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CG(81) 16th  
Conclusions

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CABINET

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

TUESDAY 14 APRIL 1981

at 9.45 am

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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 Hailsham  
Lord Chancellor

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

The Rt Hon Sir Geoffrey Howe QC MP  
Chancellor of the Exchequer

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

The Rt Hon Francis Pym MP  
Chancellor of the Duchy of Lancaster  
and Paymaster General

The Rt Hon Lord Soames  
Lord President of the Council

The Rt Hon John Nott MP  
Secretary of State for Defence

The Rt Hon Sir Ian Gilmour MP  
Lord Privy Seal

The Rt Hon Peter Walker MP  
Minister of Agriculture, Fisheries  
and Food

The Rt Hon Michael Heseltine MP  
Secretary of State for the Environment

The Rt Hon George Younger MP  
Secretary of State for Scotland

The Rt Hon Nicholas Edwards MP  
Secretary of State for Wales

The Rt Hon Humphrey Atkins MP  
Secretary of State for Northern Ireland

The Rt Hon Patrick Jenkin MP  
Secretary of State for Social Services

The Rt Hon John Biffen MP  
Secretary of State for Trade

The Rt Hon David Howell MP  
Secretary of State for Energy

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

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The Rt Hon Norman Fowler MP  
Secretary of State for Transport

The Rt Hon Leon Brittan QC MP  
Chief Secretary, Treasury

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon Sir Michael Havers QC MP  
Attorney General (Item 2)

The Rt Hon Michael Jopling MP  
Parliamentary Secretary, Treasury

SECRETARIAT

Sir Robert Armstrong  
Mr P Le Cheminant (Item 2)  
Mr W N Hyde (Item 1)  
Mr D J L Moore (Item 2)  
Mr L J Harris (Item 1)

C O N T E N T S

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CONFIDENTIAL

PARLIAMENTARY  
AFFAIRS

1. The Cabinet were informed of the business provisionally arranged to be taken in the House of Commons during the week beginning 27 April.

Fermanagh and  
South Tyrone  
Election

Previous  
reference:  
(81) 15th  
conclusions,  
page 1

THE CHANCELLOR OF THE DUCHY OF LANCASTER AND PAYMASTER GENERAL said that his consultations had shown that it was the clear view of Members of the House of Commons, including the Ulster Unionists, that no action should be taken to expel Mr Sands from the House. Mr Sands had been legally elected under the existing law, and any attempt to expel him would merely exalt his propaganda victory. There was a strong case for changing the law to prevent persons serving more than a minimum term of imprisonment from serving as Members of Parliament, but the introduction of such legislation should not be directly related to the election of Mr Sands. One possibility would be to include appropriate provision in the Criminal Justice Bill proposed for next Session, but that would mean that no change in the present law could be made before July 1982 and would not prevent another convicted prisoner standing in a further by-election in Fermanagh and South Tyrone, if Mr Sands were to carry out his stated intention of continuing his present hunger strike until death. The Home and Social Affairs Committee were to consider a memorandum on this subject by the Home Secretary the following day.

THE PRIME MINISTER, summing up a brief discussion, said that the Cabinet agreed that, in the light of current Parliamentary opinion, no steps should be contemplated to expel Mr Sands from the House of Commons. They noted that he would not be entitled to draw his Parliamentary salary until he had taken the oath as a Member of Parliament (though in that event it would be payable retrospectively from the date of the return of the writ). He had made it clear that he was unwilling to take the oath, and in any case he would not be allowed to attend the House of Commons for this purpose. The Cabinet noted that he had already forfeited substantial remission of his sentence, and consequently, even if he abandoned his hunger strike, would not expect to be released from prison before the next General Election.

The Cabinet -

1. Agreed that the Government should not seek Mr Sands's expulsion from the House of Commons.
2. Noted that the Home and Social Affairs Committee were to give early consideration to the possibility of legislation on the position of convicted persons standing for Parliamentary election.

CIVIL SERVICE

Y

Previous  
reference:  
C(81) 15th  
conclusions,  
page 4

2. The Cabinet considered a memorandum by the Chancellor of the Exchequer and the Lord President of the Council (C(81) 15) on Civil Service Pay. The Cabinet's discussion and conclusions are recorded separately.

Cabinet Office

14 April 1981

CABINET

LIMITED CIRCULATION ANNEX

CC(81) 16th Conclusions, Minute 2

Tuesday 14 April 1981 at 9.45 am

CIVIL SERVICE

BY

previous

reference:

CC(81) 15th

conclusions,

minute 4

The Cabinet considered a memorandum by the Chancellor of the Exchequer and the Lord President of the Council (C(81) 15) on the Civil Service pay dispute. A draft negotiating brief for discussions with the unions on the arrangements for the 1982 Civil Service pay settlement, referred to in paragraph 9 of the memorandum, was circulated at the meeting.

THE CHANCELLOR OF THE EXCHEQUER recalled that the Cabinet had agreed not to increase the present offer of a 7 per cent increase for non-industrial civil servants from April 1981. To secure an end to the present industrial action it would be necessary to assure the unions of the Government's good faith in seeking to establish an ordered and agreed system for the longer term and to agree on the arrangements for the 1982 negotiations, assuming that the longer-term arrangements would not be in place by then. The unions would undoubtedly seek an assurance that the outcome for 1982 was not to be predetermined by inflexible cash limits set, as for 1981, in advance of negotiations. He proposed that some elements of flexibility should be introduced into the settlement of cash limits in relation to pay of the Civil Service and the National Health Service (NHS) with the aim of providing a pay negotiating margin that would be sufficient at least for normal circumstances. Under these arrangements provisional decisions would be taken in autumn 1981 on the cash provisions in 1982-83. These decisions would need to incorporate a provisional inflation factor for pay, but it might at that stage be possible to adopt a single figure was chosen for the pay factor becoming at once a floor and a ceiling for subsequent negotiation, it would be set lower than the judgement of the likely outcome of the pay negotiations. Flexibility to allow for the initial cash figure to be increased might be found from prompt action to reduce manpower and administrative costs, perhaps from changing the structure of Votes, and from providing in the Contingency Reserve additional money to be made available if some modest upward adjustment in the cash provision became necessary following negotiations. Use of the Contingency Reserve in this way would in principle be available for all staff employed by

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Central Government, including the Armed Forces and the NHS. The draft negotiating brief was intended to serve as a basis for discussions with the unions on the 1982 settlement. It listed factors which the Government would expect to take into account in the negotiations. It explained that, if a claim were referred to arbitration, and if in the last resort the Government did not feel able to be bound by the award of the Arbitration Tribunal because of its consequences for the level of public expenditure, the Government would not modify the award without seeking and obtaining the authority of Parliament. This approach built on the procedure which had existed since 1925 by introducing a new provision for the Government to take the initiative in inviting Parliament to override or modify an arbitral award. This formula would leave open for decision at the time the question whether in the event of failure to reach agreement the claim should be referred to arbitration. He recommended against any firm commitment now to let a claim go to arbitration in the event of failure to negotiate a settlement in 1982; given the Government's general stance on unilateral access to arbitration, it would be preferable for the Government not to be bound in advance to a particular course of action in this way.

THE LORD PRESIDENT OF THE COUNCIL said that he and the Chancellor of the Exchequer agreed on the proposed approach, save on the question of arbitration. He would be willing to open discussions with the unions on the basis that there would be no commitment by the Government to arbitration. He did not, however, believe that this would suffice to bring the present industrial dispute to an end. If he were right in this judgement, he would wish, at a suitable stage in the negotiations, to offer a commitment to let the claim go to arbitration in 1982 should the negotiations then not otherwise be capable of resolution. There would be some scope for closing any gap between the cash available and whatever settlement figure emerged through reductions in staff numbers, but this would only be likely to offset about one percentage point or so, and the Cabinet should realise that this course would add to the pressure already on Departments to achieve or surpass the Government's target for reductions in Civil Service numbers. He invited the Cabinet to give him freedom to decide when to open discussions with the unions. If the decision to use servicemen to break the strike of civiliar staff at the nuclear submarine base on the Clyde led to a major escalation later in the day in industrial action elsewhere, he would want to postpone the opening of discussions in order to avoid any impression that the Government was responding to pressure. If, however, there was no significant increase in industrial action, he would then be ready to open negotiations.

In discussion the following were the main points made -

- a. The proposed arrangements for introducing greater flexibility into the financial provisions for Civil Service pay could be at the

expense of capital investment and of other essential current expenditure in the public sector. This could arise either if insufficient amounts were made available from the Contingency Reserve to Departments to finance pay settlements, or if too much of the Contingency Reserve was taken up by additional provision for Central Government pay. The proposed arrangements could therefore limit the scope for using the 1981 Public Expenditure Survey to restore and increase public sector capital investment by setting tight cash limits on public service pay. On the other hand, the arrangements were designed to ensure that public expenditure in total would not be increased and the decisions on the initial provision for pay and on any allocations from the Contingency Reserve would be taken by Cabinet collectively. It should be possible, therefore, to guard against the risks which had been identified.

b. The proposed arrangements for Central Government pay could cause difficulties for the arrangements for the Rate Support Grant (RSG). If the pay factor incorporated in the RSG cash limit in November was higher than the provisional pay factor for Central Government, the Civil Service unions would be encouraged by that, and by the knowledge that there was some further provision in the Contingency Reserve, to increase their claims and to hold out for agreement to them. If on the other hand the pay factor for the RSG cash limit was the same as the provisional pay factor for Central Government, and the use of the Contingency Reserve made possible a higher settlement for the Civil Service than for local government staff, the local authorities would argue that the Government had let them down by imposing tighter disciplines on them than on the Central Government staff for which they were directly responsible. On the other hand, the local authorities already had greater flexibility because of their reserves and of their income from the rates; the effect of the proposed new arrangements would be to give Central Government a broadly similar degree of discipline and flexibility. It might, nevertheless, be necessary to reconsider the RSG arrangements in the light of the proposed Central Government system and to see whether any changes were called for.

c. Although there were imperfections and difficulties in the proposed arrangements, no perfect solution would ever be found to the problem of reconciling cash limits with a measure of freedom of manoeuvre in negotiating on pay. The proposals in the memorandum by the Chancellor of the Exchequer and the Lord President of the Council appeared to offer the best practicable way of introducing the necessary flexibility to enable genuine negotiations on pay to take place.

d. Though public opinion was currently against the Civil Service unions, it could not be counted on to stay that way. It would be preferable to open negotiations soon rather than to let the present dispute drift on in the hope that it would eventually come to an end as public

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opinion hardened against the Civil Service. A settlement of 7 per cent for 1981, and agreement on a reasonable framework for negotiations in 1982 and later, would present a considerable success for the Government.

e. There were considerable risks in conceding now the right to arbitration in the event of failure to negotiate a settlement. This could have adverse repercussions on other public sector arrangements, and would seem inconsistent with the Government's recent decision to withdraw the right of unilateral access to arbitration in other parts of the public sector as soon as possible. The greater flexibility now proposed for determining the pay cash limit could be justified only if the Government retained its right to take a final decision on the amount of money available for pay. On the other hand, the reality was that it would probably be necessary to accept a commitment to allow the 1982 claim to go to arbitration if necessary in order to bring the present dispute to an end and to convince the unions of the Government's good faith. This would not necessarily be damaging. The Civil Service Arbitration Tribunal had an independent Chairman and a good record of responsible awards. The Government could retain the power to modify an award subject to the approval of Parliament.

f. Since public finance would be at issue, there was a strong case in principle for confining to the House of Commons Parliamentary consideration of any Government proposals to modify an arbitral award although there were precedents, notably in the Remuneration of Teachers Act, for both Houses to be involved in such decisions. Further consideration should be given to whether there was any constitutional or other objection to excluding the House of Lords from the proposed arrangements. In practice it was likely that the Government would have a majority in both Houses if they made proposals. There might, however, be some reluctance to press for an award to be modified if, for example, it was not substantially over the amount which the Government was prepared to offer.

g. The Cabinet were due to decide after Easter whether to propose negotiations on the long-term system for determining Civil Service pay or to offer, ~~an independent inquiry after Easter~~ when they would consider the report of MISC 54. It would then be necessary to consider whether such an inquiry ran the risk that the Government might find it difficult to reject findings which were unacceptable to it. On the other hand, an independent inquiry could well bring improvements in the present system which it would be impossible to agree in direct negotiations with the unions. The offer of such an inquiry would, moreover, be attractive to the many civil servants of moderate opinion who strongly disliked strike action but who were, nevertheless, deeply concerned over the arrangements for the longer term. If such an inquiry were to be offered now, it might then be possible to end the present dispute without conceding a commitment to let the 1982 claim go to arbitration if necessary.



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THE PRIME MINISTER, summing up the discussion, said that on balance the Cabinet agreed that the proposals in paragraph 6 of C(81) 15 provided an acceptable basis for introducing elements of flexibility into the application of the cash limit system in relation to the negotiation and determination of pay in the Civil Service and other public services for 1982-1983, while retaining the essential discipline of cash limits on the course of expenditure during the financial year to which they related. It was recognised that the new procedures would carry implications for the arrangements for determining the cash limit for the Rate Support Grant in 1982-1983; and would entail difficult decisions for the Cabinet, both on the amounts of cash limits and on the size of the central contingency reserve, if room was to be kept within planned overall levels of public expenditure for some increase in spending on capital programmes. On the basis of the proposals for introducing flexibility into the cash limit system, the Cabinet was able to agree that the Lord President of the Council should have authority to tell the Civil Service unions, in the context of negotiations to seek to resolve the current dispute, that, on the assumption that a new long-term system for determining Civil Service pay would not have been established in time to be used for the 1982 settlement, the Government would be prepared at the appropriate time to enter into negotiations on the Civil Service pay settlement due in April 1982 without a predetermined limit on the cost of any settlement. As to arbitration in 1982, the Cabinet would prefer not to be committed in the course of the current settlement to referring the 1982 pay claim to the Civil Service Arbitration Tribunal, if it could not be settled in negotiation. The Lord President of the Council should therefore seek in negotiations to avoid any commitment to refer next year's claim to arbitration under the Civil Service Arbitration Agreement: that was a matter for decision at the time. If, however, the Lord President of the Council was unable to reach agreement on that basis, and if he judged that a commitment on access to arbitration next year was an essential part of the price for calling off the present dispute, he should consult the Chancellor of the Exchequer: the Cabinet accepted that in those circumstances the Chancellor of the Exchequer and the Lord President of the Council should have authority to decide that if necessary the unions should be told that, if it was not possible to reach a settlement by negotiation next year, the Government would be ready to promise now to let next year's claim go to arbitration. If that offer was made, the Lord President of the Council should make it clear to the unions that the Government would endeavour to find means of financing an award following arbitration within the planned overall levels of public expenditure, for which purpose the numbers of civil servants employed would have to be considered, and should go on to explain that, if in the last resort the Government did not feel able to be bound by the award because of its consequences for the level of public expenditure, it would not modify it without seeking and obtaining Parliamentary authority. Since questions of public finance would then be at stake, it was in principle desirable that

this authority should be sought from the House of Commons alone, although there were precedents for involving both Houses of Parliament in such decisions. The Lord President of the Council should consider further whether there were any constitutional or other objections to excluding the House of Lords from the proposed procedure. The Cabinet further agreed that the Lord President of the Council should have authority to offer the unions an independent inquiry into the longer-term arrangements for determining Civil Service pay. The membership and terms of reference of this inquiry would be for further consideration. The offer of this inquiry could well be attractive to the large body of moderate opinion in the Civil Service, and the Cabinet considered that if such an offer, together with the proposed commitment to negotiate for 1982 without a pre-determined limit on the cost of any settlement, would lead to the settlement of the current dispute, that concession was preferable to a commitment now to let the claim go to arbitration in 1982. The Cabinet confirmed that there should be no increase in the 7 per cent increase for the non-industrial Civil Service already offered for 1981. The Cabinet agreed that the Lord President of the Council should be free to decide when to open negotiations, and they took note that his decision would be influenced by the extent to which the intensified industrial action which the unions intended to mount later in the day was supported by the staff.

The Cabinet -

1. Approved in principle the proposals in paragraph 6 of C(81) 15 for introducing flexibility into the settlement of the 1982-1983 cash limits in relation to pay in the Civil Service, the Armed Forces and the National Health Service.
2. Invited the Lord President of the Council to enter into negotiations with the Civil Service unions on the settlement of their 1981 pay claim.
3. Invited the Lord President of the Council in his negotiations to be guided by the Prime Minister's summing up of their discussion.
4. Agreed that the Lord President of the Council should not enter into a commitment to let the 1982 claim go to arbitration unless such a commitment was necessary in order to secure a settlement of the current dispute, and then only with the agreement of the Chancellor of the Exchequer.

5. Invited the Lord President of the Council to consider further, in consultation with other Ministers concerned, whether, in the event of the Government wishing to seek Parliamentary authority to modify an award by the Civil Service Arbitration Tribunal in 1982, it would be acceptable to seek authority only from the House of Commons.

Cabinet Office

15 April 1981