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PRECEDENT BOOK.

Part V.

RELATIONS WITH BUCKINGHAM PALACE.

Annex

THE KING AND THE PRIME MINISTER.  
OUTLINE NOTE ON THE RELATIONS BETWEEN,

PRECEDENT BOOK

PART V - RELATIONS WITH BUCKINGHAM PALACE

CONTENTS

(References are to Paragraph Numbers)

**GENERAL**

Constitutional Position - 1

Responsibilities of the Cabinet Office - 2

The King and the Proceedings of the Cabinet and  
Cabinet Committees - 3

The King's Consent to Disclosure of Cabinet Proceedings - 4

**ISSUE OF CABINET DOCUMENTS TO THE KING**

Cabinet and Cabinet Committee Memoranda and Minutes - 5

Cabinet Agenda - 6

Telegrams and Despatches - 7

Despatch of Documents - 8

Disposal of Documents - 9

**ISSUE OF CABINET DOCUMENTS TO THE HEIR TO THE THRONE - 10**

**SPECIAL ARRANGEMENTS**

The Prime Minister's Audience - 11

Information on Particular Developments - 12

War-time Operational Information - 13

**THE KING'S ABSENCE FROM THE UNITED KINGDOM - 14**

**INFORMATION FOR THE KING ON VISITS ABROAD - 15**

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ANNEX

Constitutional Position: Outline Note on the Relations between  
the King and the Prime Minister and other Ministers.

## GENERAL

### 1. Constitutional Position

For the constitutional aspects of the relation between the King and the Cabinet and Ministers generally see Jennings (e.g. pp. 264-275); Anson (e.g. Vol. II(1) pp.139-141).

*For an outline note, with particular reference to the relationship between the Prime Minister and the King, see Annex.*

*As to the responsibilities of the Home Secretary in the matter of communications with the Crown see Anson, Vol. II (II) pp. 19-21.*

### 2. Responsibilities of the Cabinet Office

The Prime Minister has special responsibilities for the transaction of business with the Crown, by formal and informal submission and by audience. He is also responsible for seeing that the King is kept informed of important developments affecting the administration; and his Private Secretary works in very close contact with the King's Private Secretary. The main concern of the Cabinet Office is to see, under the direction of the Prime Minister, that the King is provided with the documents of the Cabinet and its main Committees. The Cabinet Office have no direct responsibility for informing the Palace of matters arising from the proceedings of the Cabinet. Normally specific developments are mentioned to the King by the Prime Minister or to the King's Private Secretary by the Prime Minister's Private Secretary. On grounds of convenience, however, it is sometimes arranged, in consultation with the Prime Minister's Private Secretary, that the Secretary of the Cabinet should inform the King's Private Secretary of developments arising from the Cabinet's proceedings. Likewise the King's Private Secretary may occasionally ask the Secretary of the Cabinet immediately after a Cabinet meeting (and in advance of the preparation of the minutes) for information on some point discussed.



3. The King and the Proceedings of the Cabinet and Cabinet Committees

In addition to the memoranda and minutes of the Cabinet the King receives regularly the memoranda and minutes of the more important Committees of the Cabinet (see page 5 ).

The minutes of the Cabinet carry a formal constitutional significance as representing the Cabinet's advice to the King. How far the minutes of Cabinet Committees carry the same formal significance has not been determined, but for practical purposes the minutes of Ministerial Committees must be treated as on much the same footing as the minutes of the Cabinet, so long as these Committees are regarded as having sufficient authority to enable them to take on the Cabinet's behalf decisions on matters of policy engaging the collective responsibility of the Government as a whole.

It follows from this that if a meeting of a Ministerial Committee whose papers are regularly received by the King is held without the presence of the Secretariat and without the subsequent preparation of a record of the proceedings, it would probably be necessary for the Prime Minister or other senior Minister particularly concerned to see the King and to give him an account of the proceedings in the same way as the Chancellor of the Exchequer sees the King after a Budget Cabinet, the proceedings of which are not recorded. On the other hand if the reason for dispensing with minutes is not so much the need for secrecy in itself as the fact that the discussion is mainly political in character, the right course would be to hold an informal meeting of Ministers which would not in form be a meeting of any Cabinet Committee.

In June, 1949 it was arranged that initial discussion of certain memoranda submitted to the Economic Policy Committee should be taken at an informal meeting of Ministers immediately preceeding a formal meeting of that Committee. See minutes in S. and P. 748.

4. The King's Consent to Disclosure of Cabinet Proceedings

On the basis that the conclusions of the Cabinet constitute advice to the King his consent is necessary to any disclosure of them. This is a long-standing rule, but the extent to which it has been followed has varied from time to time. Circumstances in which it is or has been held necessary to obtain the King's consent are (i) disclosures of Cabinet proceedings in personal statements made in Parliament by Ministers on their reasons for resigning; (ii) disclosure in private publications; and (iii) disclosure of the documents of one administration to a succeeding administration.

See generally Jennings, pp. 208-210;  
Anson, Vol. II(1) pp. 121-2.

On statements by Ministers on resignation  
Part II, p. // .

On the extent to which the King's consent is obtained to disclosure of Cabinet proceedings and to quotation of Cabinet documents in private publications see Part VIII.

On the question of the King's consent to disclosure of documents of one administration to a succeeding administration see Part IV p. x .

## ISSUE OF CABINET DOCUMENTS TO THE KING

### 5. Cabinet and Cabinet Committee Memoranda and Minutes

At present the King receives regularly from the Cabinet Office the memoranda and minutes of the following bodies:-

Cabinet

Defence Committee

Economic Policy Committee

Commonwealth Affairs Committee

Commonwealth Relations Committee

Lord President's Committee

Production Committee

Overseas Reconstruction Committee

Emergencies Committee

South-East Asia and China Committee

See generally File 4/3/83.

Adjustments are necessarily made with changes in the Cabinet Committee system, and the practice is for the Secretary of the Cabinet to raise with the King's Private Secretary the question of changes in the list. Thus in 1947, on the appointment of the Economic Policy Committee, it was decided that copies of its documents should be sent to the King. In 1945 it was agreed with the Palace that the documents of the Legislation Committee (which the King had received since September, 1939) should no longer be included and that the documents of the Overseas Reconstruction Committee should be added to the list.

Since the appointment of the War Cabinet in December, 1916 the King has always received a copy of the Cabinet Conclusions. Until 1939 the King's copy was sent (from the Cabinet) under cover of a submission, initialed by the Secretary of the Cabinet in the sense that "The Prime Minister presents his humble duty to His Majesty the King and has the honour to enclose herewith a copy of the Conclusions of a Meeting of the Cabinet held on...."

When, in the absence of the Prime Minister, another Minister presided at the meeting, the submission was sent in that Minister's name. On the history of Cabinet Minutes and the Prime Minister's personal letter to the King see references given in Part I p. . x

The King received copies of the Minutes and Memoranda of the Committee of Imperial Defence from its establishment in 1904. The



types of Committee documents received have varied from time to time with the changing importance of particular Committees.

Before the Second World War it was customary when a Cabinet memorandum affected the King personally for an advance copy to be sent to his Private Secretary. See File 4/3/83. It is now the normal practice that, when matters affecting the King personally are to be dealt with in Cabinet documents, the proposals are first mentioned to the King by the Prime Minister.



6. Cabinet Agenda

The King receives copies of Cabinet Agenda; and there is a standing arrangement under which the Private Secretary to the Secretary of the Cabinet informs the King's Private Secretary of the calling of special meetings of the Cabinet for which, in view of the short notice, no Agenda papers have been issued.

Cabinet Committee Agenda and miscellaneous documents such as "Black Lists" are not sent.

7. Telegrams and Despatches

The King is sent by the Cabinet Office copies of Commonwealth Relations Office telegrams circulated to the Cabinet. Copies of Foreign Office telegrams and despatches are sent direct to the Palace by the Foreign Office.

8. Despatch of Documents

Documents for the King are despatched to the Palace by Black Box on the ordinary distributions from the Cabinet Office.

When the King is out of London boxes continue to be sent to Buckingham Palace, where the contents are sorted and important papers despatched to the King. In these circumstances the Palace sometimes ask for adjustments in the times of delivery. See File 4/3/83.

9. Disposal of Documents

The printed versions of the Cabinet Conclusions are retained for preservation in the Royal Archives at Windsor where a complete set of Conclusions is on record. Other documents are normally returned in due course to the Cabinet Office. See File 4/3/83.

ISSUE OF CABINET DOCUMENTS TO THE HEIR TO THE THRONE

10. Since 1936 it has been the practice for certain Cabinet papers to be sent to the person next in succession to the throne. Thus, on the accession of King Edward VIII in 1936 the Cabinet agreed that the Duke of York should receive the same Cabinet and Committee of Imperial Defence papers as the King, except Cabinet minutes and those Committee of Imperial Defence papers which were given a restricted circulation (Cabinet 57 (36) 22 and file 4/3/86). The same arrangement was made, with the Cabinet's approval, for the Duke of Gloucester when he became the person of full age next in succession to the throne (Cabinet 16 (37) 1 and file 4/3/2), but it was discontinued when the Duke became Governor-General of Australia and was not resumed on his return to the United Kingdom, since by then Princess Elizabeth had come of age. In June, 1950, the Prime Minister, without reference to the Cabinet, authorised the issue of Cabinet minutes and memoranda to Princess Elizabeth. It was thought to be unsatisfactory, and even misleading, to send her Cabinet memoranda without the relevant minutes, and an arrangement was made whereby Her Royal Highness received Cabinet minutes (but not Confidential Annexes) as they were issued, each set being accompanied by copies of the memoranda discussed at the meeting. (File 4/3/329).

The initiative in arranging for Cabinet papers to be sent to the heir to the throne has been taken in the past by the Palace. The King's Private Secretary would normally first put the proposal informally to the Secretary of the Cabinet, who would make a recommendation to the Prime Minister. The Prime Minister would then, if he approved, discuss the matter with the King, who would have been warned by his Private Secretary to expect this approach. It would be for the Prime Minister to decide whether to mention the proposal to his colleagues.

In 1928, it was arranged that the Prince of Wales and the Duke of York should receive from the Cabinet Office copies of the papers normally circulated at that time to Dominion High Commissioners in London, i.e. certain Dominions Office telegrams and Foreign Office prints. See File 4/3/2 Pt I.

In November, 1946, it was agreed by the Prime Minister that, during the King's absence in South Africa, the Duke of Gloucester, as senior member of the Council of State, should see all the documents normally sent to the King. See File 10/8/25.

In July, 1947, the Private Secretary to the Duke of Gloucester asked whether the Duke could be provided with Commonwealth Relations Office telegrams and certain Foreign Office telegrams and prints. The Cabinet Office were consulted both by the Duke's Private Secretary and by the Commonwealth Relations Office, primarily on the question whether any Commonwealth Relations Office telegrams to be provided would be sent from the Cabinet Office or direct. The reply was that there was no objection so far as the Cabinet Office was concerned, but that the documents should be sent direct since other documents were not being sent to the Duke. The Foreign Office likewise agreed to provide the Duke direct with certain telegrams.

See File 4/3/86.



The question has not in fact since been raised in respect of the Duke of Gloucester. In July, 1947, however, the Duke's Private Secretary asked whether the Duke could be provided with Commonwealth Relations Office telegrams and certain Foreign Office telegrams and prints. The Cabinet Office were consulted both by the Duke's Private Secretary and by the Commonwealth Relations Office, primarily on the question whether any Commonwealth Relations Office telegrams to be provided would be sent from the Cabinet Office or direct. The reply was that there was no objection so far as the Cabinet Office was concerned, but that the documents should be sent direct since other documents were not being sent to the Duke. The Foreign Office likewise agreed to provide the Duke direct with certain telegrams. See File 4/3/86.

## SPECIAL ARRANGEMENTS

### // The Prime Minister's Audience

When the King is in London the Prime Minister normally has a weekly audience, usually on the afternoon of Tuesday, although special arrangements may be made from time to time to inform the King at once of important developments. When the King is out of London the Prime Minister may write to him.

In 1948 a regular practice was introduced under which the Secretary of the Cabinet sends to the Prime Minister's Private Secretary (usually on the Monday preceeding the audience) a note of points arising from the proceedings of the Cabinet and Cabinet Committees which the Prime Minister may wish to mention to the King. In the light of these notes and of other notes made in 10, Downing Street, the Prime Minister's Private Secretary prepares a short aide-memoire for the Prime Minister's use.

In November, 1938 when the King had expressed his desire to receive before the Prime Minister's weekly audience a note of the conclusions of the latest meeting of the Cabinet, it was arranged, with the Prime Minister's approval, that a copy of the first draft of the Cabinet Conclusions should be sent to the King at the same time as to the Prime Minister. The draft conclusions were returned to the Cabinet Office on receipt of the approved text. See File 4/3/83.

In March, 1939 it was arranged that an advance copy of the draft Minutes of the Committee of Imperial Defence should likewise be sent to the King. See File 4/3/83.

In November, 1945, when the first Cabinet meeting of the week was normally on Tuesday morning, the King's Private Secretary asked whether the Secretary of the Cabinet could prepare a very short summary of the conclusions which the King could have the same afternoon prior to the Prime Minister's audience. Before a decision was taken on this question the Cabinet had agreed to meet regularly on Monday rather than Tuesday. See File 4/3/83.

## 4. Information on Particular Developments

While the normal channel of communication is from the Prime Minister to the King or the Prime Minister's Private Secretary to the King's Private Secretary, it is sometimes arranged, on grounds of convenience, that the Secretary of the Cabinet should inform the King's Private Secretary of particular developments arising from the Cabinet's proceedings. Again the King's Private Secretary may himself approach the Secretary of the Cabinet. Unless the request is merely for information on points of detail, the Prime Minister's Private Secretary is always kept informed of such approaches.

In February, 1938, at the time of Mr. Eden's resignation from the Foreign Office, the King asked that arrangements should be made to enable him to receive immediate information of any serious developments of the kind. His Private Secretary said (letter of 21st February, 1938): "In the ordinary course the inevitable delay between a Cabinet meeting and the receipt by His Majesty of the Minutes is of no consequence. On the other hand, when a Meeting results in a critical situation from which rapid developments are to be anticipated, there is no regular machinery in existence for putting His Majesty in possession of facts which it is right and proper that the Sovereign should know. It also follows that any opportunity for His Majesty to make a helpful contribution of any kind, in consultation with his Prime Minister, is delayed until the situation has become irretrievable and intervention useless". It was subsequently arranged that the King's Private Secretary, the Prime Minister's Private Secretary and the Secretary of the Cabinet should keep a very close touch generally. In particular the Secretary of the Cabinet undertook to remind the Prime Minister, as occasion arose of his responsibility to inform the King. See File 4/1/6A Part 1.



13. War-time Operational Information

In September, 1939 special arrangements were made to supply confidential operational information to the King daily. A duty officer from the Cabinet War Room attended at Buckingham Palace every morning with a copy of the daily Situation Report which he brought back on return. The daily Situation Report was later supplemented by the Chiefs of Staff Weekly Resumé: naval information in the daily summaries was amplified personally by the Naval Duty Officer. In April, 1940 it was arranged that the Joint Intelligence Committee's Situation Report should be sent to the Palace and, after it had been seen by the King and his Private Secretary, burnt.

See File 48/2/2.

In July, 1942 the Prime Minister (Mr. Churchill) stated that the King should always be given all information about future operations, however secret.

THE KING'S ABSENCE FROM THE UNITED KINGDOM

When it is proposed that the King should make a visit outside the United Kingdom the Prime Minister informs the Cabinet, and consideration is given to the question whether a Council of State (in terms of the Regency Act, 1937 as amended by the Regency Act, 1943) will be necessary during the King's absence. The Cabinet Office have no responsibility in this matter. If it is decided that a Council of State is necessary, the procedure is broadly:-

- (a) Parliamentary Counsel prepares draft Letters Patent;
- (b) The draft is submitted to the Palace for the King's approval;
- (c) On approval by the King the draft is returned to the Lord Chancellor's Office to prepare the document for signature;
- (d) Letters Patent are returned to Palace for signature;
- (e) Letters Patent are signed and returned to Lord Chancellor's Office, who are responsible for obtaining the Home Secretary's signature and informing those who have to take action.

See Anson, Vol. II(1) pp. 273-4,  
File 32/152.

If the circumstances require special secrecy the initial mention at Cabinet of a proposed visit overseas is not recorded in the Cabinet Minutes, although the Secretary of the Cabinet may make a "no circulation" record.

Counsellors of State were appointed during the King's visit to Canada and the United States in 1939 and to South Africa in 1947.

The procedure was, however, not adopted during his short visit to France in 1939, in view of the secrecy of the visit and of the time required to prepare Letters Patent; if it had been necessary to hold a meeting of the Privy Council it would have been held in France. See File 32/152.

When the King visited North Africa in 1943, the War Cabinet agreed (W.M. 83(43), uncirculated minute of 9th June, 1943) that it was desirable to have a Council of State to avoid any delay in the execution of urgent business even though the King's absence was not expected to exceed a fortnight.

For a copy of the Letters Patent in respect of the Council of State during the King's absence in South Africa in 1947 and notes on the procedure for submissions to the Council and the King see File 10/8/25/2.

On the occasion of the visit to South Africa the King 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) See File 10/8/25/2, (letter of 31st January, 1947) and Part II p. 13.

15. INFORMATION FOR THE KING ON VISITS ABROAD

During the King's visits abroad the Cabinet Office, in consultation with the King's Private Secretary and with the Departments concerned and with the general approval of the Prime Minister, are responsible for the special arrangements required for communication with him and for the provision of information. The precise arrangements for communicating general information to the King vary with the circumstances of the visit, but broadly they provide for sending to him by telegram or by air mail -

(a) summaries of matters discussed by the Cabinet and by the Cabinet Committees whose documents the King normally sees;

(b) general information on foreign affairs in the form of Foreign Office or Commonwealth Relations Office telegrams;

(c) a weekly letter from the Prime Minister.

In addition the arrangements cover communications with the King on matters which cannot be dealt with by the Council of State.

No Cabinet documents as such are sent to the King overseas. For any prolonged visit a detailed communications plan is required and the preparation of it needs to be commenced some six months before the King's departure. When the arrangements have been finally agreed it is usual for the Prime Minister to circulate a note to the Cabinet for general information.

For details of arrangements see File 10/4/15 (visit to Canada and the United States in 1939); 10/8/25 (South Africa, 1947); 10/4/40 (proposed visit to New Zealand and Australia, 1949).

In December, 1939 when the King visited G.H.Q. in France he received a daily summary of War Cabinet conclusions sent by King's Messenger.





The King and the Prime Minister

The British constitution is unwritten and is built up on practice and precedent over very many years. Its procedure is well defined in some respects; in others less so; new situations arise and to meet them there are modifications, often imperceptible, which in themselves become precedents and part of established practice. For these reasons it is impossible in many cases to be dogmatic on broad constitutional issues, and it may well be misleading to say, for example, that "the King must do this" or that "the Prime Minister must do that." It will often be found that there is an exception or that an exception can be made which in itself will prove a precedent.

Therefore, to define in precise terms the general relationship between the King and the Prime Minister is difficult even if the matter were to be set out at length. It is impossible to do so in a few paragraphs. What follows is only a brief and simplified outline of the main principles of this relationship.

The British monarchy is hereditary and constitutional, the King being head of the State. Hereditary explains itself but constitutional needs some explanation. The first main point to note is that under this system Ministers must be prepared to assume responsibility for every act or omission of the King which has any political significance. This is a fundamental constitutional doctrine and it follows as a necessary corollary that on all such matters Ministers have the right to tender advice. This is the basis of the well-established tradition that in the last resort the King accepts the advice of his Ministers, although this does not in any way derogate from his right and indeed duty to make known to Ministers his views about or objections to any course of action they propose.

On general matters the King is advised by the Prime Minister, and on matters affecting only individual Departments of State by the Minister in charge of that Department.

It will be noted that Ministers are responsible not only for every act but also for any omission of the King which has political significance, and Ministers cannot avoid responsibility in any particular case by not choosing to tender advice. This would be a deliberate decision on their part and therefore they would still remain responsible. It may also be asked how it is possible to decide whether any act or omission will have political significance. This is not ordinarily in doubt and borderline cases can be adjusted by the exercise of tolerance and commonsense. On the whole, however, the tendency has been to regard more and more matters as having political significance.

The second main point which requires noting about the implications of constitutional monarchy in this country is that the King should not take sides in party politics. This was not observed even so late as the middle of the last century. But it is now an accepted principle of the monarchy in this country, and indeed one of its great strengths, that the King not only does not take sides but is clearly seen to be impartial. This, however, in no way affects the position that the King is entitled to expect the support of his Ministers where he has acted on advice and similarly that Ministers in their turn are entitled to expect the confidence of the King. Naturally the relationship between the Prime Minister and the King is closer than that of any other Minister.

The choice of a Prime Minister by the King is not made on formal advice or submissions. 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 of course be of the greatest value in cases where there is doubt about the choice; such as 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, and so forth. 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. Customarily he would make his choice in a clear case of this kind without any overt or personal consultations, as such consultations might imply political partisanship.

While there is no constitutional bar to the choice of a Peer as Prime Minister no such choice has in fact been made since the end of Lord Salisbury's administration in 1902, and the passing over in 1923 of Lord Curzon in favour of Lord (then Mr.) Baldwin may possibly mark a constitutional convention excluding a Peer from being Prime Minister.

The Prime Minister himself recommends to the King those whom he proposes for appointment to the Ministerial office comprising the Government. Equally the Prime Minister himself recommends any changes in Office or any dismissals from Office.

Although the nomination of Ministers rests with the Prime Minister, the King may exercise a considerable influence; but, being a constitutional monarch, he is bound in the ultimate resort to accept the advice of the Prime Minister, or find another Prime Minister who can command the support of the House of Commons or the country. There are no known cases in recent years when the King has in the final resort not accepted a recommendation of the Prime Minister for the appointment of a Minister.

In selecting the members of his administration the Prime Minister is not bound to consult anyone, though normally he would consult other leading members of his Party. The Cabinet as such, however, has no right to be consulted, but the Prime Minister is perfectly free to do so if he wishes.



