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PRECEDENT BOOK.

Part II.

MINISTERS.

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PART II - MINISTERS

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ANNEX

Outline Note on Statutes affecting the position of Ministers.

RESPONSIBILITIES OF THE CABINET OFFICE. ETC.

1. Most of the matters noted in this Part are handled in No.10, Downing Street or in the Treasury, but the Cabinet Office may be concerned with them in greater or less degree.

No.10, Downing Street have the primary responsibility for all matters connected with the appointment and resignation of Ministers and with the general conduct of Ministers (including speeches, broadcasts, Press articles and Press interviews). They are likewise responsible for advising on questions concerning the specific limitations on the activities of Ministers (including the holding of directorships and shareholding).

The Treasury are responsible for the administration of the various statutory provisions affecting Ministers (including Minister's salaries). They are also primarily responsible for matters connected with official residences, official cars, etc.

Nevertheless, while the Cabinet Office do not have any particular responsibility in these matters, they are often consulted upon them. The general understanding is that the Cabinet Office should not advise on those matters which are the special concern of No.10 Downing Street, unless the question involved comes clearly within the scope of well established rulings or can be met by reference to a particular passage in the circulated notes on procedure. Where more than a straightforward enquiry is involved the matter should be referred to No.10, Downing Street.

The definition of the extent to which the Cabinet Office should handle matters connected with Press articles and Press interviews, Ministerial broadcasts and speeches, and the holding of directorships by Ministers was agreed with the Prime Minister's Private Secretary in November, 1942. File 4/1/23.

APPOINTMENT OF MINISTERS

General

2

The choice of a Prime Minister by the King is not made on formal advice or submission. In many cases the choice is clear, but the King has an absolute right in all cases to consult anyone he pleases. This right may be of the greatest value in cases where there is doubt about the choice, e.g. in the event of the death of a Prime Minister in office, the resignation of the Prime Minister for personal reasons, a complicated political situation, etc. Nevertheless, as the King should not exercise, or appear to exercise, any political bias, he would normally choose as Prime Minister the leader of the Party having the largest number of seats in the House of Commons; and he would make his choice in a clear case of this kind without any overt or personal consultations, as such consultations might imply personal partisanship. No Peer has been chosen as Prime Minister since the end of Lord Salisbury's administration in 1902

See Jennings, pp. 20-46; Anson Vol. II(1), pp. 130-131, 143; 10, Downing Street Handbook, paras. 2-3.

For notes on the constitutional position of the Prime Minister as Minister of Defence (1940-45) and on the use of the expressions "Prime Minister of the United Kingdom", "Prime Minister of Great Britain", etc. see File 4/1/45.

3

The Prime Minister chooses the other members of his administration and recommends their appointment to the King on his own responsibility though he may make such consultations as he thinks fit. It is not constitutionally necessary that a Minister should be a peer or a member of the House of Commons on appointment, exceptions noted in Jennings, p. 48 and 10, Downing Street Handbook, para 4. There are certain statutory and conventional limitations on the choice of the Prime Minister in forming his administration particularly on the number of Ministers who may sit in the House of Commons.

See Jennings, pp. 47-69; 10, Downing Street Handbook, paras. 4-8.

For a summary note of the main Acts affecting the numbers, salaries, etc. of Ministers see Annex.

The formalities of swearing in, changing seals, etc. are arranged by the Clerk of the Privy Council direct with the Palace and with Ministers.

For papers dealing with the Prerogative power to appoint new Ministers, and the formula to be adopted in Bills providing for the appointment of new Ministers see File 4/1/39.

For an historical note on Cabinet Ministers sitting in the House of Lords see File 4/1/10.

On the action which the Cabinet Office may be required to take in connection with a change of Administration see note in Part VII(1).

In answer to a question in the House of Commons on 18th April, 1950, the Prime Minister (Mr. Attlee) made a statement which implied that a Minister's tenure of office (other than those offices whose holders receive seals) began with the date upon which his appointment was approved by the King, and not with the date upon which he kissed hands. (H.C. debates, Vol. 474, Cols. 29/30).

(File 4/1/35)

4. The appointment of a Parliamentary Under-Secretary of State or a Parliamentary Secretary is technically made by the Minister under whom he serves. In substance, however, the Prime Minister makes the appointment, in consultation with the Minister concerned. It is not constitutionally necessary for the names of Junior Ministers to be submitted to the King, but this is customarily done.

See further paragraph 28 below.

Appointment of Ministers: Consequential Action by the Cabinet Office

5. The Secretary of the Cabinet may on occasion be consulted by the Prime Minister's Private Secretary on the terms of the Press statement to be issued on the appointment of a new Minister, particularly if a Minister without Portfolio is being appointed and it is desired in the statement to give some indication of his duties or to make some general reference to his position in relation to the central machinery of Government.

6. When the Minister's appointment has been announced the following action by the Cabinet Office is required:-

(a) to consider and, after such consultation as may be necessary (e.g. with the Permanent Secretary to the Treasury, or with a Senior Minister) of which Cabinet Committees he should be made a member, and to make a submission accordingly to the Prime Minister. If he is succeeding a Minister in charge of a Department, he will normally take his place on those Cabinet Committees of which his predecessor was a member, but the latter may have been a member of certain Committees in a personal capacity. See generally Part III.

(b) to take the Prime Minister's instructions on the precedence to be accorded to him, if the Prime Minister has not already given a ruling. See Part I, p .

his L) (c) to add his name, as appropriate to circulation lists for Cabinet and Cabinet Committee documents. See Part/V.

(d) to arrange for him to be provided with the appropriate Cabinet keys. See .

(e) to revise the Cabinet Office list of Ministers. See Part I, p.

(f) to send him through his Private Secretary a copy of the current notes on procedure (C.P. (49)95), with copies of the notes there referred to.

(g) if appropriate, to confirm in due course that he has taken over the Cabinet documents issued to his predecessor.

7. On the appointment to the Cabinet of someone who has not previously held Ministerial office it is customary for the Secretary of the Cabinet to call upon him, to give him personally a copy of the notes on procedure and to hand him the agenda and papers for the first meeting of the Cabinet which he is to attend. This action may, however, not be necessary if the new member of the Cabinet is in charge of a Department.

8. The Cabinet Office is not responsible for the provision of office accommodation for Ministers without Portfolio nor for finding them suitable staff, including Private Secretaries, but may be consulted by the Treasury, particularly on the functions to be exercised by the new Minister and the staff which he is likely to need. Provision of red Cabinet boxes is the responsibility of the Department concerned or, in the case of Ministers without Portfolio, of the Treasury.

For Cabinet Office responsibilities in relation to the Ministers Resident overseas in the Second World War, see p. .

The Cabinet Office provided accommodation for the Minister for the Co-ordination of Defence. They have also at different times, provided accommodation for the Lord President, the Lord Privy Seal, and the Paymaster-General. In 1947 the Cabinet Office provided accommodation for the Minister ~~for~~ Economic Affairs (Sir Stafford Cripps).

In 1947, on the appointment of Lord Inman as Lord Privy Seal, the Secretary of the Cabinet called upon him to give him copies of the notes on procedure together with copies of Cabinet papers awaiting consideration by the Cabinet. It was subsequently arranged that the Cabinet Office Secretaries of the Committees of which he was made a member should see him to explain the functions of these Committees and their current business. See File 7/2/3 Part 5.

For the adjustments made in Cabinet Committee membership on the appointment of Mr. Hugh Dalton as Chancellor of the Duchy of Lancaster in 1948 see File 7/2/3 Part 6.

Ministerial Appointments Overseas

9. During the war a number of Ministers were appointed to certain specially created posts overseas.

7 The Cabinet Office was responsible for keeping these Ministers informed generally and, in particular, about Cabinet business. The Secretary of the War Cabinet provided their official link with the War Cabinet and with Home Departments and accommodation in the Cabinet Office was provided for them during their visits to the United Kingdom. The Secretary of the Cabinet was also responsible for keeping the King informed of the movements of resident Ministers abroad. (S and P 322) (See generally File 4/3/18)

(1) Minister of State, Middle East

File 48/46/1

In July, 1941, a Minister of State (Mr. Lyttelton) was appointed in the Middle East to represent the War Cabinet on the spot and to carry out its policy and use its authority for that purpose. (W.P.(41)148). As a member of the War Cabinet resident in the Middle East, he was responsible, with the War Cabinet, for all policy of His Majesty's Government (Hansard, House of Commons, 4th December, 1941, Cols. 1249 - 1250). He submitted reports to the Prime Minister, but his official channel of communication with His Majesty's Government was the Secretary of the War Cabinet, through the medium of His Majesty's Ambassador in Cairo and the Foreign Office. He also communicated direct with the Prime Minister and Minister of Defence by personal telegram when convenient.

In March, 1942, Mr. R.G. Casey succeeded Mr. Lyttelton as Minister of State, Middle East, (W.P.(42)143). On the appointment of another Minister of State (Mr. Richard Law) Mr. Casey's title was changed to that of Minister of State Resident in the Middle East.

In January, 1944, Lord Moyne succeeded Mr. Casey and was described as Minister Resident in the Middle East; his office carried Cabinet rank, but he was not a member of the War Cabinet. In March, 1944, his duties were modified and a revised directive (W.P.(44)88) was issued to him.

Sir Edward Grigg (Lord Altrincham) was Minister Resident in the Middle East from 1944 - 1945.

In August 1942, Lord Moyne was appointed Deputy Minister of State in the Middle East. This office carried Cabinet rank. When Mr. Law was made Minister of State, Lord Moyne's title became Deputy Minister of State Resident in the Middle East.

6

When Lord Moyne was appointed Minister Resident the office of Deputy Minister lapsed.

(ii) Minister Resident Singapore

File 48/54.

In 1941, Mr. Duff Cooper was appointed Resident Minister of Cabinet rank at Singapore to perform functions similar to those of Minister Resident in Cairo. (W.P. (G) (41) 152: W.M. 127(41) 2). He was not a member of the War Cabinet.

(iii) Minister Resident in West Africa

File 48/57.

In June, 1942 Lord Swinton was appointed Minister Resident in West Africa, (W.P. (42) 245). He served under, and reported direct to, the War Cabinet through its Secretary. The main purpose of the appointment was to ensure the effective co-operation in the prosecution of the war of all Services, civil and military in West Africa. The Minister convened and presided over a War Council.

His normal channel of communication was through the Secretary of State for the Colonies. On Departmental matters his telegrams were addressed to the Ministers concerned through the Colonial Office, but he also addressed personal telegrams to the Prime Minister and Minister of Defence on Defence matters.

In December 1944, when Captain Balfour replaced Lord Swinton in the office, a revised directive was issued (W.P. (44) 721).

(iv) Minister Resident at Allied Force Headquarters in North West Africa

File 4/1/43.

In December 1942, Mr. McMillan was appointed Minister Resident at Allied Force Headquarters in North West Africa. His primary function was to report on the political situation in future plans for the territory and to represent to the Commander-in-Chief the views of His Majesty's Government on political questions. His reports were addressed to the Prime Minister (W.P. (42) 620).

At the beginning of 1944, his title was changed to Minister Resident at Allied Force Headquarters, Mediterranean Command.

(v) Minister Resident for Supply, Washington

File 14/31/140.

In November 1942, Colonel Llewellyn was appointed as Minister Resident in Washington to consider, in harmony with His Majesty's Ambassador in the U.S.A. questions of policy or procedure arising out of the work of Civilian Combined Boards or Committees established in Washington to deal with matters of common

interest to the various British Missions in North America (W.M. (42)2 and W.P. (43)574). He was not a Minister of Cabinet rank, but was subordinate to the Minister of Production as whose deputy he acted in the United States, and to whom, as Chairman of the North American Supply Committee, he reported on progress made.

In 1943, Sir Ben Smith succeeded Mr. Lyttelton.

RESIGNATION OF MINISTERS

General

10

The Prime Minister in tendering his resignation in fact tenders the resignation of the whole Administration to the King, i.e. there is no need for individual Ministers to submit their recommendations to the King. Their offices are regarded as being at the disposal of the new Prime Minister; this is so even if the "new" Prime Minister is the "old" Prime Minister. Pending the formation of a new Administration Ministers carry on the work of their offices. When the Prime Minister has submitted his resignation he writes to his colleagues to that effect.

In a reconstructed Administration Ministers who retain the same offices are not reappointed or re-sworn.

See Jennings, pp. 67-68; No. 10, Downing Street Handbook, pp. 15-16.

When Mr. Baldwin resigned in May, 1937 and the Chancellor of the Exchequer, Mr. Chamberlain succeeded him as Prime Minister, the Cabinet agreed that:-

- "(a) The Chancellor of the Exchequer should be authorised to assume all members of the Cabinet present placed their resignations at his disposal when he was sent for by the King, and that there was no necessity for any Minister to confirm this in writing.
- (b) That Ministers at the head of Government Departments should explain the position to their respective Parliamentary Under-Secretaries and ascertain that they were willing to comply with the arrangement recorded in Conclusion (a) above.
- (c) That the Secretary to the Cabinet should be instructed to send a copy of this conclusion without delay to members of the Cabinet who were not present, as well as to Ministers (other than Parliamentary Under-Secretaries) who were not members of the Cabinet, and ascertain that they are willing to confirm to Conclusion (a)". (C.M.22(37)14).

When Mr. Chamberlain's Government fell on the 10th May, 1940, the War Cabinet agreed that the New Prime Minister "should be authorised to assume that all members of the War Cabinet placed their resignations at the disposal of the new Prime Minister when sent for by the King, and that there was no necessity for this to be confirmed in writing", and that "in the meantime, Ministers would remain in office and continue to discharge their functions until a new Administration had been formed". (W.M.119(40)5).

Consequential Action by the Cabinet Office

11

On the resignation of a Minister during the life-time of an Administration action by the Cabinet Office is:-

(a) to revise the Cabinet Office list of Ministers.
See Part I, para.

(b) to revise, as necessary, the circulation lists of Cabinet and Cabinet Committee documents.

(c) to consider the position as regards membership of Cabinet Committees.

(d) to confirm that Cabinet Keys are handed over to the Minister's successor.

(e) to confirm that the Cabinet documents issued to him are handed over to his successor.

If a Minister (e.g. a Minister without Portfolio) is not being replaced, keys and documents issued to him would be recovered to the Cabinet Office.

12

On the action which the Cabinet Office may be required to take in connection with a change of Administration see note in Part VII (1).

Statements on Resignation

13.

A Minister on resigning is entitled to give Parliament and explanation of the reasons for his action. If his explanation involves a reference to Cabinet discussions, the practice is for him first to obtain through the Prime Minister the King's consent to such disclosure.

See generally, Jennings, p. 208; Anson II(1) p. 110-111; No 10 Downing Street, Handbook, p.

It was held in December, 1940, at the time when Mr. More-Belisha resigned from the office of Secretary of State for War, that the need to obtain the King's consent to the disclosure of Cabinet proceedings applied also to the disclosure of documents of State as well as Cabinet documents. See File 4/3/90.

For examples of personal statements in the House of Commons on resignation, see Hansard, House of Commons, 21st February, 1938, Col. 45 (Mr. Eden); Hansard, House of Commons, 3rd October, 1938, Col. 29 (Mr. Duff Cooper).

It was held in 1921 that it was "in accordance with the unvarying traditions of this House that a Minister who has resigned his office should make a full statement to the House of his reasons". (Hansard, House of Commons, 14th July, 1921, Col. 1490).

In May, 1946, on the occasion of the resignation of Sir Ben Smith from the office of Minister of Food the Opposition pressed strongly that the House was entitled to a personal statement. In reply the Lord President quoted many cases of resignations without statements quite apart from those in the war. (Hansard, House of Commons, 31st May, 1946, Cols. 1509, 10).

ABSENCE OF MINISTERS

General Arrangements

14.

If, through illness or official business outside the United Kingdom, a Minister is likely to be absent for a substantial period, the Prime Minister may make arrangements for some other Minister to take charge temporarily of the Department concerned. It is customary for the Prime Minister himself to assume charge of the Foreign Office if the Foreign Secretary is absent for any lengthy period. The matter is not one in which the Cabinet Office are required to take any initiative. The arrangement made is ~~usually~~ reported to the Cabinet and recorded in the Cabinet minutes. If the Cabinet Office receive notification from a Minister's Private Secretary that his Minister is ill, steps should be taken to confirm that the Prime Minister has been informed. Action by the Cabinet Office is normally confined to considering what, if any, special arrangements are required as regards attendance at Cabinet and Cabinet Committee meetings and to making a submission accordingly to the Prime Minister.

On the submission of memoranda to the Cabinet in the absence of the Minister responsible see Part I, Annex .

L>
In 1947, when it was clear that the Lord President (Mr. Morrison) was likely to be absent, through illness, for a considerable period, the Secretary of the Cabinet made a submission to the Prime Minister on the conduct of the Committees of which he was chairman. The chair of the Lord President's Committee, for example, was taken by the Chancellor of the Exchequer, and responsibility for the general conduct of the Government information services (of which the Lord President had charge) was assigned temporarily to the President of the Board of Trade. See File 7/2/3 and C.P. (47)87.

In the absence through illness of the Minister of Transport (Mr. A. Barnes) for a period of months in 1947, the Prime Minister arranged for the Secretary of State for Commonwealth Relations (Mr. Noel-Baker, who had been Parliamentary Secretary to the Ministry of Transport in the Coalition Government) to take charge of the Department temporarily. During that period the Secretary of State for Commonwealth Relations normally handled at Cabinet any matters of concern to the Ministry of Transport; the Parliamentary Secretary usually represented the Ministry's view-point at meetings of Cabinet Committees (C.M.83(47)1).

L.C.
The Lord Privy Seal (Lord Addison, a former Secretary of State for the Dominions) has on occasion been given general charge of the Commonwealth Relations Office in the absence of the Secretary of State overseas.

On the general question of the extent to which one Minister may act for another see minutes of July, 1949 on File 4/1/44.

Absence from the United Kingdom

15.

The current notes on procedure state:-

It is the established practice for a Member of the Cabinet or a Minister in charge of a Department to obtain the King's permission to be absent from the United Kingdom, whether on duty or on leave, and to inform His Majesty of the arrangements which he proposes to make for the administration of his office during that time.

Any such arrangements must have the Prime Minister's prior approval and are subject to certain general limitations. In the absence of a Secretary of State, submissions to His Majesty must be made on his behalf by another Secretary of State. Submissions on behalf of the First Lord of the Admiralty may be made in his absence by the Senior Lord Commissioner. In the absence of other Cabinet Ministers, submission may be made by the Parliamentary Secretary of the Department concerned, if he is a Privy Councillor; if not, by another Cabinet Minister.

Parliamentary Secretaries who wish to be absent from the United Kingdom should obtain the consent of the Prime Minister as well as of their own Minister.

(C.P. (49)95, paragraph 54).

See generally File 4/1/44.

Earlier statements of the rule set out in paragraph 54 of C.P. (49)95 used the expression "Minister of Cabinet Rank" instead of "Member of the Cabinet or a Minister in charge of a Department." It was made clear in January, 1948, that a Minister who was not in charge of a Department and not a Member of the Cabinet (e.g. the Minister of State at the Foreign Office) need not obtain the King's permission.

For this purpose the United Kingdom includes the Channel Islands and the Isle of Man (as well as Northern Ireland.)

The first statement of this rule was circulated by the Prime Minister (Mr. Churchill) on 19th October, 1943 after correspondence between the Secretary of the Cabinet and the King's Private Secretary and a formal submission to the King by the Prime Minister. On the history of the practice see letter of 14th September, 1943 from Sir Alan Lascelles, and, for earlier notes on the procedure, letters of 6th and 13th September, 1939, on File 4/1/44.

When the King visited South Africa in 1947 he asked that Ministers who intended going outside the United Kingdom should obtain the consent of the Council of State (through the Duke of Gloucester as leading counsellor). Letter of 31st January, 1947, File 10/8/25/2.

In July, 1946, the Chancellor of the Duchy of Lancaster (who was at the time Minister in charge of the Control Office for Germany and Austria) left the United Kingdom for Germany

without having obtained the King's permission. In the correspondence which followed Sir Alan Lascelles expressed the view that although he was fulfilling non-Duchy duties, the Office of the Chancellor of the Duchy should be responsible for approaching the Palace with a view to obtaining the King's consent to absence. See File 4/1/44.

DEATH OF A MINISTER

16.

If the Cabinet Office is notified by a Department of the death of a Minister steps should be taken (unless in the circumstances it is clearly unnecessary to do so) to confirm that the Department have informed the Palace and the Prime Minister. The Press Notice is normally issued by the Department, who are responsible for informing the Speaker. The Prime Minister informs the Cabinet; it is customary for a record to be made in the Cabinet Minutes.

^{Any}
~~The~~ Memorial Service is arranged by the Department, in consultation with the relatives, but the Cabinet Office may be asked for advice. See Regs. 32/93.

17.

Action by the Cabinet Office is normally confined

- (i) to considering, in relation to the appointment of the succeeding Minister, what adjustments in Cabinet Committee membership are called for and thereafter making a submission to the Prime Minister; and
- (ii) to taking in due course any steps necessary to recover Cabinet documents in the Minister's personal possession and to confirming that documents issued to him are either returned to the Cabinet Office or, where required for purposes of current administration, taken over by his successor.

See Part V.

In January, 1947 the Minister of Education (Miss Ellen Wilkinson) died in office. The Cabinet met later that day, suspended its proceedings for a few minutes as a tribute to her memory. (C.M.17(47)).

DEATH OF A FORMER MINISTER

18-

On the death of a former Minister the action which the Cabinet Office may be required to take consists of (a) assisting, as may be necessary, in the arrangements for a memorial service; and (b) considering, in due course, what steps may be needed to recover from executors any Cabinet documents which may come into their possession.

On their arrangements for Memorial Services see Part VII.

On recovery of Cabinet documents from former Ministers see Part IV.

It is a long standing practice of both Houses of Parliament that at the next sitting following the death of certain prominent persons tributes should be paid to their memories and that the Houses should thereafter be adjourned, without any further business being taken, until the following day.

On the death of Earl Baldwin the Cabinet considered, on 15th December, 1947 (C.M.95(47)1) whether this practice should be observed on this occasion in view of the pressure on Parliament's time. The view of the Cabinet was that while there was much to be said against any automatic practice of adjournment on the death of a former Prime Minister, this was not a matter on which any Party controversy should be allowed to develop. The Cabinet accordingly invited the Chief Whip to take soundings of the Opposition and in the event both Houses were adjourned for one day as a mark of respect - the House of Commons on 15th December and the House of Lords on 17th December, 1947.

The matter came up again on 5th February, 1948 (C.M.11(48)1) when the question was raised whether the business of the House of Lords should be interrupted in order to pay tribute to the memory of the Earl of Derby. The Prime Minister said that the practice in the House of Commons was to pay such tributes only on the death of Royal personages, heads of States, former Prime Ministers or Party Leaders and Ministers dying while in office. He had recently resisted a suggestion that the House of Commons should pay such a tribute to the memory of Mr. Gandhi. The Lord Privy Seal undertook to persuade the House of Lords to follow the practice of the House of Commons in this matter.

~~A note on the practice in this matter over the period from 1778 (death of Lord Chatham) to 1903 (death of Lord Salisbury) is given in Miscellaneous Records No. 68. 26.7.50 148~~

At their meeting on 24th July (C.M. (50) 49th Conclusions, Minute 1) the Cabinet agreed that it would not be proper for any formal reference to be made in either House of Parliament to the death of Mr. Mackenzie King, a former Prime Minister of Canada. They considered that such occasions should be restricted as narrowly as possible and that it would be undesirable to establish a new precedent for paying such a tribute to the memory of a statesman of another Commonwealth country.

A note on the practice in this matter over the period from 1778 (death of Lord Chatham) to 1903 (death of Lord Salisbury) is given in Miscellaneous Records No. 68.

TRAVEL FACILITIES

Motor Cars

19.

Ministers are provided with cars under arrangements made by the Treasury. These cars are intended essentially for use on official business, but they may also be used on private journeys on payment of a mileage charge laid down by the Treasury.

During the war of 1939-45 the Cabinet Office in agreement with Scotland Yard, arranged the issue of priority labels for the cars of Ministers. Special facilities were given to cars bearing these labels to enable them to travel under war conditions without unnecessary delay. The labels were issued to Ministers, visiting Commonwealth Ministers, Allied visitors of importance, the Chiefs of Staff and certain senior commanders. By the Road Vehicles (Functional and Other Marks) Order (S.R. and O. No. 53 of 6th June, 1943) the unauthorised use of these labels was made an offence. The labels were withdrawn in August, 1945. See File 4/5/22/1.

On 18th January, 1950, the Prime Minister (Mr. Attlee) issued instructions (C.P. (50) 11) that official cars should not be used, even on repayment, for journeys connected with the forthcoming Election, nor should they be used at all in a Minister's constituency. But official engagements, for which official cars could still be used, would include the case of a Minister unexpectedly recalled from his constituency on urgent official business.

Air Transport

20.

The arrangements for providing air transport for Ministers are set out in C.P. (47)218 (paragraph 9), as modified by Ministry of Civil Aviation circular letter to Departments of 11th April, 1949. The Cabinet Office has no responsibility for the provision of air transport for Ministers e.g. to enable them to attend special Cabinet meetings: the arrangements must be made by the Departments concerned.

See generally File 4/1/34.

An earlier statement (May 1946) was given in C.P. (46)195.

In July, 1939, arrangements were made by the Air Ministry to convey Cabinet Ministers to London by air in the event of a Cabinet meeting summoned at short notice when they were a considerable distance from London. (C.M. 39(39)1). The Cabinet Office notified all Ministers of these agreements.

Before the General Election in 1945 the Secretary of State for Air raised (C.M. 7(45)7) the question whether, during the General Election, Ministers should be allowed to use Service aircraft when travelling to and from their constituencies and when visiting other constituencies. The Cabinet agreed that in view of their heavy public duties Ministers ought to have the right to use Service aircraft and invited the Law Officers to consider the matter. The Attorney-General gave his opinion that free travel facilities by Service aircraft to the Ministers for journeys connected with the Election would be admissible under the electoral law (C.P. (45)37). In a minute of 19th June, 1945 the Prime Minister ruled that Ministers or ex-Ministers using Service aircraft for Election purposes should pay the price of a first-class railway ticket and that the proceeds should be given to a Royal Air Force Charity. He added that "a Minister or ex-Minister must on no account be driven to a political meeting but may be taken by a Service vehicle to the nearest hotel where he must arrange his further transport. For the journey in the Air Force vehicle he must pay ordinary official mileage rate".

On 6th and 13th November, 1947 the Cabinet discussed the line to be taken in a threatened adjournment debate in the House of Commons about the flight to the Far East of the Minister of Civil Aviation. (C.M. 85(47)3 and 87(47)1).

On 20th October, 1947 the Government was questioned in the House of Lords about the use of air transport for the conveyance of Ministers to London for special Cabinet Meetings. (Hansard, House of Lords, Col. 1482). See also Hansard, House of Commons, Vol. 443, Col. 87, 176-7 (written answers).

In reply to a Question on 25th November, 1947 the Chancellor of the Exchequer said that Ministers of Cabinet rank could use their discretion in chartering aircraft, and that prior Treasury permission was not required. He added that Service aircraft might be used by Ministers at the discretion of the Air Ministry. (Hansard, House of Commons, Col. 273.)

On 18th January, 1950, the Prime Minister (Mr. Attlee) issued instructions (C.P. (50) 11):

- (i) that Service aircraft should not be used for journeys on Election business;
- (ii) that civil aircraft should not be paid for from public funds if used for journeys on Election or other Party political business; but exceptionally a Minister recalled unexpectedly for urgent official business might claim repayment of the cost of a journey by air if no other means of transport were available.

OFFICIAL RESIDENCES

21.

In reply to a Question on 4th November, 1947 the Chancellor of the Exchequer (Mr. Dalton) gave the following details:-

"Five Ministers are provided with rent-free residential accommodation - namely, the Prime Minister, the Chancellor of the Exchequer, the Secretary of State for Foreign Affairs, the Lord Chancellor (as Speaker of the House of Lords) and the First Lord of the Admiralty. In the case of the Foreign Secretary, the practice was introduced in 1946, though his predecessor had occupied a rent-free flat in the Foreign Office. In the other cases the arrangement is of long standing, dating back to the eighteenth, or to the early nineteenth century. In all five cases the accommodation at present consists of a flat or suite of rooms in a building, the rest of which is used for official and other State purposes, and the cost to the taxpayer can, therefore, be only approximately assessed by way of apportionments. On this basis, the annual cost to the taxpayer is at present about £1,100 in respect of contribution in lieu of rates on these five residences and about £5,000 in respect of maintenance, heating and lighting and garage accommodation. The building which contains the Foreign Secretary's flat is held on lease from the Commissioners of Crown Lands (the proportion of the rent attributable to the residential portion being about £1,000): in the other cases the accommodation is in Crown buildings and no rent is payable from public funds.

"The above figures do not include Chequers, which is the property of Trustees. The bulk of the annual expenditure is met from the income of the Trust, as constitutes under the Chequers Estate Act, 1917: but for the last 20 years certain charges in respect of maintenance and repairs have been borne on the Votes of the Ministry of Works. These at present amount, excluding non-recurrent expenditure, to about £1,850 per annum.

"No other Ministers receive any other emoluments in addition to their salaries. The provision of official cars to enable Ministers to discharge their duties is an essential part of normal administrative expenditure and it is not an emolument of Ministers. Since this arrangement was introduced in 1939, official cars and drivers have been available to senior Ministers. The annual cost is about £1,000 a head. No cars are allocated to junior Ministers, who, however, are entitled to draw on a car pool for official purposes. The cost of such facilities is about 1s.4d. a mile." (Hansard, House of Commons, Cols. 1529-31)

MISCELLANEOUS QUESTIONS CONCERNING MINISTERS

22. Protection

Special arrangements are made by the Home Office and Scotland Yard for the protection of certain senior Ministers, including the Prime Minister, the Lord President and the Foreign Secretary. The Cabinet Office have no responsibility for these arrangements.

This matter has in the past been discussed by the Cabinet on one or two occasions, e.g. Cab. 36(22), App.III, 2.

Compensation for Injury or Death on Duty

23.

During the Second World War, in view of the special risks of air travel under war conditions, Civil Servants were allowed to charge to public funds the cost of premiums to cover insurance up to the sum equal to two years' salary. This practice, which extended also to Ministers, was continued after the war, but it was not invariably followed and applied only to air travel. On 25th October, 1948 the Cabinet agreed that no provision should be made from public funds for the dependants of Ministers killed or injured in the course of their duties; and that the practice of meeting from public funds the cost of premiums on special insurance policies to cover Ministers against the risk of air travel should be discontinued. (C.P.(48)219 and C.M.66(48)3) See File 4/1/61.

Question of Right of Speech in either House of Parliament

24.

The question whether Ministers should have the right to address either House of Parliament has been raised from time to time. See in particular the debate in the House of Lords on 6th July, 1938. File 27/10/3.

Attendance before Select Committees

25.

Some discussion took place in 1941 about the attendance of Ministers before the Select Committee on National Expenditure on matters arising from the Committee's report on the production of aircraft. The Prime Minister (Mr. Churchill) said in reply to a Parliamentary Question that he agreed that Select Committees had a right to call for Ministers but he expressed the view that "if that right were unreasonably exercised, it would be necessary for the Government to seek comfort from the House". (Hansard 23rd October, 1941. Cols. 1911-12) File 13/1/2/2.

Evidence before Royal Commissions

26

In 1948, in the course of the proceedings of the Royal Commission on the Press, the Minister of Health was asked whether he would give evidence to the Commission. His reply, which followed consultation with the Prime Minister was that it was undesirable for Ministers while in Office to give evidence to Royal Commissions.

Attendance at Public Dinners, etc.

27

In September, 1947, when Regulations were brought into force restricting attendance at public dinners, etc., the Prime Minister asked that, in view of the possibility of public criticism, Ministers should not attend large public dinners or lunches. This restriction did not, however, apply to functions that had a clear connection with the export drive or to international conferences or other gatherings of overseas visitors in which the Government had an interest. The restriction lapsed when the Regulations were withdrawn the following year.
File 4/1/50.

PARLIAMENTARY SECRETARIES

28.

The current statement of the functions of Parliamentary Secretaries and of their position in relation to Senior Ministers and Heads of Departments is given in C.P. (49)31.

The statement in the current notes on procedure on the handling of Cabinet Conclusions in Departments includes the following passage:-

In this connection the position of the Parliamentary Secretary should not be overlooked. He may have to deputise for his Minister, at Cabinet or in the House, at short notice. Apart from any special responsibility assigned to him in a limited field, he should be fully informed of the work of the Department and kept in general touch with all Cabinet matters affecting it, so that when called upon to attend a meeting in place of the Minister he understands the subject and does not merely recite a brief.

(C.P. (49)95, paragraph 24).

See generally, Jennings, pp. 56-57; Anson, Vol. II(1), pp. 223-4; Erskine May, p. 202; File 4/1/58.

The statement in C.P. (49)31 was issued in the light of the Report of the Tribunal of Inquiry into certain allegations against Ministers and officials. (Cmd. 7616). (File 15/34/57).

The actual appointments are technically vested in Secretaries of State and other Ministers, but the King's pleasure is always taken by the Prime Minister. The Prime Minister in substance makes the appointment, but consults the Minister under whom the Junior Minister will work.

On the precise position of the Junior Ministers in the Service Departments see correspondence (April, 1949) in File 4/1/58.

b/
When Mr. Geoffrey Lloyd was Parliamentary Under-Secretary of State for the Home Department in 1938/39 he assumed a special responsibility for A.R.P. questions. Although the Secretary of State did not divest himself of his statutory responsibility for these matters he transferred the day to day supervision of the A.R.P., Department to Mr. Lloyd. To facilitate this arrangement the Chancellor of the Duchy of Lancaster, while continuing to carry out the duties of his own office, was specially attached to the Home Office and assisted the Home Secretary in the Department and in the House. (Hansard, House of Commons, 23rd June, 1938, Col. 271).

When the Ministry of Fuel and Power was set up in 1942 (S.R. and O 1131 and 1132) Mr. Geoffrey Lloyd (who had been Secretary for Petroleum, Board of Trade, from 1940) became one of the Parliamentary Under-Secretaries but as Chairman of the Oil Control Board he retained his right to report direct to the Prime Minister, and remained responsible to the Minister of Defence for questions of petroleum war-fare.

In 1945/47 the Joint Parliamentary Under-Secretary of State for Scotland (Mr. Buchanan) was given day-to-day responsibility, under the Secretary of State, in the field of housing. See File 15/14/3.

For the definition of the duties of the Financial Secretary to the Treasury and the Economic Secretary to the Treasury see File 4/1/53.

On the attendance of Junior Ministers at Cabinet meetings see Part I.

In 1938 it was suggested that the Parliamentary Secretaries should be given copies of certain Foreign Office telegrams. The Prime Minister (Mr. Chamberlain) took the view, however, that Junior Ministers would hardly be in a position to understand and defend Government policy on the strength of the less secret telegrams only and that it was impossible to let them have the more secret telegrams and despatches.
(Letter of 11th May, 1938). File 4/3/114.

PARLIAMENTARY PRIVATE SECRETARIES

The current notes on procedure state:-

29.

Parliamentary Private Secretaries occupy a special position which is not always understood by the general public, either at home or abroad. They are not members of the Government, and should be careful not to be spoken of as such. They are Private Members, and should therefore be afforded as great a liberty of action as possible; but their close and confidential association with Ministers necessarily imposes certain obligations on them, and has led to the generally accepted practice set out in the following paragraph.

Parliamentary Private Secretaries should not make statements in the House or put Questions on matters affecting the Department with which they are connected. They should also exercise great discretion in any speeches or broadcasts which they make outside the House, taking care not to make statements which appear to be made in an official or semi-official capacity, and bearing in mind at the same time that, however careful they may be to make it clear that they are speaking only as Private Members, they are nevertheless liable to be regarded as speaking with some of the authority which attaches to a member of the Government. Generally they must act with a sense of responsibility and with discretion; and they must not associate themselves with particular groups advocating special policies.

(C.P. (49)95, paragraphs 52-53).

A Parliamentary Private Secretary is not a member of the Government; and the information given to him should be correspondingly limited.

(C.P. (49)95, paragraph 36(4)).

See File 4/3/107. For earlier statements of the practice see C.P. (46)199; C.P. (47)280.

In 1946, the Prime Minister decided that Parliamentary Private Secretaries should not write articles or make public pronouncements on matters which are the immediate concern of the Minister whom they serve. (Letter of 12th September, 1946 from the Prime Minister's Private Secretary to the Air Ministry: See File 4/1/6A).

In 1937, the Prime Minister mentioned in Cabinet that he had learnt that a very secret document of the C.I.D. which had not yet been circulated to the Cabinet had been seen and discussed by certain Parliamentary Private Secretaries. He said that there was something to be said for Parliamentary Private Secretaries seeing certain official papers but that this should not apply to the most secret documents, including documents of the Cabinet and the C.I.D. (Cab. 43(37)2 and C.P.285(37)) (Files 48/1/1 and 4/3/107).

In the debate on the Address in November 1946 a number of Parliamentary Private Secretaries were among the Government supporters who tabled an amendment relating to foreign policy. On 18th November the Cabinet (C.M. 97(46) - no record) discussed whether they should be required at once to resign their appointments. The general feeling was against this, but that they should be given a warning and the Ministers concerned were asked to warn their Parliamentary Secretaries accordingly. On 22nd November the Prime Minister sent a private minute to all Senior Ministers asking them to see their Parliamentary Private Secretaries and to explain the nature of their obligations. See File 4/3/107 .

In May, 1949 five Parliamentary Private Secretaries voted against the Government on the Ireland Bill and were subsequently asked, at the instigation of the Prime Minister to resign their positions, (one of the five had, in anticipation, given his resignation).

In June 1947 it was contemplated that the Parliamentary Private Secretary to the Chancellor of the Duchy of Lancaster (Lord Pakenham) and to the Parliamentary Under-Secretary of State at the Foreign Office would be given rather more responsibility than the average Parliamentary Private Secretary and would be particularly concerned under Lord Pakenham, with German affairs. This intention was, however, dropped. See File 4/3/107 .

In March, 1950, the Prime Minister's Parliamentary Private Secretary (Mr. Moyle) was invited to broadcast in the series called "The Week in Westminster", i.e. to give a brief summary at the end of the week of events in Parliament during that week. The Secretary of the Cabinet, who was asked for advice on this by the Prime Minister's Principal Private Secretary, considered that it would be impossible to give a broadcast of this sort without expressing some views on the merits of the various interventions in the debates and there was a danger that such views, coming from the Prime Minister's Parliamentary Private Secretary, might be regarded as having the Prime Minister's authority. He therefore advised against acceptance of the invitation.

INFORMATION FOR MINISTERS NOT IN THE CABINET

30.

From time to time meetings of Ministers are held at which the Prime Minister or other Senior Minister explains the background to developments of policy to Ministers not in the Cabinet and to Junior Ministers. The scope of these meetings and the attendance at them vary with the occasion. They are normally held in the House of Commons and they are usually summoned by letter from the Cabinet Office at the Prime Minister's direction. These meetings are to be distinguished from purely political meetings. No record is normally made, and members of the Cabinet Secretariat do not attend. The Prime Minister's Private Secretaries make a rough list of the attendance.

For the circulation of Cabinet memoranda and conclusions to Ministers not in the Cabinet see Part V.

For the arrangement of meetings of Ministers and a list of such meetings see File 48/28.

In 1939, the War Cabinet agreed (W.M.2(39)8) that the Prime Minister should make such arrangements as he thought fit to keep Ministers informed generally, and it was suggested that a weekly appreciation of the situation should be prepared by the Chiefs of Staff, and that occasional meetings of all Ministers should be held.

In December, 1939, the Prime Minister held a meeting of all Ministers of Cabinet rank and explained that he proposed to hold meetings with all Ministers outside the War Cabinet to keep them in touch with the war situation and that the meetings should be held either under his Chairmanship or that of the Foreign Secretary or the Minister for Co-ordination of Defence. Meetings were held either weekly or fortnightly on this basis from then until the middle of May, 1940. A minute was kept but was not circulated by the Secretary to the Cabinet. The meetings were attended by all Ministers of Cabinet rank ~~but~~ who were not members of the War Cabinet. The business was usually a general review of the situation.

From July, 1940 the meetings were held more infrequently, usually on a particular aspect of the war situation and were presided over either by the Prime Minister or by the Minister particularly concerned in the subject. From January, 1942 the Prime Minister usually presided over the meetings himself, and no minute was taken.

A general meeting of Ministers was held shortly after Mr. Attlee's administration took office in 1945 and one or two further meetings of this character took place in 1946. On 7th July, 1947 the Prime Minister held a meeting of all Ministers not in the Cabinet for general discussion about the economic situation. A similar meeting was held on 26th November, 1947

when the Prime Minister explained the considerations which had led a majority of the Cabinet to the view that the time was not opportune for abolishing the death penalty. A further meeting on this subject was held on 13th April, 1948. On 28th October, 1948, the Lord President and the Minister of Supply spoke at a meeting of Ministers not in the Cabinet and Junior Ministers about the case for the Iron and Steel Bill. This meeting (unlike earlier meetings of the kind, which have mostly been held in the House of Commons) took place in the Cabinet Office.

31. Other means of keeping Ministers generally informed are the circulation of periodic reports and notes for speeches. Thus all Ministers, including Junior Ministers are given copies of the Economic Bulletin (prepared by the Economic Information Unit) and the speakers' notes prepared at intervals by the Foreign Office on the aims and methods of Soviet Foreign Policy.

For the Economic Bulletin see File 30/22/38.

For the speakers' notes see File 14/3/41.

MINISTERIAL SPEECHES, BROADCASTS, ETC.

Speeches

32- The current notes on procedure state:-

General

When addressing meetings Ministers must keep within the ambit of Government policy and not anticipate decisions not yet made public. They must be careful in dealing with matters within the responsibility of other Ministers not to embarrass them by statements at variance with Ministerial pronouncements. In all cases of doubt they should consult the Minister concerned.

The Foreign Office should invariably be consulted before any mention is made of matters affecting our relations with foreign Powers or foreign affairs; and Ministers wishing to make reference to broad matters of Defence policy should in all cases first consult the Minister of Defence. Ministers should also be specially careful in referring to matters affecting our relations with self-governing Commonwealth countries, or to the political aspects of Colonial affairs, e.g. self-government in certain Colonies, and should consult the Commonwealth Relations Office or Colonial Office respectively except where the matter falls within their own responsibility.

In the present international situation care is needed as to what is said by Ministers in conversations at social functions at Embassies. If matters of foreign policy are discussed at such functions, a note should be made afterwards of the salient points of the conversation and a copy sent to the Foreign Secretary.

Effect on Parliamentary Business.

Unless they have first obtained the agreement of the Leader of the House of Commons, Ministers should avoid saying anything which might affect the programme of Government business in Parliament. Thus, they should not, without his agreement, promise White Papers, the publication of which might result in a demand for a special debate: and legislation should never be promised without the express approval of the Cabinet or the Legislation Committee. This is a matter in which special care is necessary, since statements made by Ministers are liable to be represented in the Press as foreshadowing early legislation.

(C.P. (49)95, paragraphs 39-42).

See generally File 42/21/1.

In the summer of 1936, the Prime Minister (Mr. Baldwin) ruled that in view of the international situation at the time, "Cabinet Ministers should exercise great care when making any reference to foreign affairs in their speeches and should submit any proposed statement on foreign affairs to the Foreign Secretary for his approval". (C.M.42(36)12). (This was interpreted as applying only to speeches in which it was intended to make special or detailed reference to foreign affairs.) This warning was

again given by the Prime Minister (Mr. Chamberlain) early in 1939. (Cab. 2(39)4). In March, 1939, (Cab. 15(39)4) the Foreign Secretary asked Ministers to make themselves responsible for approving speeches to be made by their Parliamentary Secretaries while continuing to submit to him their own speeches on Foreign Affairs.

Le In July, 1939 the Prime Minister said that "in view of the international situation at the time he thought that it would be desirable that Ministers should, as far as possible refrain from making speeches on international affairs in general." (C.M. 37(39)8).

On 6th May, 1941 the Prime Minister (Mr. Churchill) circulated a note emphasising the need to clear with the Foreign Office and General Ismay (Chief of Staff to the Minister of Defence) the terms of any references in speeches to foreign affairs or military matters. This instruction was recirculated, with adjustments, several times.

In July, 1941 the Prime Minister circulated a memorandum on information and propaganda (W.P. (41)149) stating that Ministers who were members of the War Cabinet and those who regularly sat with them, viz. Service Ministers, the Home Secretary, the Secretary of State for the Dominions, the Colonial Secretary (as leader of the House of Lords), and the Minister of Information were free to make speeches expounding the policy of the War Cabinet, but placing restrictions on speeches by other Ministers.

For references to premature statements on prospective legislation etc., see File S.50/10/15.

In June, 1948 the Prime Minister (Mr. Attlee) sent a note to Ministers asking them to refrain from public comment about the proceedings of the United States Congress on the appropriations for the European Recovery Programme.

In March, 1949 the Foreign Secretary asked all Senior Ministers (including the Attorney General) through the Cabinet Office to refrain from comment in speeches on Soviet Ministerial changes, including M. Molotov's departure from the Soviet Foreign Ministry; he promised that the Foreign Office would circulate a note for guidance.

In reply to a Parliamentary Question on 1st November, 1948 on statements on foreign affairs the Prime Minister (Mr. Attlee) said:

"The principle of collective responsibility requires that any Minister making a public statement on matters outside his own departmental responsibilities shall consider whether the views which he proposes to express are in accord with Government policy and, if need be, put the matter beyond doubt by consultation with his

colleagues. This applies to statements on foreign affairs as on other aspects of Government policy. Civil Servants and senior officers in the Forces in this country are not normally encouraged to make public statements on matters of policy." Hansard, House of Commons, Col. 514.

In 1937 a Question was asked in the House of Commons about the practice of Ministers in addressing unofficial committees or meetings of Members while the House was sitting. The Prime Minister (Mr. Chamberlain) replied that the object of these meetings was to enable Members to keep themselves informed on various aspects of public affairs and that he saw no reason to interfere. (Hansard 18th February, 1937, Cols. 1356-1369) File 4/1/18.

Speeches at Parliamentary By-Elections and Local Government Elections

33.

The current notes on procedure state:-

Members of the Cabinet should not normally speak at By-Elections; but other Ministers, including those of Cabinet rank, may do so. As a general rule Ministers above the rank of Parliamentary Secretary should not speak at local government elections. There may, however, be occasions on which a Minister may feel obliged to do so for special reasons, particularly in his own constituency.

(C.P.(49)95, paragraph 43).

See File 4/1/26.

The present practice as regards By-Elections was laid down by the Prime Minister (Mr. Attlee) in July, 1946 on a particular case arising at the time of the Battersea By-Election. The word "normally" was included, with the Prime Minister's approval, in the restatement in C.P.(49)95 in view of departures from the strict rule at subsequent By-Elections (e.g. Gravesend, October, 1947).

In 1934, it was agreed by the Prime Minister (Mr. Macdonald) and the leader of the Opposition (Mr. Baldwin) that members of the Cabinet and the former Conservative Cabinet should not speak at By-Elections. (C.M.19(34)8).

In 1938, in view of the Opposition practice of speaking at By-Elections the Cabinet agreed that its members should be released from the convention hitherto observed. (C.M.15(38)16).

On 26th September, 1939 the Party whips reached agreement on a party truce in Parliamentary By-Elections for the duration of the war. They undertook, on behalf of their respective parties, not to nominate candidates against those nominated by the party holding the seat at the time when the vacancy occurred.

In 1941, the Cabinet agreed that it was in the national interest that the Government case should be strongly represented at By-Elections and that, therefore, Government speakers should go down to the constituencies in which by-elections were being held; but that this step should be without prejudice to the accepted rule that Cabinet Ministers and Ministers of Cabinet rank should not speak at By-Elections. (W.M.98(41)1 and W.M.100(41)7).

Participation of Ministers in local government elections is governed by a Cabinet decision of 11th October, 1945. (C.M.40(45)4 and C.P.(45)203).

Broadcasts

34.

The current notes on procedure state:-

Ministerial broadcasts should be kept to the minimum. All Ministers intending to broadcast should communicate with the Postmaster-General, who will be responsible for obtaining the Prime Minister's approval in all cases and for making the necessary arrangements with the B.B.C. In view of the fact that broadcasts by Ministers may be regarded by the B.B.C. or by the Opposition as controversial and therefore giving a claim to a reply, the subject of the broadcast must in all cases be given and the Prime Minister may require to see either an outline of the text of a broadcast before giving approval.

(C.P. (49)95, paragraph 44).

See generally File 42/21/1.

In 1939-40 the Lord Privy Seal was responsible for co-ordinating Ministerial broadcasts, but in June, 1940 this duty was transferred to the Minister of Information W.P. (G) (39)57 and W.P. (G) (40)146). In January, 1941 the Prime Minister ruled that no Ministerial broadcasts, other than by members of the War Cabinet, were to take place without his approval (W.P. (G) (41)15). For a later statement see note by the Prime Minister of 15th June, 1942.

On the participation of Ministers in the B.B.C. "Brains Trust" programme see correspondence of February-April, 1943 on File 42/21/1.

The responsibility for the arrangements for broadcasts by Ministers was transferred to the General Post Office on the dissolution of the Ministry of Information in 1945. (C.P. (45)100).

On 3rd January, 1947 the Prime Minister (Mr. Attlee) asked Ministers to co-operate in reducing the number of Ministerial broadcasts on Home programmes (C.P. (47)7).

For the initial agreement with the Opposition and the B.B.C. on political broadcasts see C.P. (47)63. Copies of the aide-memoire annexed were given to the Opposition leaders. (The arrangements have since been modified) This matter is handled in the Lord President's Office.

For a proposed broadcast by the Prime Minister's Parliamentary Private Secretary see paragraph 29 above.

PUBLICATIONS, PRESS ARTICLES AND INTERVIEWS

~~For publications by former Cabinet Ministers see Part VIII.~~

General

35

The current notes on procedure state:-

Ministers are precluded from journalism in any form; but this prohibition does not extend to authorship of writings of a literary, historical, scientific, philosophical or romantic character. For these there are abundant precedents.

This rule need not be interpreted as debarring Ministers from writing, on occasion, articles or letters to newspapers, in order to supplement the means already used for enlightening the public in regard to measures before Parliament and other administrative questions affecting the work of their Departments.

Should a Minister deem it necessary to write such an article, he should not accept payment if it is offered. In deciding whether to write an article he should bear in mind his obligations to Parliament. For example, he should be careful not to discuss a Bill before it has received its Second Reading in the House of Commons.

These rules govern dealings with the foreign as well as the home Press.

X X X

The general prohibition on the writing of articles for the Press need not be regarded as debarring Ministers from contributing to the publications of the political organisations with which they are associated. Payment should not be accepted for such articles.

In general, Ministers should keep such activities to a minimum, and bear in mind that their relations with the Press are always liable to be the subject of Questions in Parliament. Ministers should refer to the Prime Minister in any case about which they are in doubt.

(C.P.(49)95, paragraphs 45-48, 50-51)

See generally File 4/1/23.

In 1923 the Cabinet agreed that Ministers should, during their tenure of office, refrain from writing signed articles on current topics in the Press. It was understood, however, that this decision was not intended to debar Ministers from writing signed letters to the Press to clear up administrative points on which public misunderstanding existed (C.M.3(23)7).

The Cabinet again considered this matter in 1928 and agreed that the writing of magazine articles by Ministers to supplement means already used for enlightening the public in regard to measures before Parliament and other administrative questions should not be deemed to infringe the earlier Cabinet decision (C.M.52(28)3).

The rule has frequently been stated in Parliamentary answers e.g. Hansard, House of Commons, 3rd March, 1927, Col. 539 (statement by Mr. Baldwin); 5th May, 1932, Col. 1281; 9th February, 1933, Cols. 352-3 (contributions to party publications not banned); 26th November, 1934, Cols. 499-500; 3rd December, 1934, Cols. 1233-4 (article by the Postmaster-General); 2nd December, 1937, Cols. 2238-9 (Press article by a Minister); 27th January, 1947, Cols. 935-6 (Press interview by the Minister of Education).

The current ruling on Press articles and contributions to party publications was given in November, 1945.

On the question whether a Minister may add his signature to a letter to the Press from an unofficial body see note of 30th October, 1946 on File 4/1/23.

Before the 1945 General Election, the Prime Minister (Mr. Churchill) laid down that "During the period covered by the General Election when greater freedom can properly prevail, all Ministers may write articles in any newspaper in prosecution of the Government's aims or in defence of its policy. No payment may, however, be received for such articles and Ministers should be careful that they do not show favouritism to particular newspapers". He stated that when the election was over the normal rule would be observed (C.P. (45)27).

In reply to a minute from the Lord Privy Seal (Lord Beaverbrook) saying that, for the period of the General Election, he proposed to participate in the direction of leading articles and the determination of policy in connection with his newspapers, Mr. Churchill said that he saw no harm in anonymous articles from any quarter, but that it would be unwise for him to write over his own name in his own papers as this would make people think that his contact with them was direct. He could give advice to his own papers to any extent necessary; and he could write in his own name for other papers. (Prime Minister's Minute 663/45).

Before the 1950 General Election, the Prime Minister (Mr. Attlee) issued instructions (C.P. (50) 8) similar to those issued by Mr. Churchill in 1945 about the relaxation during the Election period of the rules governing press articles and interviews by Ministers.

Press Interviews

36-

The current notes on procedure state:-

The granting of a special interviews to individual Press representatives is a matter for the discretion of the Minister concerned. As a general rule, however, the same considerations should apply as for written articles, i. e. if granted, an interview should be confined to elucidating the policy or work of the Minister and Department concerned. The same considerations regarding obligations to Parliament also apply, and Ministers should bear in mind that an interview granted to a representative of a single newspaper or agency may arouse jealousy and thus hostility in the rest of the Press.

(C.P.(49)95, paragraph 49).

In 1943, the Prime Minister (Mr. Churchill) refused permission to the Secretary of State for War (Sir James Grigg) to give an interview to a representative of the "Sunday Times" on certain aspects of military operations and administration on the grounds that "the practice of giving interviews to particular newspapers is to be deprecated. It nearly always results in unfriendly reaction by the majority of the Press. It becomes very serious if a lot of authoritative new matter of this kind is put forth by a single Department....." (Prime Minister's Minute of 29th October, 1943, File 4/1/23). Nevertheless a number of other Ministers gave interviews to the "Sunday Times" in the autumn of 1943.

The current ruling was originally given in November, 1945 (C.P.(45)310).

Press Conferences

37.

No instructions have been issued on the holding of Press conferences by Ministers. Such conferences are now an accepted means of giving the public information on a wide range of subjects; and some Ministers (e.g. the Chancellor of the Exchequer and the Minister of Food) have regular conferences. It is now also a regular practice to hold a Lobby Correspondents' conference on the publication of any important Government Bill. Parliament, is however, quick to question any Minister who, while the House is in session, makes any important policy statement at a press conference and not in the House.

On 2nd February, 1948 the Prime Minister (Mr. Attlee) said in reply to a Question:-

"Both methods of public announcement i.e. at news conferences and in Parliament are appropriate according to the circumstances and to the nature of the statement, and the Government must reserve a reasonable measure of discretion as to which method is employed. The House may be assured, however, that the Government have every wish and intention to recognise to the full their constitutional responsibilities to the House of Commons, and on all appropriate occasions, statements will be made in this House." (Hansard, House of Commons, Cols. 1465-6).

Replies to letters and statements in the Press

38

The current notes on procedure state:-

Possible methods of dealing with letters and statements to the Press which are inaccurate or other-wise objectionable are set out in C.P. (47)178. The general line to be taken was stated in the Prime Minister's reply to a question on 8th October, 1946:-

"It should be, I think, a general rule that, where the personal conduct of Ministers is concerned, the matter should be dealt with by the Minister himself." (Hansard, Vol. 427, Col. 25),

and the reply given by Mr. Churchill in the House on 22nd February, 1945:-

"The best practice is that Ministers of the Crown should themselves expound all matters of Government policy, and that press interviews by officials should only be given on Ministerial responsibility and after due authorisation by the political chief. Such expressions of opinion by officials would usually have regard to technical aspects only. Of course, in an emergency, exceptions may be made. The principle of Ministerial responsibility to Parliament is paramount" (Hansard, Vol. 408, Col. 954).

Letters to the Press from Information Officers should be purely informative and must not enter into arguments on the merits of Government policy.

(C.P. (49)95, paragraph 62).

SPECIFIC LIMITATIONS ON ACTIVITIES OF MINISTERS

Directorships

39

Directorships held by Ministers are subject to a ruling originally laid down by Sir Henry Campbell-Bannerman in March, 1906 and endorsed in principle by successive Prime Ministers. The essential part of this ruling is:-

"The condition which was laid down on the formation of the Government was that all directorships held by Ministers must be resigned except in the case of honorary directorships in connection with philanthropic undertakings and directorships in private companies."

The last statement of the ruling was by Mr. Chamberlain in reply to a Parliamentary Question on 31st July, 1939 (Hansard, House of Commons, Col. 1937-8): it is the responsibility of the Prime Minister of the day to be the final judge of whether any particular directorship comes within the ruling or not. A copy of the Question and Answer is circulated by the Prime Minister's Private Secretary to every new Minister, including the Assistant Whips (Unpaid). This matter is handled in 10, Downing Street, with the advice where necessary of the Treasury Solicitor.

For Mr. Chamberlain's statement, which was discussed in draft by the Cabinet on 5th July, 1939 (Cab. 35(39)3), see File 4/1/4; No. 10, Downing Street Handbook, p. ; Jennings, pp. 85-6.

For this purpose private companies are regarded as concerns dealing wholly or mainly with family affairs or interests and not primarily engaged in trading.

On the position of Ministers as practising solicitors see Hansard, House of Commons, 10th June, 1937, Col. 1949-50; 5th July, 1938, Col. 182-3.

When Mr. James Stewart was appointed Chief Government Whip in the Coalition Government he was acting as a half-commission agent on the Stock Exchange. At his request his position was considered in consultation with the Treasury Solicitor, and he was advised that it was a matter entirely for his own discretion whether or not he should give up his Stock Exchange activities. He did in fact give them up. (S. and P. 244).

Shareholding

40 While no specific rules are laid down, it is understood that Ministers ought not to enter into any transaction where- by their direct pecuniary interest might come into conflict with their public duty, or where their special information might even appear to give them an advantage over other people, e.g. making speculative investments depending on an anticipation of market changes.

For general statements of the principle see No. 10, Downing Street Handbook, File 4/1/4; Hansard, House of Commons, 19th June, 1913, Cols. 556-7 (statement by Mr. Asquith); for further Parliamentary answers, see Hansard, House of Commons, 18th May, 1939, Col. 1618; 11th December, 1947, Col. 1193.

Direct Payments from Trade Unions

41 In April, 1946, Mr. Attlee ruled that Ministers (including Junior Ministers and Assistant whips (unpaid) should not receive direct payments from Trade Unions.

For text of memorandum see No. 10 Downing Street Handbook, p. 24.

Acceptance of Gifts, etc.

42 A general statement of the principles which should govern the conduct of Ministers (including Junior Ministers) was made by the Prime Minister in the course of the debate on the Report of the Tribunal of Inquiry into allegations against certain Ministers and officials. See Cmd. 7616; Hansard, House of Commons, 3rd February, 1949, (Cols. 1846-1964). See also the report of the Committee on Personal Applications circulated with a note by the Prime Minister on 1st July, 1949.

X. 4/1/59

Profits from Patented Inventions

43 Although a Minister is free to take out a provisional patent and a final patent for an invention he is not entitled to claim any financial benefit from the use of the invention in the United Kingdom while holding an office which might in any way be concerned with the use of the invention.

In 1941, Colonel Moore-Brahazon, when Minister of Transport, asked whether he could apply for a patent for an invention which he had made for overcoming the vibrations of railway carriages and railway lines. The question was considered by the Attorney-General and the Treasury Solicitor. It was decided that while the Minister was free to take out a provisional patent and a final patent, he should not be entitled while still Minister of Transport to claim any financial benefit from the use of the invention in this country. As regards foreign patents, the Treasury Solicitor held that there was no restriction that could be placed on the Minister's taking out foreign patents and enjoying the income which might result therefrom. Colonel Moore-Brabazon decided to take no further steps in the matter for the time being. (See S. and P. 10/4/41).

VOTING IN DIVISIONS IN THE HOUSE OF
COMMONS

44

The principle of collective responsibility requires that members of the Government must support the Government in Parliament. Exceptionally, on certain matters of conscience, the Cabinet have decided that a Minister may abstain from voting.

See generally Jennings, pp. 221-2;
Anson, Vol. II(1), pp. 117-19, 144-45.

For the "agreement to differ" of 1932 see Cab. 7(32) and Jennings, pp. 219-20. The official announcement included the following passage:-

"It (the Cabinet) has accordingly determined that some modification of usual Ministerial practice is required, and has decided that Ministers who find themselves unable to support the conclusions arrived at by the majority of their colleagues on the subject of important duties and cognate matters, are to be at liberty to express their views by speech and vote".

In 1936, the Prime Minister (Mr. Baldwin) drew the Cabinet's attention to the fact that in a division in the House of Commons on 1st April when the Government was defeated, 23 members were absent, and said that he intended to send a request to all Ministers "to work as much as possible in their offices in the House of Commons when the House was sitting. The presence of Ministers in the House always had a good effect on the rank and file of the Party and their absence exercised exactly the contrary effect". (C.M.28(36)1).

When the Ministers of the Crown Bill was under consideration by the Cabinet in 1937 it was agreed that Ministers holding appointments, the salaries attached to which were increased by the Bill, should refrain from voting in the Parliamentary Divisions on the appropriate clauses and that all members of the Government should support the provision in the bill for providing a salary for the Leader of the Opposition. (C.M.19(37)6).

In a note by the Secretary to the Cabinet on a request by the Prime Minister that Ministers should be present in the House for a particular vote it is stated "it is usual in cases such as the above for Cabinet Ministers to communicate the Prime Minister's wishes to their Under-Secretaries". (C.M.29(38)3)

In March 1941, after the decision that a prayer against the Defence Regulation already made enabling theatres and music-halls to be open on Sunday, should be left to the free vote of the House, it was agreed by the Cabinet that no Minister or Junior Minister should vote

for the prayer against the Regulations although he might abstain from voting. (W.M.33(41)10).

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When the abolition of capital punishment was under discussion the Cabinet agreed on 3rd November, 1947 that the question should be left to a free vote when it came up on the Report Stage of the Criminal Justice Bill (C.M.84(47)1). On 18th November, they agreed that Parliament should be advised that the time was not opportune for abolishing capital punishment, but they decided Ministers who dissented from the advice to be given to Parliament should be free, if they so desired, to vote for abolition, though they should refrain from expressing in debate views contrary to that advice. (C.M.89(47)4). The issue was reconsidered on the 9th April, 1948 when it was decided that members of the Government (including Law Officers and Junior Ministers) who felt unable, on grounds of conscience, to vote against abolition, should abstain from voting. (C.M.27(48)2). In the event, on 15th April, 1948 there was carried, against Government advice, a new clause abolishing the death penalty for an experimental period of five years. Of 72 members of the Government in the House of Commons 28 voted against the new clause and 44 took no part in the division. See File 22/1/46.

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DEPUTATIONS

45

The Cabinet Office may from time to time be asked to provide a secretary to make a record of the proceedings when deputations are received by the Prime Minister, or when meetings are held between Ministers and representatives of non-Governmental bodies. Arrangements may also be made by the Prime Minister's Private Secretary for the attendance of a Treasury shorthand reporter.

For examples of the records of such meetings prepared by the Cabinet Office see File 21/1/13.

In reply to a Question on 30th March, 1943 the Prime Minister (Mr. Churchill) said "There is no constitutional obligation upon Ministers to receive any particular deputations whether headed by members of Parliament or not; I believe, however, that the practice of Ministers in making themselves as accessible as possible to members of this House works smoothly and that there are no serious reasons for departing from our usual methods." (Hansard, House of Commons, Cols. 31-33). See File 4/1/40.

MISCELLANEOUS PROCEDURAL POINTS

Signature on Subordinate Legislation

46 The current notes on procedure state:-

As a normal rule Ministers should themselves sign all statutory instruments (other than Orders in Council) which fall within the terms of reference of the Select Committee on Statutory Instruments, i.e. all instruments laid or laid in draft before Parliament, being instruments upon which proceedings may be, or might have been taken in either House in pursuance of any Act of Parliament.

(C.P.(49)95, paragraph 60).

For a fuller statement see C.P.(47)51 of 5th February, 1947.

Crown Proceedings Act

47 The current notes on procedure state:-

Under the provisions of the Crown Proceedings Act, 1947 an order for discovery of documents may be made against Government Departments. If, however, the appropriate Minister is of opinion that the production of a particular document would be injurious to the public interest, he may withhold production of that document. This right to withhold production of a document is of the greatest importance and should be exercised only after the most careful consideration. The Minister himself must personally consider the document in question and form his own judgement, with such advice as he thinks fit to take, whether or not the public interest would be injuriously affected by its disclosure.

(C.P.(49)95, paragraph 61)

For a fuller statement see C.P.(47)321 of 18th December, 1947. The Crown Proceedings Act came into force on 1st January, 1948.

Consultation with the Trades Union Congress, etc.

48

The current notes on procedure state:-

Ministers should be careful to ensure that, wherever appropriate, the Trades Union Congress - and in suitable cases individual Trades Unions - are taken into consultation at an early stage. Hard and fast rules cannot be laid down and individual Ministers must judge cases on their own merits. The normal practice as regards consultation on matters of general industrial policy and principle and on appointments to Government bodies, etc., is outlined in C.P. (47)46. Ministers should also bear in mind the desirability of including in the membership of Government Committees and other bodies, where appropriate, either an official representative of the Co-operative Movement or a member of the Co-operative Movement chosen in his personal capacity.

(C.P. (49)95, paragraph 64)

See File 19/10/103/1.

The full statement in C.P. (47)46 reproduces a memorandum on consultation with the Trades Union Congress circulated in October, 1939 by Mr. Chamberlain, and recirculated by Mr. Churchill in August, 1940.

For the original statement on representation of the Co-operative Movement see C.P. (47)302.

Employment of Members of Parliament on Committees, etc.

49

In order to avoid the risk of causing an infringement the statute dealing with the holdings of Offices of Profit under the Crown Ministers should consult the Law Officers before appointing Members of Parliament to Committees and public bodies.

(C.P. (49)167)

This note, which was circulated on 26th July, 1949, was prepared in the light of discussion at the Cabinet on 30th June 1949 (Cm 43(49)5) and the subsequent introduction and passage of an Indemnity Bill in respect of certain infringements of the statute dealing with the holding of offices of profit under the Crown. File 4/1/47 .

Employment of Judges on extra-Judicial Work

50.

The current notes on procedure state:-

"Ministers should not approach Judges for extra-judicial work without consulting the Lord Chancellor."

(C.P.(49)95, paragraph 65)

This reproduces a note (C.P.(46)368) circulated to the Cabinet by the Prime Minister on 5th October, 1946, File 4/1/6A Pt. 3.

Advice on Scientific Policy

51

In May, 1939 the Prime Minister reminded Ministers of the arrangements which had been made for making advice on scientific policy available to the Government, and asked them to see that full use was made of the machinery available, particularly the Advisory Council on Scientific Policy and the Defence Research Policy Committee. (C.P.(49)126). File 7/2/74.

Statements after Questions

52

The current notes on procedure state:-

When Parliament is in session, important announcements of Government policy should be made, in the first instance, in Parliament. At the same time it is desirable to keep to the minimum the number of announcements made by way of statements at the end of Questions.

Ministers are asked to conform with the following procedure:-

- (a) Ministers proposing to make a statement after Questions, whether or not it is related to a Question on the Order Paper, should notify the Prime Minister's Private Secretary as early as possible and in any event not later than 10 a.m. on the day on which the statement is to be made. Particulars should be given of the subject matter of the proposed statement, the date on which it is desired to make it, and the grounds for making it on that date and adopting this method of announcement. It should also be stated whether the announcement has been approved by the Cabinet or one of its Committees.
- (b) Copies of the draft statement should be sent, as soon as it is available, to the Prime Minister's Private Secretary and to the Leader of the House of Commons and the Chief Whip. These copies should arrive not later than 10 a.m. on the day on which the statement is to be made.
- (c) It is at times desirable that a copy of such a statement should be shown to the Opposition shortly before it is made. If this is desired, a copy of the final text should reach the office of the Chief Whip in the House of Commons not later than 10 a.m. on the day on which the statement is to be made.
- (d) A copy of the final text should in all cases be sent to the Speaker.
- (e) It may sometimes be expedient that a statement should be made simultaneously in the House of Lords. Ministers should, where necessary, consult the Leader of the House of Lords on this point.

(C.P.(49)96, paragraph 58)

The original statement of the procedure was in C.P.(46) 440.

Publicity Arrangements for White Papers

53.

The current notes on procedure state:-

Care must be taken to avoid any possibility of an infringement of Parliamentary Privilege when publicity arrangements are made for White Papers. The accepted practice is for final revised proof copies of White Papers to be made available to Lobby Correspondents somewhat in advance of their being laid in the Vote Office and for Ministers to hold a Lobby Conference if they think it desirable. The Prime Minister has made his Adviser on Public Relations responsible for these arrangements generally and he should always be consulted by Departmental officials if there is any question of a wider advance distribution than this. Such wider distribution - e.g. to industrial correspondents - is to be avoided save in exceptional circumstances.

(C.P.(49)95, paragraph 59)

The original statement of the procedure was in C.P.(47) 43 (File 4/3/137).
See also File 4/1/6/2.

TRAVELLING EXPENSES OF MINISTERS' WIVES

54. There is no firm rule on the question whether Ministers may take their wives with them at Government expense on official trips abroad, but the preponderance of opinion is that this is undesirable unless there is some special reason why a particular Minister should be accompanied by his wife - e.g. on grounds of ill health. There is a copy of a memorandum on the subject by Sir Edward Bridges in file 4/1/66.

In June, 1950, the Prime Minister agreed that the Secretary of State for Commonwealth Relations (Mr. Gordon-Walker) might accept an offer made by the Ceylon Government to pay his wife's fare to Australia and back via Ceylon. Mr. Gordon-Walker was travelling to Australia via Canada for an official visit at the invitation of the Australian Government, who had also invited him to bring his wife but had not offered to pay her fare. Acceptance of the Ceylon Government's offer meant that Mrs. Gordon-Walker would travel out to Australia alone and return with her husband, who was due to make an official visit to Ceylon on the way home. The Prime Minister did not seek advice before assenting to this proposition. It is understood that he was influenced by the consideration that Mrs. Gordon-Walker would be able to do valuable work among the women of Australia.

ANNEX

Outline Note on the Main Acts Affecting the Position of Ministers

APPOINTMENT OF MINISTERS

Re-election of Ministers Act, 1919

This Act restricts the necessity for the re-election of Members of the House of Commons on acceptance of an office of profit if that office is one of which the holder is capable (by enactment) of sitting and voting in the House of Commons, and limits to not more than three, the number of Privy Counsellors holding offices carrying no Departmental responsibility who may sit and vote in the House of Commons.

Ministers of the Crown Act, 1937

This Act regulates:-

- (i) the salaries of Ministers and Junior Ministers, the Prime Minister and the leader of the opposition;
- (ii) the number of Junior Ministers entitled to hold office;
- (iii) the payment of additional salary to the Lord President of the Council, the Lord Privy Seal, the Postmaster-General, the First Commissioner of Works and the Chancellor of the Duchy of Lancaster (see also Ministerial Salaries Act, 1946) if they are appointed members of the Cabinet;
- (iv) the capacity of salaried Ministers to sit in the House of Commons and the number who may do so.

Ministerial Salaries Act, 1946

This Act provides for:-

- (i) amendment of certain Ministerial salaries laid down in the Ministers of the Crown Act, 1937;
- (ii) a minimum salary for the Chancellor of the Duchy of Lancaster; the salaries of certain officers of the Royal Household;
- (iii) members of the House of Commons not disqualified by the receipt of a salary or pension over £5,000 a year, receiving payment of £500 in respect of their membership of the House of Commons.

Ministers of the Crown (Transfer of Functions) Act, 1946

This Act provides that there may be effected by Order in Council:-

- (i) the transfer of functions from one Minister of the Crown to another;
- (ii) the dissolution of a Government Department and the distribution of its functions to other Ministers;

(iii) a change in the title and style of a Minister.

During the war the Ministers of the Crown (Emergency Appointments) Act, 1939 was passed to make provision for any "Minister of the Crown to be appointed by Order in Council for the purpose of exercising functions connected with the prosecution of any war in which His Majesty might be engaged". It provided for the salary, staff, style and title of any such Minister and for the transfer to him of functions from other Government Departments. This Act was repealed in 1945.

The House of Commons Disqualification (Temporary Provisions) Act, 1941 as extended by the Ministers of the Crown and House of Commons Disqualification Act, 1942 made temporary provision for persons (Ministers, or Under-Secretaries of Departments) not provided for in the schedule to the Re-election of Ministers Act, 1919, to sit in the House of Commons, (see above). The House of Commons Disqualification (Temporary Provisions) Act lapsed in 1943 and the 1942 Act is therefore spent.

