10 53

10 DOWNING STREET

From the Principal Private Secretary

Sir Robert Armstrong

QUESTIONS OF PROCEDURE FOR MINISTERS

The Prime Minister has seen your minute of 16 December about the request from the Sub-Committee of the Treasury and Civil Service Department for a copy of Questions of Procedure for Ministers (QPM).

The Prime Minister agrees with the advice in paragraph 4 of your minute that you should tell the Clerk that, as the document is a Cabinet paper, giving it to the Sub-Committee would be contrary to the Memorandum of Guidance for Officials, and you should draw the Sub-Committee's attention to the memorandum by your predecessor to which you refer in your minute.

I am sending copies of this minute to the Private Secretaries to the Lord Privy Seal and the Minister of State, Privy Council Office.

NLW

18 December, 1985.

CONFIDENTIAL

Prime Minister

Agree the Sub Cttee should not be given Questions of Procedure as advised in §4 below?

N.L.W.
17.12.

Ref. A085/3282

PRIME MINISTER

Questions of Procedure for Ministers

The Sub-Committee of the Treasury and Civil Service Committee has asked for a copy of Questions of Procedure for Ministers (QPM), in connection with its current inquiry into 'Civil Servants and Ministers: Duties and Responsibilities'. I attach the letter of 12 December from the Clerk, in which the Clerk states that the copy would be kept in secure conditions, and not copied or otherwise reproduced. The Sub-Committee have probably learned of the document's existence from an article of 5 September by Hugo Young (attached), which claims to quote from the 1966 edition.

2. QPM is a Cabinet paper. The Memorandum of Guidance for Officials Appearing Before Select Committees, paragraph 27 (attached), states that:

> 'In no circumstances should any Committee be given a Cabinet paper or extract from it'.

The Memorandum has the approval, albeit grudging, of the Liaison Committee.

3. So far as I am aware, QPM has never been given to a Parliamentary body, though specially-prepared memoranda covering part of the subject matter have occasionally been provided to Select Committees and other bodies: notably, a memorandum by my predecessor on Minister's private interests, which in effect reproduced the relevant paragraphs of QPM, was sent to the Royal Commission on Standards of Conduct in Public Life in March 1975, and copies were placed in the libraries of the two Houses. QPM

is personal guidance from the Prime Minister to his or her Ministerial colleagues. I do not think that the Sub-Committee, or the House itself, have any reasonable grounds for demanding to see it, even if it were likely to assist a Select Committee inquiry, which in the present case it is not.

4. I therefore propose that the reply to the Clerk should say that, as the document is a Cabinet paper, giving it to the Sub-Committee would be contrary to the Memorandum of Guidance for Officials; but should draw the Sub-Committee's attention to the memorandum by my predecessor to which I have referred. It is possible that the Sub-Committee (chairman Mr Austin Mitchell, with Mr Brian Sedgemore a member) will seek to move the main Committee (chairman Mr Terence Higgins) to report the refusal to the House. I am therefore copying this minute to the Lord Privy Seal, who I understand has himself had a request for QPM from Mr Higgins. I am also copying it to Mr Luce for information.

LPS agreed with, RTAs advice.

5. The Sub-Committee have asked to receive QPM by 12 noon on Wednesday, 18 December. Arrangements are being made to tell them that it is not likely to be possible to meet this deadline.

MS

for ROBERT ARMSTRONG

16 December 1985

RTAAAV

COMMITTEE OFFICE
HOUSE OF COMMONS
LONDON SW1A 0AA
01-219 5766 Direct Line
01-219 3000 Switchboard

TREASURY AND CIVIL SERVICE COMMITTEE
SUB-COMMITTEE

12 December 1985

Bob Hewes Esq
Room 61
3rd Floor Machinery of Government Division
Cabinet Office (MPO)
70 Whitehall
LONDON
SW1A 2AS

Dear Bob

At its meeting yesterday the Sub-Committee considered progress on its inquiry into Civil Servants and Ministers: Duties and Responsibilities. The Sub-Committee agreed that it would be of great assistance to its inquiries if Members were able to consult the document known as "Questions of Procedure for Ministers."

I have been instructed to ask MPO to let the Sub-Committee have a copy of the most recent edition of this paper. The Sub-Committee is aware of the memorandum's classified status. I understand that Members would be prepared, if necessary, to receive a single copy which would be kept in a security cabinet in the Clerk's office, available for consultation there or at meetings of the Sub-Committee or full Committee. The text would not be copied or otherwise reproduced.

I look forward to hearing from you shortly. Members would hope to be able to gain access to the memorandum on the above-mentioned basis before 12 noon on Wednesday 18 December.

Yours sincerely

S PRIESTLEY
Clerk to the Committee

9150

The secret code that locks the Cabinet door against 50 million enemies

COMMENTARY

Hugo Young

MINISTERS are the most public people but they live, it turns out, by secret rules. This will have been the first discovery of those eager backbenchers hoisted into government two days ago. They are subject to a code of conduct which tells them what to do and how to behave in almost all circumstances. Although lacking even the vestige of a security aspect, this intriguing state paper has, curiously, never been published. It is time to bring it out of the closet.

A copy of it is in my possession. It contains a formidable set of rubrics which, were they to be published as a matter of course, would provide meat for much debate about the degree to which ministers in fact observe the rules, as well as clarifying some of the reasons why ministers and officials act as they do vis-a-vis the outside world. It is for this very reason, presumably, that Questions of Procedure for Ministers, as it is drily called, remains such a jealously-guarded document.

Quite a lot of it is taken up with what might be called the serious trivia of ministerial life. Thus, Rule 1 says that a summons to the Privy Council must take precedence over all other engagements, and that a minister must drop everything to ensure that he has "ample time to reach the Palace." Later we learn that a Cabinet minister who intends to go abroad should secure not only the agreement of the prime minister but the permission of the Queen.

Other relatively minor matters include such diverting details as an instruction about who may and may not continue to be a "name" at Lloyd's. All ministers are enjoined to "avoid speculative investments in securities about which they have, or may be thought to have, early or confidential information." They must not be associated with any body, "even of a philanthropic character" which might have dealings, however remote, with government. Also, ministers "should not, while holding office, accept decorations from foreign countries". And they should watch what they say at all times: "Special care is needed in conversations at social functions at embassies or at other functions at which foreign diplomatic representatives are present."

But the guts of Questions of Procedure concern the conduct of Cabinet business and, in particular, the control of information about it inside and outside the Government. We see here, newly spelled out for private consumption, the overriding obsession which the official mind has with confining all possible information within the narrowest possible circle. As evidence that secrecy is not merely a procedural tool but is at the heart of the Government's very being, the document adds fresh weight to an already substantial corpus.

The rulebook has a lengthy pedigree. A version of it seems first to have been put together after the first world war, with the greater formalisation of Cabinet business which occurred at that time. Since then it has evolved by accretion, under the hand of different Cabinet Secretaries, as successive prime ministers have added more and more rules to the list to meet changing circumstances.

The 1936 version runs to a mere four pages, and consists mainly of somewhat testy injunctions to ministers to circulate papers to the Cabinet only after they have worked out the legal and financial implications of their proposals. At that time, personal conduct seems to have required no instruction. But the 1983 edition, covering everything from the propriety of private pension schemes to the rules about travelling wives, is more than six times as long.

The edition quoted here was put out by Harold Wilson after the 1966 election. There is no reason to suppose, however, that its central passages have been significantly altered, still less than the prime ministerial power it delineates has been in any way diminished. Serving ministers, when shown it, aver that while parts have been "modernised" and the process of accretion keeps on adding to it, the essential sense of it remains the same. Ministers from the Callaghan Government—who were obliged to return their copies on leaving office—recall large chunks of the 1966 version surviving unaltered at least until 1979.

Some of the rules are not very surprising but, formally laid down what is a quasi-constitutional text, they throw more precise light than has been available on the hidden places of government.

"Normally," the rulebook states, "the Cabinet Office should be given seven days' notice of any business which a minister wishes to bring before the Cabinet." Memoranda must have been circulated at least two working days before being put on the agenda. These rules may only be broken with the Prime Minister's permission "which will be granted only for reasons of extreme urgency." Nothing may be raised orally without the Prime Minister's prior consent.

With these Cabinet papers we come to the first weapons of control. They are not meant to be circulated by the minister who actually writes them. If Peter Walker, says, wants to circulate a dissenting minute on the economic situation, the rule says he should do so only through the Cabinet Office. All copies are made and sent out by them. Strictly speaking, the minister must apply to the Cabinet Office for more copies of his own minute.

The Cabinet minutes themselves are not minutes at all. The record of Cabinet meetings "is limited to the decisions taken and such summary of the discussion as may be necessary for the guidance of those who have to take action on them." The Cabinet Secretary, moreover, "is under instructions to avoid, so far as practicable, recording the opinions expressed by particular ministers." So much for the interest of historians, 30 years on.

What happens next to these decisions to act, however, begins to reveal the real extent of the Government's commitment to non-disclosure. There is no such thing as open government even inside government itself. The rulebook concedes that "ministers who share the collective responsibility for the Government's programme must be kept generally aware of the development of important aspects of Government policy." But this knowledge should be strictly limited.

Rule 24 of the Wilson version states: "Outside this narrow circle, knowledge of these matters should be confined to those, whether ministers or officials, who are assisting in the formulation or execution of the particular policy concerned, or need to know what is afoot because of its effect on other aspects of public business for which they are responsible."

To achieve this essential confinement, the rulebook proposes a number of guidelines. Cabinet papers should be shown by ministers only to their "immediate advisers." And one group of advisers is beyond the pale: "In particular, Cabinet papers should not be circulated as a matter of course to information officers and their staffs."

Within the general category of secret papers, there is a sub-group which requires special vigilance. If exposed, these, it seems, would blow apart the most sacred element of the British constitution, an experience from which civil servants need as much protection as anyone else. "Documents reflecting the personal views of ministers," the rulebook intones, "are in a special category and their handling requires special care." Why? "It is contrary to the doctrine of collective responsibility to make known the attitude of individual ministers on matters of policy."

Shoring up collective responsibility, in fact, is the purpose behind the entire edifice of information control. A familiar theory, no doubt. But few other documents have spelled out the nuances so instructively, or offered such a bald and candid account of the need for myth-making about the exercise of power.

Government decisions, first, must not be announced as the decisions of the

cont...

people who took them. They are "normally announced and defended by the minister concerned as his own decision." There may be occasions when it is better to announce them as "the decisions of Her Majesty's government." But these should be the exception. And why?

"The growth of any general practice whereby decisions of the Cabinet or of Cabinet committees were announced as such would lead to the embarrassing result that some decisions of government would be regarded as less authoritative than others."

And an even greater horror might beckon. "Critics of a decision reached by a particular committee could press for its review by some other committee or by the Cabinet, and the constitutional right of individual ministers to speak in the name of the Government as a whole would be impaired."

All this kind of stuff, indeed, is an unwarrantable intrusion into the legitimate privacy of government. "The method adopted by ministers for discussion among themselves," says Rule 22, is essentially a domestic matter, and is no concern of Parliament or the public. The doctrine of collective responsibility of ministers depends, in practice, upon the existence of opportunities for free and frank discussion between them, and such discussion is hampered if the processes by which it is carried on are laid bare." For this reason, there is a powerful imperative not to expose to public view anything whatever about Cabinet committees.

Not all of these rules, it will already have been observed, are unfailingly obeyed by ministers. Mrs Thatcher has taken the commendable minor step of referring to Cabinet committees from time to time. It must be doubted whether Mr Walker can be relied upon in all circumstances to circulate his subversive ideas only by permission of the Cabinet Secretary. The fearsome command that the views of individual ministers should never become known can hardly be said to have had much effect on the Wilson Government to which this particular document was directed.

The instruction nevertheless went forth. The official mind showed that it knew a thing or two about the ways of journalists and was ready with advice to any innocents in governing circles.

"Experience has shown", it cautions, "that leakages of information have often occurred as a result of the skilful piecing together, by representatives of the press, of isolated scraps of information gathered from several sources, each in itself apparently of little importance".

The only safe rule, it goes on, was, therefore, "never to mention such matters even in the form of guarded allusions". The only safe people to talk to belong to a tried and trusted institution, the Lobby journalists. "But ministers should not at any time refer to such meetings; to do so would endanger the very special relationships with the Lobby, which have been developed over many years."

As well as being the bible of private government, Questions of Procedure is also an official almanac of prime ministerial power. It formalises in black and white the right of the Prime Minister to decide matters small and large but especially to make those apparently trivial adjudications which are the real hallmark of bureaucracy and its remorselessly centralising tendency.

Thus, as well as determining who may raise what in Cabinet, the Prime Minister, even in Wilson's day, had to approve all appointments to boards, commissions and committees (rule 44); authorise any broadcast by a minister "in a private and non-ministerial capacity" (53b); be given details of all public-speaking engagements by ministers (57); approve before a minister could write a letter to a newspaper (59); assent to a minister's spouse accompanying them at public expense (66).

If this has changed at all, it is without doubt towards more not less centralisation and constraint. Questions of Procedure describes a world in which to a significant extent the electorate is seen not as the master of the politicians but as the enemy at the gates: a private world surrounded by menace—and one where the rules of conduct themselves, often pretty uncontroversial, must nevertheless remain undeclared.

For a tyro minister with a distaste for any of this and any appetite for freedom of communication which escapes the rigidities here laid down, the rulebook offers but one consolation. Ministers, it says in one of its sterner passages, are precluded from the practice of journalism "in any form". But there is one chink of light. "This prohibition does not extend to authorship or to writings of a literary, historical, scientific or romantic character".

GENERAL NOTICE GEN 80/38

MEMORANDUM OF GUIDANCE FOR OFFICIALS APPEARING BEFORE SELECT COMMITTEES

SCOPE AND PURPOSE

1. This Notice advises departments that the Civil Service Department, in consultation with other departments primarily concerned, has revised the Memorandum of Guidance for Officials appearing before Select Committees. The Memorandum is attached.

ACTION

2. Departments should:

a. be guided by the Memorandum, which has been approved by Ministers, in their dealings with Select Committees; and

b. bring the Memorandum to the attention of staff as and when they have or may have contact, directly or indirectly, with Select Committees.

3. The relationship between the Government and Select Committees is a developing one which needs to be kept under review. For this reason it will be helpful if departments would inform the Civil Service Department of any notable developments in their own dealings with Select Committees. The Civil Service Department should in any case be consulted in the event of difficulty.

SUPERSEDED MATERIAL

4. This Notice and Annex supersede General Notice GEN 76/78 and Addendum and General Notice GEN 78/11.

CSD CONTACT

5. Enquiries should be addressed to Miss ~~A H Dickinson~~ J. Buchan, Machinery of Government Division (01-273 3644).

Authorised by: E B C Osmotherly
File reference: MG 23/113/01
Date of issue: 16 May 1980

Civil Service Department (MG)
Whitehall
LONDON
SW1A 2AZ

Valid indefinitely

vi. Matters which are, or may become, the subject of sensitive negotiations with Governments or other bodies, including the European Community, without prior consultation with the Foreign and Commonwealth Secretary, or in relation to domestic matters the Ministers concerned (see paragraph 32).

vii. Specific cases where the Minister has or may have a quasi-judicial or appellate function, eg in relation to planning applications and appeals, or where the subject-matter is being considered by the Courts, or the Parliamentary Commissioner (see paragraphs 33-34).

Where, exceptionally, matters such as iv-vii have to be discussed, application may be made for "sidelining" (see paragraph 46). There is no objection to saying in general terms why information cannot be given and it is very unusual for a Committee to press an official who indicates that he is in difficulty on such grounds in answering a question. If however this happens, it may be best to ask for time to consider the request and to promise to report back. Paragraphs 6-7 should be referred to.

Collective Responsibility

26. Departmental witnesses, whether in closed or open session, should preserve the collective responsibility of Ministers and also the basis of confidence between Ministers and their advisers. Except in a case involving an Accounting Officer's responsibility (see C8 and 9 of "Government Accounting") the advice given to Ministers, which is given in confidence, should not therefore be disclosed, though Departments may of course need to draw on information submitted to Ministers. It is necessary also to refuse access to documents relating to interdepartmental exchanges on policy issues. Equally the methods by which a current study is being undertaken, eg by the Central Policy Review Staff, should not normally be disclosed without the authority of Ministers, unless they have already been made public. Nor should Departments reveal the level at which decisions were taken. It should be borne in mind that decisions taken by Ministers collectively are normally announced and defended by the Minister responsible as his own decisions, and it is important that no indication should be given of the manner in which a Minister has consulted his colleagues (see also paragraph 31 on the special position of the Law Officers).

27. In no circumstances should any Committee be given a Cabinet paper or extract from it, or be told of discussions in a Cabinet Committee. Nor should information be given about the existence, composition or terms of reference of Cabinet Committees, or the identity of their chairmen, beyond that information disclosed by the Prime Minister in answer to a Parliamentary Question on 24 May 1979 (see Appendix B), and if witnesses are questioned on such matters they must decline to give specific answers. There is, however, no objection to pointing out in general terms that consultation between Departments runs through the whole fabric of government and occurs at all levels both official and Ministerial.

28. Departmental files will tend to concern the matters referred to in paragraph 25 above, and Departments should consult their Ministers, and should also advise the Civil Service Department when dealing with any request

8052

ROYAL COMMISSION ON STANDARDS OF CONDUCT IN PUBLIC LIFE

MINISTERS' PRIVATE INTERESTS

MEMORANDUM BY THE SECRETARY OF THE CABINET

1. The Commission have asked for evidence on the regulation of private financial and business interests of Ministers of the Crown.

2. The principles which should guide Ministers in deciding whether they may properly continue to hold Company Directorships and similar offices have been stated from time to time in the House of Commons, for example by Sir Henry Campbell-Bannerman in March 1906, by Mr. Neville Chamberlain in July 1939, and by Mr. Winston Churchill in February 1952: a historical note on such statements is at Annex A.

3. The principles are summed up in the injunction that:

> "Ministers must so order their affairs that no conflict arises, or appears to arise, between their private interests and their public duties."

4. For many years it has been the practice of successive Prime Ministers to give written guidance to all Ministers on these matters. This guidance has been expanded and refined over the years in the light of experience. Its current formulation is reproduced at Annex B which constitutes the main reply to the Commission's request.

5. The Commission may also wish to be aware that, on the related matter of the acceptance of gifts or services from commercial undertakings, guidance is given similarly to all Ministers in the following terms:

> "It is a well-established and recognised rule that no Minister or public servant should accept gifts or services which would place him under an obligation to a commercial undertaking.
>
> "This is primarily a matter which must be left to the good sense of Ministers. But if any Minister finds himself in doubt or difficulty over this, he may seek the Prime Minister's guidance."

Application of the rules in practice

6. Following the issue of written guidance by the Prime Minister, the onus rests with individual Ministers to order their affairs in conformity with it. The action required is clearly more complex for some newly appointed Ministers than for others: but the determination of the steps required appears to present little difficulty in practice. Inevitably, however, cases of doubt arise from time to time and these are referred to the Prime Minister of the day for decision; sometimes, experience of such cases leads to further refinement of the guidance to Ministers. The Prime Minister is advised by the Secretary of the Cabinet on these matters.

Former Ministers

7. The Commission have also sought my comments on the question of former Ministers' taking employment or acquiring interests on leaving office.

8. The guidance at Annex B does not extend to former Ministers and clearly it would be difficult for the Government of the day to exercise a discretionary function in respect of Ministers of a former Administration of a different complexion. For this and other reasons it has generally been thought to be impracticable to apply rules to former Ministers.

9. Nevertheless, the principle enunciated in paragraph 3 above should constrain Ministers while in office to ensure that no conflict arises between their public duties and their foreseeable private interests on leaving office. Former Ministers who remain Members of Parliament continue to be bound, of course, by the Parliamentary code of conduct.

10. I am not conscious of any criticism attaching to former Ministers on this matter which suggests a need to attempt to introduce any further control.

(*Signed*) JOHN HUNT.

Cabinet Office,

25 March, 1975.

ANNEX A

Historical Note

1. Sir Ivor Jennings recorded nineteenth century attitudes to Ministerial tenure of directorships in the first paragraph of his discussion of " The Qualifications of a Minister "(1):

> The most elementary qualification demanded of a minister is honesty and incorruptibility. It is, however, necessary not only that he should possess this qualification but also that he should appear to possess it. Though Lord Palmerston laid down the obvious rule that ministers must not accept presents [1], he did not object to ministers holding directorships. He saw "no objection to a member of the Government retaining other employment, provided that employment can be carried on without prejudice to the Queen's service, which has the paramount claim "[2]. Consequently, Mr. Childers remained Director of the London and County Bank while he was Civil Lord of the Admiralty, but resigned when he was appointed Financial Secretary to the Treasury [3]. The law officers were similarly allowed to engage in private practice until the briefing of the Attorney-General for *The Times* in the Parnell Enquiry led the subsequent Liberal Government to alter the rule [4]. The Cabinet at the same meeting " considered the practice, which has prevailed from time to time, of the holding of directorships and the like, more or less lucrative, by gentlemen having the honour to serve Your Majesty in political office. The Cabinet were of the opinion that such appointments ought to stand suspended, both as to emolument and attendance, during the tenure of office; but they postponed until some *early* day the consideration of the exact terms in which such a resolution ought to be embodied " [5].
>
> [1] Ashley, *Life of Lord Palmerston*, I, p. 130.
> [2] *Life of Childers*, I, pp. 120–21.
> [3] *Ibid.*
> [4] *Letters of Queen Victoria*, 3rd Series, II, p. 171.
> [5] *Ibid.*

2. When Sir Henry Campbell-Bannerman came into office, he followed the principle which appears to have been laid down by Mr. Gladstone and which was afterwards adopted by the Liberal Party, requiring members of his Administration to resign their directorships. In reply to a Question on 20 March, 1906, Sir Henry stated(2):

> " The condition which was laid down on the formation of the Government was that all directorships held by Ministers must be resigned except in the case of honorary directorships, directorships in connection with philanthropic undertakings, and directorships in private companies. Every member of the Government has either complied with this understanding or is in process of complying with it."

3. He later said that by " private company " he meant " that class of company in which the interest of the Minister, if a director, is substantially the same as the interest of a partner in a business firm "(3).

4. On 2 April, 1906, Sir Henry Campbell-Bannerman was asked upon what principle a Member of the Government was precluded from being a director of a public company but was allowed to act as managing director in a large private business. He replied(4):

> " It has been found in practice that it is inconvenient for Members of the Government to hold directorships unless in exceptional circumstances, and no inconvenience has arisen from Members of the Government being also concerned in the management of private businesses in which they are interested."

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(1) Cabinet Government, 1st edition, p. 85.
(2) *Hansard*, Col. 234.
(3) *Hansard*, 22 March 1906, Col. 640.
(4) *Hansard*, Col. 186.

5. Jennings records([5]) that the rule was followed by all subsequent Governments except for a temporary relaxation in the first National Government of 1931 (a stop-gap Government which would be reconstructed at the general election) when Ministers retained their directorships but did not take fees.

6. In the Marconi debate of 1913, when the question of share-holding was raised, Mr. Asquith laid down the following propositions([6]):

> "The first . . . and the most obvious is that Ministers ought not to enter into any transactions whereby their private pecuniary interests might, even conceivably, come into conflict with their public duty. . . . Again, no Minister is justified under any circumstances in using official information, information that has come to him as a Minister, for his own private profit or for that of his friends. Further, no Minister ought to allow or to put himself into a position to be tempted to use his official influence in support of any scheme or in furtherance of any contract in regard to which he has an undisclosed private interest. . . . Again, no Minister ought to accept from persons who are in negotiation with or seeking to enter into contractual or proprietary or pecuniary relations with the State any kind of favour. . . . Ministers should scrupulously avoid speculative investments in securities as to which, from their position and their special means of early or confidential information, they have or may have an advantage over other people in anticipating market changes."

7. On 10 June, 1937, in replying to a Question about Ministers both inside and outside the Cabinet who were solicitors in private practice, Mr. Chamberlain said([7]):

> "The rule laid down by Sir Henry Campbell-Bannerman in 1906 has since been followed by successive Prime Ministers, and will be followed by myself. This rule, however, applies only to directorships, and the hon. Member's question refers to solicitors in private practice . . . it would be unreasonable to require that a solicitor, on becoming a member of the Government, should dissolve his partnership or should be obliged to allow his annual practising certificate to lapse. On the other hand, he should, in accordance with the principle underlying Sir Henry Campbell-Bannerman's rule, cease to carry on the daily routine work of the firm or to take any active part in its ordinary business, although he should not be precluded from continuing to advise in matters of family trusts, guardianships, and similar cases. A certain amount of discretion must be allowed, since it is impossible to cover every conceivable case in any rule, but I am satisfied that under the conditions I have laid down every reasonable requirement of propriety will be fulfilled."

8. Sir Henry Campbell-Bannerman's rule was refined in relation to private companies by Mr. Chamberlain on 31 July, 1939([8]):

> "At the time when this rule was announced the term 'private company' had no statutory significance and was used probably to cover companies dealing wholly or mainly with family interests. Since then the term has received a statutory definition which covers a very wide field and . . . such companies may control very large amounts of capital while their shares may be in turn controlled by public companies engaged in the

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([5]) Cabinet Government, 1st edition, p. 86.

([6]) *Hansard*, 19 June 1913, Cols. 556–57.

([7]) *Hansard*, Cols. 1953–54.

([8]) *Hansard*, Cols. 1937–38.

widest possible range of activities. In these circumstances it is clear that if the term 'private companies' in Sir Henry Campbell-Bannerman's ruling were to be interpreted in the statutory sense it would travel far beyond the intentions of the original framers of the rule.

"Accordingly, after consultation with my colleagues, I propose to interpret the term in future as applying only to concerns dealing wholly or mainly with family affairs or interests and not primarily engaged in trading. Since this is not a rigid definition, the Prime Minister of the day must be the final judge of whether any particular directorship held by a colleague comes within the rule or not, and Ministers will, therefore, doubtless submit to his consideration any case about which there might be a doubt. This applies to honorary directorships as well as to directorships of private companies. I would add that, as was observed by Lord Baldwin when he was Prime Minister on 5th July, 1926:

> 'The safeguard against any difficulty such as the hon. Member appears to have in mind lies in the traditional standards of public life in this country.'"

9. A consolidated statement of the principles governing Ministers' Directorships and Shareholdings was drawn up in 1952. Mr. Winston Churchill, in answer to a Question on 25 February, 1952, had the following circulated in *Hansard*(°), referring to it as general guidance which he had recently issued:

1. It is a principle of public life that Ministers must so order their affairs that no conflict arises, or appears to arise, between their private interests and their public duties.

2. Such a conflict may arise if a Minister takes an active part in any undertaking which may have contractual or other relations with a Government Department, more particularly with his own Department. It may arise, not only if the Minister has a financial interest in such an undertaking, but also if he is actively associated with any body, even of a philanthropic character, which might have negotiations or other dealings with the Government or be involved in disputes with it. Furthermore Ministers should be free to give full attention to their official duties, and they should not engage in other activities which might be thought to distract their attention from those duties.

3. Each Minister must decide for himself how these principles apply to him. Over much of the field, as is shown below, there are established precedents: but in any case of doubt the Prime Minister of the day must be the final judge, and Ministers should submit any such case to him for his direction.

4. Where it is proper for a Minister to retain any private interest, it is the rule that he should declare that interest to his colleagues if they have to discuss public business in any way affecting it, and that he should entirely detach himself from the consideration of that business.

5. Ministers include all members of the Government except unpaid Assistant Government Whips.

Directorships

6. Ministers must on assuming office resign any directorships which they may hold, whether in public or in private companies and whether the directorship carries remuneration or is honorary. The only exception to this rule is that directorships in private companies established for the maintenance of private family estates, and only incidentally concerned in trading, may be retained subject to this reservation—that if at any time the Minister feels that conflict is likely to arise between this private interest and his public duty, he should even in those cases divest himself of his directorship. Directorships or offices held in connection with philanthropic undertakings should also be resigned if there is any risk of conflict arising between the interests of the undertakings and the Government.

(°) Cols. 702–3.

Shareholdings

7. Ministers cannot be expected, on assuming office, to dispose of all their investments. But if a Minister holds a controlling interest in any company considerations arise which are not unlike those governing the holding of directorships and, if there is any danger of a conflict of interest, the right course is for the Minister to divest himself of his controlling interest in the company. There may also be exceptional cases where, even though no controlling interest is involved, the actual holding of particular shares in concerns closely associated with a Minister's own Department may create the danger of a conflict of interest. Where a Minister considers this to be the case, he should divest himself of the holding.

8. Ministers should scrupulously avoid speculative investments in securities about which they have, or may be thought to have, early or confidential information likely to affect the price of those securities.

10. This statement was circulated again in *Hansard* on 28 January, 1960([10]).

11. In an Answer on 15 December, 1966([11]), Mr. Wilson said that these rules about conflict of interests had not changed and were still being operated.

12. On the related matter of the acceptance by Ministers of gifts and services from commercial undertakings, Mr. Winston Churchill said in answer to a Question on 20 February, 1952([12]):

> ". . . it is well understood that no Minister or public servant should accept gifts or services which would place him under an obligation to a commercial undertaking."

Former Ministers

13. On 20 November, 1962, Mr. Macmillan was asked if he would consider introducing legislation prohibiting Ministers from moving to executive positions in industry and commerce during a specified period. In replying to this and a related Question he said([13]):

> "I do not think that such legislation would be wise or necessary. . . . I think that it is desirable and beneficial to the country that men of considerable experience should be available, when they leave the Government, to the service of industry and commerce."

14. On 20 June, 1968, Mr. Wilson, when asked whether he would seek to require a minimum period of four years to elapse before Ministers took up appointments in commercial concerns with which they or their Departments had had administrative relations, replied([14]):

> "No. I think that these matters are better left to the discretion and good sense of the individuals concerned."

([10]) Cols. 372–73.

([11]) *Hansard*, Col. 657.

([12]) *Hansard*, Col. 230.

([13]) *Hansard*, Cols. 999–1,000.

([14]) *Hansard*, Col. *171*.

ANNEX B

Ministers' Private Interests

1. The principles which should guide Ministers in deciding whether they may properly continue to hold Company Directorships and similar offices have been stated from time to time in the House of Commons. The conventions at present to be observed are set out below.

2. It is a principle of public life that Ministers must so order their affairs that no conflict arises, or appears to arise, between their private interests and their public duties.

3. Such a conflict may arise if a Minister takes an active part in any undertaking which may have contractual or other relations with a Government Department, more particularly with his own Department. It may arise, not only if the Minister has a financial interest in such an undertaking, but also if he is actively associated with any body, even of a philanthropic character, which might have negotiations or other dealings with the Government or be involved in disputes with it. Furthermore Ministers should be free to give full attention to their official duties, and they should not engage in other activities which might be thought to distract their attention from those duties.

4. Each Minister must decide for himself how these principles apply to him. Over much of the field, as is shown below, there are established precedents; but in any case of doubt the Prime Minister of the day must be the final judge, and Ministers should submit any such case to him for his direction.

5. Where it is proper for a Minister to retain any private interest, it is the rule that he should declare that interest to his colleagues if they have to discuss public business in any way affecting it, and that he should entirely detach himself from the consideration of that business.

6. Ministers comprehend all members of the Government, including Assistant Government Whips. They do not include Parliamentary Private Secretaries.

Directorships

7. Ministers must on assuming office resign any directorships which they may hold, whether in public or in private companies and whether the directorship carries remuneration or is honorary. The only exception to this rule is that directorships in private companies established for the maintenance of private family estates, and only incidentally concerned in trading, may be retained subject to this reservation—that if at any time the Minister feels that conflict is likely to arise between this private interest and his public duty, he should even in those cases divest himself of his directorship. Directorships or offices held in connection with philanthropic undertakings should also be resigned if there is any risk of conflict arising between the interests of the undertakings and the Government.

Partnerships

8. Ministers who are partners in professional firms, as, *e.g.* solicitors, accountants, etc., should, on assuming office, cease to play any part in the day-to-day management of the firm's affairs. They are not necessarily required, however, to dissolve their partnership or to allow, *e.g.* their annual practising certificate to lapse. Beyond this it is not possible to lay down precise rules applicable to every case; and any Minister who is in doubt about his personal position in this respect should consult the Prime Minister.

Shareholdings

9. Ministers cannot be expected, on assuming office, to dispose of all their investments. But if a Minister holds a controlling interest in any company, considerations arise which are not unlike those governing the holding of directorships; and, if there is any danger of a conflict of interest, the right course is for the Minister to divest himself of his controlling interest in the company. There may also be exceptional cases where, even though no controlling interest is involved, the actual holding of particular shares in concerns closely associated with a Minister's own Department may create the danger of a conflict of interest: where a Minister considers this to be the case, he should divest himself of the holding. There may also be less clear-cut cases where a Minister would feel it appropriate to place his holding in the hands of trustees.

10. Ministers should scrupulously avoid speculative investments in securities about which they have, or may be thought to have, early or confidential information likely to affect the price of those securities.

" Names " at Lloyds

11. A Minister cannot properly continue to be a " name " at Lloyds while holding office as Prime Minister, Chancellor of the Exchequer or Secretary of State for Trade. In each case he is required to suspend his underwriting activities. As regards other Ministers who, on appointment to office, are " names ", it is clearly inappropriate that they should take an active part in the management of the affairs of the syndicates of which they are members; and there may be cases in which, because of the emphasis of a syndicate's business, any continued participation in it must be regarded as inconsistent with the holding of a particular Ministerial office. All Ministers are therefore required, on appointment whether to their first or to any subsequent Ministerial office, to obtain the permission of the Prime Minister before continuing a connection with Lloyds, however nominal, which they had established before appointment or establishing any such connection during their term of appointment. Before granting permission, the Prime Minister will need to be satisfied that the conditions indicated above will be met.

Pension arrangements

Participation in the Parliamentary Contributory Pension Fund

12. Under the terms of the Parliamentary and Other Pensions Act 1972, a Minister will be required to contribute to the Parliamentary Contributory Pension Fund in respect of his Ministerial salary (less, if he is a Member of the House of Commons, the difference between his reduced salary as a Member and a Member's ordinary salary) unless *within three months of his appointment* he elects not to do so. Details of the contributions required, and of the rates of personal and family benefit which accrue from participation in the Fund, can be obtained from the Fees Office.

13. A Minister who has accrued pension rights in another pension scheme may, if he elects to participate in the Fund in respect of his Ministerial salary, and if the rules of the other scheme permit, also elect *within three months of his appointment* to have the value of those accrued rights transferred to the Fund. The Fees Office will advise on the additional benefits which will be secured by such a transfer payment.

Participation in other pension schemes

14. A Minister who has accrued pension rights in another pension scheme and who does not (or cannot) elect for a transfer payment may leave these as " frozen " rights in the other scheme, with no further contributions being payable during his tenure of office. Alternatively, if the rights are secured by an insurance policy (and assuming that the rules of the other scheme so permit) the policy could be transferred to him, either on a paid-up basis or with the right to continue payment of the premiums himself.

15. If a Minister who expects to resume his former employment on ceasing to hold Ministerial office elects not to participate in the Parliamentary Fund in respect of his Ministerial salary, he may remain in active membership (that is, with continued payment of contributions, and with his period of office counting as continued pensionable employment) of any pension scheme relating to that employment *provided that this can be done under the rules of the scheme.* In these circumstances the continued contributions may be paid by the Minister alone, or by the former employer alone, or jointly, depending on the rules of the other scheme.

16. It must be emphasised that any arrangements made under paragraph 15 must not go outside the terms of the particular pension scheme. There would be no objection to a general alteration of the rules of a scheme when this is necessary to permit such arrangements; but approval could not be given for the addition to the scheme of a special provision relating only to the tenure of a Ministerial office. If Ministers have any doubts about the propriety of any arrangements they intend making, the Prime Minister's Private Secretary may be consulted.

17. Where the Minister elects not to participate in the Parliamentary scheme in respect of his Ministerial salary, and no arrangements are made of the kind set out in paragraph 15, he may be entitled to claim tax relief on premiums paid under a " retirement annuity contract " to provide additional pension, etc., benefits for himself or provision for his family in the event of his death. Such contracts are issued subject to the limitations and conditions laid down in the Tax Acts. Relief is normally limited to 15 per cent of the Ministerial salary excluding, for a Minister in the Commons, the difference between his reduced salary as a Member and a Member's ordinary salary; there is also an overriding limit which varies according to individual circumstances. In some cases higher limits apply to those born before 1916.

18. The taxation effects of arrangements such as are mentioned in the paragraphs above may vary according to the Minister's particular circumstances. The Controller, Superannuation Funds Office, Inland Revenue, Apex Tower, High Street, New Malden, Surrey, KT3 4DN, will be willing to explain the effects for tax purposes of any proposed arrangement under paragraph 15; he will also give, on request, further information on the legislation and reliefs available in respect of retirement annuity contracts. Alternatively a Minister may, if he prefers, make his enquiry through the Financial Secretary, Treasury.