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CABINET

CONCLUSIONS of a Meeting of the Cabinet
held at 10 Downing Street on

THURSDAY 10 JUNE 1976

at 10.30 am

PRESENT

The Rt Hon James Callaghan MP
Prime Minister

The Rt Hon Michael Foot MP
Lord President of the Council

The Rt Hon Lord Elwyn-Jones
Lord Chancellor

The Rt Hon Roy Jenkins MP
Secretary of State for the Home Department

The Rt Hon Denis Healey MP
Chancellor of the Exchequer

The Rt Hon Anthony Crosland MP
Secretary of State for Foreign and
Commonwealth Affairs

The Rt Hon Shirley Williams MP
Secretary of State for Prices and
Consumer Protection and Paymaster
General

The Rt Hon Anthony Wedgwood Benn MP
Secretary of State for Energy

The Rt Hon Eric Varley MP
Secretary of State for Industry

The Rt Hon Peter Shore MP
Secretary of State for the Environment

The Rt Hon Bruce Millan MP
Secretary of State for Scotland

The Rt Hon John Morris QC MP
Secretary of State for Wales

The Rt Hon Merlyn Rees MP
Secretary of State for Northern Ireland

The Rt Hon Fred Peart MP
Minister of Agriculture, Fisheries and Food

The Rt Hon Albert Booth MP
Secretary of State for Employment

The Rt Hon Edmund Dell MP
Secretary of State for Trade

The Rt Hon David Ennals MP
Secretary of State for Social Services

The Rt Hon Harold Lever MP
Chancellor of the Duchy of Lancaster

The Rt Hon Lord Shepherd
Lord Privy Seal

SECRET

The Rt Hon Fred Mulley MP
Secretary of State for Education and Science

The Rt Hon Reginald Prentice MP
Minister for Overseas Development

The Rt Hon John Silkin MP
Minister for Planning and Local Government

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon Samuel Silkin QC MP
Attorney General (Item 4)

Mr Michael Cocks MP
Parliamentary Secretary, Treasury
(Item 1)

SECRETARIAT

Sir John Hunt
Mr G R Denman (Items 1 and 2)
Mr T F Brenchley (Item 2)
Mr W I McIndoe (Item 4)
Mr D le B Jones (Item 3)
Mr J A Marshall (Item 3)
Mr A D Gordon-Brown (Item 1)

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

THE LORD PRESIDENT OF THE COUNCIL said that the situation which had arisen in Parliament on the Aircraft and Shipbuilding Industries Bill was disruptive of the Government's business, and especially of the work of Ministers. When it had become known that the Speaker would rule that this Bill was prima facie hybrid a quick decision had been needed on what action to take in an unprecedented situation, but he doubted whether any different line of action would have avoided the difficulties which had subsequently arisen. The aim now must be to restore the operation of the usual channels as soon as possible. There was a considerable number of Government Bills still to be completed in the House of Commons, and a large number of Orders requiring Affirmative Resolutions which were needed by the Summer Recess. Even if the Opposition resumed co-operation they would remain able to hold up Government business, as they had done the previous day on the Report Stage of the Education Bill, and some timetable Motions seemed likely to be necessary, at least on the Aircraft and Shipbuilding Industries, Dock Work Regulation and Education Bills. It would have to be made clear to the Opposition in any discussions on the resumption of co-operation that timetable Motions might nevertheless be required unless there were undertakings to get the remaining controversial Bills through the House of Commons in sufficient time. He hoped that the present difficulties would ease before too long but thought it right to warn the Cabinet that they might persist for a considerable time.

In discussion it was pointed out that two separate sources of difficulty had arisen on the Aircraft and Shipbuilding Industries Bill, the question of hybridity and the allegations relating to the second division on 27 May. It was proposed to amend the Bill at the Report Stage to remove any element of hybridity; and it was thought that the Speaker would then be prepared to give a certificate that the Bill was not hybrid, and that the House of Lords would be unlikely to challenge such a certificate although they might well seek to delay the Bill. The second source of difficulty would remain, and it was clear that, if the usual channels were not operating normally in the House of Commons, there was no hope of obtaining the co-operation from the Opposition in the House of Lords which would be essential if there were to be any chance of completing the Government's legislative business by the end of the Session. It was suggested that in this situation some concession to the Opposition would have to be considered to induce them to resume co-operation. Agreement by the Government to treat the Aircraft and Shipbuilding Industries Bill as hybrid would have the desired effect, but the delay to the Bill involved in this and the

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possibility of wrecking amendments being made would have a serious effect on the shipbuilding industry, which was in grave difficulty, and would be badly received by the Government's supporters. Other possibilities put forward were to have a further vote on the Government Motion which had been carried by one vote on 27 May - though it was suggested that this would amount to an admission that the vote on 27 May had not been valid; or to take the Report Stage of the Bill under the Government Motion relating to the Standing Orders but to allow normal Standing Orders to apply on Third Reading and obtain a further vote on the hybridity question then; or to withdraw the Bill and reintroduce it immediately in a non-hybrid form and take it through under a timetable Motion; or to split the Bill and deal separately with the aircraft and shipbuilding industries - though it was suggested that this would be the worst of all worlds.

In further discussion it was suggested that, especially following the previous day's unsuccessful Motion of Censure, the Opposition would cool down, and doubts were expressed whether they would maintain non-co-operation for very long. But there could be no certainty about this, and a number of suggestions were made for encouraging a resumption of normal relations. On pairing, the first step might be to seek Opposition agreement to pairs for Ministers absent on important official engagements, eg representing the country overseas or on duty in Northern Ireland. The damage to the conduct of the nation's business caused by refusal of pairs to Ministers would be regarded as more important by the general public than delays to Government legislation. Direct pairing arrangements between back-benchers might be encouraged on business which in normal circumstances would attract only a two-line Whip. The suggestion that proxy voting should be allowed for Ministers on official business overseas, or should be adopted more widely, might encourage the Opposition to return to normality. An offer might be made to the Opposition to examine the whole question of hybridity, on which the existing rules were arguably out of date, and to seek with them more orderly arrangements on pairing, and for ensuring that once the business for the coming week had been agreed that business would go through. It might also be made known to the Opposition that the Government had in mind the possibility of running together the present Session and the coming Session. It would, however, be necessary, before making overtures on procedural points of this kind, for the Government itself to have properly worked out proposals. On the allegations relating to the second vote on 27 May, it might be possible eventually to arrange for a joint statement by the two Chief Whips on the lines that they had gone into the whole affair and that, while there might have been misunderstandings, there had been no bad faith.

THE PRIME MINISTER, summing up the discussion, said that the Leader of the House and the Chief Whip had the full support of the whole Cabinet in dealing with the difficulties which arose from the Government's minority position. It was important to emphasise that the Government had done nothing of which to be ashamed. The Cabinet had reached no conclusions, but had had a helpful discussion of the general situation, and a number of useful suggestions had been made. He was himself uneasy at the prospect of a number of time-table Motions, which would not create a favourable public impression. All the suggestions made, and any other means of resolving the problems relating to the hybridity of the Aircraft and Shipbuilding Industries Bill and to the second vote on 27 May, should be further explored, and the Cabinet would resume their discussion of the Parliamentary situation the following week.

The Cabinet -

L Took note, with approval, of the Prime Minister's summing up of their discussion, and invited the Lord President of the Council to proceed accordingly.

Tameside:
Selection
for Secondary
Education

THE SECRETARY OF STATE FOR EDUCATION AND SCIENCE said that last November he had approved a plan for reorganisation on comprehensive lines submitted by the previous Tameside Local Education Authority (LEA), to take effect from September 1976, and the Authority had taken steps to implement this plan before the Conservatives had gained control of the Council at last month's elections. The new LEA were now planning new arrangements for selecting children for secondary education next September, on the basis of parental choice and teacher guidance, and representatives of the LEA had seen him the previous day. In view of the disruptive effect which this late change in plan would have he had in mind to use his power under Section 68 of the Education Act 1944 to direct the LEA to implement the plan of the previous Authority which he had approved last year. The Attorney General had been fully consulted about this proposal. It would be desirable to inform the LEA, Parliament and the Press of this before the weekend, if possible that afternoon, since the following day was the last day for parents to express their new preferences, and the reallocation of children by the LEA might start immediately thereafter.

In discussion it was pointed out that an announcement of this kind that afternoon might have a provocative effect on the Opposition, which should be avoided if possible. The use of the power under Section 68 of the 1944 Act had given rise to difficulties in the past,

and although the LEA were not expected to refuse to comply with the envisaged direction, there might well be criticism of the Government. Accordingly careful consideration was needed before deciding to use the power in the present case. It was only the previous day that representatives of the LEA had seen the Secretary of State for Education and Science, and it was reasonable that the Government should take at least a few days to consider the position.

THE PRIME MINISTER, summing up a brief discussion, said that the Cabinet themselves were not in a position to reach a conclusion on this issue without more information. Accordingly the Secretary of State for Education and Science, with the Lord Chancellor, the Secretary of State for the Environment, the Minister for Overseas Development, the Attorney General and the Chief Whip, should give further consideration to the action proposed by the Secretary of State for Education and Science: these Ministers had authority to decide the matter. In the circumstances it would not be possible to inform the LEA or make any announcement that afternoon, and these steps would have to wait until the next day or Monday 14 June.

The Cabinet -

2. Took note, with approval, of the Prime Minister's summing up of their discussion and invited the Secretary of State for Education and Science to proceed accordingly.

2. THE FOREIGN AND COMMONWEALTH SECRETARY said that an official from his Department was attending the trial of the mercenaries in Luanda as an observer. He was being treated with reasonable courtesy but had not obtained access to much worthwhile information about the trial. It was difficult to see what further action the Government could take. There was no precedent for them to pay for defence lawyers for accused mercenaries: the American lawyers at the trial were being paid for out of private funds of one of the American families concerned.

The Cabinet -

Took note of the statement by the Foreign and Commonwealth Secretary.

FOREIGN
AFFAIRS

3. THE CHANCELLOR OF THE EXCHEQUER said that in the preceding week the exchange rate had been under serious attack and on Wednesday 2 June the rate had fallen by 4 cents. He had, with the agreement of the Prime Minister, broadcast on television on Wednesday evening in an attempt to reassure the market. As a result the rate had dropped by only $1\frac{1}{2}$ cents on the Thursday and had risen slightly on the Friday. He had resisted pressure to make immediate cuts in public expenditure and had, towards the end of the week, begun to explore the possibility of activating swap arrangements with the United States and West Germany. At this stage however the Chairman of the Group of Ten, which consisted of the world's richest countries, had suggested a larger operation to support sterling. As a result a swap facility worth \$5,300 million, involving all countries in the Group of Ten except Italy, plus Switzerland and the Bank for International Settlements, had been successfully arranged by Sunday evening. As a result of his announcement of this facility on Monday afternoon, the rate had risen the following day by $2\frac{1}{2}$ cents, and then later in the day by a further 1 cent following the result of the miners' ballot on the second round of the pay policy. On Monday the rate had been \$1.80 in New York, and since then it had fluctuated at a little above \$1.77. Of the \$2,000 million which had been made available by the United States, \$1,000 million came from the Federal Reserve Bank in New York and \$1,000 million from the United States Treasury, partly because the Federal Reserve Bank was under pressure from Congress not to arrange swaps too readily, and partly because in an election year the Bank wished to share the responsibility with the United States Government. The United States Secretary of the Treasury, Mr Simon, had been most helpful. The standby credit was not a loan, but a facility which meant that the additional dollars could be put into the United Kingdom foreign exchange reserves whenever the Government wished, but would attract no payment of interest unless spent, at which point the interest would be at the United States Treasury bill rate, currently $5\frac{1}{2}$ per cent. The facility was available for three months, renewable for a further three months, and there were no strings of any kind attached beyond an obligation, if at the end of the period the United Kingdom were unable otherwise to repay any drawings, to go to the International Monetary Fund (IMF) for a further tranche of borrowing. This meant that the Government need not consider before mid-October whether they need approach the IMF. In his view, if the United Kingdom drew any money under the facility it should be possible at a later stage to recover this through the market so that it could be repaid. The standby credit had been made available partly from a degree of self-interest on the part of the other central banks - particularly the Swiss, whose exchange rate was going uncomfortably high - and partly from their confidence in the Government's economic policies. In particular, the central banks had been impressed by the Government's relations with the trade unions. The support which he confidently expected the Trades Union Congress (TUC) on 16 June to give to the latest pay agreement should push up the rate further.

He appreciated that there was, in various quarters, concern over the size of the public sector borrowing requirement. Although he had no intention of cutting public expenditure in the current year, Ministers would need to consider the level of expenditure in future years when the report of the Public Expenditure Survey was available in July. If some revision of their plans were needed, they would have to consider whether these should be made through tax adjustments, public expenditure changes or other means. Information on the causes of the recent pressure on the pound was still being collected, and he would be looking at ways of reducing such pressure, eg by operating on the sterling holdings, whether through guarantees, or funding, or the creation of a substitution account at the IMF. On public expenditure, the 1976 Survey was in train and in the next week or two he expected to have in his hands the Medium-Term Economic Assessment, which this year was being done in a radically different, and more realistic, way than previously. The Short-Term Economic Forecast would not be available until early July, which meant that he would not be able to put forward material on the economic context in which public expenditure decisions would be needed until about mid-July. In the meantime, it would be most important to ensure that the public sector expenditure limits for 1976-77 laid down in the White Paper of last February were not broken, since, if they were, the Government would lose all credibility. The local authorities had already been told that they must stick to their agreed target, and Ministers must ensure for their part that agreed claims on the contingency reserve - on which there would shortly be a further paper to Cabinet - were similarly restrained. He asked his colleagues to be particularly cautious in any public speeches they made relating to the economy, the exchange rate or to public expenditure, and to ensure that they cleared such references with the Treasury in advance.

In discussion the following points were made -

a. The exchange rate had received an excessive coverage in the media in recent weeks, and its importance had been grossly over-emphasised by the British Broadcasting Corporation (BBC) in a way which helped to induce an unjustifiably nervous state in the foreign exchange market. If possible, it would be desirable to remind the BBC of its obligations to the country in these matters, although the Government had of course no control over the material which the BBC chose to broadcast.

b. While the situation remained far from assured, June and July might well be helped by the announcement of good figures for the increase in the Retail Price Index (RPI) which, partly because of the drop in potato prices, would fall to

13½ per cent. Difficulties might arise in the autumn when the index would be less likely to fall. If it were possible to arrange reassuring statements on, eg, the public sector borrowing requirement then, that might be helpful. On the other hand, those operating in the foreign exchange market already appreciated correctly the importance of the public sector borrowing requirement. They wanted to know that the Government were concerned about its size and recognised the need to reduce it. There could be political advantages in early action on next year's borrowing requirement before any possible recourse to the IMF in the autumn.

c. Although overseas opinion had taken some account of it, there had not yet been a full appreciation at home of the significance of the recently announced increase in the United Kingdom's recoverable reserves of gas and oil. The Department of Energy were endeavouring to produce more telling monthly statistics which would point up the value of these assets, upon which emphasis could also be laid at the Energy Conference later in the month. However, it was observed that foreign opinion had already taken full account of the value of the oil and gas reserves, and it was only for this reason that the country had obtained help on the scale which had recently been arranged. The additional resource growth from North Sea oil and gas would be relatively small.

THE PRIME MINISTER, summing up the discussion, said that, although the RPI figures for the next two months would be helpful, and the outcome of the TUC meeting of 16 June could be expected to assist the pound, he still felt that for the next six weeks the position would be fragile. For this reason he would himself resist regarding the standby facility as a triumph. It would take time to recover from the difficulties of the last two or three weeks, and the Cabinet would need to keep their nerve. It would be important to avoid a continuing slide in the exchange rate which compelled them to make panic cuts in public expenditure. Such policy adjustments as might be needed should be considered rationally and sensibly, and if it were possible for the Chancellor of the Exchequer to accelerate any proposals he contemplated putting forward this would be desirable. The country still had a difficult 18 months to two years ahead of it, and he felt sure that the Labour Party would understand and accept this if the truth were put frankly. He underlined how important it was that all Ministers should comply with the Chancellor of the Exchequer's request to clear with the Treasury in advance any speeches they might make touching on the economy.

The Cabinet -

Took note, with approval, of the Prime Minister's summing up of their discussion.

4. The Cabinet had before them a minute, dated 28 May, from the Home Secretary to the Prime Minister, to which was attached the text of a discussion document on human rights.

THE HOME SECRETARY said that the Cabinet, on 25 March, in the context of a threatened Motion by Lord Hailsham to refer to a Select Committee Lord Wade's Bill of Rights Bill, agreed to the publication of a discussion document on human rights based on the report of an interdepartmental working group which was already available. The text of the proposed discussion document had been fully considered by the Home Affairs Committee which had agreed that, subject to a small number of amendments which would appear in the final version now being printed, it was suitable for publication. The document was neutral in tone and neither entered into any commitments nor favoured any particular solution. It would, in his view, make a useful contribution to calm and informed debate of the issues involved.

THE LORD CHANCELLOR said that public interest in legislation to protect human rights had been stimulated by the publication of a Labour Party discussion paper on human rights and by Lord Justice Scarman's advocacy of a Bill of Rights. He did not believe that Lord Justice Scarman's views were representative of judicial opinion nor were they of his own since he took the view that human rights were already better protected in the United Kingdom than anywhere else and that it would be wrong to transfer Parliamentary responsibility for their protection to the courts. Nevertheless he agreed that publication of a discussion document in the neutral terms proposed would serve a valuable purpose provided that the document was published merely to assist discussion and not for the purposes of consultation which might lead to decisions.

In discussion, the view was strongly expressed that changes of the kind analysed in the document would be highly undesirable and make no contribution to the creation of a more just society. The changes had constitutional implications of a revolutionary character: they implied a written constitution which might or might not be entrenched but which would entrust to the courts decisions which were essentially the prerogative of Parliament. Chapter 3 of the document illustrated the range of sensitive issues on which the courts might have to pronounce; even without domestic legislation, there was already a possibility that judgments of the European Court of Justice on cases brought under the Convention on Human Rights might undesirably restrict Parliamentary sovereignty. On the other hand, it was argued that no-one in the United Kingdom could afford to take a complacent view of the adequacy of the existing protection of human rights. It was a very live issue in Northern Ireland where the Standing Advisory Commission on Human Rights was engaged in a study of the adequacy of existing legislation and where there were strong grounds for making some change; and, although the special

circumstances of Northern Ireland should not be allowed to influence constitutional decisions elsewhere, a number of minority and under-privileged groups in the United Kingdom as a whole did not see their rights as being adequately protected by Parliament.

THE PRIME MINISTER, summing up the discussion, said that given the commitment, which had been made in both Houses of Parliament, to publish a discussion document on human rights, the Cabinet agreed that the text circulated by the Home Secretary, subject to the amendments which the Home Affairs Committee had approved and which would be incorporated in the printed version, was sufficiently neutral in tone and was suitable for early publication. The presentation of the document should be in a low key and should imply no policy commitment or intention on the part of the Government to take decisions. On this basis it would be open to Ministers to express their individual views in any public debate of the major constitutional issues raised in the document.

The Cabinet -

Took note, with approval, of the Prime Minister's summing up of their discussion and invited the Home Secretary to arrange accordingly for early publication of the discussion document.

Cabinet Office

10 June 1976