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COMPOSITION OF THE CABINET AND THE POSITION OF
MINISTERS OUTSIDE THE CABINET

Appointment to the Cabinet

3
Membership of the Cabinet is not in itself an office, but members are all Ministers of the Crown and Privy Councillors.

See Jennings, pp. 61-64 and Anson, Vol. II(1) pp. 111-2, 224.

In the Second World War, Lord Halifax, (His Majesty's Ambassador in Washington) attended meetings of the War Cabinet, as a full member, when in London. He was of course a Privy Councillor. See minute of 28th November, 1941 on File 48/4/1 Part 1; Hansard, House of Commons, 27th November, 1941 Cols. 890-1.

4
The Prime Minister makes Ministers members of the Cabinet by informal invitation and can equally informally request them to leave the Cabinet. In practice changes in the membership of the Cabinet within the lifetime of a single Government are frequently associated with changes in office to avoid a situation where a Minister may leave the Cabinet while retaining his office.

In November, 1942, when Sir Stafford Cripps ceased to be Lord Privy Seal and became Minister of Aircraft Production, he left the War Cabinet. In May, 1940, Lord Simon, on relinquishing office as Chancellor of the Exchequer to become Lord Chancellor, left the War Cabinet. In October, 1947, Mr. Shinwell, on relinquishing office as Minister of Fuel and Power to become Secretary of State for War, left the Cabinet. On the other hand in February, 1942, Sir Kingsley Wood left the War Cabinet although remaining Chancellor of the Exchequer; and in 1946, on the appointment of a Minister of Defence, the Service Ministers left the Cabinet.

Composition of the Cabinet

5
The composition of the Cabinet is determined by the Prime Minister, who is guided partly by tradition and partly by political considerations and the personality of his colleagues.

For the composition of Cabinets since 1916 see Annex I.

See Jennings pp. 62-63; Anson, pp. 111-2; 224; and, for details of membership, etc. File 4/1/3.

Before 1916 the Cabinet usually included all Ministers of the Crown. On 9th December, 1916, the Cabinet was replaced by a War Cabinet. This was composed of the members of the War Committee of the Cabinet which was set up earlier in the war and consisted of five Ministers, none of whom, except the Chancellor of the Exchequer, was a Departmental Minister.

In 1919 the full Cabinet was re-introduced. The number of Departmental Ministers had meanwhile increased, and Cabinets between 1919 and 1939 contained usually twenty members, the remaining Ministers sharing the collective responsibility of the Cabinet but not sitting in Cabinet.

In the financial crisis in 1931 a National Cabinet was set up of only nine Ministers besides the Prime Minister. This Cabinet, which first met on 26th August, 1931, held 24 meetings, and remained in office until the formation of the Second National Cabinet on 10th November, 1931.

At the outbreak of war in September, 1939 a War Cabinet of nine members was formed; in May, 1940 when Mr. Churchill became Prime Minister of a Coalition Government, the War Cabinet was reformed with five members; but its composition was later modified from time to time. See Annex I.

On 25th May, 1945 when Labour and Liberal members left Mr. Churchill's Government, a Cabinet was formed of fifteen members besides the Prime Minister.

Mr. Attlee's Labour Cabinet when formed in August, 1945 consisted of twenty Ministers. In 1948 the number went down to 16, until Mr. Dalton returned to office as Chancellor of the Duchy of Lancaster.

For discussion of the general problem of the size and composition of the Cabinet see Report of the Machinery of Government Committee (Cmd 9230 of 1918) pp. 4-6; notes by the Secretary of the Cabinet on an article by Lord Samuel in File 28/2/97; and G.O.C. (49)10.

Ministers with Co-ordinating Functions

6. It has been usual for Cabinets to include one or more Ministers without heavy Departmental duties, e.g. the Lord President of the Council and the Lord Privy Seal; and from time to time Ministers without Portfolio have been appointed. These Ministers may be assigned specific tasks as the need arises, or they may be given a general co-ordinating function over a particular field of administration; they are frequently appointed Chairmen of Cabinet Committees. Ministers charged with co-ordinating functions do not, however, fulfil any supervisory role on the lines advocated, for example, in the report of Machinery of Government Committee in 1918 (Cmd. 9230); and the Departmental Ministers remain responsible for the policy and administration of their Departments. In a note circulated in October, 1947 (C.P.(47)288) the Prime Minister outlined the duties of the Ministers with co-ordinating functions then in office, i.e. the Chancellor of the Exchequer, the Minister for Economic Affairs, the Minister of Defence and the Lord Privy Seal. In November, 1947 when Sir Stafford Cripps succeeded Mr. Dalton as Chancellor of the Exchequer he retained the functions assigned to him while Minister for Economic Affairs.

*On the role of the 'Supervising Ministers'
generally see M.S. (42) 2 and 4 and
M.S. (42) 2nd Meeting, Minute 3 and 3rd Meeting,
Minute 2; letter on file 28/2/97.*

Ministers not in the Cabinet

7. The growth in the number of Departments in the last thirty years or so has made it impossible to include all Ministers in the Cabinet. Throughout the 'thirties a few Ministers were "outside" the Cabinet; and in Mr. Attlee's Government after the 1939-45 war about half the members of the Administration (apart from the Law Officers and Junior Ministers) were excluded. These Ministers share, however, in the Cabinet's collective responsibility. They receive most Cabinet memoranda and all Cabinet minutes; they may submit to the Cabinet proposals on any subject; and those who are in charge of Departments attend Cabinet meetings for discussion of matters which affect their Departmental interests.

On attendance at Cabinet see paragraph 14.

On the circulation of documents see Part IV.

For general questions concerning Ministers see Part II.

The term "Minister of Cabinet rank", which was used before the Second World War to denote Ministers in the Cabinet, came to be used during the war to describe Ministers who were not members of the War Cabinet but might have expected to be included in a normal peace-time Cabinet. The term continued in use for some years after the war; but its precise connotation was not defined, and in June, 1950, the Prime Minister, on the suggestion of the Secretary of the Cabinet, ruled that its use was anomalous and should be discontinued (C.P. (50) 152 - File 4/1/11).

Since 1945 it has become the practice to appoint "Ministers of State" as assistants to Ministers in charge of some of the major Departments, e.g. the Treasury, the Foreign Office and the Colonial Office. These Ministers have a higher status than junior Ministers, but it has not been clearly established whether they necessarily share fully in the collective responsibility of the Government (see minute of 27.6.50 on file 4/1/11).

For some time after the formation of the War Cabinet in 1939 Ministers not in the War Cabinet were in various lists divided by line drawn below the offices which had been included in the peace-time Cabinet. Thus, Vacher for October, 1939, showed eight Ministers "below the line", viz. two war-time Ministers (Information and Economic Warfare), four Ministers not included in the peace-time Cabinet (Pensions, Works, Postmaster-General and Paymaster-General and the two English Law Officers. (The Scottish Law Officers were apparently omitted inadvertently.) By 1942 the only Ministers "below the line" were the Minister of Pensions and the four Law Officers, and, on the Prime Minister's instructions, the distinction was abandoned in November, 1942 (File 4/1/11, note of 25th November, 1942). The term "below the line" is now used only in relation to those who, in the record of attendance at meetings of the Cabinet and Committees, are shown as "also present", i.e. attending not as members but as invitees.

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Law Officers

8. While the Lord Chancellor is regarded as the principal adviser to the Cabinet on legal matters, one of the Law Officers is now normally asked to attend the Cabinet when legal or constitutional issues are under discussion. Usually ~~this is the Attorney-General or in his absence the Solicitor-General, but~~ the Lord Advocate may, ~~in the absence,~~ be asked to attend in his capacity of one of the four Law Officers of the Crown. The general role of the Law Officers was restated by the Prime Minister in C.P.(48)271, the substance of which is embodied in paragraphs 6 and 28 of C.P.(49)95.

C.P.(48)271 (16th November, 1948) stated:-

"It is very desirable that we should make full use of the experience of the Law Officers on the legal aspects of policy questions. I have not here in mind the long-established and valuable practice of referring difficult legal issues to the Law Officers for a formal Opinion, but rather the general assistance which they can give to their Ministerial colleagues on the legal questions which arise in the formulation and administration of policy.

"I hope, therefore, that Ministers in charge of Departments will not hesitate to consult the Law Officers, as colleagues in the Government, on questions where their advice is likely to be of value.

"Chairmen of Cabinet Committees should also bear in mind the value of securing the attendance of one of the Law Officers at any meeting at which legal issues are likely to arise."

On the position of the Scottish Law Officers, who have sometimes in the past been appointed on a non-political basis, see No. 10, Downing Street Handbook, p.19.

In April, 1924 the Attorney-General submitted a memorandum (C.P.251(24) Annex III) pointing out that "in important matters it generally happens that the Law Officers have no knowledge whatever of the policy to be adopted by the Cabinet, and in consequence are quite unable to express an opinion as to whether that policy can be legally carried into effect." Ministers were asked (Cab.27(24)4) to ensure that the Law Officers saw Bills as early as possible. The Law Officers were also, if necessary, to be called to the Cabinet. It was partly as a result of this discussion that the Treasury Minute of 28th April, 1924 on the submission of business to the Cabinet was issued (see below).