CONCLUSIONS of a Meeting of the Cabinet held at 10 Downing Street, S.W. 1, on Monday, 7th June, 1948, at 11 a.m.

Present:

The Right Hon. C. R. Attlee, M.P., Prime Minister (in the Chair).
The Right Hon. Sir Stafford Cripps, K.C., M.P., Chancellor of the Exchequer.
The Right Hon. Viscount Jowitt, Lord Chancellor.
The Right Hon. A. Creech Jones, M.P., Secretary of State for the Colonies.
The Right Hon. A. Woodburn, M.P., Secretary of State for Scotland.
The Right Hon. Aneurin Bevan, M.P., Minister of Health.
The Right Hon. George Tomlinson, M.P., Minister of Education.

The following were also present:
The Right Hon. Alfred Barnes, M.P., Minister of Transport (Item 4).
The Right Hon. H. T. N. Gaitskell, M.P., Minister of Fuel and Power (Item 4).

Secretariat:

Mr. W. S. Murray.
Mr. S. E. V. Luke.
## Cabinet 36 (48)

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Parliament.

Business in the House of Commons.

Criminal Justice Bill. Capital Punishment.

(Previous Reference: C.M.(48)35th Conclusions, Minute 4.)

1. The Cabinet were informed of the business to be taken in the House of Commons in the following week.

2. At their meeting on 3rd June the Cabinet had agreed that the Home Secretary should continue to advise commutation of all death sentences passed while the suspension of the death penalty was under discussion in the present Session of Parliament. Later in the day, in the House of Commons, the Lord President had resisted a suggestion that a statement should be made on this matter before the Criminal Justice Bill returned to the House of Commons; and on 4th June, in reply to a Private Notice Question, the Home Secretary had indicated that he was not at present prepared either to modify his decision or to make a statement.

The Lord Chancellor recalled that, in his speech on the Third Reading of the Criminal Justice Bill on 16th April, the Home Secretary had justified the course which he proposed to take on the ground that there was a prospect of an early alteration in the law. Since this prospect had now receded he recommended that the Home Secretary should make a statement to the effect that in view of the altered circumstances he proposed to consider each case on its merits, having regard both to the particular considerations affecting the case and also to general considerations of public policy. This would still leave it open to him to advise His Majesty to commute every death sentence to one of penal servitude for life.

On the other hand, it was pointed out that a statement on the lines suggested would imply an admission by the Government that the will of the House of Commons was unlikely to prevail. The fact that there was now less likelihood of an early change in the law had no real bearing on the rightness of the decision announced by the Home Secretary on 16th April; and the Opposition, who had acquiesced in the decision at that time, could not reasonably challenge it now. The Home Secretary's advisers had no doubt about the propriety of the course which he had taken and it was clear that he would not incur any penalties by persisting in it.

The Cabinet—

(1) Agreed that, pending the return of the Criminal Justice Bill to the House of Commons, the Home Secretary should continue to advise commutation of all death sentences passed while the suspension of the death penalty was under discussion and should resist any demand from the Opposition for a further statement on this matter.

The Cabinet then considered the draft clause designed to give effect to the suggestion approved at their meeting on 3rd June that the death penalty should be retained only for certain specified classes of murder. The effect of this clause was to retain the death penalty for murder committed either in the course of a felony involving violence or in resisting or avoiding arrest, or by the administration of any poison or other destructive thing. The death penalty would also be retained for the murder of a prison officer acting in the execution of his duty or for a murder committed by a person who had previously been convicted of murder.

The following points were made in discussion:

(a) The Home Secretary undertook to reconsider the expression "felony involving violence."

(b) A police officer might be murdered in the execution of his duty but before he had actually attempted to arrest the person by whom he was murdered; and it might be desirable to amend the clause to cover this type of case.
(c) It was intended that a man who committed two or more murders on different occasions should be liable to the death penalty even though neither murder was of the type made liable to the death penalty by the other provisions of the clause; and it would be necessary to alter the draft in order to ensure that a person who committed murder on a second occasion before his trial for the first crime would be liable to the death penalty.

(d) In presenting the draft clause to the Parliamentary Labour Party the Home Secretary should emphasise that its enactment would not in any way limit his right to advise His Majesty on the exercise of the prerogative of mercy in capital cases.

The Cabinet—

(2) Subject to the points noted in paragraphs (a) to (c) above, approved the draft clause which it was proposed to put forward in substitution for Clause 1 of the Criminal Justice Bill; and invited the Home Secretary, in consultation with the Chancellor of the Exchequer and the Lord Chancellor, to prepare a revised draft for submission to an early meeting of the Parliamentary Labour Party.

The Cabinet then discussed whether there should be a free vote in the House of Commons on the new clause proposed in substitution for Clause 1 of the Criminal Justice Bill.

In favour of allowing a free vote it was argued that the proposed new clause might conceivably be rejected by a combination of those Government supporters who held that the death penalty should be abolished completely and those Opposition members who were against any change in the law; and that it would be less embarrassing for the Government if the rejection took place on a free vote.

Against this it was urged that, since the Cabinet were unanimous in their approval of the proposed new clause, it would be necessary to require junior Ministers to vote for the clause and it would be invidious to do this if a free vote were to be allowed to other Government supporters. There were good reasons to believe that a substantial majority of Government supporters would favour the new clause, and if the meeting of the Parliamentary Labour Party were assured that the clause had been unanimously approved by the Cabinet there was little doubt that it would be approved. In giving the meeting this assurance the Government spokesmen should explain that they were departing from precedent because of the exceptional circumstances of this case.

The Cabinet—

(3) Agreed that a decision on whether there should be a free vote in the House of Commons on the new clause proposed in substitution for Clause 1 of the Criminal Justice Bill should be taken in the light of the discussion of the new clause at the forthcoming meeting of the Parliamentary Labour Party.

3. The Cabinet had before them memoranda by the Foreign Secretary (C.P. (48) 138 and 142) dealing with certain points, which had been raised at their meeting on 31st May, arising out of the recent conference in London on the future of Germany.

The Foreign Secretary said that the conference had ended on 1st June and that agreed recommendations had been submitted to the several Governments. In view of the forthcoming debate in the French Chamber of Deputies, he had thought it advisable to approve the recommendations without delay and a communiqué would be published that afternoon. Public opinion in France would thus be aware, before the debate took place, of the extent to which the French point of view had been met. He had drawn the attention
of both the United States and the French Governments to the need for adhering firmly to the policy agreed on; and there could, in his view, be no question of deferring the projected measures of currency reform in response to the Soviet proposal for a further conference on the subject. He was to be asked in the House of Commons that day whether the recommendations of the conference were to be submitted to Parliament before ratification, and whether the House would have an opportunity of discussing them; and he proposed to reply that they were being considered by His Majesty’s Government, that any agreement would not take the form of a treaty and would not therefore be subject to ratification, and that the question whether or not there should be a debate should be taken up with the Leader of the House.

As regards the points raised in the Cabinet’s previous discussion, the Foreign Secretary said that he had taken up with the United States authorities the suggestion that, if the French Government should fail to associate themselves with the constitutional proposals agreed at the conference, His Majesty’s Government and the United States Government should be free to revert to a system of direct elections for the Constituent Assembly. It was hoped that the revision of the Land boundaries would be settled before the Constituent Assembly met, but, in any event, the Military Governors should be able to discourage the Assembly from discussing this subject. He had circulated under cover of C.P. (48) 142 a description of the electoral system in the Western Zones of Germany, which showed that electoral laws and machinery were a matter for individual Parliaments of the Länder and that it was, therefore, neither desirable nor possible to ensure that one particular system was adopted throughout Western Germany. The electoral system of all but one of the Länder already included safeguards against splinter parties; and in this respect the position in the British Zone was considerably more satisfactory than in the others.

The Cabinet—

T ook note, with approval, of the Foreign Secretary’s statement.

4. The Cabinet considered a memorandum by the Minister of Supply (C.P. (48) 123) covering a draft Iron and Steel Bill. They also had before them memoranda by the Lord President (C.P. (48) 138) and the Lord Privy Seal (C.P. (48) 139) suggesting that the policy embodied in the Bill should be modified.

The Minister of Supply said that in the draft Bill, which had been prepared in consultation with the Socialisation of Industries Committee, he had sought to give effect to the decisions taken by the Cabinet during the spring and summer of 1947. He had made no attempt in the covering memorandum to state the case for bringing the iron and steel industry under public ownership. He was, however, personally in full agreement with this policy, and he did not share the fears of those who thought it would have an adverse effect on production, though there was, unfortunately, a risk that output might fall in the next year or two as the result of the shortage of scrap. The Bill provided for the establishment of an Iron and Steel Corporation of Great Britain, and for the transfer to that Corporation of the securities of certain companies, which would be specified by name in a schedule. For the time being the existing company structures would continue, but they would be subject to the control of the Corporation as the sole shareholder. It was neither necessary nor desirable to acquire the ownership of all the numerous firms engaged in the industry and he had reached the conclusion that the scheme should provide for taking over 85 companies together with 155 subsidiaries. In C.P. (48) 123 he had referred to a more limited scheme covering 32 companies and 100 subsidiaries, but he was satisfied that the right course
was to adopt the wider scheme which was, in his view, sound and workable and would be acceptable to the trade unions concerned. If the House of Lords rejected the Bill it would be impossible to put the scheme into effect or even to appoint the Corporation before the General Election in 1950; and 1st January, 1951, was probably the earliest date by which the scheme could operate. There was a risk that the companies which it was proposed to acquire might seek to evade the intentions of Parliament by divesting themselves of some of their assets, and it might be necessary to issue an appropriate warning on this point at an early date. The suggestion had been made in previous Cabinet discussions that a White Paper should be published simultaneously with the Bill for the purpose of explaining the case for public ownership and giving an indication of future policy. In his view, however, it would be inexpedient to set out the case in the form of a White Paper, which would have to be published some time before the Parliamentary debates began, and he would prefer to rely on other means of publicity. In arguing the case for the Bill Ministers should avoid criticising existing management and the technicians in the industry and in the Iron and Steel Federation, since it was important to secure their goodwill and co-operation.

The Lord President said that the scheme in C.P. (48) 123 for acquiring the stock of selected undertakings had no advantages over the alternative scheme which he had put forward in C.P. (47) 212. Thus, it contained no positive proposals for reorganising the industry and would leave its present structure unaltered. Moreover, the existing directors, who would remain in control, would cease to have any personal financial responsibility and might sabotage attempts to reorganise the industry. On the other hand, the proposals in C.P. (47) 212, which would be generally acceptable to the Iron and Steel Federation, would be a good starting-point for the complete socialisation of the industry. In particular, these proposals would give immediate and complete control of the industry, would socialise Steel House and would enable particular firms to be brought under public ownership as and when this became convenient. Though this last process would take time, the character of the industry, with its overseas connections, was such that it was doubtful whether effective measures of reorganisation would in fact be carried out any more speedily if the Government acquired the stock. The Cabinet should consider whether, in view of the pledges already given, they could at this stage take the risk of saying that they had decided that the scheme in C.P. (47) 212 was preferable as a first step. If they so decided it would, in his view, be their duty to persuade Government supporters to accept it, and he believed that, if the Cabinet were united in the matter, they could succeed.

The Lord Privy Seal said that he was impressed by the difficulty of making out an effective case for the scheme proposed in C.P. (48) 123. Moreover, a long period must elapse before this scheme could be brought into effect and any loss of output in the next year or two which might result from losing the goodwill of the companies would have serious consequences. There were therefore strong arguments for trying to reach agreement with the Federation on a scheme of the kind outlined in C.P. (47) 212.

The Chancellor of the Exchequer said that he did not regard the alternative proposals put forward by the Lord President as either sound or practicable. It was true that they might lead to some improvement in the planning of new development, but they would leave substantial control of the industry in private hands. It was impossible to estimate the effect of the proposals in C.P. (48) 123 and there was undoubtedly some risk of a fall in output; but, if the Government were to refrain from bringing the industry under public ownership until a situation had been reached in which some fall in steel output could be contemplated without disquiet, there might be a delay of from ten to fifteen years. The Government were committed to a scheme of public ownership and
the proposals were, in his view, soundly conceived and gave a greater certainty of adequate supplies of steel at reasonable prices than any alternative scheme.

The Foreign Secretary said that the alternative to public ownership was the continuance of a powerful cartel which would not always be amenable to public control and might well pursue policies contrary to the national interest. At present the enthusiasm of the workers and the efficiency of the technical management enabled the best possible use to be made of the existing capacity of the industry; but as a result of the methods of financing the industry which had hitherto prevailed that capacity was inadequate. On past experience there could be no guarantee that if the industry were left in private hands it would expand its capacity sufficiently to meet the demands for steel which would arise if the United Kingdom Government were to carry out their obligations under the European Recovery Programme and the Brussels Treaty. He also pointed out that to abandon any idea of bringing the United Kingdom iron and steel industry under public ownership would be inconsistent with the policy of seeking to promote the socialisation of the Ruhr steel industry.

In further discussion several Ministers stressed the importance of proceeding with the scheme embodied in the draft Bill in the lifetime of the present Parliament. The main points made were:

(a) In order to maintain a high level of employment and to make adequate provision for colonial development steel output should be raised to 17 or 18 million tons a year; and, if allowance were made for our commitments to Western Europe, we should perhaps aim at an annual output of as much as 20 million tons. If the industry remained in private hands it would never embark on development schemes designed to give this level of output.

(b) The industry was neither willing nor able to undertake the necessary modernisation of its plant to bring down the cost of steel sufficiently to enable industries using steel to meet their United States competitors on equal terms.

(c) So long as the industry remained in private hands it would be impossible to secure that in the distribution of steel full effect was given to the Government's policy.

(d) The Government must be assured of ample supplies of steel in case it should be necessary to embark on a programme of public works to counter deflation.

The Prime Minister said that if the proposals in C.P. (48) 123 were to be carried out it was essential that a good case for proceeding with these proposals at the present critical time should be made. Paragraph 22 of C.P. (48) 123 stated that in the iron and steel industry there was no question of inefficiency, or of disinclination or inability to carry through essential modernisation. On the other hand, the discussion had suggested that a good case for the proposals in C.P. (48) 123 could be made out on other grounds. It seemed desirable that the Cabinet should have an opportunity of reviewing the arguments for these proposals and he accordingly suggested that the Minister of Supply should circulate a memorandum setting them out in full. They could then consider whether it would be better to publish them in the form of a White Paper or to expound them by other means.

The Cabinet—

(1) Invited the Minister of Supply to circulate a memorandum setting out the arguments for bringing the iron and steel industry under public ownership;

(2) Agreed to resume their discussion of C.P. (48) 123, C.P. (48) 136 and C.P. (48) 139 at an early date.

Cabinet Office, S.W. 1,
1th June, 1948.