CABINET

CONCLUSIONS of a Meeting of the Cabinet held at 10 Downing Street, S.W.1, on Tuesday, 15th December, 1964, at 11 a.m.

Present:
The Right Hon. HAROLD WILSON, M.P., Prime Minister
The Right Hon. GEORGE BROWN, M.P., First Secretary of State and Secretary of State for Economic Affairs
The Right Hon. LORD GARDINER, Lord Chancellor
The Right Hon. ARTHUR BOTTOMLEY, M.P., Secretary of State for Commonwealth Relations
The Right Hon. ANTHONY GREENWOOD, M.P., Secretary of State for the Colonies
The Right Hon. THE EARL OF LONGFORD, Lord Privy Seal
The Right Hon. RICHARD CROSSMAN, M.P., Minister of Housing and Local Government
The Right Hon. R. J. GUNTER, M.P., Minister of Labour
The Right Hon. FRED PEARCE, M.P., Minister of Agriculture, Fisheries and Food
The Right Hon. TOM FRASER, M.P., Minister of Transport

The following were also present:
Mr. JOHN DIAMOND, M.P., Chief Secretary, Treasury (Items 3-6)
Mr. JAMES G. LEITCHMAN, Q.C., Solicitor-General for Scotland (Item 3)

The Right Hon. HERBERT BOWDEN, M.P., Lord President of the Council
The Right Hon. SIR FRANK SOSEICKE, Q.C., M.P., Secretary of State for the Home Department
The Right Hon. WILLIAM ROSS, M.P., Secretary of State for Scotland
The Right Hon. DOUGLAS JAY, M.P., President of the Board of Trade
The Right Hon. MICHAEL STEWART, M.P., Secretary of State for Education and Science
The Right Hon. DOUGLAS HOUGHTON, M.P., Chancellor of the Duchy of Lancaster
The Right Hon. FRANK COUSINS, M.P., Minister of Technology
The Right Hon. FREDERICK LEE, M.P., Minister of Power
The Right Hon. BARBARA CASTLE, M.P., Minister of Overseas Development

Secretariat:
Sir BURKE TREND
Mr. P. ROGERS
Miss J. J. NUNN
Mr. A. A. JARRATT
<table>
<thead>
<tr>
<th>Minute No.</th>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>PARLIAMENTARY BUSINESS</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Murder (Abolition of Death Penalty) Bill</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>DEFENCE POLICY</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>LAW COMMISSIONS</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>TRANSPORT CO-ORDINATION</td>
<td>5</td>
</tr>
<tr>
<td>5</td>
<td>PRICES AND INCOMES POLICY</td>
<td>7</td>
</tr>
<tr>
<td>6</td>
<td>JUDICIAL SALARIES</td>
<td>7</td>
</tr>
</tbody>
</table>
1. The Cabinet were informed of the business to be taken in the House of Commons in the following week.

The Murder (Abolition of Death Penalty) Bill would receive its Second Reading on Monday, 21st December; and it was agreed in discussion that, although there would be a free vote, any Ministers who supported the retention of the death penalty should preferably abstain from voting rather than vote against the Bill. Ministers should inform junior Ministers and Parliamentary Private Secretaries accordingly, on the understanding that they would not be pressed to act otherwise than in accordance with their conscience.

2. The Prime Minister said that the Labour Party, when in Opposition, had invited the Government of the day to discuss defence policy with them on a confidential basis. It was for consideration whether, now that they held office, they should renew this initiative in relation to the present Opposition. To do so would not impose any unacceptable restrictions on the Government's defence policy, since this had already been made clear. Nor would there be any question, at least for some considerable time, of giving the Opposition factual information which they did not substantially possess already. He had consulted the Secretary of State for Defence, who favoured the proposal.

In discussion there was general agreement with this suggestion.

The Cabinet—

Took note, with approval, that the Prime Minister would ascertain whether the Opposition would endorse a proposal that confidential discussions on defence policy should be arranged between themselves and the Government.

3. The Cabinet considered a memorandum by the Chancellor of the Duchy of Lancaster (C. (64) 27) about the establishment of Law Commissions for England and Wales and for Scotland respectively.

The Chancellor of the Duchy of Lancaster said that the Home Affairs Committee had considered proposals for the creation of a Law Commission for England and Wales, composed of five lawyers of high standing who would be appointed, with their supporting staff, by the Lord Chancellor. The Commission would have the task of planning a systematic review of the English law; carrying out consolidation and statute law revision; putting forward proposals for the reform of particular areas of the law; and providing Departments with a research and advisory service, particularly on Commonwealth and foreign law. It was proposed that a similar body should be
appointed by the Secretary of State for Scotland and the Lord Advocate jointly, in order to review Scottish law.

The Committee had considered that bodies with the proposed functions would be valuable instruments for securing a systematic reform of the law; but they had been concerned to find a means of reconciling the exercise of initiative by the Law Commission for England and Wales with the responsibility of Departmental Ministers for the law within the field for which they were answerable to Parliament and, therefore, to establish that the Commission would operate under the ultimate authority of the Cabinet. In many fields issues of law and of policy were closely related. Moreover, it might be desirable on occasion to ensure that particular topics were not examined at a time which might be inopportune in relation to the development of Government policy and that questions involving important political and social issues were examined by an appropriately constituted body, which might, for example, be a Departmental Committee or the Criminal Law Revision Committee rather than the Law Commission. It was therefore proposed that the Law Commission for England and Wales should submit to the Lord Chancellor from time to time a programme for the detailed examination of particular aspects of the law, together with recommendations on the manner in which the examination should be undertaken. The Lord Chancellor, before approving the programme, would consult the Ministers concerned; and any proposals on which agreement could not be reached would be submitted to the Cabinet. The approved programme would be published, as would the Commission's recommendations on areas of the law which it had been agreed that they should themselves examine in detail; and the Commission would make to the Lord Chancellor an annual report which would be presented to Parliament. The position in Scotland would be simpler. The Scottish Law Commission would make their proposals to the Secretary of State for Scotland and the Lord Advocate, who would consult the appropriate English Ministers on any proposals affecting the law with which they were concerned. Acceptance of the Commissions' programmes would not preclude Ministers from themselves putting in hand investigations on matters of current concern; nor would they be under an obligation to consult the Commissions on Bills included in the Government's programme of legislation, although it might on occasion be useful to do so.

In discussion it was agreed that, although the proposals did not go as far as had originally been envisaged towards the creation of a body with independent authority to review the law on the analogy of the Department of Law in some countries of Western Europe, Commissions on the lines proposed would nevertheless have considerable scope for valuable work. It was unlikely that Departmental Ministers would often find themselves unable to endorse specific proposals in the Commission's programme; and they would not be in a position to prevent particular projects from being undertaken unless the Cabinet were prepared to support their objections. The necessary legislation should be ready for introduction.
immediately after the Christmas Recess; but, since it would not itself give any indication of the manner in which the Law Commissions were expected to work, there would be advantage in publishing an explanatory White Paper at the same time as the Bill and arranging appropriate publicity for the proposals.

The Cabinet—

(1) Approved the proposals in C. (64) 27 for the establishment of Law Commissions for England and Wales and for Scotland respectively.

(2) Invited the Lord Chancellor, in consultation with the Secretary of State for Scotland and the Lord Advocate, to prepare a draft White Paper for publication at the same time as the necessary legislation and to give further consideration to other means of securing appropriate publicity for the Government’s proposals.

4. The First Secretary of State said that the Ministerial Committee on Economic Development, at their meeting on the previous day, had considered a proposal by the Minister of Transport to appoint Dr. Beeching, on his retirement from the position of Chairman of British Railways at the end of the year, to make a study of transport co-ordination on the understanding that he would devote his whole time to this undertaking for a period of five months before returning to private industry on 1st June, 1965. Some doubts had been expressed about this proposal on the grounds that Dr. Beeching might not be disposed to pay sufficient regard both to the place of public enterprise in the national transport system and to the social considerations involved in transport co-ordination. His appointment might also be criticised by the Trade Unions concerned, whose co-operation would be essential both for the study itself and for the implementation of any decisions which resulted from it. In addition some Ministers had thought it unlikely that, despite the assistance which Dr. Beeching could expect to obtain from the Ministry of Transport and elsewhere, a satisfactory report on so wide-ranging a subject could be produced within five months. A superficial report, however, would be politically embarrassing to the Government; and, for this reason alone, it might be desirable, if Dr. Beeching was finally appointed, for the Government to refrain from any commitment to publish his report when it was completed.

The Minister of Transport said that the Government were committed to preparing a national plan for the co-ordination of the different forms of transport; and they would come under increasing pressure to declare their intentions in the relatively near future. There was therefore an urgent need for a study on the lines proposed; and Dr. Beeching, whose experience as Chairman of the Railways Board had already made him familiar with many of the problems involved, was well qualified to undertake the proposed inquiry in the limited
time available. If five months proved to be too short a period for the
study, it should not be impossible to arrange for Dr. Beeching's
services to remain at the Government's disposal for a little longer.
Some of the other criticisms of the proposal should be met if it was
possible to dispel the misconception that Dr. Beeching would act in
an executive capacity as "overlord" of the country's transport system
and to make it clear that he would merely be invited to advise the
Government on the problems involved.

In discussion it was suggested that Dr. Beeching had already
shown that in principle he favoured further co-ordination of transport
on lines similar to those advocated by the Government and that the
criticism of his suitability for the proposed appointment was to this
extent unfounded. On the other hand, although a formal committee
would be liable to prove too elaborate a means of conducting the
rapid inquiry which was needed, it was essential that all the interests
concerned should have an adequate opportunity to make their views
known. It would therefore be appropriate that Dr. Beeching should
be assisted by a strong panel, comprising representatives of the road
and rail trade unions, the road haulage interests and independent
individuals with experience of the economics of transport. It would
be preferable that the members of the panel should not be regarded
as merely assessors but that they should take an active part in the
inquiries and discussions leading to the final report.

In further discussion there was general agreement with the view
that the study might well require more than five months if it was to
be satisfactorily completed, although there were strong arguments in
favour of its findings being available to the Government well before
the end of 1965. It was also agreed that the Government should give
no undertaking to publish the eventual report, if only on the grounds
that it might contain confidential information acquired from private
interests, e.g., individual road hauliers, which could not properly be
made public.

The Prime Minister, summing up the discussion, said that it
appeared to be the general view of the Cabinet that Dr. Beeching
should be invited to undertake the proposed study on transport
co-ordination on the basis that he would be assisted by a strong
advisory panel which would be actively associated with his inquiries,
that the period of the study might need to be extended beyond
31st May, 1965, and that the Government would reserve their position
about the publication of the report. The public announcement of
Dr. Beeching's appointment should take account of these points, so
far as necessary; and the terms of reference of the inquiry should be
amended in order both to emphasise that the review would be directed
to the co-ordination of transport within an expanding economy and
to require Dr. Beeching to take account of the social, as well as the
economic, aspects of the issues involved. The Government should
also be prepared, if necessary, to consider the desirability of
subsequently appointing a full-scale Committee to examine the scope
for transport co-ordination in the light of the recommendations made
by Dr. Beeching. But this possibility, which should not be publicly
announced at this stage, could be held in reserve.
The Cabinet—

Invited the Minister of Transport, in pursuing the proposal for the appointment of Dr. Beeching to make a study of transport co-ordination, to be guided by the points made by the Prime Minister in his summing up of their discussion.

5. The First Secretary of State said that he had now reached agreement with representatives of both sides of industry on a joint Statement of Intent on prices and incomes. It was hoped that the text would receive the approval of the five bodies concerned at separate meetings on the morning of Wednesday, 16th December; and their spokesmen would join the Ministers concerned later that day in a formal ceremony at which the Statement would be signed. The Statement was only the first, but nevertheless a very important, step towards a difficult objective; and, if properly presented to public opinion, it should both contribute to the renewal of international confidence in sterling and provide a firm foundation on which to develop the Government's domestic policies for economic expansion. Work was already in hand on the next stage, which would be concerned with the machinery for implementing the intentions outlined in the Statement; and he hoped shortly to submit proposals to his colleagues with a view to starting the next instalment of negotiations with the two sides of industry, possibly through the National Economic Development Council, early in the following month.

In discussion the Cabinet congratulated the First Secretary of State on securing general endorsement of the joint Statement of Intent on prices and incomes. It was agreed, however, that the extent to which the signatories of the Statement would regard themselves as genuinely committed to its objectives would become clearer during the next stage of more detailed negotiations.

The Cabinet—

Took note, with approval, of the statement by the First Secretary of State about the joint Statement of Intent on prices and incomes.

6. The Cabinet had before them a memorandum by the Lord Chancellor (C. (64) 26) about the salaries of the higher judiciary.

The Lord Chancellor said that the salaries of the judges, which were fixed by statute, had been last increased in 1954 after an interval of 120 years. Although the increase granted on that occasion had been intended to suffice for a generation, its value had been rapidly eroded; and the fact that the lower judiciary had received three salary increases in the interval since 1954 had resulted in an unrealistic
reduction in the differential between their salaries and those of the higher judiciary. The existing salaries of the judges were now insufficient to attract individuals of the highest calibre to the Bench; and the Lord Chief Justice had advised both his predecessor and himself that the judges themselves now considered that they had a very strong claim to an increase in their remuneration. The Sub-Committee on Prices and Incomes of the Ministerial Committee on Economic Development, who had considered the question, had therefore recommended that legislation should be introduced in June or July 1965 in order to increase the salaries of the higher judiciary with effect from September. They had judged it undesirable that any public announcement to this effect should be made in the immediate future, in view of its possible impact on the incomes policy which the Government were seeking to promote; but they had agreed that the judges and the previous Lord Chancellor, Lord Dilhorne, should be informed of the Government's intentions in confidence. The quantum of the increase would be a matter for further discussion between the Ministers primarily concerned.

In discussion there was general agreement with these proposals.

The Cabinet—
Approved C. (64) 26.