CABINET 74 (48)

CONCLUSIONS of a Meeting of the Cabinet held at 10 Downing Street, S.W. 1, on Thursday, 18th November, 1948, at 10 a.m.

Present:

The Right Hon. C. R. ATTLEE, M.P., Prime Minister (in the Chair).

The Right Hon. HERBERT MORRISON, M.P., Lord President of the Council.

The Right Hon. A. V. ALEXANDER, M.P., Minister of Defence.

The Right Hon. VISCONT ADDISON, Lord Privy Seal.

The Right Hon. J. CHUTER EDE, M.P., Secretary of State for the Home Department.

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. J. H. WILSON, M.P., President of the Board of Trade.

The following were also present:

The Right Hon. VISCONT HALL, First Lord of the Admiralty (Item 5).

The Right Hon. ALFRED BARNES, M.P., Minister of Transport (Item 8).

The Right Hon. GEORGE STRAIGHT, M.P., Minister of Supply (Item 8).


LORD HENDERSON, Parliamentary Under-Secretary for Foreign Affairs (Item 8).

Mr. MICHAEL STEWART, M.P., Parliamentary Under-Secretary of State for War (Items 5 and 7).

Secretariat:

Sir NORMAN BROOK
Mr. A. JOHNSTON
Mr. S. E. V. LUKE
## CABINET 74 (48)

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1. The Prime Minister read to the Cabinet letters of thanks which he had received in reply to the Cabinet's messages of congratulation on the birth of a son to Their Royal Highnesses The Princess Elizabeth and The Duke of Edinburgh.

2. The Cabinet expressed their appreciation of the efforts made by the Government Whips to secure so large an attendance of Government supporters for the Division in the Second Reading of the Iron and Steel Bill.

The Lord President informed the Cabinet of the business to be taken in the House of Commons in the following week.

3. The Lord President said that in pursuance of the Cabinet's decision of 15th October he had, together with the Minister of Health, the First Lord of the Admiralty and the Minister of National Insurance, discussed the proposed establishment of a Council for Wales and Monmouthshire with representatives of the Welsh Regional Council of Labour and the Welsh Parliamentary Labour Group, and there had seemed to be general agreement with the Government's proposal. Subsequent discussions with the Welsh Parliamentary Labour Group had, however, revealed considerable differences of opinion among its members. There was no prospect of full agreement, but it seemed that the proposed Council would be more acceptable to Government supporters if the following modifications were made in the constitution outlined in his memorandum of 11th October (C.P. (48) 228):

(i) Some apprehension was felt lest the Council might not adequately reflect the balance of political opinion in Wales. With this in view, a suggestion was made that the Council might consist entirely of local authority representatives; but it would accord better with the constitution already accepted by the Cabinet if local authorities (instead of local authority associations) selected names, from which the Prime Minister would choose twelve (instead of ten) members to serve on the Council as representing local authorities.

(ii) The first Chairman of the Council should be appointed by the Prime Minister from among the members, but subsequent appointments should, as proposed in C.P. (48) 228, be made by the Council.

(iii) Members of Parliament should not be eligible for appointment to the Council. There was some divergence of view about the representation of education authorities on the Council; but the balance of opinion appeared to favour having a representative of the University of Wales on the Council as well as a representative of the Joint Education Committee. No useful purpose would be served by further discussion with the Welsh Parliamentary Labour Group; but, if opportunity offered before the forthcoming Welsh Debate in the House of Commons, the proposals should be explained to the Welsh Parliamentary Party.

In discussion it was suggested that, on the analogy of the Scottish Economic Conference, the Council for Wales and Monmouthshire should conduct its proceedings in private.

The Cabinet—

Authorised the Lord President, in announcing the establishment of the proposed Council for Wales and Monmouthshire, to make the alterations in its constitution which he had indicated in the Cabinet's discussion.
4. The Cabinet considered a memorandum by the Home Secretary and the Secretary of State for Scotland (C.P. (48) 270) setting out revised terms of reference of the proposed Royal Commission on capital punishment, together with the draft of a statement to be made in the House of Commons in reply to a Question that afternoon.

It was explained that difficulty was being experienced in finding a Chairman for the Royal Commission, but the general view was that an enquiry was unavoidable and that an announcement would have to be made before the composition of the Commission was settled.

It was suggested that the terms of reference proposed in paragraph 2 of C.P. (48) 270 would leave it open to the Commission to recommend that capital punishment should be abolished as a penalty for murder, while retaining it for treason and other offences. It was generally agreed that the preferable course would be to restrict the Commission to considering the limitation or modification of the use of the death penalty for murder.

The Cabinet—

(1) Agreed that the terms of reference of the proposed Royal Commission should relate to the imposition of capital punishment in respect of murder alone.

(2) Subject to this modification of the revised terms of reference and of the draft statement in C.P. (48) 270, and to other drafting amendments, authorised the Home Secretary to announce forthwith the proposal to set up a Royal Commission.

5. The Prime Minister said that the comprehensive review of the working of the National Service Act, authorised by the Cabinet on 28th August, had now been completed. The National Service Act, 1947, provided that from 1st January, 1949, the period of National Service should be not more than twelve months. If this were brought into operation, the strength of the Armed Forces (which had been increased by the decision in September last that all men then serving should be retained for an additional three months) would fall from 780,000 at the end of March 1949 to about 615,000 by 1st January, 1950. Such a rate of run-down would produce disastrous effects on the Armed Forces and would throw them into a state of unbalance from which it would take them years to recover.

Circumstances had considerably changed since it was decided, early in 1947, to fix the period of National Service at twelve months. The Ministers directly concerned had reached the conclusion that, in order to preserve the minimum efficiency of the Armed Forces over the next two or three years, it was necessary to increase the period of National Service to eighteen months. It was proposed to reduce the period of reserve liability from six to four years, but the liability for training during reserve service would stand at sixty days, as in the 1947 Act. It was probable that, in the course of the next few years, the number of men available for call-up would exceed the numbers which the Forces could absorb, and it was proposed to deal with this by raising somewhat the general standard for men accepted in the Forces and by deferring registrations from time to time. The necessary legislation ought to be passed through all its stages before 1st January, 1949. While it was desirable to keep the Bill as short as possible, there were one or two other matters (including a proposal to raise the age-limit of medical and dental students from 26 to 30 years) which might be dealt with in it. The Service Departments would wish to have a reasonably firm basis for planning, and it was proposed that a directive should be issued making it clear that, unless there was some striking change in the international situation, the eighteen months' period of service would be retained for the next three years. This directive would not, of course, be published.
In discussion it was suggested that, while the matter was urgent, the Cabinet ought to have an opportunity for discussing some of its implications in greater detail, on the basis of a memorandum by the Minister of Defence. This discussion should take place in time to enable the Government's proposals to be communicated to the Parliamentary Labour Party at their meeting on 24th November, the Bill being formally presented to Parliament later in the same day. The decision to discuss the matter further in Cabinet need not delay the drafting of the necessary legislation.

The Cabinet—

Invited the Minister of Defence to submit for their consideration at a meeting on 22nd November a memorandum on the proposed amendments of the National Service Act, 1947.

6. The Cabinet considered a memorandum (C.P. (48) 272) by the Lord Chancellor and the Secretary of State for Commonwealth Relations reporting the result of the meetings held in Paris on 15th and 16th November to discuss with representatives of the Eire Government the consequences of the forthcoming repeal of the Eire Executive Authority (External Relations) Act, 1936.

The Lord Chancellor said that at an early stage in these discussions it became clear that, despite the strong appeals made to them on behalf of the other Commonwealth Governments, the Eire Government were resolved that the External Relations Act should be repealed and that Eire should not be or become a member of the Commonwealth. The only question then remaining for discussion was how the Commonwealth countries were to react to these irrevocable decisions of the Eire Government. The Eire Ministers had said that they were most anxious to preserve a close practical association with the Commonwealth countries and would not wish, despite the action which they were about to take, to regard those countries as "foreign." The representatives of Canada, Australia and New Zealand had welcomed this approach to the problem, as being fully in accordance with the facts of the situation; and it had become clear to the United Kingdom representatives that, if they persisted in the view that Eire must be regarded as a foreign country once the External Relations Act was repealed, they would find themselves alone in maintaining that view. They had therefore pressed the argument that, if Eire and the Commonwealth countries were not to be regarded as "foreign" to one another, the citizenship law of Eire must be amended so as to accord positive rights of citizenship in Eire to the citizens of all Commonwealth countries which accorded those rights to Eire citizens. The Eire Ministers had in the end accepted the understandings set out in paragraph 8 of C.P. (48) 272, which contemplated an effective reciprocal exchange of citizenship rights between Eire and the countries of the Commonwealth. The Lord Chancellor said that he had been careful to avoid committing the United Kingdom Government in any way to the provisional conclusions reached at these meetings; but he himself believed that, in the circumstances as they had developed themselves in the course of the discussions, there was no practical alternative to the solution outlined in paragraph 8 of C.P. (48) 272.

The Secretary of State for Commonwealth Relations said that it was admitted that a self-governing member of the Commonwealth had the right to secede from the Commonwealth; and, now that it was clear that all appeals to the Eire Government to remain within the Commonwealth were unavailing, the wise course was to seek means of mitigating the effect of the breach. The United Kingdom representatives in the recent discussions could not have presented the practical consequences of the repeal as measures of retaliation for Eire's secession from the Commonwealth: even if they had wished to take this line, the other Commonwealth Governments would have dissociated themselves from it. They had been compelled, therefore, to confine themselves to explaining the difficulties
which might arise in international law, by reason of the most-favoured-nation provisions in commercial treaties; and the Eire Ministers had offered, as a means of overcoming those difficulties, to develop the reciprocal exchange of citizenship rights. By this means we might be able to avert any challenge by a third party, on most-favoured-nation grounds, of our treatment of Eire citizens. We could not be equally confident of defeating a challenge directed against the continuance of the trade preferences to Eire; but some of the other Commonwealth representatives had been doubtful whether such a challenge would, in fact, be made for some time to come, and the Eire Ministers had recognised that, if such a challenge were sustained in the International Court, the trade preferences would have to be discontinued. The Secretary of State said that he could see no alternative to the course proposed in C.P. (48) 272: he believed that it could be defended in law and that, from the political point of view, there was much to commend it.

In discussion the following particular points were raised:—

(a) If Eire were allowed to retain all her existing advantages on the basis of a reciprocal exchange of citizenship rights, was there not a grave risk that India and some of the other Commonwealth countries would demand the same treatment? By making this arrangement in respect of Eire, should we not be moving towards the conception, which had hitherto been rejected, of an inner ring of Commonwealth countries and an outer ring of associated States?

In reply it was pointed out that it was not here suggested that an exchange of citizenship rights should be accepted as a basis for membership of the Commonwealth: Eire was not to remain within the Commonwealth. Moreover, the argument that Eire was not “foreign” to the Commonwealth countries would be based, not merely on the statutory exchange of citizenship rights, but also on the many ties of blood, history and intermingling of peoples which bound Eire to the older countries of the Commonwealth. These latter arguments could not be used in support of a claim that an Asiatic country could still be regarded as not being “foreign” to Commonwealth countries after it had ceased to be a member of the Commonwealth.

(b) If the policy outlined in C.P. (48) 272 were approved, it would not be necessary to make any change in the domestic law of the United Kingdom, unless a claim by a third party on “most-favoured-nation” grounds were upheld by the International Court. We should, however, be seeking to create in international law a new conception of an intermediate position between that of a Commonwealth country and of a foreign country. From this point of view, it was important that an early declaration should be made to the effect that, despite the repeal of the External Relations Act, the Governments of the Commonwealth countries would not regard Eire as a foreign State. This declaration should not be deferred until the position in international law seemed likely to be challenged. It should be made as soon as possible after the Second Reading of the Bill for the repeal of the External Relations Act. If possible it should be made in similar terms by the Governments of all Commonwealth countries.

(c) The Government of Northern Ireland should be informed at once of the course of the recent discussions with Eire Ministers. It was possible that the policy outlined in C.P. (48) 272 might embitter relations between the Government of Northern Ireland and the Eire Government, and it might even prejudice the good relations between the Government of Northern Ireland and the United Kingdom Government. The British Nationality Act extended to Northern Ireland; but there were local powers under which restrictions could be imposed on Eire citizens in Northern Ireland. Thus, we had no power to require the Government of Northern Ireland to extend their local franchise to Eire citizens.

(d) The Opposition Leaders should also be informed of the course of the recent discussions with Eire Ministers.
Eire Ministers had indicated that the Act repealing the External Relations Act would not be brought into operation before 1st January. To avoid any doubts about the effect of section 3 (2) of the British Nationality Act, 1948, it was desirable that the date of commencement of the new Eire Act should not in any event be earlier than 2nd January, 1949.

The general conclusion of the Cabinet was that, subject to any views which might be expressed on behalf of the Government of Northern Ireland, the policy outlined in C.P. (48) 272 should be adopted. Ministers reached this conclusion with reluctance, as they felt that Eire would thereby succeed in retaining many of the practical advantages of Commonwealth membership while renouncing its obligations. They recognised, however, that, if they insisted on treating Eire as a foreign State after the repeal of the External Relations Act, the practical difficulties would be greater for the United Kingdom than for Eire; and, furthermore, that they would thereby forfeit the sympathy and support of Canada, Australia and New Zealand. From the practical point of view, there was some reason to believe that, although Eire Ministers were insisting on this political gesture of severing the last constitutional link with the Commonwealth, the people of Eire were moving towards a closer and friendlier association with the United Kingdom and other Commonwealth countries; and it was possible that, as the Eire Ministers claimed, a better relationship with Eire might be built up over the coming years on the basis of the factual association now proposed.

The Cabinet—

(1) Took note that the Prime Minister would at once inform the Prime Minister of Northern Ireland of the course of the recent discussions with Eire Ministers and of the policy outlined in C.P. (48) 272.

(2) Subject to the results of the consultation to be undertaken in pursuance of Conclusion (1), agreed that the Eire Government should be informed, in advance of the forthcoming debate in the Dail on the Bill for the repeal of the External Relations Act, that the United Kingdom Government were prepared to proceed on the basis indicated in paragraph 8 of C.P. (48) 272.

(3) Subject also to Conclusion (1), authorised the Secretary of State for Commonwealth Relations to consult other Commonwealth Governments on the terms of a declaration, to be made as soon as possible after the Second Reading of the Bill for the repeal of the External Relations Act on 24th November, to the effect that despite the repeal of that Act Commonwealth Governments would not regard Eire as a foreign country.

(4) Invited the Prime Minister to inform the Opposition Leaders, before 24th November, of the course which the Eire Government had decided to take and of the policy which Commonwealth Governments proposed to follow in respect of Eire's future relations with the Commonwealth.

The Cabinet were informed that the Lord Chancellor and the Secretary of State for Commonwealth Relations had on 17th November held a further discussion with the Prime Minister of New Zealand, the Deputy Prime Minister of Australia and the Canadian Secretary of State for External Affairs on the constitutional proposals put forward by the Prime Minister of India and the Law Officers' Opinion on those proposals (C.P. (48) 254). The representatives of the other Commonwealth countries had not regarded those proposals as satisfactory; and had suggested that they should join with the Secretary of State for Commonwealth Relations in discussing them with the Secretary-General of the
Indian Ministry of External Affairs and Commonwealth Relations (Sir Girja Bagpai) who was then in Paris. The Prime Minister had agreed that this meeting should take place, and it was held in Paris later on 17th November. It had then been represented to Sir Girja Bagpai, on behalf of the four Commonwealth Governments, that India’s authority to appoint diplomatic representatives abroad should derive from the Crown, possibly through The King’s delegation of the power of appointment to the President of the Indian Republic. Sir Girja Bagpai had undertaken to transmit the views of the four Commonwealth Governments to Pandit Nehru.

The Cabinet—

(5) Took note of the representations which had been sent to Pandit Nehru through Sir Girja Bagpai, on behalf of the Governments of the United Kingdom, Canada, Australia and New Zealand.

7. At their meeting on 11th November the Cabinet had invited the Chancellor of the Duchy of Lancaster to examine, with the Ministers directly concerned, the draft Trusteeship and other Agreements for Cyrenaica annexed to CP. (48) 261. They now had before them a memorandum by the Chancellor of the Duchy of Lancaster (CP. (48) 263) reporting the conclusions reached.

The Chancellor of the Duchy of Lancaster said that it had been agreed to recommend to the Cabinet that the documents annexed to C.P. (48) 261 should be approved, subject to the amendments proposed in C.P. (48) 265. The Service Departments and the Treasury were satisfied that their special interests were adequately safeguarded. Some doubt had been expressed about Article 6 of the draft Trusteeship Agreement, which provided that the Administering Authority “shall take all necessary steps to ensure equal treatment in social, economic, industrial and commercial matters for all members of the United Nations and their nationals”; but this provision was common to all Trusteeship Agreements, and there was no prospect of securing support for its omission from this Agreement. Some criticism might be made of the failure to place any time-limit on the restrictions which the Treaty would impose on the Amir’s powers; but it was virtually certain that the General Assembly would insist on placing some time-limit on the operation of the Trusteeship Agreement, in which event an automatic limit would be placed on the duration of the Treaty. The provision in the draft constitution for female suffrage might not commend itself to the Amir, and it was proposed that, if he raised objection, we should give way on this point. There was no obligation to submit the documents, other than the draft Trusteeship Agreement, for the approval of the United Nations and it was recommended that they should not be made public, or communicated to anybody except the Amir, unless the General Assembly approved the draft Trusteeship Agreement. The Governments of India and Pakistan had shown a close interest in Cyrenaica, and it was proposed that the Secretary of State for Commonwealth Relations should inform them at once of the broad outline of the proposals, but should not communicate the text of any of the documents to them.

In discussion, the following points were made:

(a) The Lord Advocate drew attention to paragraph 4 of the note annexed to C.P. (45) 261 in which it was stated that Article III of the draft Treaty provided that for a certain fixed period the British Resident should have overriding powers to enact Ordinances.
having the force of law. He was doubtful whether Article III, as drafted, adequately gave effect to this intention, and it was agreed that this point should be further examined. He had certain minor comments on the terms of the drafts which he would communicate to the Foreign Office.

(b) The Parliamentary Under-Secretary of State for War said that the Chiefs of Staff were concerned at the suggestion that, if the General Assembly pressed for a time-limit on the operation of the Trusteeship Agreement, it might be necessary to agree that its terms should be reviewed after a period of ten years. They thought it important that we should have security of tenure for at least twenty-five years. It was agreed that any proposal for placing a time-limit on the Trusteeship Agreement should be strongly resisted; and that, if we had to give way, every effort should be made to secure agreement to the insertion of as long a period as possible.

(c) It was agreed that advance information of our proposals should also be communicated to the other Commonwealth Governments, including Ceylon.

The Cabinet—

Subject to the points noted in paragraphs (a) to (c) above, approved the recommendations made in C.P. (48) 265.

8. At their meeting on 15th October, the Cabinet had approved the proposals made in C.P. (48) 234 regarding the line to be taken in the forthcoming negotiations with the United States Government on their proposal that the German reparations programme should be reviewed in the interests of the European Recovery Programme. They now had before them a memorandum by the Foreign Secretary (C.P. (48) 259), summarising the outcome of subsequent negotiations with the United States and French Governments.

The Parliamentary Under-Secretary of State for Foreign Affairs (Lord Henderson) said that the main purpose of C.P. (48) 259 was to keep the Cabinet informed of the developments which had taken place on this question since 15th October. Agreement had been satisfactorily reached with the United States and French Governments on the basis proposed in C.P. (48) 234. The arrangements adopted represented a delicately balanced compromise between two irreconcilable views and, if they gave rise to administrative or political difficulties, it might be necessary for the Cabinet to consider a more radical approach to the problem. In the meantime, it was proposed that the Military Governor should be authorised to suspend at once the dismantling of thirty-five plants in the British Zone which were under review by the Humphrey Committee and ought in his view to be retained in Germany. This arrangement would avoid waste of labour and materials, and would preclude the criticism that the British authorities had acted unreasonably in not anticipating the Humphrey Committee's recommendations in obvious cases.

The Cabinet—

(1) Took note of the position as set out in C.P. (48) 259.
(2) Agreed that the Military Governor should be authorised at his discretion to suspend forthwith the dismantling of the thirty-five plants listed in Annex D to C.P. (48) 259.
9. The Cabinet considered a memorandum by the Minister of Food (C.P. (48) 266) proposing certain increases in food rations for Christmas.

The Minister of Food said that it had been the practice, in recent years, to make some special increases in food rations for Christmas. On this occasion there was little that could be done, but he proposed to allow an additional four ounces of tea, two ounces of sweets and half a pound of sugar. It would also be possible to double the normal allocations of manufacturing meat during Christmas week. He was anxious to announce these increases later that day.

The Chancellor of the Exchequer supported these proposals. It would, however, be advisable to give the United Kingdom Delegation to the Organisation for European Economic Co-operation advance warning of our intentions; and the terms of the announcement should be agreed between the Ministry of Food and the Treasury.

The Cabinet—

Approved the proposals made in C.P. (48) 266.

Cabinet Office, S.W. 1.
16th November, 1948.