CONFIDENTIAL

Prime Minister

Please see, too, Lord Carrington's minute, on the same subject, attached.

MCS 7/12

cc AD

(2)

HOUSE OF LORDS,
SW1A 0PW

PRIME MINISTER

MT

EUROPEAN COURT OF HUMAN RIGHTS -
COMPENSATION FOR CLOSED SHOP VICTIMS

1. I have seen copies of the Secretary of State for Employment's minute to you of 1st December and the Attorney General's minute of 3rd December. I think there are some important points that we should bear in mind when discussing the matter later this week.

2. I have no doubt that the case for compensating the victims of the closed shop legislation is very strong on moral grounds. We should, therefore, be prepared to offer compensation not only to those who brought cases in Strasbourg but also to those who can establish that they were dismissed in comparable circumstances. Like the Attorney General, I do not think that it would be possible to argue convincingly that what we now propose cannot be taken as a precedent for the payment of compensation in future human rights cases. It will certainly be taken as a precedent and this is the price that we must pay for our adherence to the Convention and our acceptance of the right of individual petition. On the other hand, the situations which give rise to cases of this kind suggest that it will only be on rare occasions that substantial compensation would be appropriate. In a majority of instances, applicants will have suffered little or no loss for which they can be compensated.

3. With regard to the closed shop cases, we should be prepared to compensate all those who can establish that they

.../2

HOUSE OF LORDS,
SW1A 0PW

were unfairly dismissed as a result of the legislation which has been held to be in breach of the European Convention. The category of case will have to be carefully defined in the proposed legislation if we are to avoid paying compensation in cases which could have occurred before 1974. Moreover, I do not think that it is necessary for the Government to go out of its way to discover possible instances of unfair dismissal which could qualify for compensation. A public announcement of our intentions and the passage of the necessary legislation will be sufficient. It should, however, be made clear that cases will be carefully scrutinised because it would be wrong to leave the impression that any dismissal which took place where a closed shop was in existence necessarily fell within the terms of the European Court's ruling.

4. I am sending a copy of this minute to those who received the Secretary of State's minute of 1st December.

H. of S. M.

7th December 1981