

HW

Confidential filing

The Government majority and the Constitution

Parliament

March 1974

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
19.3.74							
20.3.74							
22.3.74							
20.3.74							
PREM 16/231							

For papers on the
general question of the

Royal Prerogative. — see

BVBT — page:-

Parliament March 74.

[also covers correspondence
with Mr. Norman Atkinson MP]

BVBT

page:-

SECRET AND
PERSONAL



BUCKINGHAM PALACE

20th March, 1974

Parliament 9
Ph. on new
Constitutional file

Handwritten: *Handwritten: RGA*

Thank you for your letter of 19th March about the question of the sort of defeat in the House of Commons which should be considered of sufficient importance to demand the resignation of the Government or a request for a dissolution. If I may say so, I think you have set out the position admirably and I agree with the views you have expressed. In particular, I believe that your last paragraph goes to the heart of the matter.

Yours ever,

Philip Wilson

Robert Armstrong, Esq.

Parliament

pa

75 / N° 10 Downing Street

ADVANCE COPY

0644/19

DWNFO 073/19

LJO NR 346/19

IMMEDIATE

OO, FCO

GRS 28

CYPHER CAT A.

FM JAKARTA 190430Z

TO IMMEDIATE 10 DOWNING STREET

BT

RESTRICTED

RA

SWORD 606

FOR ARMSTRONG FROM CHARTERIS.

THANK YOU FOR LANCE 604. FOR THIS RELIEF MUCH THANKS.

NNNN



WHITEHALL 5422

CABINET OFFICE
LONDON, S.W.1

19th March, 1974.

Dear Robert, ^{RA}

I'm so glad we
can forget about Peel - at
least for the time being!

Yours ever,
Mama.



Lile

10 Downing Street
Whitehall

19 March 1974

I sent you on 15 March a copy of a minute which I had addressed to the Prime Minister about the situation that would arise if the Government were defeated on the Conservative amendment to the Address in reply to The Queen's Speech on 18 March.

In that minute I indicated my understanding that there were good precedents for not resigning as a result of an adverse vote on the Address but calling for a vote of confidence. I am afraid that that was based on a misunderstanding of something that you had said to me. Since I sent you a copy of the earlier minute, it may be convenient that I should put on record to you what I understand the position to be.

Most of the precedents are for a Government defeated on an amendment to the Address to resign or ask for a dissolution forthwith. Sir Ivor Jennings, in Cabinet Government, states that "an amendment to the Address in answer to The Queen's Speech is in substance a vote of no-confidence" and he cites a statement by Lord Salisbury in a letter to Queen Victoria: "an amendment to the Address is one of the well-known forms of ejecting a ministry". There is however a precedent for a Government not resigning after a defeat on an amendment to the Address, but on a subsequent vote: Sir Robert Peel was defeated in 1834 on an amendment to the Address; he did not resign then, but on a subsequent defeat on an appropriation resolution.

On the other hand most defeats on amendments to the Address seem to have been on explicitly no-confidence or censure amendments.

I did not think that this need affect the Prime Minister's position, if the Government were to be defeated yesterday evening. He had made it clear that he did not propose to treat as a "no-confidence" defeat any vote in which the consequences of a defeat for the Government had not been made clear in advance to all Members. His position is much like that of Mr. MacDonald in January 1924, when he said:-

"The Labour Government will go out if it is defeated upon substantial issues, issues of principle, issues which really matter. It will go out if the responsible leaders of either party or any party move a direct vote of no-confidence, and carry that vote. But I propose to introduce my business, knowing that I am in a minority, accepting the responsibilities of a minority, and claiming the privileges that attach to those responsibilities. If the House on matters non-essential, matters of mere opinion, matters that do not strike at the root of the proposals that we make, and do not destroy fundamentally the general intentions of the Government in introducing legislation - if the House wish to vary our propositions, the House must take the responsibility for that variation - then a division on such amendments and questions as those will not be regarded as a vote of no-confidence".

What the Government treats as a matter of sufficient importance to demand resignation or dissolution is primarily a question for the Government. If the Government decides not to treat a vote as a question of confidence, it is always open to the Opposition to test the opinion of the House by a vote of no-confidence, even if the Government does not itself ask for such a vote following the defeat. In this case, the Prime Minister had not said that he was regarding yesterday's vote as a vote of no-confidence, and the Opposition had been careful not to describe it as such themselves.

R. T. ARMSTRONG

Philip Moore, Esq., C.B., C.M.G.

h

Note for the record

In the event the Conservatives did not press their amendment to the Address on 18 March, The Scottish Nationalists voted against the Address; the other Opposition parties abstained. The Government survived without difficulty.

REA

18. iii. 74

*More than somewhat
informed by events
/hw*

PRIME MINISTER

In his minute of 15th March, Lord Crowther-Hunt, relying on something that I had said, indicated that it was his and my understanding that there were good precedents for not resigning after a defeat on an amendment to the Address in reply to The Queen's Speech, but calling for a vote of confidence at some later date.

I am afraid that this was based on a misunderstanding of something that had been said to me, which I accepted too readily. Most of the precedents are for a Government defeated on an amendment to the Address to resign or ask for a dissolution forthwith. Sir Ivor Jennings, in Cabinet Government, states that "an amendment to the Address in answer to The Queen's Speech is in substance a vote of no-confidence" and he cites a statement by Lord Salisbury in a letter to Queen Victoria: "an amendment to the Address is one of the well-known forms of ejecting a ministry". There is however a precedent for a Government not resigning after a defeat on an amendment to the Address, but on a subsequent vote: Sir Robert Peel was defeated in 1834 on an amendment to the Address; he did not resign then, but on a subsequent defeat on an appropriation resolution.

On the other hand most defeats on amendments to the Address seem to have been on explicitly no-confidence or censure amendments.

Neither Lord Crowther-Hunt nor I think that this need affect your position, if you are defeated this evening. You have made it clear that you do not propose to treat as a "no-confidence" defeat any vote in which the consequences of a defeat for the Government have not been made clear in advance to all Members. Your position is much like that of Mr. MacDonald in January 1924, when he said:-

"The Labour Government will go out if it is defeated upon substantial issues, issues of principle, issues which really matter. It will go out if the responsible leaders of either party or any party move a direct vote of no-confidence, and carry that vote. But I propose to introduce my business, knowing that I am in a minority, accepting the responsibilities of a minority, and claiming the privileges that attach to those responsibilities. If the House on matters non-essential, matters of mere opinion, matters that do not strike at the root of the proposals that we make, and do not destroy fundamentally the general intentions of the Government in introducing legislation - if the House wish to vary our propositions, the House must take the responsibility for that variation - then a division on such amendments and questions as those will not be regarded as a vote of no-confidence".

What the Government treats as a matter of sufficient importance to demand resignation or dissolution is primarily a question for the Government. If you decide not to treat this vote as a question of confidence, it is always open to the Opposition to test the opinion of the House by a vote of no-confidence, even if you do not yourself ask for such a vote following the defeat. In this case, you have not said that you are regarding tonight's vote as a vote of no-confidence, and the Opposition have been careful not to describe it as such themselves.

We are therefore of the opinion that you are justified in the course which you have said that you will adopt if by any chance the Government is defeated in tonight's vote.

/The

The news just brought to me that the Scottish Nationalists have decided to vote with the Government this evening suggests that this exercise may be academic, for this time at any rate.

RTA

CONQUEROR
11
LONDON

18 March 1974

SECRET

From: 10 Downing Street

181711Z March

Date: 18.3.74

To: Royal Party on Tour

Recd: 1711Z

FLASH

LANCE 604.

Following Personal for Charteris from Armstrong.

Prime Minister has asked me to assure you that nothing that might happen this evening will require him to advise The Queen to return from Indonesia prematurely. For your information, if the Government were to be defeated this evening, there would be no question of immediate resignation or request for dissolution. The Prime Minister would ask for a vote of confidence, but (on present thinking) not until next week or even later.

181711Z

PS to Prime Minister (6)

SECRET

File No.

Department 10 DOWNING STREET, SW1

OUTWARD

Drafted by (Block Capitals) R.T. ARMSTRONG

TELEGRAM

Tel. Extn.

Security Classification	
SECRET	5
Precedence	
DESKBY	Z

FOR COMMS. DEPT. USE

Despatched

(Date) (Time) Z

POSTBY Z

PREAMBLE

(Time of Origin) Z(G.M.T.) (Restrictive Prefix) LANCE 604

(Security Class.) SECRET (Caveat/Privacy Marking)

(Codeword) (Deskby) Z

TO FLASH ROYAL PARTY (precedence) (post) Tel. No. of

AND TO (precedence/post)

AND SAVING TO

REPEATED TO (for info)

SAVING TO (for info)

Distribution:-

[TEXT]

Following Personal for Charteris from Armstrong.

Prime Minister has asked me to assure you that nothing that might happen this evening will require him to advise The Queen to return from Indonesia prematurely. For your information, if the Government were to be defeated this evening, there would be no question of immediate resignation or request for dissolution. The Prime Minister would ask for a vote of confidence, but (on present thinking) not until next week or even later.

MESSAGE ENDS.

Copies to:-

Handwritten initials

~~SECRET~~
~~AND PERSONAL~~



J
10 Downing Street
Whitehall

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LORD CROWTHER-HUNT

The Prime Minister has read with much interest your minute of 15 March on the constitutional situation which might arise if the Conservative amendment is carried this evening.

His only comment is to the effect that, if the Government were defeated this evening, tomorrow or Thursday might be too early for a vote of confidence. He would wish at this stage to keep open the possibility of having the vote of confidence after the Chancellor of the Exchequer's Budget statement, and perhaps even after the Foreign Secretary's first visit to the E.E.C. Council of Ministers on 1 April.

One can only say, I think, that it would be a question of political judgment whether a vote of confidence could be deferred so long: there would appear to be no overriding constitutional objection.

R. T. ARMSTRONG

18 March 1974

~~SECRET~~



MR ROBERT ARMSTRONG

In our note to the Prime Minister we said that there are good precedents for calling for a vote of confidence after a defeat on the Queen's Speech. This, you will recall, was in your original draft. Could you let me know what the precedents are? I suspect we might need this urgently and I do not happen to know.

It was intended that we should discuss our document with the Lord Chancellor. No doubt you have this in hand.

I should be most grateful to have a copy of whatever covering note you sent to the Prime Minister with our brief.

C-H.

CROWTHER-HUNT

18 March 1974

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NOTE FOR THE RECORD

EVENTS LEADING TO THE RESIGNATION
OF MR. HEATH'S ADMINISTRATION
ON 4 MARCH 1974

Polling day in the General Election was Thursday
28 February 1974.

Friday 1 March

2. From the first results it was clear that the election was not going to give the Government the clear mandate for which it had asked. By the opening of business on Friday 1 March it had become clear that neither the Conservative Party nor the Labour Party would have an overall majority in the new House of Commons, that the Labour Party was likely to have a few more seats than the Conservative Party, and that, though the Liberal Party had polled a much larger number of votes than in previous elections, it was unlikely to hold many more seats than in the last Parliament.

3. The Queen, returning from Canberra, landed at London Airport at 9.25 a.m. on Friday 1 March, and drove to Buckingham Palace. Sir Martin Charteris rang me up from Buckingham Palace as soon as he arrived, at about 10.00 a.m., and I went round to see him and Mr. Philip Moore. I reported on the current situation, and agreed with Sir Martin Charteris that at this stage The Queen could only await events: She would not be called upon to take action unless and until Mr. Heath tendered his resignation, and if and when he did so it would then be her duty to send for Mr. Wilson. It might well not be until mid-afternoon that the situation began to become clearer.

4. When Lord Carrington came to see the Prime Minister at 10.30 on that morning, the television and radio computers were predicting a Labour majority of ten over the Conservatives. On that basis Lord Carrington thought that resignation was the only possible course for the Government. But as more results came in the difference narrowed; at one time Conservative Central Office

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was speaking of a dead heat, but by the end of the morning it looked as if the difference would be five or less, in favour of the Labour Party.

5. The Prime Minister had a meeting with the Chancellor of the Exchequer, the Home Secretary, the Lord President and the Secretary of State for Energy at noon on 1 March (at these and the subsequent meetings which the Prime Minister had with his colleagues Sir John Hunt and I were present). There was considerable discussion of the result, and analysis of the possible courses open to the Government. There was no enthusiasm for the idea of a coalition with the Liberal and Labour Parties, and in any case no reason to believe that Mr. Wilson would be prepared to join such a coalition. There seemed therefore to be three possible courses open to the Government:

- (1) to resign forthwith;
- (2) to continue in office until Parliament met, and then to resign if defeated in a vote on the Address in reply to The Queen's speech;
- (3) to try to come to some kind of understanding with the Liberal Party, as a basis either for a Conservative administration with Liberal support or for a Conservative-Liberal coalition.

6. The Prime Minister had told me in conversation the previous day that, if the situation after the election was that his party had more seats than Labour but no overall majority, his inclination would be to stay in office and meet Parliament, rather than make any approach to the Liberals. But the actual situation was that the Labour Party had more seats than the Conservative Party, albeit by a narrow margin; and there was general agreement that in that situation it would not be honourable for the Government simply to continue in office and face Parliament: indeed, if they did so, the Prime Minister and his colleagues were likely to be discredited by accusations of hanging on to office at all costs despite defeat at the election.

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7. On the other hand there were arguments both of national and of party advantage against allowing Mr. Wilson to form a Labour administration. Because a Labour Government would be committed to large and early increases in pensions and other increases in public expenditure, as well as to settling the miners' dispute at any cost and the abandonment of a statutory incomes policy, the economic measures which the situation would require them to take would need to be severer than those which a Conservative Government would have to take. A Labour Government was less likely to command the degree of confidence overseas which would be required if the sterling exchange rate was to be held and the expected balance of payments deficit financed. And, in political terms, if a Labour Government took office, Mr. Wilson would be given greater initiative in choosing the ground and the timing of the next election, and greater power to shape events so as to put his party in the most favourable position to win it. He would presumably follow the same sort of tactics as he followed after his narrow victory in 1964. If he took office now, the Labour Party might well be in office until 1980 or later.

8. It was not known whether the Liberal Party would be able or prepared to form a coalition or enter into an understanding to support a Conservative Government. Nor was there great enthusiasm for an alliance with the Party which (as it seemed) had been the main beneficiary, if not the cause, of the Government's loss of support. It might be best simply to leave the Liberal Party alone: this result could well prove to be its high-water mark, since disenchantment with the result and its consequences would probably lead most of those who had voted Liberal to return to their traditional party allegiances at the next election, which could not be long delayed. It was however arguable that some arrangement with the Liberals would represent the wishes of the substantial majority of voters who had voted Conservative or Liberal; and the resulting combination would command a larger number of seats in the House of Commons than the Labour Party.

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9. Those present at the meeting therefore agreed that the Prime Minister should put the options to a meeting of the Cabinet later that day, when a more precise assessment of the outcome of the election was available, with an indication of their inclination towards an attempt to come to an understanding with the Liberal Party.

10. After lunch, at about 3.30 p.m., I returned to Buckingham Palace on the Prime Minister's instructions for a further conversation with Sir Martin Charteris. I told him of the present thinking of the Prime Minister and his colleagues. He agreed that in the situation that had emerged the Prime Minister was entirely within his constitutional rights either to wait and meet Parliament or to see whether he could come to an understanding with the Liberal Party which would enable him to form an administration which could command sufficient support in the House of Commons to carry on government (a similar view had been expressed on television that day by Mr. A.J.P. Taylor). It remained the case that The Queen would not be called to take action unless and until Mr. Heath tendered his resignation.

Document 2

11. During the afternoon a statement was issued from Transport House, following a meeting of the Shadow Cabinet, indicating Mr. Wilson's readiness to form a minority government if called upon to do so, and reaffirming that the Labour Party would not enter into any coalition or understanding with other parties.

Document 3

12. The Cabinet met at 5.45 p.m. Its discussion is recorded separately. The Cabinet agreed that the Prime Minister should approach Mr. Thorpe, the Leader of the Liberal Party, with a view to seeing whether that Party was prepared to enter into any kind of understanding on the lines discussed.

13. The Prime Minister had an audience with The Queen at 7.30 p.m. Before he left 10 Downing Street, an announcement was issued which made it clear that he was going to report to The Queen on the

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current political situation but not to tender his resignation. I accompanied him to Buckingham Palace, and reported to Sir Martin Charteris while the Prime Minister was reporting to The Queen.

14. While we were at Buckingham Palace a message was received at 10 Downing Street from Mr. de Vere Walker, of the Ulster Group of the Monday Club. Purporting to report the views of Mr. James Molyneux, the message said that Mr. Molyneux and the six other Ulster Unionists returned at the election were incensed at being reckoned separately from the Conservatives by the radio and television commentators, and could be expected to accept the Conservative whip in the new House of Commons. The significance of this was clear. If the seven Ulster Unionist members were counted with the Conservatives, the Conservatives would have a majority of one or two over Labour even without the Liberals, and with the Liberals would be in a position in which no combination could form a majority against them. But all seven of the elected Ulster Unionists had been returned on an anti-Faulkner, anti-Sunningdale agreement ticket - that of the United Ulster Unionist Council, and would thus be pledged to vote against the Government's policies for Northern Ireland. They would of course be equally opposed to any Northern Ireland policies which a Labour Government was likely to follow; but their opposition to the Government's policies would make them uncertain allies in the House of Commons, and they would be associated at Westminster with Mr. Craig and Mr. Paisley, who were not members of the Ulster Unionist party but stood for election on the same platform as the seven, and with whom the Government could have no dealings.

15. It proved impossible to make contact with Mr. Thorpe when the Prime Minister came back from the Palace, shortly after 8.00 pm. He was touring his constituency, and then taking part in a torch-light procession in Barnstaple. The Prime Minister went out to dinner with Mr. and Mrs. Michael Wolff in Holland Park. Lord Carrington was also of the party, but arrived very late: he

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went to his own home to meet Lady Carrington, not realising that she had gone straight to the Wolffs, went on after waiting for nearly an hour, and then spent some time finding the Wolffs' home because there was some confusion about the address.

16. I left a message at Mr. Thorpe's home that the Prime Minister would ring him, and we did so repeatedly, but could get no reply. Eventually, a short time after midnight, Mr. Thorpe rang back. It seemed that he had been waiting by his telephone from about 10.30 pm, but there was something wrong with it and it had never rung. He spoke to the Prime Minister, and readily accepted his invitation to come to Downing Street at 4.00 pm on Saturday 2 March (which was by that time today). He told the Prime Minister that he was content to leave it to him to decide whether the visit should be announced in advance; they agreed that nothing should be said that evening, and Mr. Thorpe said that he would try to get away from his home in North Devon without attracting the attention of the journalists there.

Saturday 2 March

17. When I first saw the Prime Minister next morning, in his flat shortly before 10.00 am, he said that, having read the newspapers, he thought it desirable that an announcement about his meeting with Mr. Thorpe should be issued as soon as possible, so that public opinion knew the course of action being followed by the Government. He instructed me to prepare the draft of an announcement, and seek Mr. Thorpe's agreement to its issue. I spoke to Mr. Thorpe on the telephone shortly before he was due to leave his home for Taunton. He agreed that the announcement should be issued, but asked that it should be delayed until after his train had left Taunton, so that he was not besieged by journalists on the train. I therefore sent the text to the Press Office for release at 12.45 pm. But by noon the press were already aware - apparently from Liberal Party sources - that Mr. Thorpe was on his way to London to see the Prime Minister; and so, after consulting the Prime Minister, I authorised the immediate release of the announcement.

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18. Mr. Thorpe subsequently told the Prime Minister of the plans he had made for getting away from his home undetected. He had sent his car, with a bag, to a neighbouring farm to await him. Then he had donned a country coat and wellington boots over his town suit, walked across three wet fields to the farm, and driven from there to Taunton. He had thus managed to avoid the waiting journalists. Even so, he found one waiting for him when he arrived at Taunton station.

19. During the morning Dame Ruth King rang up, speaking to Robin Butler. She had telephoned 10 Downing Street during the previous afternoon, urging that on no account should he be allowed to resign. She now passed on a message she had received from Mr. Craig, Mr. Paisley and Mr. West. The message was to the effect that the price for their cooperation with the Conservatives in the new House was very moderate: they would simply want a commitment to new elections to the Northern Ireland Assembly in due course. She said that Mr. West had sent a telegram to the Prime Minister.

20. From 11.00 a.m. a number of Ministers came and went: the Foreign Secretary, the Chancellor of the Exchequer, the Secretary of State for Energy, the Home Secretary and the Lord President. The Secretary of State for Employment had fallen victim to a high fever the previous day: his doctor had allowed him to go to his count, but had ordered him to bed for a week immediately thereafter. The Secretary of State for Northern Ireland also came in during the morning. He advised strongly against any attempt to come to an understanding with the eleven United Ulster Unionists, or even with the seven who were members of the Ulster Unionist party. Their objects in Northern Ireland were totally at variance with the policies to which the Government was committed. They wished to bring Mr. Faulkner down, annul the Sunningdale agreement, and destroy the constitutional arrangements created by the Northern Ireland Constitution Act 1973. Their success in the election had further weakened Mr. Faulkner's already precarious position, and any suggestion of a deal between them and the Government for the sake of support at Westminster would damage Mr. Faulkner's position still further.

21. On the other hand the Secretary of State for Energy pointed out that three of the seven Ulster Unionists had been members of the last Parliament, and had by virtue of the affiliation of the Ulster Unionists to the Conservative Party automatically received the Conservative Whip. That did not of course mean that they had accepted any obligation to support the Government in all votes; indeed, they had conspicuously not done so, and on other issues as well as Northern Ireland issues. But by the same token all seven would automatically receive the notice which the Whip's Office was issuing today. There was general acceptance that this did not justify counting their seven seats as part of the Conservative total in order to claim a majority over the Labour Party. By now any attempt to do that would be regarded by public opinion as a disreputable device for staving off the consequences of defeat, even though in practice the seven were on most issues more likely to vote with the Conservatives than with Labour.

22. Sir Michael Palliser, with whom I had arranged to have lunch, called at 1.00 p.m. and the Prime Minister invited him up to the flat, with Sir John Hunt, for a glass of sherry. Sir Michael, Sir John and I went out to lunch at the Giulietta-Romeo Restaurant in Soho. The Prime Minister lunched alone in the flat.

Document 4 23. I returned to 10 Downing Street shortly before 3.00 p.m., and prepared an aide-memoire for the Prime Minister of points to cover in his conversation with Mr. Thorpe. At about 3.15 p.m. the police at the front door reported that there was not only a battery of television cameras and a large crowd in Downing Street but also a group of International Socialists (among them Tariq Ali) beyond the barrier at the Whitehall end of the street. I therefore rang Mr. Thorpe's home and arranged for him to be driven to the Ambassadors Door of the Foreign Office, so that he could come into Downing Street by the steps from St. James's Park.

Document 5 24. During the afternoon the Secretary of State for Northern Ireland was asked to advise on a telegram from Mr. Harry West seeking discussions on behalf of the eleven members elected

Document 6

on a United Ulster Unionist Council ticket on the terms for their cooperation with the Conservatives in the new House of Commons. Mr. Pym's advice was that the implication of Mr. West's telegram was that he wanted discussions on behalf of all eleven United Ulster Unionist Council members. It would be natural for the Prime Minister to see Mr. West (without the other Ulster members) as the leader of the Ulster Unionist Party, but Mr. Pym suggested that, before the matter was considered further, some approach should be made to discover what Mr. West had in mind. This suggestion was overtaken by a conclusion of a meeting of Ministers later that evening (see paragraph 30).

25. During Saturday the Prime Minister received a very large number of telegrams from members of the public, the majority urging him to stay in office or to form a coalition; a substantial minority, however, urged resignation. The Prime Minister read them all, and asked for replies to be sent to all those which gave addresses.

26. Mr. Thorpe arrived at 4.00 p.m. with Mr. Anthony Richards.

Document 7

27. Mr. Thorpe's meeting with the Prime Minister is

Document 8

recorded separately. An agreed press statement was issued after the meeting.

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28. While Mr. Thorpe was with the Prime Minister, Mr. Kitson entertained Mr. Richards. Mr. Kitson subsequently reported that Mr. Richards was likely to advise Mr. Thorpe against entering into any arrangement with the Conservative Party, but that he thought that Mr. Thorpe might well decide differently. The Liberal Party were faced with a very difficult decision. They would fear that, if they entered a coalition with the Conservatives, they would sooner or later be swallowed up; on the other hand, if they stood out of any arrangement and as a result a Labour minority Government was formed, a further election could not be long delayed, and in that election the Liberal Party was likely to lose a great deal of the support it had attracted in this election from anti-Labour voters who were dissatisfied with the Conservative Party.

29. At 6.00 p.m. the Prime Minister held a meeting with the Foreign and Commonwealth Secretary, the Lord Chancellor, the Chancellor of the Exchequer, the Home Secretary, the Lord President, the Secretary of State for Energy, the Secretary of State for Employment and the Chief Whip. The Secretary of State for Employment had recovered from his illness sufficiently to travel down from Cumberland to London earlier in the day, though he was still taking anti-biotics and not fully recovered. The Prime Minister recounted in detail what had passed at his meeting with Mr. Thorpe. Mr. Thorpe was evidently being held on a very tight rein, and unable to enter into any kind of commitment without consulting his colleagues. After about twenty minutes, when the Prime Minister had completed his opening analysis and invited Mr. Thorpe to consider the possibility of some arrangement, Mr. Thorpe had thanked him, made it clear that he could say nothing at that stage, had undertaken to consult his colleagues, and had made as if to go. The Prime Minister had felt that the interview should not be cut so short, and had therefore gone over some of the ground in more detail. Mr. Thorpe had made another attempt to leave at about 4.45 p.m., and this too had been frustrated.

SECRET

In further analysis of the situation the Prime Minister and his colleagues confirmed their assent to the course of seeking to find out whether an arrangement with the Liberals was possible, though they recognised that this process could not be allowed to go on for too long. They agreed to meet again at 5.30 p.m. the following evening.

30. The meeting also considered the position of the Government in relation to the Ulster members. Those present agreed that there could be no question of a deal with them, for the sake of support at Westminster, which would damage Mr. Faulkner's position and the survival prospects of the new constitutional arrangements in Northern Ireland. They agreed that the seven Ulster Unionists could not be counted in the reckoning of Conservative representatives at Westminster. But it was also agreed that there was no question of declining their support, if it was offered without conditions. After discussion the Prime Minister instructed me to send a telegram on his behalf to Mr. Harry West, in reply to his telegram received in the afternoon, pointing out that the seven Ulster Unionist members would automatically receive the Conservative Whip and indicating that the Prime Minister would be glad to see Mr. West as the Leader of the Ulster Unionists. This telegram was despatched at about 10.00 p.m. Mr. West's reply, received the following day, made it clear that he regarded himself as speaking for all eleven United Ulster Unionist Council members; this made it much more difficult to contemplate any dealings with him.

31. The Secretary of State for Employment also sought decisions about the timing of the submission to him and publication of the Pay Board's report on the relative position of the miners. If Ministers so decided at once, the report could be submitted that evening and printed for publication on Tuesday 5 March. But the Government had undertaken to publish the report as a Command paper, and it could not be published in that form before the new Parliament met for the first time on Wednesday 6 March. In any case it would probably be undesirable for the report to be published until the present political uncertainty had been resolved, for fear of its becoming a counter in political manoeuvring. It was therefore decided that the report should be submitted to the Secretary of State at the opening of business on the morning of Monday 4 March; it would then be published on Wednesday 6 March.

Document 10

32. During the evening a message was received from Mr. Edward Taylor MP, about a private approach which he had received from representatives of the Scottish Nationalists. The Prime Minister agreed that Mr. Taylor, who had long-standing contacts with the Scottish Nationalists, should follow up this approach at a private meeting over lunch on Monday 4 March.

33. The Prime Minister went out to dinner with the Home Secretary at 9.00 p.m., and returned to 10 Downing Street at about 11.30 p.m.

Sunday 3 March

34. Sir Michael Fraser called at 10.30 a.m. on Sunday 3 March. The Prime Minister then left 10 Downing Street at 11.00 a.m., with Mr. and Mrs. Kitson, to have lunch with Lord and Lady Aldington at their home in Kent.

35. Sir Martin Charteris rang up during the morning to say that he would like to have a further talk with Sir John Hunt and me that afternoon. We agreed to meet at 10 Downing Street at 4.00 p.m. I mentioned to Sir Martin Charteris that, if Mr. Heath proved to be able to form an administration with Liberal participation, it was for question whether he should carry on without resigning, or whether he should tender his resignation to The Queen and immediately be invited to form a new administration, following the precedent of Mr. Ramsay Macdonald in 1931.

36. At 3.30 p.m., shortly before I was due to leave home, Mr. Thorpe rang to say that he had conferred with Lord Byers, Mr. Grimond and Mr. Steel, and with some senior Liberal peers. A decision would have to await a meeting with all his parliamentary colleagues the following morning; but he would find it useful to have a talk with the Prime Minister later in the day, before that meeting. I set a time of 5.30 p.m. Immediately Mr. Thorpe rang off, the Duty Private Secretary, Mark Forrester, came on the line to report that a British Airways VC10 had been hijacked en route from Beirut to London. I rang Lord Aldington's home to report these developments. The Prime Minister was asleep, but Lord Aldington and Mr. Kitson said that he would be back in

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London in time to talk to Mr. Thorpe at 5.30 p.m. I rang back to Mr. Thorpe, to confirm the time. I had thought that Mr. Thorpe had in mind another meeting, but Mr. Thorpe said that he thought that a telephone conversation would be sufficient, and preferable in that it would not attract public attention. I tried to report accordingly to the Prime Minister; but he had already left Lord Aldington's.

37. I was then driven from home to St. James's Palace to pick up Sir Martin Charteris. The Mall was closed to traffic, and it was a fine afternoon; so he and I walked across the Park to the Horse Guards Parade.

*Paragraph 38 has been extracted and closed,
40 years, under FOI Act s. 41(1).*

Wayland

6 October 2005

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39. When we reached the Horse Guards, at about 4.10 p.m., it was clear that there was a large crowd in Downing Street, and the garden gate was being watched by television cameramen. Sir Martin Charteris and I therefore entered 10 Downing Street through the Cabinet Office. At our meeting with Sir John Hunt, Sir Martin Charteris said that The Queen would have to decide by the following morning whether to go back to Australia on 6 March as planned, or to delay her departure. This decision was one for The Queen to make without ministerial advice either from British ministers or from Australian ministers, since only She was in a position to balance the conflicting considerations. Sir Martin said that The Queen had virtually made up her mind to delay her departure; Sir John Hunt and I said that we thought that this decision was right, indeed inevitable. It was agreed that the decision should be announced from Buckingham Palace when it had been conveyed to and cleared with the Australian authorities. It would then be for question whether The Queen should return to the East for the State Visit to Indonesia. We agreed that this would be a matter upon which The Queen would have to act in accordance with the advice of whatever British Government emerged from the present situation.

40. The Prime Minister arrived at 10 Downing Street at about 5.20 p.m., and after a brief talk with the Secretary of State for Employment, the Lord President and Sir John Hunt, he spoke to Mr. Thorpe on the telephone at about 5.40 p.m. The conversation was taken down on tape, and the transcript is recorded separately.

Document 13

41. The Prime Minister then had a meeting with the Foreign and Commonwealth Secretary, the Lord Chancellor, the Chancellor of the Exchequer, the Secretary of State for Northern Ireland, the Home Secretary, the Lord President, the Secretary of State for Employment, the Secretary of State for Energy and the Chief Whip. The Prime Minister described to his colleagues the conversation he had just had with Mr. Thorpe. The colleagues authorised the Prime Minister to make it clear to Mr. Thorpe that they were not interested in discussing any arrangement which included a change in their own

leadership. The Secretary of State for Energy said that, the more he thought about it, the stronger was his view that nothing short of full Liberal participation in Government would constitute a satisfactory arrangement. Other colleagues agreed with this view: it might have been another matter if the Conservatives had secured a larger number of seats than the Labour Party, but with a majority of Labour over Conservative (albeit a very small one) any arrangement short of full Liberal participation could not be relied upon to stand the strains that it would encounter, and would not be a basis for an administration which could command sufficient support in Parliament to enjoy the necessary degree of domestic and external confidence. Moreover, even a formal "Con-Lib" coalition government would be likely to encounter considerable difficulty in settling the miners' dispute. The Pay Board's recommendations were very generous, and would no doubt constitute a basis on which an incoming Labour Government could quickly settle the dispute; but it was to be feared that, with a Conservative or even a "Con-Lib" government, the National Union of Mineworkers' Executive would continue to stand out for their full claim. Unless there was a formal coalition, the Liberals might not be induced to try and stand on the Pay Board's recommendations.

42. There were significant disadvantages about a coalition with the Liberals, in that it would give the Liberals a veto over the whole of the Government's programme, and would involve some sort of commitment on electoral reform which very few Conservatives would be keen to offer and many might refuse to support, however cautious and qualified it might be. But these disadvantages were, in the judgment of the colleagues present and (as the previous day's discussion had shown) of the Cabinet, outweighed by the disadvantages of allowing the Labour Party to form a Government. It was therefore right to continue the discussions with Mr. Thorpe; but the Prime Minister should make it clear that there could be no question of any change of Conservative leadership, that no arrangement short of full Liberal participation in Government could be regarded as providing a basis for forming a new administration which could command sufficient support in the House of Commons to enjoy the necessary degree of confidence at home and overseas, and that on electoral reform the Cabinet could not go

beyond a commitment to support the setting up of a Speaker's Conference to examine the matter and make recommendations which could then be the subject of a free vote in Parliament. They could not commit themselves to commending a particular scheme of electoral reform to a Speaker's Conference, Conservative representatives on the Conference to supporting a scheme put forward by the Cabinet, or Parliament to voting for any particular scheme of reform, or indeed for reform in principle.

43. The meeting agreed that the Prime Minister should reply accordingly to the points raised with him by Mr. Thorpe in their telephone conversation, fully recognising that, however keen Mr. Thorpe (and, as it appeared from press reports, Mr. Grimond) might be to come to some arrangement, it was not likely that the Liberal Party as a whole would be prepared to accept an arrangement under these conditions and that, if they were not so prepared, there would be no course open to the Prime Minister other than to resign and make way for Mr. Wilson to form an administration. In view of the significance of this decision, it was agreed that it should be put to the Cabinet at a meeting at 10.00 a.m. the following morning, on the basis of a draft of a letter for the Prime Minister to send to Mr. Thorpe in time for his meeting with his parliamentary colleagues at 11.00 a.m. But there was general agreement that the uncertainty could not be allowed to continue longer than another day or so; it was therefore agreed that the Prime Minister should see Mr. Thorpe later that evening, and indicate the gist of the letter which he expected to be sending the following morning.

44. Lord Carrington also undertook to get in touch with Lord Byers that evening or the following morning, to see what his position might be and to represent to him the arguments in favour of a "Con-Lib" coalition and the difficulty for the Cabinet of committing themselves on the subject of electoral reform further than had been agreed in discussion.

45. The Prime Minister instructed me to invite Mr. Thorpe to come to 10 Downing Street for a further conversation at 10.30 p.m. In the meantime he went off at 9.00 p.m. to 11 Downing Street to dine with the Chancellor of the Exchequer, the Secretary of State for the Social Services, the Secretary of State for Education and Science, the Secretary of State for Trade and Industry, the Minister for Trade and Consumer Affairs, and Mr. Kitson. The Prime Minister told me afterwards that these colleagues had expressed their agreement with the conclusions reached at the earlier meeting.

Document 14 46. In the meantime I prepared a draft of a letter to Mr. Thorpe, on the lines agreed in the ministerial discussion, to serve as a speaking note for the Prime Minister's conversation with Mr. Thorpe and as a basis for the Cabinet's discussion the following day.

Document 15 47. Mr. Thorpe arrived at 10 Downing Street at 10.30 p.m., and left shortly after 11.00 p.m. His meeting with the Prime Minister is recorded separately. By this time Downing Street was empty - it had been raining - and his arrival and departure went unmarked by the press. The Prime Minister thought it desirable, however, that the press should be informed that there had been a further conversation between himself and Mr. Thorpe. After consulting Mr. Thorpe when he had returned home, I authorised the Chief Press Secretary to issue a statement to that effect.

Monday 4 March

Document 16 48. On arrival at 10 Downing Street shortly after 9.00 a.m. on Monday 4 March, I went up to the Prime Minister in the flat to ask if he was content with the draft letter to Mr. Thorpe which I had prepared the previous evening. He made some alterations in the draft, and invited me to have copies ready but not to circulate it to the Cabinet unless he asked me to do so.

Document 17 49. The Cabinet met at 10.00 a.m. Its discussion is recorded separately. The Prime Minister reported his conversation with Mr. Thorpe the previous evening. Lord Carrington reported that he had seen Lord Byers earlier that morning: it was clear that Lord Byers was advising against Liberal participation in Government, because he feared that the Liberal Party would be swallowed up, though he was well aware of the party's prospects at an early general election. The Cabinet endorsed the conclusions reached at the Prime Minister's meeting with his colleagues the previous evening, and there was unanimous agreement on the general lines of the reply to Mr. Thorpe. When the draft was circulated, discussion

concentrated mostly on the last paragraph, conveying the commitment to a Speakers' Conference on electoral reform. The discussion took longer than had been expected, and the letter did not leave Downing Street until about 12.15 p.m. Mr. Robin Butler took it over by hand to Mr. Thorpe's secretary at the House of Commons.

50. From now on it was clear that it was probably only a matter of hours before the Prime Minister resigned. Mr. Kitson put into operation a variety of arrangements planned against this contingency (including an offer to the Prime Minister of the use of his riverside flat near Vauxhall Bridge until the Prime Minister could make more permanent arrangements). At about 12.45 p.m. Sir William Armstrong, Sir John Hunt and Lord Rothschild came to the Cabinet Room to take leave of the Prime Minister over a glass of champagne. It was not a cheerful occasion.

51. Shortly after 1.00 p.m. it was reported on the radio and newstapes that the meeting of the parliamentary Liberal Party had ended at 1.00 p.m. in unanimous agreement. A small group was to meet at 2.30 p.m. to agree the terms of a reply for Mr. Thorpe to send to the Prime Minister and a press statement.

52. The Prime Minister lunched alone in the flat. After lunch, at 2.30 p.m., the Secretary of State for Employment came round to discuss with the Prime Minister the Pay Board's report on miners' pay. At about 3.30 p.m. the Prime Minister instructed me to inquire about the progress of the Liberal Party's drafting. I was promised a reply in about half an hour. The reply eventually came, together with a copy of a press statement, at about 4.15 p.m. The Prime Minister discussed it for a few minutes with Mr. Whitelaw and Lord Carrington, and I then prepared a draft reply, which the Prime Minister approved. The Prime Minister instructed the Cabinet to be called at 4.45 p.m. to consider the letter. It was at about this time that he confessed to me that he felt worn out.

Document 22

53. The Cabinet agreed that Mr. Thorpe's reply effectively rejected the Prime Minister's proposal for Liberal participation in Government, and brought the negotiations with the Liberal Party to an end. They approved the draft reply to Mr. Thorpe, with some amendments. They noted that the Prime Minister would tender his resignation to The Queen as soon as possible. The meeting ended at about 5.20 p.m.

Document 23

54. The Prime Minister said that he did not want to return to Downing Street after resigning. He would go from Buckingham Palace straight to Conservative Central Office, and from there to Tim Kitson's flat. He instructed me to seek audience of The Queen at 6.30 p.m.; in the meantime he would pack up a few things, and he would like to say goodbye to the staff and give them a drink at about 5.40 p.m. I rang up Sir Martin Charteris at about 5.25 pm, and arranged for the audience at 6.30 p.m.

55. The staff assembled in the Blue Room at 5.40 p.m. The Prime Minister came in a few minutes later, and circulated among them saying goodbye. I left the party for a few minutes at 6.00 p.m. to ring Mrs. Marcia Williams, to warn Mr. Wilson that he could expect a telephone call from Buckingham Palace at about 7.00 p.m. or soon thereafter, and to find out where Mr. Wilson would be. At about 6.10 p.m. the Prime Minister said a few words to the assembled staff. He said that the staff was the No. 10 family and that he could not have been better served, and he thanked them all for all that they had done. I replied very briefly, saying that it was a very sad occasion for the family who were proud to have served him, thanking him for his kindness and thoughtfulness to us all, and wishing him good health and better luck.

Document 24

56. At 6.15 p.m. Robin Butler took the Prime Minister's reply to Mr. Thorpe over to the House of Commons. At 6.20 p.m. a statement was issued to the press announcing that the Prime Minister was going to The Queen at 6.30 p.m. to tender his resignation. Copies of the exchange of letters with Mr. Thorpe were released at the same time. At 6.25 p.m. the Prime Minister left 10 Downing Street for Buckingham Palace. I went with him; and on the drive we neither of us said a word. There was so much, or nothing, left

57. When Sir Martin Charteris had taken the Prime Minister to The Queen, he came down to the Equerry's Room and took me to his own room. When we arrived there, he made some expression of sympathy: I do not remember exactly what he said, but I remember that I nearly broke into tears when he said it. He showed me, and I agreed, the draft of an announcement to be put out from Buckingham Palace when the Prime Minister had resigned. We discussed the events of the last three days; and we also discussed The Queen's plans. Sir Martin Charteris said that She would open Parliament herself on Tuesday 12 March, but without ceremonial. We agreed that it seemed likely that the new Prime Minister would advise her to carry out the State Visit to Indonesia thereafter, as evidence of a return to more normal conditions.

*Paragraph 58 has been extracted and closed,
40 years, under FOI Act, ss. 37(1)(b) and 41(1)*

*Paragraph 59 has been extracted and closed,
40 years, under FOI Act s. 41(1).*

*Wayland
6 October 2005*

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Paragraph 59 has been extracted and closed,
40 years, under FOIA s. 41 (1)

Wayland

6 October 2005

ReAmstrong

16 March 1974

PRIME MINISTER

*Pl see for margin note
on your p 2, + my note
to the blue memorandum.
+H
A leaf
handy.
H2*

I attach a note by Lord Crowther-Hunt on the constitutional situation which might arise if the Opposition amendment was carried on Monday evening. It was written after discussion with me on the basis of a minute which I had prepared for you, and which I also attach.

As you will see, Lord Crowther-Hunt and I are in very close agreement in our assessment and advice.

In particular, we believe that, so long as you are Prime Minister, the initiative and the final decision lie in practice with you. The Queen would not consult anybody or take any action, unless you had first either tendered your resignation or asked for a dissolution. And I believe that, even if her consultation showed that someone else was in a position to form a Government, she would not refuse a request for a dissolution but ask you to consider, in the light of the outcome of her consultation, whether you wished to maintain your request or to resign so that someone else could form a Government without a dissolution.

There are two points at the margin on which I do not wholly agree with Lord Crowther-Hunt. He believes that The Queen could not in practice send for anybody else other than the elected leader of a party. I believe that to be true of the Labour Party, but I am not sure that it is true of the Conservative Party. I think I can see a situation in which someone else other than the elected leader of the party was allowed to form a Government; his election as leader of the party might then follow as ratification.

The other point on which I do not quite agree with Lord Crowther-Hunt is in the last paragraph of his minute. I think that, if following your request for a dissolution the Queen undertook consultations, and those consultations showed that Mr. Heath could now form a Conservative/Liberal

X coalition Government, because both the Conservative and Liberal Parties had sufficiently changed their minds to make that possible, The Queen would not be debarred from sending for Mr. Heath if you resigned. But I think that we are talking about a very remote contingency, because I very much doubt whether the Conservative Party would accept the necessary degree of commitment to electoral reform, I doubt whether the Liberal Party would be ready to come into a coalition with the Conservatives, and I think that in any case Mr. Heath might conclude that he could not form a Government which would be able to handle the sort of industrial situation which might arise if he returned to office without having won a clear majority in a further election, *and because X above would not happen in such circumstances.*

REA

16 March 1974

*p.a. on the new
"Constitutional" file*

TRANSCRIPT OF A CONVERSATION WITH MR. JOHN BARNES OF THE
LONDON SCHOOL OF ECONOMICS ON THE "TODAY" PROGRAMME ON
FRIDAY 15 MARCH 1974

Interviewer

Well, it looks very much as if we may be heading for one of the most complicated constitutional crises of modern times. If the combination of Conservative and Liberal votes succeeds in defeating the Labour Government in the Debate on the Queen's Speech, what then? According to precedent Mr. Wilson it is believed could resign. But how does that apply to a minority government when there are only minority parties to take its place? Well, with me is John Barnes, Lecturer in Government at the London School of Economics. Mr. Barnes, can we, if we assume first of all that Mr. Wilson loses this vote on the amendment, what is the next move?

Mr. Barnes

I think then The Queen would consult with Mr. Wilson. I think she might well ask his advice to call the three Party leaders together and to discuss the resulting situation. At the same time I think she would be taking a great deal of advice both informal and formal through her Private Secretary and she will be looking for a Government which could command some kind of majority inside the House of Commons.

Interviewer

Is it automatic that a Prime Minister resigns if he is defeated on a Queen's Speech Debate?

Mr. Barnes

It would be pretty unprecedented if he didn't. It's possible, I think, to accept the will of the House and carry on governing, but very unlikely. There are good precedents for refusing to accept minor votes against you and putting down a vote of confidence the next day to put the situation right. Churchill did it for example, on equal pay during the war.

Interviewer

Would this count as a minor vote though?

Mr. Barnes

I think this would be a bit too major to play it that way, and as I understand it both major parties are now indicating that they do regard it as a test of confidence.

Interviewer

Well if The Queen does call for Mr. Wilson and perhaps the leaders of the other two parties, what can be devised then?

Mr. Barnes

Well then The Queen will want to try and devise some kind of coalition arrangement. Clearly the Liberals would be advising a grand coalition, clearly the other parties may not be too happy about that, and it may be that she would have to turn to a figure standing outside the immediate party leadership. If no Government can be formed then she could ask a Conservative leader to carry on a minority government. Lord Salisbury did so in 1885 - I think this was the last time and that would be possible for a month or two: a kind of caretaker government if you like.

Interviewer

But supposing all three leaders were anxious not to have a General Election but yet couldn't agree on how they could work any sort of coalition. How much power does The Queen have to say you will do so and so, or does she have no power at all?

Mr. Barnes

No power, but a very considerable influence. Her job is to find a leader who can command some kind of support from the House of Commons and she is not bound, I think, to accept any one of the three party leaders in those circumstances. The Queen could I suppose grant a request for a dissolution but I think it would be very unprecedented so to do, and therefore I think she will be trying to find a government to carry on at least for two or three months.

Interviewer

Is that, looking back at the previous precedence, your own opinion of what would happen if this defeat took place?

Mr. Barnes

Yes, I think so. It's really unknown for a Prime Minister who has not been sustained by the House of Commons to be able to ask for a dissolution and I think The Queen would have to look for another Government. And that means looking for another Prime Minister.

Interviewer

Mr. Barnes, thank you. Well that's the constitutional position on next Monday's vote.



PRIME MINISTER

1. You asked me to let you have a note on the Constitutional situation which might arise if the Conservative amendment is carried on Monday. I have discussed the situation with Robert Armstrong and we are in broad agreement that the situation would be as set out in the following paragraphs.

2. Our understanding is that you would in theory have a choice of four courses of action, but in practice the choice is narrowed to two. The four courses of action theoretically open to you are as follows:-

a. You might choose not to regard such a defeat as a vote of no confidence. Thus you would need to take no further action beyond taking note of the view expressed by Parliament. The case for this is set out at Alternative A below.

b. If you decided to reject a. we assume you would call for a vote of confidence on Tuesday or Thursday. If you were defeated in such a vote we believe you would have a choice of three courses:-

- (i) to see whether you could form a broader-based administration which would rely on sufficient support in the House of Commons to carry on government and command a sufficient degree of confidence overseas;
- (ii) to tender your resignation and advise the Queen to send for Mr Heath;
- (iii) to request the Queen to dissolve Parliament and call another election.

From what you have said it is clear that you would not want to follow b(i) or b(ii). Thus for all practical purposes you are left with a. or b(iii). The implications of these alternative courses are set out below.

Alternative A

3. You could decide (in view of the likely contents of Mr Foot's speech on Monday) that the Conservative amendment does not in fact ask for any basic change in the policy your government is anyway proposing to follow. So you could note ~~of~~ the view of the House and leave it at that. After all, the Conservatives are NOT challenging by their amendment the overall policies and programme set out in the speech. In our view, however, to follow such a course would involve you in much hostile political criticism.

Alternative B

4. If you decided to reject alternative A we assume you would not resign after a defeat on Monday but would call for a vote of confidence on either Tuesday or Thursday. ^{Too early.} Our understanding is that there are good precedents for calling for such a vote of confidence after a defeat on the Queen's speech. And the case for doing so in this instance (in the event of a defeat on Monday evening) is strengthened by the fact of the Queen's absence abroad. If you were to decide to have the vote of confidence on Thursday, 21 March, the Queen would have time to get back (at the cost of cutting short her State Visit to Indonesia, from which she is due to return on 23 March). The length of the interval between a defeat and a vote of confidence would be determined by political considerations, but ought not to be too long.

5. If you were defeated in the vote of confidence, it would be crucial not to resign. As Prime Minister you could then ask the Queen for a dissolution. Some constitutional experts would argue that the Queen must agree to such a request. Others ^{*} would argue that the Queen does not necessarily have to grant a dissolution to her Prime Minister. But it is generally agreed that the only circumstances in which she could refuse such a request is if an alternative leader is available who could form a government which would command a majority in the House without a dissolution (eg South Africa, 1939 when Prime Minister

/General Herzog

as after
the Budget
of April 1st,
when the
stall is
fully set
out

* including
both of
us at
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General Herzog was refused a dissolution on the grounds that General Smuts could form a government without a dissolution). Clearly, however, it would be wrong to refuse a dissolution to you only to find she had to grant an early dissolution to your successor (eg Canada in 1926 when the Liberal Prime Minister, Mr Mackenzie King, was refused a dissolution on the ground that the Conservative Leader Mr Meighen could form a government without one. But when Mr Meighen was defeated three days later there was much criticism that he was given a dissolution which three days earlier has been refused to the Liberal Prime Minister).

6. The constitutional position set out in para 5 has been modified in the light of an important change which has taken place in our political parties. Each main party now has a recognised and accepted mechanism for electing its leader (the Conservatives came into line after the resignation of Sir Alec Douglas Home). It follows from this that the Monarch's traditional discretion in the choice of whom to invite to form a government has in practice been limited - and this, of course, was why the Conservatives brought about this change in their own case in view of the way Sir Alec Douglas Home was 'chosen' at the time of Mr Macmillan's resignation. Thus in most situations the Queen must send for whoever is the duly elected leader of one of our main political parties. For example, if you as Prime Minister asked for a dissolution, it would not in practice be possible for the Queen (without the consultations referred to in para 7) to invite, say, Mr Whitelaw or Mr Jenkins to see if either could form a government. Such action would mean that the Monarch could be responsible for splitting one of the main political parties (the Conservatives if she sent for Mr Whitelaw, or Labour if she sent for Mr Jenkins). Such monarchical involvement in the internal politics of either party would inevitably lead to much public and bitter criticism of the Monarchy; and it might be noted in this connection that when George V asked Ramsay MacDonald to form a coalition government in 1931 Ramsay MacDonald was still the duly elected leader of the Labour Party.

7. We believe that the events of the week-end 1-4 March make it clear that as long as you remain Prime Minister there could be no direct or formal contact between the Queen and the Leaders of Opposition Parties. However, before deciding whether to grant your request for a dissolution we believe the Queen might consider it her duty to see if another election were avoidable. In that event she would presumably say formally to you that she thought it right to carry out consultations. She would probably invite you to offer advice on whom she might consult, though she would not be bound to restrict her consultations to the names you might suggest. She might consult elder statesmen (Harold Macmillan, Douglas Houghton, Lord Shinwell, Lord Shackleton spring to mind). And she might seek either through such consultations or through her Private Secretary or both to ascertain what were the possibilities of an administration being formed (not necessarily by one of the existing party leaders). Such soundings within the Labour Party would be hazardous in the extreme (partly because they would be certain to leak) and the Queen would need to be advised of the dangers of such a course.

*NOTE
The Collyer
speech.*

8. Before the Queen could send for someone who was not already the leader of his party she would have to have satisfied herself as far as possible that he stood a reasonable chance of commanding the support of his party, including its leader, and of a sufficient number of members of other parties. One of us (Lord Crowther-Hunt) believes that such a course of action by the Queen would not in practice be possible.

9. If the Queen's consultations led her to the conclusion that no one else was in a position to form an administration which could command as much or greater support than your own, she would presumably send for you and grant your request for a dissolution. However, if her consultations led her to the conclusion that some one else could form an administration which could count on the support of at least as many and preferably more members than you could count on, she would presumably send for you. We doubt if she would

/then

then refuse the request for a dissolution outright. We believe that she would probably report the outcome of the consultations to you, and go on to say that she felt bound in the circumstances to ask you to consider your position further, and to decide, in the light of the knowledge that some one else was in a position to form an administration with as much or greater support, whether you wished to maintain your request for a dissolution and an election so soon after, and therefore perhaps no more conclusive than, the last, or whether you would resign and make way for the some one else who was believed to be in a position to form an administration. So we believe that the decision would then rest with you again; and you would presumably want to consult your colleagues. We do not think that it is possible to say now what your decision might be: it would be so much influenced by all that had happened in the meantime.

10. During the process of consultation the notion of a government of national unity would no doubt be much discussed and you would have to consider your position in relation to that. It seems to us that the only possible way in which such a coalition government could emerge is if the Queen summoned a Round Table Conference of all the present Party Leaders to see if there could be an all-party agreement to serve under a single figure. But if there could not be such an all-party agreement then such a conference would be abortive and the Queen would have to give you your dissolution.

11. There are suggestions abroad that if you ask for a dissolution Mr Heath might in the end be asked to see if he could form a government. One of us (Lord Crowther-Hunt) believes that such a course would not in practice be possible. Since Mr Heath has already tried to form a government and failed, the Monarch could hardly ask him to try again - with the risk that she would then in the near future have to give him the dissolution she had denied to you.

C-H.

THE LORD CROWTHER-HUNT

15 March 1974.

And I doubt
if she could
do this save
in a situation
of overwhelming
national
crisis.

RIA

SECRET

AND PERSONAL

PRIME MINISTER

We discussed briefly the consequences of a Government defeat on a vote which you decided to regard as a vote of confidence.

My understanding is that you would have a choice of three courses:

- (1) to see whether you could form a broader-based administration which would rely on sufficient support in the House of Commons to carry on government and command a sufficient degree of confidence overseas;
- (2) to tender your resignation and advise The Queen to send for Mr. Heath;
- (3) to request The Queen to dissolve Parliament and call another election.

You have said that you are not interested in the idea of a coalition.

If you followed the second course, Mr. Heath would not kiss hands at once, but undertake to go away and see if he could form an administration. He would presumably have to see if the Liberal Party had changed their minds. If they had not, he would presumably have to go back and decline The Queen's commission, and advise a dissolution.

As to the third course, if the Prime Minister requests a dissolution, The Queen is not constitutionally bound to grant that request. Bearing in mind the Canadian precedent (of which her Private Secretary is well aware), she would in my view be very unlikely to refuse such a request outright. But, if such a request was made within a very short period after an election, she would be entitled to, and she might (not necessarily would), take the view that it was her duty to satisfy herself that another election was unavoidable, and therefore that, before deciding

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AND PERSONAL

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whether to grant the request, she should undertake consultations to see whether there was any possibility of an administration being formed which could carry on government at any rate for some months.

In that event she would presumably say formally to the Prime Minister that she thought it right to carry out consultations, and would let him know her answer to his request when she had carried out those consultations. She would probably invite the Prime Minister to offer advice on whom she might consult, though she would not be bound to restrict her consultation to any names which the Prime Minister might suggest.

There could presumably be no direct or formal contact between The Queen and Leaders or other members of Opposition parties in the House of Commons. She might herself consult elder statesmen (Harold Macmillan and Douglas Houghton spring to mind); she might consult senior members of the House of Lords (Lords Shackleton, Carrington and Byers, for example); and she would seek either through such contacts or through her Private Secretary or both to ascertain what were the possibilities of an administration being formed (not necessarily by one of the existing party leaders). The fact that both major parties now elect their leaders would make this sort of operation considerably more delicate than in the past. The Queen is not strictly limited to leaders of parties in her choice of Prime Minister; but before she could send for some one who was not already the leader of his party, she would have to have satisfied herself as far as possible that he could expect to be able to command the support of his party, including its leader, and of a sufficient number of members of other parties. Even so, any one for whom she sent in such circumstances might still need time to find out whether he could form an administration.

If The Queen's consultations led her to the conclusion that no one else was in a position to form an administration which could command as much or greater support, she would presumably send for you and grant your request for a dissolution.

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AND PERSONAL

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If her consultations led her to the conclusion that someone else could form an administration which could count on the support of at least as many and preferably more members than you could count on, I doubt if she would then refuse the request for a dissolution outright. I believe that she would probably send for you, report the outcome of her consultations to you, and go on to say that she felt bound in the circumstances to ask you to consider your position further, and to decide, in the light of the knowledge that someone else was in a position to form an administration with as much or greater support, whether you wished to maintain your request for a dissolution and an election so soon after, and therefore perhaps no more conclusive than, the last, or whether you would resign and make way for the someone else who was believed to be in a position to form an administration. So I believe that the decision would then rest with you again; and you would presumably want to consult your colleagues. I do not think that it is possible to say now what your decision might be: it would be so much influenced by all that had happened in the meantime.

During the process of consultation the notion of a government of national unity would no doubt be much discussed, and you would have to consider your position in relation to that. But I cannot at present see the circumstances in which The Queen would think it right to send for you, Mr. Heath and Mr. Thorpe together, unless we were plunged into a situation of overwhelming crisis on the economic or monetary front.

There are two other points to note:-

- (1) My understanding is that a vote on the Address in Reply to The Queen's speech can be, but need not be, treated as a vote of confidence. There are good precedents for calling for a vote of confidence as a result of such a defeat. The case for doing so in this instance (in the event of a defeat on Monday

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evening) is strengthened by the fact of The Queen's absence abroad. If you were to decide to have the vote of confidence on Thursday 21 March, The Queen would have time to get back (at the cost of cutting short her State Visit to Indonesia, from which she is due to return on 23 March). The length of the interval between a defeat and a vote of confidence would be determined by political considerations, but ought not to be too long.

- (2) The events of the weekend 1 to 4 March show that The Queen would not regard herself as free to have any consultations, or indeed take any action, in this field, until you had either tendered your resignation or requested a dissolution.

RAA

15 March 1974

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ROBERT ARMSTRONG

I attach a draft note which I have done for the Prime Minister on the Constitutional Situation. I did it rather hurriedly in the train this morning. I have not yet seen your draft. I imagine the best course is for you and I to get together as soon as possible to discuss our respective drafts with a view to submitting a single document to the Prime Minister. It might, perhaps, be a good idea if our joint effort first formed the basis of discussions which the Prime Minister asked me to have with the Lord Chancellor and Mr Silkin today.

Clowther - Hunt.

LORD CLOWTHER HUNT

15 March 1974



DRAFT NOTE

PRIME MINISTER

1. You asked me to let you have a note on the Constitutional situation which might arise if the Conservative amendment is carried on Monday. It seems to me that there are two alternative courses of action which you could follow. They are set out below.

Alternative A

2. You could decide (in view of the likely contents of Mr Foot's speech on Monday) that the Conservative amendment does not in fact ask for any basic change in the policy your government is anyway proposing to follow. So you could take note of the view of the House and leave it at that. After all, the Conservatives are NOT challenging by their amendment the overall policies and programmes set out in the speech.

*Have to
have a
vote of
confidence.*

Alternative B

3. If you chose not to follow the recommendation in para 2 you could call for a vote of confidence on Tuesday or Thursday. If you chose to do that - and if you were defeated in the vote of confidence the constitutional position as I see it is set out in the following paragraphs.

4. If you were defeated in the vote of ~~no~~ confidence, it would be crucial not to resign. As Prime Minister you could then ask the Queen for a dissolution. Some constitutional experts would argue that the Queen must agree to such a request. Others would argue that the Queen does not

/necessarily

necessarily have to grant a dissolution to her Prime Minister. But it is generally agreed that the only circumstances in which she could refuse such a request is if an alternative leader is available who could form a government which would command a majority in the House without a dissolution (eg South Africa, 1939 when Prime Minister General Herzog was refused a dissolution on the grounds that General Smuts could form a government without a dissolution). Clearly, however, it would be wrong to refuse a dissolution to you only to find she had to grant an early dissolution to your successor (eg Canada in 1926 when the Liberal Prime Minister, Mr Mackenzie King was refused a dissolution on the ground that the Conservative Leader Mr Meighen could form a government without one. But when Mr Meighen was defeated three days later there was much criticism that he was given a dissolution which three days earlier has been refused to the Liberal Prime Minister).

5. The Constitutional position set out in para 4 has now to be modified in the light of an important change that has taken place in our political parties. Each main party now has a recognised and accepted mechanism for electing its leader (the Conservatives came into line here after the resignation of Sir Alec Douglas Home). It follows from this, in my view, that the Monarch's traditional discretion in the choice of whom to invite to form a government has inevitably been limited - and this, of course, is why the Conservative Party brought about this change in their own case in view of the way Sir Alec Douglas Home was "chosen" after Mr Macmillan's resignation. It must now be, therefore, that in any situation the Queen must send for

/whoever

✓
Too
sweeping

whoever is the duly elected leader of one of our main political parties. It would be, in my view constitutionally improper to send for someone who was not the duly elected leader. Thus it would not be constitutionally proper, if you as Prime Minister asked for a dissolution, for the Queen to invite, say, Mr Whitelaw or Mr Jenkins to see if either could form a government. Such action would mean that the Monarch would be responsible for splitting one of the main political parties (the Conservatives if she sent for Mr Whitelaw in these circumstances, or Labour if she sent for Mr Jenkins). Such monarchical involvement in the internal politics of either party would inevitably lead to much public and bitter criticism of the monarchy, and it might be noted in this connection that when George V asked Ramsay MacDonald to form a national government in 1931 Ramsay MacDonald was still the duly elected leader of the Labour Party.

No.

6. It follows from paragraph 5 that if you as Prime Minister asked for a dissolution the Monarch's sole course of discretion, if she wished to refuse such a dissolution, will be to send for one of the duly elected Party Leaders. Since Mr Heath has already tried to form a government and failed the Monarch should hardly ask him to try again - and possibly then have to give him the dissolution she had denied to you. So if she denied a dissolution to you the only possible course would be to send for Mr Thorpe. It can hardly be thought that Mr Thorpe could even begin to form a government. Neither the Conservatives nor Labour Parties would serve under him. So one is inevitably driven back to the conclusion that if you as Prime Minister ask for a dissolution the Monarch in fact would have no practical alternative but to give you one.

No.

7. It seems to me that the only possible way in which a coalition government could emerge is if the Queen sommoned a Round Table COnference of all the present Party Leaders to see if there could be an all-party agreement to serve under a single figure. But if there could not be such an all-party agreement then such a conference would be abortive and the Queen would have to give you your dissolution.

Seen by MFF 15/3

- PM telephoned Mellish Chief Whip
8.27 am - Friday 15 March
-

The PM asked the chief whip if he had heard the BBC radio 4 news and today programme and said that several people ^(party members) had telephoned him about the constitutional position as outlined by Barnes(?) LSE. What Barnes had said was in effect that if the Govt ~~was~~ ^{was} defeated on Monday the PM would be obliged to resign and the Queen would ~~be~~ have to send for Mr Heath. The PM said this was not right and that he

thought the Chief Whip should telephone

a protest to the BBC ~~program~~ before

the programme finished, ^{saying that the Govt does not think that this is the proper} ~~particular~~ _{li}

protesting about the announcer

announcers comment at the

end which was something on the

lines of "Well that is the constitutional position".

Jano Hallaway

15/3/74

TRANSCRIPT OF A CONVERSATION WITH MR. JOHN BARNES OF THE
LONDON SCHOOL OF ECONOMICS ON THE "TODAY" PROGRAMME ON
FRIDAY 15 MARCH 1974

Interviewer

Well, it looks very much as if we may be heading for one of the most complicated constitutional crises of modern times. If the combination of Conservative and Liberal votes succeeds in defeating the Labour Government in the Debate on the Queen's Speech, what then? According to precedent Mr. Wilson it is believed could resign. But how does that apply to a minority government when there are only minority parties to take its place? Well, with me is John Barnes, Lecturer in Government at the London School of Economics. Mr. Barnes, can we, if we assume first of all that Mr. Wilson loses this vote on the amendment, what is the next move?

Mr. Barnes

I think then The Queen would consult with Mr. Wilson. I think she might well ask his advice to call the three Party leaders together and to discuss the resulting situation. At the same time I think she would be taking a great deal of advice both informal and formal through her Private Secretary and she will be looking for a Government which could command some kind of majority inside the House of Commons.

Interviewer

Is it automatic that a Prime Minister resigns if he is defeated on a Queen's Speech Debate?

Mr. Barnes

It would be pretty unprecedented if he didn't. It's possible, I think, to accept the will of the House and carry on governing, but very unlikely. There are good precedents for refusing to accept minor votes against you and putting down a vote of confidence the next day to put the situation right. Churchill did it for example, on equal pay during the war.

Interviewer

Would this count as a minor vote though?

Mr. Barnes

I think this would be a bit too major to play it that way, and as I understand it both major parties are now indicating that they do regard it as a test of confidence.

Interviewer

Well if The Queen does call for Mr. Wilson and perhaps the leaders of the other two parties, what can be devised then?

Mr. Barnes

Well then The Queen will want to try and devise some kind of coalition arrangement. Clearly the Liberals would be advising a grand coalition, clearly the other parties may not be too happy about that, and it may be that she would have to turn to a figure standing outside the immediate party leadership. If no Government can be formed then she could ask a Conservative leader to carry on a minority government. Lord Salisbury did so in 1885 - I think this was the last time and that would be possible for a month or two: a kind of caretaker government if you like.

Interviewer

But supposing all three leaders were anxious not to have a General Election but yet couldn't agree on how they could work any sort of coalition. How much power does The Queen have to say you will do so and so, or does she have no power at all?

Mr. Barnes

No power, but a very considerable influence. Her job is to find a leader who can command some kind of support from the House of Commons and she is not bound, I think, to accept any one of the three party leaders in those circumstances. The Queen could I suppose grant a request for a dissolution but I think it would be very unprecedented so to do, and therefore I think she will be trying to find a government to carry on at least for two or three months.

Interviewer

Is that, looking back at the previous precedence, your own opinion of what would happen if this defeat took place?

Mr. Barnes

Yes, I think so. It's really unknown for a Prime Minister who has not been sustained by the House of Commons to be able to ask for a dissolution and I think The Queen would have to look for another Government. And that means looking for another Prime Minister.

Interviewer

Mr. Barnes, thank you. Well that's the constitutional position on next Monday's vote.

