CONCLUSIONS of a Meeting of the Cabinet held at 10 Downing Street, S.W. 1, on Tuesday, 14th October, 1947, at 3 p.m.

Present:

The Right Hon. C. R. Attlee, M.P., Prime Minister (in the Chair).
The Right Hon. A. V. Alexander, M.P., Minister of Defence.
The Right Hon. J. Chuter Ede, M.P., Secretary of State for the Home Department.
The Right Hon. T. Williams, M.P., Minister of Agriculture and Fisheries.
The Right Hon. J. H. Wilson, M.P., President of the Board of Trade.

The following were also present:
The Right Hon. Alfred Barnes, M.P., Minister of Transport (Items 1-2).
The Right Hon. G. R. Strauss, M.P., Minister of Supply (Items 1-2).
The Right Hon. William Whiteley, M.P., Parliamentary Secretary, Treasury.
The Right Hon. John Strachey, M.P., Minister of Food (Items 1-2).
The Right Hon. H. T. N. Gaitskell, Minister of Fuel and Power (Items 1-2).

Secretariat.
Sir Norman Brook.
Mr. W. S. Murrie.
CABINET 80 (47)

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1. The Prime Minister reminded the Cabinet that, if legislation amending the Parliament Act, 1911, was to be passed in the lifetime of the present Parliament, it ought to be introduced in the coming Session so that, if it were rejected by the House of Lords, its passage into law could be enforced under the existing provisions of the Parliament Act before the next General Election. In these circumstances he invited the Cabinet to consider whether the programme of Government legislation for the 1947-48 Session should not include a Bill limiting the power of the House of Lords to prevent the passage of legislation desired by the House of Commons, possibly on the lines proposed in the memorandum (C.P. (46) 376) submitted to the Cabinet by the Lord Chancellor in October 1946.

The Cabinet first discussed whether it was expedient that such legislation should be introduced at the present time. In the Declaration of Labour Policy issued before the last General Election the statement of the Party’s domestic policy had been prefaced by the declaration: “We give clear notice that we will not tolerate obstruction of the people’s will by the House of Lords.” Having been returned to power on the basis of that declaration, the Government had a clear right to limit the powers of the House of Lords if those powers were used to prevent the passage of Government legislation. Hitherto, however, the House of Lords had not rejected any Government Bill and had in fact passed a number of important socialisation measures. It would, therefore, be argued that, as the House of Lords had not obstructed the passage of Government legislation, the situation envisaged in the Party’s Declaration of Policy had not in fact arisen and the Government had no mandate from the electorate to introduce legislation amending the Parliament Act. There might be a demand that this issue should be specifically referred to the electorate, and moderate opinion throughout the country might be alienated. Moreover, it should not be assumed that the House of Lords would necessarily become more inclined to obstruct Government legislation in the remaining Sessions of this Parliament than they had been in the first two Sessions. There were some grounds for believing that the House of Lords were apprehensive of the political consequences of exercising their powers under the Parliament Act; and it was arguable that on this account they would refrain from rejecting even a Bill for the socialisation of the iron and steel industry, especially if the Bill reached them towards the end of the life of the present Parliament. A few Ministers felt that, notwithstanding these circumstances, it might be better for the Government to introduce at this stage, without any provocation from the House of Lords, legislation limiting the powers of the House of Lords to delay the passage of Government legislation.

On the other side it was argued that because the House of Lords had refrained from obstructing Government legislation in the first two Sessions of this Parliament it could not be assumed that they would be equally reasonable throughout the remaining Sessions. Hitherto, they had acted in the knowledge that the Government had power to enforce the passage of legislation amending the Parliament Act. If such legislation were not introduced in the coming session, the House of Lords could prevent its becoming law before the next General Election; and, once the threat of such legislation had been removed, there might be a change in the attitude of the House of Lords towards Government legislation. Account must also be taken of the strength of the political feeling which would be aroused by the Iron and Steel Bill. This would cause far more controversy than the earlier socialisation measures which had been accepted by the House of Lords; and a number of Peers who did not normally attend the sittings of the House of Lords might be provoked to attend and vote for the rejection of the Bill. If that situation arose it was unlikely that the more moderate counsels of the Leaders of the Opposition Parties in the House of Lords would prevail.
The following arguments were also put forward in favour of early legislation amending the Parliament Act:

(a) Failure to introduce this legislation would reduce the Government’s prospects of enacting an Iron and Steel Bill in the present Parliament. If The King’s Speech contained no reference to the amendment of the Parliament Act, some of the Government’s supporters would infer that the Government had abandoned the idea of enacting further measures of socialisation in this Parliament; and this was likely to cause continuing difficulties with Government supporters in the House of Commons. On the other hand, a decision to proceed with legislation amending the Parliament Act would offset the disappointment which would be felt by many Government supporters at the decision to postpone the Iron and Steel Bill until a later Session of this Parliament.

(b) If the Government intended to introduce this legislation, it was preferable that they should do so now when none of the by-elections held since the last General Election had gone against them.

(c) It was also arguable that it would be preferable to take this step before any controversy had arisen between the two Houses of Parliament. The issues could then be discussed on their merits, and would not be clouded by political bitterness over some other issue such as the nationalisation of iron and steel.

The Cabinet’s conclusion was that the balance of the arguments lay on the side of introducing legislation in the coming Session to limit the power of the House of Lords to delay the passage of Government legislation.

The Cabinet next considered the form which this legislation should take. The Parliament Act, 1911, provided that a Bill passed by the House of Commons in three successive Sessions within a period of two years should become law, notwithstanding its rejection by the House of Lords. The proposal made by the Lord Chancellor in October 1946 (C.P. (46) 376) had been that this period during which the House of Lords could delay the passage of Government legislation should be reduced to two successive Sessions within a period of one year. This change could be made by a simple amending Bill. It was, however, argued that such a Bill might be open to two objections. First, the Government might find difficulty in defending such a measure: for, on the one hand, it could not be represented as an emergency Bill to overcome House of Lords obstruction of the Government’s legislative programme, as no such obstruction had yet been offered; and, on the other hand, the Government would not wish to represent it as their final contribution towards the problem of reforming the House of Lords. Secondly, it was suggested that a measure which merely limited the length of time for which the House of Lords could delay the passage of Government legislation would tend to confirm the right of the House of Lords to interfere with such legislation and might even strengthen their position. Some Ministers felt that, as the effective government of the country had for many years been maintained in a single Chamber, it would be a mistake to promote legislation affirming the principle of a bi-cameral legislature. Other Ministers considered that the House of Lords performed a useful function in revising legislation passed by the House of Commons and that, if it was to continue to exercise that function, it must be allowed reasonable time for the scrutiny of legislation. That being so, the right course would be to reduce the period within which it was required to dispose of legislation passed by the House of Commons. That period might, however, be less than that suggested by the Lord Chancellor in C.P. (48) 376. Thus, the Bill might provide that legislation brought up from the House of Commons should be passed by the House of Lords within six months or by the end of the current Session whichever was the shorter period. Alternatively, it might provide merely that legislation passed by the Commons should be passed by the Lords in the same Session, provided that it reached the Lords within a reasonable period before the end of the Session.
Legislation on these lines could be justified, not on the basis of cutting down the rights and privileges of the House of Lords, but on the ground that for the efficient conduct of its business a Government must be assured that its legislative programme for a given Session could be passed into law within that Session.

The Cabinet reached no final conclusion on the precise form of the legislation to be introduced to amend the Parliament Act, 1911, and agreed that this question should be further considered by the Machinery of Government Committee.

The Cabinet—

(1) Agreed that legislation amending the Parliament Act, 1911, should be introduced in the coming Session.

(2) Invited the Machinery of Government Committee to consider and report to the Cabinet what form this legislation should take.

2. The Cabinet considered a memorandum by the Lord President (C.P. (47) 251) submitting for their approval a final Programme of Government Legislation for the 1947-48 Session.

The Lord President said that, when allowance was made for an autumn Budget and other essential business, the Programme set out in the Annex to C.P. (47) 281 would occupy almost the whole of the time available for legislation in the coming Session. In addition, time must be found for the Bill amending the Parliament Act, which the Cabinet had now decided to include in the Programme (see Minute 1 above), and for the Bills now unforeseen which would inevitably be found to be required in the course of the Session. The 1946-47 Programme had imposed a very heavy strain both on Ministers and on Parliament, and at their meeting on 20th March (C.M. (47) 30th Conclusions, Minute 4) the Cabinet had agreed that the 1947-48 Programme should be lightened. No further additions to the Programme in C.P. (47) 281 could therefore be made without some compensating omissions from it.

The following points were made in discussion:—

(a) The Prime Minister invited the Cabinet to endorse the recommendation of the Future Legislation Committee that a Gas Bill should be included in the Programme and that the Iron and Steel Bill should be postponed to a later Session.

The Minister of Health said that, in view of the decision to introduce in the coming Session legislation to amend the Parliament Act, he would not press for the inclusion of the Iron and Steel Bill in this Programme.

The Minister of Supply asked that an authoritative statement should be made at an early stage, preferably by the Prime Minister in the Debate on the Address, explaining why the Bill was being postponed and promising that it would be introduced in the 1948-49 Session. It would also be convenient if he could communicate the Cabinet's decision in advance to representatives of the two sides of the industry.

The Prime Minister said that some such statement would be made in the course of the Debate on the Address. No communication could, however, be made to the industry in advance of The King's Speech.

(b) The Lord President suggested that the Restrictive Practices Bill should for the present be placed among those to be passed in the 1947-48 Session if time permitted.

The President of the Board of Trade said that, while he had hoped that the Bill would secure a definite place in the 1947-48 Programme, he would not oppose this proposal.
The Lord President pointed out that in present circumstances little or no effective work could be carried out under the powers to be conferred by the Motorways Bill and the Milk (Special Designations) Bill. He therefore proposed that these Bills should be omitted altogether from the Programme.

The Minister of Food said that, while he would not press for the inclusion of a Milk (Special Designations) Bill in the Programme, he hoped that he might have the draft Bill printed and published.

(d) The Minister of Labour suggested that the Training and Employment Bill, which was at present included among these Bills to be introduced if time permitted, should be given a definite place in the Programme, on the understanding that the Factories Bill would be postponed to a later Session.

(e) The Lord Chancellor said that he hoped that a definite place would be found for the Legal Aid Bill in the Programme. He had been strongly pressed in the House of Commons to implement the recommendations of the Rushcliffe Report, the existence of which meant that the present inadequate system of legal aid was becoming even less effective, since the voluntary effort on which it depended was no longer forthcoming to the same extent. The principles of the Bill had been approved by his colleagues and were supported by the legal profession and by the Opposition.

The Lord President pointed out that if this Bill was given a definite place in the Programme it could only be at the cost of excluding some other measure.

The Cabinet—

(1) Agreed that the Gas Bill and a Bill to amend the Parliament Act should be included among the major Bills to be passed in the 1947–48 Session;
(2) Took note that the Prime Minister would consider, in consultation with the Lord President and the Minister of Supply the form and timing of a statement about the postponement of legislation to bring the iron and steel industry under public ownership;
(3) Agreed that the Restrictive Practices Bill and the Legal Aid Bill should remain among those which might be introduced if time permitted;
(4) Invited the Minister of Labour to discuss with the Lord President whether the Training and Employment Bill might be included among the medium-sized Bills to be passed in the 1947–48 Session if the Factories Bill were postponed to a later Session;
(5) Invited the Minister of Food to raise with the Legislation Committee the question whether the Milk (Special Designations) Bill could be printed and published, notwithstanding that it was not intended to proceed with it during the 1947–48 Session.
(6) Subject to (1) and (4) above, approved Groups I to VI of the Annex to C.P. (47) 281 as the Legislative Programme for the 1947–48 Session, and invited the Legislation Committee to keep the Programme under review.

The Cabinet had before them a note by the Lord President (C.P. (47) 282) covering drafts of The King’s Speeches on the Prorogation and Opening of Parliament prepared by a Committee of Ministers under his Chairmanship.

The following points were made in discussion:

(a) References to Austria should be included in paragraph 6 of the Prorogation Speech and paragraph 9 of the Opening Speech.
(b) An expression of regret for the disorders in India and Pakistan should be included in paragraph 12 of the Prorogation Speech.
(c) The reference to events in Burma in paragraph 13 of the Prorogation Speech should be omitted.
(d) Paragraphs 26 and 27 of the Prorogation Speech should be recast into a single paragraph covering both Scotland and Wales.
(e) A paragraph dealing with housing should be added to the Prorogation Speech.
(f) The Opening Speech should state that legislation would be introduced to amend the Parliament Act.
(g) There should be a reference in the Opening Speech to the intention to introduce a Law Reform (Personal Injuries) Bill, but no mention should be made of the Legal Aid Bills.

In addition, various amendments of drafting were approved.

The Cabinet—

(1) Invited the Lord President, the Minister for Economic Affairs, the Minister of Health and the Secretary of State for Scotland to settle the terms of the reference to be made to housing in the Prorogation Speech;
(2) Subject to (1) and to the amendments agreed upon in the discussion, approved the draft Speeches annexed to C.P. (47) 282.

Cabinet Office, S.W. 1,
14th October, 1947.