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CC(88) and
Conclusions

CABINET

CONCLUSIONS of a Meeting of the Cabinet
held at 10 Downing Street on
THURSDAY 19 JANUARY 1989
at 10.15 am

P R E S E N T

The Rt Hon Margaret Thatcher MP
Prime Minister

The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign and
Commonwealth Affairs

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer

The Rt Hon Lord Mackay of Clashfern
Lord Chancellor

The Rt Hon Douglas Hurd MP
Secretary of State for the Home Department

The Rt Hon Peter Walker MP
Secretary of State for Wales

The Rt Hon George Younger MP
Secretary of State for Defence

The Rt Hon Norman Fowler MP
Secretary of State for Employment

The Rt Hon Tom King MP
Secretary of State for Northern Ireland

The Rt Hon Nicholas Ridley MP
Secretary of State for the Environment

The Rt Hon Lord Young of Graffham
Secretary of State for Trade and Industry

The Rt Hon Kenneth Baker MP
Secretary of State for Education
and Science

The Rt Hon Kenneth Clarke QC MP
Secretary of State for Health

The Rt Hon John MacGregor MP
Minister of Agriculture, Fisheries
and Food

The Rt Hon Malcolm Rifkind QC MP
Secretary of State for Scotland

The Rt Hon Paul Channon MP
Secretary of State for Transport

The Rt Hon John Moore MP
Secretary of State for Social Security

The Rt Hon John Wakeham MP
Lord President of the Council

The Rt Hon The Lord Belstead
Lord Privy Seal

The Rt Hon Cecil Parkinson MP
Secretary of State for Energy

The Rt Hon John Major MP
Chief Secretary, Treasury

The Rt Hon Antony Newton MP
Chancellor of the Duchy of Lancaster

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THE FOLLOWING WERE ALSO PRESENT

The Rt Hon Sir Patrick Mayhew QC MP
Attorney General (Item 5)

The Rt Hon David Waddington QC MP
Parliamentary Secretary, Treasury

The Rt Hon Peter Brooke MP
Paymaster General

SECRETARIAT

Sir Robin Butler
Mr R G Lavelle (Item 3)
Mr P J Weston (Item 3)
Mr R T J Wilson (Item 4)
Mr A J Langdon (Items 1 and 2)
Mr G Monger (Item 4)
Mr S S Mundy (Items 1 and 2)

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PARLIAMENTARY
AFFAIRS

1. The Cabinet were informed of the business to be taken in the House of Commons in the following week.

Prevention of
Terrorism
(Temporary
Provisions)
Bill

THE HOME SECRETARY said that because the Opposition had withdrawn its operation over the Prevention of Terrorism (Temporary Provisions) Bill, it was necessary to introduce a timetable motion, which would be debated on the following Monday. The Opposition was reacting to the Government's limited derogation under the European Convention on Human Rights as a result of the judgment by the European Court of Human Rights in the case of Brogan and others v. the United Kingdom. In his view the Opposition had misread the situation and their reaction to the derogation would not help them. It was not proving at all easy to find a practicable form of judicial oversight of the detention of terrorist suspects in accordance with the Court's judgment, that would meet the Court's interpretation of the Convention. In the context of Northern Ireland terrorism, however, there was no doubt about the need to search for a way of preserving a power to detain suspects for up to seven days.

The Cabinet -

Took note.

HOME AFFAIRS

Deportation
of Mr Viraj
Mendis

2. THE HOME SECRETARY said that Mr Viraj Mendis, a Sri Lankan citizen, had been in this country in breach of the law since 1975. A deportation order had been made against Mr Mendis in December 1986, and Mr Mendis had then entered the Church of the Ascension in Hulme, Manchester, where he had since remained. Mr Mendis had exhausted his legal remedies in pursuit of his claim to refugee status and it had become necessary for the deportation order to be implemented. Early on the previous day, therefore, Mr Mendis had been taken from the Ascension Church and had been placed in detention in Pentonville Prison to await removal. Criticism of the methods used to achieve Mr Mendis' removal in the early hours of the morning was misconceived. As he had explained in the House of Commons on the previous day, the Ascension Church had been the scene of large gatherings of supporters of Mr Mendis, and the Greater Manchester Police had been anxious to proceed at a time when the removal could be effected quickly, smoothly and without injury. Those aims were achieved. Steps towards Mr Mendis' immediate removal from the country would have run the risk that his legal advisers might have obtained an injunction from a judge at an emergency hearing at which the Home Office were not represented, and he had therefore decided that the deportation should be postponed for 48 hours. He could be represented at any court hearing that might now be held, and there were grounds for confidence about the prospects of success. The Archbishop of Canterbury had, in a private letter, asked him to postpone Mr Mendis' removal for two or

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three weeks in order to give him yet more time in which to find a country other than Sri Lanka that would be prepared to receive him. In fact, on 5 January the Bishop of Manchester had been told by the Minister of State, Home Office, that Mr Mendis' deportation would be postponed for a week to allow extra time in which to seek an alternative destination. Two weeks had now elapsed. He proposed to reply to the Archbishop of Canterbury later that morning, referring to the advice given to the Bishop of Manchester and confirming that Mr Mendis would have to be deported to Sri Lanka on the following day unless he could point to a firm undertaking by another country that was willing to receive him at once. The Irish Republic would not, however, be an acceptable destination for Mr Mendis, in view of the common travel area that existed between it and the United Kingdom.

THE PRIME MINISTER, summing up a brief discussion, said that Mr Mendis' continued defiance of the law was unacceptable and the operation to take him into custody and deport him was entirely justified. Mr Mendis should not now be allowed any further time to find a third country beyond the 48 hours that the Home Secretary had stipulated, unless a few more hours were necessary to fit with the timing of aircraft flights to a country which would accept him. The Home Secretary should write to the Archbishop of Canterbury in the way that he proposed.

The Cabinet -

1. Endorsed the Prime Minister's summing up of the discussion and invited the Home Secretary to write to the Archbishop of Canterbury on the lines which he had proposed.

Drug Abuse

THE HOME SECRETARY said that he had been impressed on a recent visit to Italy by the degree of concern expressed by the Italian authorities about increased use of cocaine. This had emerged very clearly from discussions in Turin and with the Prefect of Milan. His attention had been drawn to a sharp increase in deaths from overdoses. The problem of subversion of justice associated with the extensive traffic was also said now to have assumed major proportions. He had received a similar impression on an earlier visit to Spain where the authorities had expressed concern that Spain was becoming a highway for drug traffic from Latin America to Europe. In discussion reference was made to the problem of ready access to cocaine. Health education measures were being taken in particular through television advertisements, to seek to combat the problem. It was not however clear that steps of this kind alone would be adequate. It was noted that the Home Secretary had put in hand a fuller analysis of the problem in the United Kingdom, and the possibilities for further action.

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Unemployment
Previous
Reference:
CC(88) 39.2

THE SECRETARY OF STATE FOR EMPLOYMENT said that the unemployment figures for December would be published that day. There had been a sharp reduction of 66,000 in the seasonally adjusted total to 2.039 million. This was the twenty-ninth consecutive monthly reduction, which was by far the longest continuous period of falling unemployment since the Second World War. The unadjusted total had fallen by 20,000 to 2.047 million. The total was the lowest figure for nearly eight years and represented reductions of 530,000 in the previous twelve months and 818,000 since the General Election. The rate of unemployment had fallen to 7.2 per cent, which was below the rates in many other countries including France, Italy, Belgium, the Netherlands, Spain, the Republic of Ireland and Canada. All regions had benefitted, with the largest reductions in the previous twelve months having occurred in the West Midlands, the North West and Wales. The number of people in work had never been higher, even excluding those on work-related Government training programmes such as Employment Training and the Youth Training Scheme. Vacancies, of which there were estimated to be some 700,000 in the economy as a whole, were holding up well, although the number of unfilled vacancies at job centres had fallen by 6,000 to 238,000. The rate of increase in average earnings had fallen from 9 per cent to 8 ³/₄ per cent and, while it would be a mistake to attach too much weight to that reduction, at least it was a step in the right direction.

In discussion, the following main points were made:

- a. The Opposition would seek to distract attention from the very welcome reductions in unemployment by claiming that the figures had been distorted by various changes in the definition of unemployment. However, such criticisms carried very little credibility with the general public who were able to see for themselves that unemployment was falling throughout the country.
- b. The formula used for arriving at the December seasonally adjusted total took account of the increase in unemployment which usually took place at that time of year as a result of cold weather. Such an increase in unemployment had not taken place in December 1988, which had been unusually mild, and the reduction in the seasonally adjusted total was therefore artificially high. This would mean that the reduction in the seasonally adjusted total for the current month was likely to be lower than would otherwise have been the case.
- c. The reduction in the rate of increase in average earnings represented in part the dropping out from the survey period of some large public sector pay awards which had been made towards the end of 1987. There were some signs that earnings were edging up slightly in the private sector, though the growth in earnings was far below the levels which had been predicted in some sections of the media.
- d. The rate of employment stood at 66 per cent, compared with 59 per cent in France and 60 per cent in West Germany and over recent years the United Kingdom had been far more successful than

other members of the European Community in securing more jobs. However, the improvements in this area would be put in jeopardy if the Community were to adopt the sort of proposals which were being put forward by Monsieur Delors, the President of the European Commission.

e. The Government's critics were likely to argue that the figures for those in work failed to paint a true picture since a significant proportion of the total comprised part-time jobs. In fact, however, surveys had consistently shown that most part-time workers, who included many married women and retired people, would not wish to take on full-time jobs.

f. In the United Kingdom, around 60 per cent of women worked outside the home and, on a standardised European basis, unemployment among women was substantially below the European average. This demonstrated that the position on female employment was already very healthy and that it was unnecessary to adopt the sort of further measures, such as state-run crèches, which were sometimes advocated.

g. The Confederation of British Industry (CBI) would publish on the following Monday the results of a survey which would indicate that, for the first time for two years, the number of industrialists who were less optimistic than they had been four months previously outweighed the number who were more optimistic. The CBI took a relaxed view of this and would make clear that industrialists were not pessimistic in any absolute sense. A more important indicator was investment intentions, on which the position remained very healthy. The CBI would not be pressing for a reduction in interest rates, which they now accepted was a matter of far lower importance than the need to keep inflation under control.

THE PRIME MINISTER, summing up the discussion, said that the figures both on unemployment and employment were extremely encouraging.

The Cabinet -

2. Took note.

FOREIGN
AFFAIRS

Republic of
South Africa

Previous
Reference:
CC(88) 32.3

3. THE FOREIGN AND COMMONWEALTH SECRETARY said that the South African President, Mr P W Botha, had suffered a mild stroke on 18 January. He was reported to be fully conscious but it was not yet clear how serious his condition was. If it were decided to appoint an acting President, it was likely that the Minister for Constitutional Development, Mr J C Heunis, would be nominated, as the next senior Minister temporarily to replace him. But it was not possible to speculate beyond this about the effects of the President's illness.

Conference on
Security and
Co-operation
in Europe

Previous
Reference
CC(89) 1.3

THE FOREIGN AND COMMONWEALTH SECRETARY said that he had been in Vienna earlier that week for the conclusion of the current session of the Conference on Security and Co-operation in Europe. The Ministerial meeting had marked the end of the latest round of advances on human rights and had laid the foundations for the conventional stability talks which would open in the first week of March. The Conference had shown that it represented a process of continuing success, providing a series of stepping stones into the future. The prospects were better now than had appeared likely some years ago and a series of further conferences had been agreed. There was pressure on Czechoslovakia and Romania to come into line with the rest of the participating member states as regards progress on human rights. He had told the Soviet Foreign Minister, Mr Eduard Shevardnadze, that the Government's position on a human rights conference in Moscow in 1991 had changed since their last discussion of this in New York in September 1988. The United Kingdom was now willing to contemplate this but on strict conditions, notably that President Gorbachev's oral commitment to change Soviet law bearing on certain human rights provisions would be converted into practice. Mr Shevardnadze had said that he was glad to hear the new British position on the Moscow conference and had given the impression that the Soviet Union intended to fulfil its commitments.

THE FOREIGN AND COMMONWEALTH SECRETARY said that the work of the United Kingdom delegation to the Conference in Vienna and their contribution to a successful outcome had been widely recognised on all sides.

During his conversation with Mr Shevardnadze there had been no indication from the latter of any intention to postpone the final departure of Soviet forces from Afghanistan. The last stage would be difficult and it might not be possible to avoid bloodshed. Meanwhile, Mr Shevardnadze was likely to propose again publicly an all-European Summit conference on disarmament with participation by the United States and Canada, but this was not a new idea. The Soviet references to reductions in defence spending were also not new and were evidence of the economic pressures to which President Gorbachev's reform programme was subject. But to claim that the Soviet defence budget would be reduced by 14 per cent did not necessarily mean much when the published statistics about the true present position were so inadequate. On bilateral relations, Mr Shevardnadze had emphasised the importance he attached to a continuing dialogue with the United Kingdom and had implied that there was every reason to expect that the proposed visit here by President Gorbachev would be reinstated at an early date.

Middle East

Previous
Reference:
CC(88) 37.2

THE FOREIGN AND COMMONWEALTH SECRETARY said that during his discussions in Vienna with the Soviet Foreign Minister, Mr Eduard Shevardnadze, he had raised the question of Libya's chemical weapons capability. He had told Mr Shevardnadze that the United Kingdom had its own sources of information about this and was not relying on the Americans. Mr Shevardnadze had replied that he would look at the matter again: if there was a real danger from that quarter, it should be removed. On the

Iran/Iraq dispute, Mr Shevardnadze had conveyed the impression that the Soviet Union was leaning in the right direction. He had also discussed the Arab/Israel situation with both Mr Shevardnadze and with the United States Secretary of State, Mr George Shultz. Both had agreed that the prospects seemed better than for some time. Mr Shevardnadze had said that the Soviet Government was in active contact with Israel and that it was also trying to exercise a restraining influence on the Palestinians. As for Mr Shultz, it was clear that the outgoing Administration were doing all they could to hand this baton smoothly to their successors. It would be important to encourage President Bush to engage the diplomatic process quickly on this issue and to establish an effective dialogue with Israel. It was also important to consolidate the commitment to moderation by the Palestinians at a time when others on the sidelines were only too ready to seek opportunities to upset this.

The Cabinet -

Took note.

GREEN PAPERS
ON THE LEGAL
PROFESSION

4. The Cabinet considered a memorandum by the Lord Chancellor (C(89) 1) to which was attached draft Green Papers on the work and organisation of the legal profession, conveyancing by authorised practitioners and contingency fees.

THE LORD CHANCELLOR said that the draft Green Paper on the work and organisation of the legal profession set out to examine from first principles what would be required of the profession in the future. It set effective competition and the maintenance of standards as the two principal aims of policy. He believed that these aims were fully compatible. The draft Green Paper put particular emphasis on new arrangements for legal education and the maintenance of professional standards. There would be a greatly strengthened Advisory Committee on Legal Education and Conduct, with a majority of lay people, and standards for competence and conduct would be set in the light of their advice. Rights of audience would be given only to those who were properly trained, suitably experienced and subject to satisfactory codes of conduct, and would no longer depend on membership of a particular professional body. The Green Paper also proposed that multi-disciplinary practices should be allowed provided that each member remained subject to the rules of his professional body and that his responsibilities to his profession as a lawyer overrode, where there was any conflict, his obligations to other members of the practice.

The draft Green Paper on conveyancing by authorised practitioners raised issues of great importance to solicitors. For many of them conveyancing provided more of their income than litigation. It was therefore essential that they should be able to compete on terms which provided a level playing field. The draft addressed in particular the question

whether conveyancing services could be provided by employees of lending institutions. It had been argued that this would lead to conflicts of interest but he believed that this would happen only in very exceptional cases. The Green Paper therefore put forward the view that adequate safeguards could be devised which would allow solicitors and licensed conveyancers employed by lending institutions to undertake conveyancing work on behalf of their employer's clients. It was most important however that the code of conduct should ensure that authorised practitioners did not offer their services below their true cost. This was necessary to reassure solicitors that they would not be subject to unfair competition from lending institutions offering conveyancing services.

The draft Green Paper on contingency fees suggested the possibility of applying to England and Wales the Scottish system of speculative actions, under which the receipt of fees by advocates and solicitors was dependent on the success of the case. It might be possible also to provide for an uplift in the costs, to be payable in the event of success. He did not favour going further and relating fees to damages, as in the United States. This system had had considerable disadvantages there.

In discussion the following main points were made:

- a. The policy underlying the Green Papers had been discussed and endorsed in the Sub-Committee on Competition Policy of the Ministerial Steering Committee on Economic Strategy. The Lord Chancellor was to be congratulated on producing proposals which were both radical and coherent. The various restrictions in the legal profession imposed a considerable cost on the economy and measures to deal with them were long overdue.
- b. At present lawyers employed by some Departments, such as the Inland Revenue and Customs and Excise, had no rights of audience in the courts, even if they were barristers. This restriction imposed cost and delay on the Departments concerned. It would be desirable to abolish it as part of the forthcoming changes.
- c. The Green Paper was right to bring out the disadvantages of the present arrangements for establishing codes of conduct. But it was important not to be drawn into over-regulation by Government. On the other hand, the Green Paper proposed only that the principles to be embodied in the codes would be prescribed by the Government. The codes themselves would, subject to these principles, still be drawn up by the profession.
- d. A Green Paper was also under preparation on reforms in the Scottish legal profession. It would adopt the same general objectives and approach, although some of the detail would inevitably be different because of difference between the two legal systems.

e. The system of contingency fees which operated in the United States had led to considerable abuse there. In particular it had contributed to an excessive volume of litigation. There were signs that people in the United Kingdom also were becoming excessively litigious, and it was important not to do anything which might encourage such a tendency. In a few places, the drafting of the Green Paper seemed unduly favourable to contingency fees, and to deny the unfortunate consequences which they had had in the United States. On the other hand, the Green Paper made it clear that the United States system had a number of considerable disadvantages. It proposed that the introduction of the much more limited Scottish system of speculative actions should be considered for England and Wales. That system had worked well in Scotland. It would make it easier for people who were not rich to go to law, an objective of great importance.

f. There were disturbing signs that increasing litigation in the United Kingdom, and a rise in the level of damages awarded, was having a serious effect on the work of other professions. Their members were being driven to take out very expensive indemnity insurance to protect themselves. It was for consideration whether it was right to continue allowing claims to be unlimited. This was however a separate question, and any limit on the level of claims would involve a change in the substantive law.

g. As to Parliamentary handling, the usual procedure was for Green Papers to be put before Parliament by means of a Written Answer rather than an oral statement. It was right to adopt that procedure on this occasion.

THE PRIME MINISTER, summing up the discussion, said that the Cabinet welcomed the approach adopted by the Lord Chancellor to restrictions in the legal profession, and endorsed the draft Green Papers attached to C(89) 1. They should be published by way of a response to Written Questions in both Houses of Parliament, on Wednesday 25 January.

The Cabinet -

Took note with approval of the Prime Minister's summing up of their discussion and invited the Lord Chancellor to proceed accordingly.

Cabinet Office

19 January 1989