MARK CARLISLE

9 May 1979

There was some informal understanding on both sides of the British Committee that the two dates as it could be achieved in January 1980/January 1981 if nothing else stood in the way of a settlement, but this has not been formally offered in England and Wales (though it was offered in Scotland).

2. The first question is whether we intend to permit any major new references to the Standing Commission. If we do not, that - since the two sides are too far apart to permit a negotiated agreement without recourse to some form of independent third party - the inevitable outcome will be arbitration. There are thus two alternatives - arbitration or the Standing Commission.

Arbitration

3. Recourse to arbitration would have certain immediate advantages. It probably offers the quickest route to getting a settlement and getting the schools back to normal, and it avoids pre-judging our relationship with the Standing Commission. It avoids any further conflict with the NUT/MTU, though at the time of writing problems for the NUT, the majority union. On the other hand it would (and probably would) prove an expensive event, perhaps substantially above 50 over from April 1979, and yet would leave the teachers dissatisfied that they had not yet recovered their "fightback" relationships, therefore virtually guaranteeing a re-run of the present difficulties next March.

4. Before the British Committee could get to the point of deciding upon arbitration, however, we would have to say where we stood on the main elements of the prior offer, first in the Management Panel and then through the Management Panel leadership to the teachers. The essential elements of our position, which I hope you would approve by putting on the table, would for a start be these:

TEACHERS' PAY

The offer already openly made to the school teachers by the Management Panel of the Burnham Committee comprises these elements:

- a. 9% increase effective from 1 April 1979;
- b. reference to Standing Commission (I return below to the vexed question of the terms of reference for this);
- c. payment of half of whatever further increase resulted from this reference with effect from 1 April 1980 and the second half from 1 April 1981.

There was some informal understanding on both sides of the Burnham Committee that the two dates at c. could be advanced to January 1980/January 1981 if nothing else stood in the way of a settlement; but this has not been formally offered in England and Wales (though it was offered in Scotland).

2. The first question is whether we intend to permit any major new references to the Standing Commission. If we do not, then - since the two sides are too far apart to permit a negotiated agreement without recourse to some form of independent third party - the inevitable outcome will be arbitration. There are thus two alternatives - arbitration or the Standing Commission.

Arbitration

3. Recourse to arbitration would have certain immediate advantages. It probably offers the quickest route to getting a settlement and getting the schools back to normal, and it avoids pre-judging our relationship with the Standing Commission. It avoids any further conflict with the NAS/UWT; though at the cost of creating problems for the NUT, the majority union. On the other hand it could (and probably would) produce an expensive award, perhaps substantially above 9% even from April 1979; and yet would leave the teachers dissatisfied that they had not yet restored their "Houghton relativities", therefore virtually guaranteeing a re-run of the present difficulties next March.

4. Before the Burnham Committee could get to the point of deciding upon arbitration, however, we would have to say where we stood on the main elements of the prior offer, first in the Management Panel and then through the Management Panel leadership to the teachers. The essential elements in our position, which I hope you would approve my putting on the table, would for a start be these:

- a. % as already offered (but see paragraph 5 below);
- b. an undertaking in advance to implement the arbitration award (ie not to have recourse to stopping it by resolutions of the two Houses of Parliament);
- c. acceptance of the full additional cost of the arbitration award in 1979-80 as relevant expenditure for Rate Support Grant support.

In return (particularly in return for the important undertaking at b.) I would expect the teachers to call off their industrial action forthwith. The NAS/UWT have already made clear that they would.

5. There is one difficulty in the approach to arbitration which would not be met by a prior offer on these lines. In the absence of a Standing Commission reference, the Management Panel would not have made a substantive response to the full claim for 36.5% to restore relativities. A Management Panel offer of % only would look exceedingly bare: it might sway the arbitrators to conclude that the Management Panel had not taken the erosion of teachers' pay since 1974 seriously and hence to make a very generous award, and indeed the local authorities within the Management Panel might themselves feel that a bald % offer was not good enough. But to accompany the % with (say) two staged payments of some undetermined sum instead of going for a comparability exercise would get us into uncharted territory. I would need to talk with the local authority representatives before advising you further on this.

Standing Commission

6. The alternative is by way of reference to the Standing Commission. If we are not in principle ruling out further major references to it, then teachers (School, FE and indeed University too) would be very much the kind of group for whom that treatment is prima facie appropriate.

7. Moreover, in addition to its longer-term advantage (that, if the exercise went well, we would not find ourselves in the same difficulty this time next year) this alternative has the financial attraction that the additional cost within the 1979-80 financial year would be minimised, since the concept of staging at least the second half of the resulting increase into 1980-81 is already accepted by all concerned. As the Standing Commission has so many earlier cases to deal with, we probably would not know the size of their recommendations until (say) April 1980, so the first stage would have to be paid retrospectively (the teachers may be dismayed when they realise the likely timing and may therefore seek a specified percentage increase at the first stage on the lines of the Civil Service arrangement). We would also

have to reckon on continuing trouble for a time from the NAS/UWT if we chose this route, for their leader (Mr Casey) has committed himself firmly against it: though he probably could not keep up his opposition (and his members' industrial action) indefinitely if the majority union, the NUT, and the smaller ones found the combined package acceptable.

8. In considering what we would have to do to bring about agreement to a reference to the Standing Commission, the question of the terms of reference must come first. Within the Burnham Committee, terms of reference as set out in the Annex were in fact agreed between the Teachers Panel and the Management Panel (though with the Secretary of State's representatives dissenting). The former Government had let it be known that they would see great difficulties in referring the question to the Standing Commission on these terms (because, I understand, they feared that so direct a reference to the Houghton Committee Report of 1974 might unduly restrict the Standing Commission) and this of course was a major cause of the impasse.

9. I do not myself feel that we need make an obstacle out of this. The terms of reference could certainly be improved by amplifying the kind of comparability study envisaged in the opening words, and by clarifying at the end the processes required to turn the Commission's report into a pay agreement without going over the whole ground again. I would like to try to get the agreement of the teachers and the local authorities to this. But, for the rest, I take the view that the Houghton Report is so important a landmark in teachers' pay history that the Commission cannot fail to take account of it whatever the terms of reference say; and that we must trust them to do a more thorough job than simply applying up-dating index changes to it. I am clear, from what has already passed in the Burnham Committee, that we are most unlikely to get any progress towards a Standing Commission reference unless we take a different view from our predecessors here.

10. As in relation to arbitration, we would have to make clear where we stood on the prior offer. In addition to finding acceptable terms of reference, the essential elements would, for a start, have to be:

- a. some improvement on the present 9% offer effective from April 1979, most probably the removal of some small anomalies in the pay structure, adding about 0.3% to the total cost;
- b. a payment on account from 1 April 1979 (by way of advance on the first half of the increase from the Standing Commission reference) as already granted to other groups, perhaps limited to those earning under about £5,000, this will be the more necessary if the Standing Commission's Report will be as late as para 7 suggests;

- c. some improvement on the staging of subsequent instalments, at least to January 1980/January 1981, and perhaps to January 1980/September 1980;
- d. acceptance of these additional costs in 1979-80 as relevant expenditure for Rate Support Grant support.

It goes without saying that the further concessions at a. to c. above would not be offered to the teachers unless it became clear in negotiation that we could not secure the reference to the Standing Commission and the early withdrawal of their industrial action without them. But we must give the negotiators on the day a reasonable room for manoeuvre if they are to bring off a successful deal, and I hope you will authorise them to go to these limits if necessary, without reference back for further instructions.

Further Education

11. Very similar considerations apply to Further Education teachers. They have lodged a similar claim and the same choice between arbitration and Standing Commission exists. I propose that decisions on schoolteachers would apply to further education teachers (subject to clearance of any necessary variations in the light of the detailed circumstances).

Department of Education and Science
May 1979

Terms of Reference agreed by Burnham Committee

The Government, at the request of both sides of the Burnham Primary and Secondary Committee, invites the Standing Commission on Pay Comparability to examine the pay of teachers in maintained primary and secondary schools in England and Wales.

The Standing Commission is asked to have regard to all relevant principles and considerations relating to the assessment of the value and role of the teaching profession in society and in particular to all matters referred to in the Houghton Report and the Joint Working Party Report received by the Burnham Primary and Secondary Committee on 7 March and to the movement of inflation and salary levels since April 1978.

The Standing Commission is asked to report their conclusions to the Burnham Primary and Secondary Committee.



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CABINET OFFICE
A 263
10 MAY 1979
FILE INSTRUCTIONS
FILE No. 429/5

~~cc Sir K Bennell
Mr Le Cheminant
Mr Mountfield
Mr Wilson~~

10 May 1979

by 10/5

Dear Tim,

TEACHERS' PAY

I attach a minute to the Prime Minister which my Secretary of State approved on his return from Cabinet today but which he did not have an opportunity to sign before departing in order to carry out engagements in Scotland this evening.

In view of its urgency in relation to Ministers' consideration of this subject on Monday, I am therefore circulating it under cover of this letter today.

I am copying this letter to the Private Secretaries to Members of E Committee, to Philip Hunter (DES), George Craig (Welsh Office) and Martin Vile at the Cabinet Office and Gerry Spence (CPRS).

Yours sincerely,
Kenneth Mackenzie

K J MACKENZIE
Private Secretary

Prime Minister

TEACHERS' PAY

1. I have seen a copy of the minute which the Secretary of State for Education and Science sent to you on 9 May, covering a paper about teachers' pay and suggesting that we should try to secure a settlement of this problem by way of the Standing Commission on Pay Comparability coupled with various improvements in the present offer to the teachers. I imagine that you will accept that any improvement in the offer to teachers in England and Wales must be matched by a corresponding offer to Scottish teachers.
2. I agree with Mark Carlisle that the balance of advantage would seem to lie in a reference to the Standing Commission rather than in simply allowing the matter to go to arbitration, which would certainly be the outcome if we are not prepared to authorise any advance on the present offer but which might be expensive in the short term and would still leave unresolved the question of restoration of "Houghton relativities". I agree also that the sort of improvement needed to secure an agreement would involve (a) a small increase in the cash offer as at 1 April 1979 (either by means of a marginal percentage improvement or by some form of payment on account or both) and (b) probably some improvement in the staging of any subsequent comparability award.

3. I am, however, concerned - against the background of my wider pay responsibilities - that, by looking at the problem of teachers' pay in isolation, we may store up consequential difficulties for ourselves in other fields. As Mark Carlisle's paper recognises, we have to decide our whole attitude to the Standing Commission; and I suggest that in any event we should think very carefully before agreeing to terms of reference to the Commission containing such a direct "steer" towards Houghton as those set out in the annex to that paper. Moreover, we must be sure that any improvement either in the cash offer to the teachers or in the proposed staging does not result in awkward repercussions for other groups.

4. I too shall be under pressure to facilitate the early resumption of negotiations in the Scottish Teachers Salaries Committee. I would prefer, however, that we should first look collectively at the sort of points mentioned in paragraph 3 above before deciding what improvements might be authorised in the existing offer to the teachers. I would hope that this is something which we could tackle quickly.

5. Copies of this minute go to Mark Carlisle and to the other recipients of his minute.

10 May 1979