

"Victims of our history", the Labour Party and In Place of Strife, 1968 to 1969

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**'VICTIMS OF OUR HISTORY', The Labour Party and *In Place of Strife*,
1968 to 1969.**

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Queen Mary College, University of London
PhD Thesis
October 2004



Statement of Originality

“I certify that this thesis, and the research to which it refers, are the product of my own work, and that any ideas or quotations from the work of other people, published or otherwise, are fully acknowledged in accordance with the standard referencing practices of the discipline. I acknowledge the helpful guidance and support of my supervisor, Professor John Ramsden, and the unfailing love, tolerance, patience and support of my family, Becky, Tessa and Joe.”

Richard John Tyler

ABSTRACT

‘Victims of our history’, The Labour Party and *In Place of Strife*, 1968 to 1969

This thesis consists of a detailed chronological examination of the events leading up to the publication of the white paper, *In Place of Strife* in January 1969, and its subsequent replacement with a ‘solemn and binding’ agreement with the Trades Union Congress in June 1969. The work seeks to address four propositions that have emerged from the historiography: that Barbara Castle was unduly influenced by anti-trade union officials; that the contents of the white paper were a knee jerk reaction to the Conservative proposals; that neither Castle nor Harold Wilson understood the trade union movement; and that the final agreement, was a failure that demonstrated the inability of a Labour government to escape from its trade union roots.

In Place of Strife has received considerable coverage in the diaries, autobiographies and biographies of politicians and trade union leaders. However, there remain a number of important gaps, notably; the respective roles of civil servants, politicians and outside advisors; the detailed debates of the parliamentary Labour party and the internal discussions of the trade unions, especially the TUC general council. Drawing from a range of primary sources including; newly released government papers this study addresses the gaps in our knowledge and evaluates the existing historiography.

What emerges from this study is that, rather than being unduly influenced by her officials, Barbara Castle was the main instigator of the white paper. Similarly, whilst the white paper was influenced by the publication of the Conservative proposals, it was grounded in a well thought out philosophy of trade union rights and responsibilities. Similarly, whilst confirming that Castle and Wilson demonstrated considerable naivety in failing to anticipate the extent of the antagonism shown by trade unions towards the proposals, the study also reveals a depth of trade union intransigence that came close to challenging the government’s right to govern. Consequently, Wilson in particular emerges as a

skilled negotiator who extracted as much as was possible given the constraints placed on him.

VICTIMS OF OUR HISTORY’
The Labour Party and *In Place of Strife*, 1968 – 1969

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LIST OF ABBREVIATIONS

AEF	Amalgamated Union of Engineering and Foundry Workers
AEU	Amalgamated Engineering Union
ASTMS	Association of Scientific, Technical and Managerial Staffs
AUEW	Amalgamated Union of Engineering Workers
BCC	Barbara Castle Collection
BMC	British Motor Corporation
CBI	Confederation of British Industry
CIR	Commission for Industrial Relations
CLP	Constituency Labour Party
Cmnd	Command Paper
DATA	Draughtsman's and Allied Technical Association
DEA	Department of Economic Affairs
DEP	Department of Employment and Productivity
ETU	Electrical Trades Union
GC	General Committee
GMWU	General and Municipal Workers Union
IMF	International Monetary Fund
LPA	Labour Party Archive
MPS	Manpower Productivity Service
MRC	Modern Records Centre
NA	National Archive
NEC	National Executive Committee
NJAC	National Joint Advisory Council
NUPE	National Union of Public Employees
NUS	National Union of Seamen
P and I	Prices and Incomes
PLP	Parliamentary Labour Party
PPS	Parliamentary or principal private secretary
RC	Royal Commission
SEP	Economic Strategy Committee
SOGAT	Society of Graphical and Allied Trade Unions
TGWU	Transport and General Workers Union
TUC	Trades Union Congress

INTRODUCTION

‘Jo [sic] Haines had passed Harold a note saying some members of the G.C. had been calling out of the window to the industrial correspondents, “Another half hour and we’ve won.” Vic [Feather] was shocked at the idea.’¹

In Place of Strife

In January 1969 Harold Wilson’s second Labour government published proposals for the reform of industrial relations. The white paper, *In Place of Strife, A Policy for Industrial Relations*², was envisaged by its creator, Barbara Castle, the Secretary of State for Employment and Productivity, as a statement of trade union rights and responsibilities designed to protect and enhance the standing of the trade union movement. As Castle was to emphasise, the proposals included much that the trade unions were calling for; rights of trade union recognition; the right of individuals to join a trade union; and protection against unfair dismissal. However, the white paper also gave the secretary of state discretionary powers to order a strike ballot before official strikes, and to order a ‘conciliation pause’, an immediate return to work lasting for up to 28 days in the case of unconstitutional or unofficial strikes.

Castle had envisaged that, once published, the white paper would stimulate a debate that would inform legislation in the autumn of 1969. However, a series of events led to pressure for more immediate solutions, and consequently to proceed with an ‘interim’ bill for introduction in June 1969 that would include one or more of the penal clauses and a limited number of the new trade union rights. In response the general council of the Trades Union Congress (TUC) produced its own set of proposals that were published as *Programme for Action* in early June 1969 and overwhelmingly endorsed by a special meeting of congress on 5 June³. On the strength of this endorsement the general council made it clear they would proceed with their own proposals only if the government dropped the penal clauses from the interim bill. There then followed two weeks of intense negotiations during which Castle and Harold Wilson sought to obtain the

¹ Barbara Castle’s diary, unpublished transcript, 18 June 1969, *Barbara Castle Collection*, University of Bradford

² *In Place of Strife, A Policy for Industrial Relations*, Cmnd 3888 (HMSO, January 1969)

³ *Programme for Action* (TUC, 1969)

necessary assurances that *Programme for Action* would be as effective as the interim bill, culminating in their failure to gain Cabinet support to continue with the bill in the face of trade union intransigence, and the agreement of the general council to sign a ‘solemn and binding’ undertaking to manage industrial disputes within the guidelines set out in *Programme for Action*.

In Place of Strife came closer to splitting the Labour movement than any event since Ramsay MacDonald formed his national government in 1931. It not only represented a final throw of the dice by a Prime Minister desperate to restate his post-devaluation credentials for governing, but it also demonstrated the claustrophobic nature of the bonds that linked a Labour government to the trade union movement and the limitations that these placed on significant reform⁴. Drawing on recently released, and previously unused, government papers, political and trade union archives, as well as interviews with many of the key personalities and contemporary press coverage, this thesis provides a detailed study of *In Place of Strife*, from the appointment of Barbara Castle to the newly formed Department of Employment and Productivity (DEP) in April 1968, through the emergence of the white paper, the subsequent debates within Cabinet, Parliamentary Labour Party (PLP), and with the general council of the TUC, to the final tortuous negotiations that led to the ‘solemn and binding’ agreement in June 1969.

What is known and where are the gaps – A note on sources

Any student of *In Place of Strife* is both helped and hindered by three comprehensive diarists; Barbara Castle; Richard Crossman; and Tony Benn⁵: helped because they offer unmatched insights into day-to-day events, but hindered because each is a much a triumph of selection as it is revelation. Similarly, whilst both Castle and Benn claimed to write up the day’s events on the same evening, Crossman was often known to wait for over a week before completing an apparently contemporaneous entry. Castle’s method was to take shorthand during

⁴ The pound was devalued on 18 November 1967 with a change in parity from \$2.80 to \$2.40

⁵ Barbara Castle, *The Castle Diaries 1964-70* (George Weidenfeld and Nicolson Ltd, London 1984), Richard Crossman, *The Diaries of a Cabinet Minister, Volume Three, Secretary of State for Social Services, 1968-70* (Hamish Hamilton and Jonathan Cape, London 1977), Tony Benn, *Office without Power, Diaries 1968 – 72* (Hutchinson, London 1988)

meetings that she then typed herself either on the same day, or more often at weekends. When she came to prepare the diaries for publication she eliminated much of the specialised detail and sections dealing with specific subjects that, whilst important, were not in the mainstream of the diaries. In addition, she wrote the introduction, linking passages and footnotes. Finally, in order to ensure veracity, she bequeathed the original typed version to Bradford University, where it has been lodged since her death in March 2003. It has therefore been possible to compare the original typescripts with the published version to determine what, if anything was omitted from the passages dealing with *In Place of Strife*. In general, Castle was true to her objective and the majority of the transcripts are reproduced verbatim in the published text. There are a number of relatively small exclusions and, where relevant, they are referred to in the text⁶. However, if the three diaries are taken in conjunction with the autobiographies and biographies of most of the major political figures of the period, it is possible to build up a detailed account of the ‘high politics’ of the period.

As is to be expected, Castle’s diaries provide a blow-by-blow account of the negotiations with the TUC general council, as well as giving her own perspective on Cabinet debates and discussions within the PLP. Crossman and Benn provide differing perspectives on the Cabinet discussions, with Crossman also providing insights into the discussions of Wilson’s ‘inner cabinet’, and, as a member of Wilson’s inner circle, into the thinking of both Wilson and Castle during crucial periods of the negotiations. These accounts are reinforced by those of Wilson, James Callaghan, the Home Secretary and Roy Jenkins, the Chancellor of the Exchequer⁷, such that it is possible to build up a detailed understanding of events and the main drivers behind them. Each of these, however, has its limitations. The Wilson memoir was written immediately after losing office in 1970 and sought both to justify the previous six years and attack Edward Heath and the Conservatives as part of his re-election strategy. Consequently it admits to few errors over *In Place of Strife*, and is noticeably vague or silent on the full extent of Wilson’s involvement in events. Similarly, both Jenkins and Callaghan appear to

⁶ *Barbara Castle Collection*, University of Bradford (henceforward BCC)

⁷ Harold Wilson, *The Labour Government 1964-70* (Penguin Books Ltd., Middlesex, 1974), James Callaghan, *Time and Chance* (Collins, London 1987), Roy Jenkins, *A Life at the Centre* (Papermac, London 1994)

wish to forget the episode. Jenkins because of residual guilt over the way he abandoned Castle and Wilson, and Callaghan perhaps because of a guilty conscience over his role as principal plotter and opponent. Consequently, all three accounts leave important gaps over the sequence of events and their role in them.

By contrast, Peter Jenkins has provided a comprehensive blow-by-blow account of the whole episode in *The Battle of Downing Street*, which, written within a year of events, draws on his own detailed knowledge of the main events and protagonists as seen from his perspective as the *Guardian's* political commentator and columnist⁸. Most recently Ann Perkins, in her official biography, has been able to draw on Castle's private papers and recently released official papers to offer further perspectives on the origins of the white paper and the eventual settlement⁹. Finally, whilst not as well served as the politicians, the trade union perspective is covered in some detail by Jack Jones in his own memoirs; by Geoffrey Goodman in his biography of Frank Cousins; and by Eric Silver in his biography of Vic Feather¹⁰.

In addition, a number of commentators have drawn on *In Place of Strife* as part of a wider study. Robert Taylor sets out the main events in his history of trade unions since 1945, and Gerald Dorfman includes a detailed account in a study of government - trade union relations¹¹. Taylor's account is confined to existing sources, most notably Peter Jenkins, and whilst Dorfman includes interviews with a number of unnamed trade union officials, he is unable to offer a detailed account of the negotiations and the issues arising from them. Similarly, Castle's permanent secretary at the Department of Employment and Productivity, Sir Denis Barnes has co-authored a book on trade union history that, whilst offering detailed coverage of the events, adds little that is not available from other

⁸ Peter Jenkins, *The Battle for Downing Street*, (Charles Knights & Co., London, 1970)

⁹ Anne Perkins, *Red Queen, The Authorized Biography of Barbara Castle* (Macmillan, London 2003)

¹⁰ Jack Jones, *Union Man, An Autobiography* (Collins, London 1986) Geoffrey Goodman, *The Awkward Warrior, Frank Cousins: His Life and Times* (Davis-Poynter, London 1979), Eric Silver, *Vic Feather, T.U.C* (Victor Gollancz Ltd. London 1973)

¹¹ Robert Taylor, *The Trade Union Question in British Politics, Government and Unions since 1945* (Blackwell, Oxford, 1993), Gerald A. Dorfman, *Government versus Trade Unions in British Politics since 1968* (Macmillan, London 1979)

published sources¹². Most recently, Jim Tomlinson has covered the episode in his study of Wilson's economic policy. Tomlinson does draw on official papers, but his focus is on the potential impact of *In Place of Strife* on prices and incomes policy, rather than on the detailed events themselves.¹³

However, even with this wealth of detail, there are significant gaps in our understanding of events that this study sets out to fill. Despite Castle's account of the development of the white paper, her diary is somewhat opaque in its description of the origins of the white paper, and the respective roles of civil servants, politicians and outside advisors. To this end, official papers released under the thirty-year rule shed considerable additional light on policy formulation. Similarly, whilst she covers the Cabinet debates and detailed negotiations in some detail, official papers should provide a fresh perspective on the discussions.

Whilst the formal Cabinet politics are already covered in some detail, there is next to nothing in the published sources covering; the detail of the PLP discussions; the attitudes emerging from Constituency Labour Parties (CLPs) in the form of motions to the National Executive Committee (NEC); or the debates of the NEC itself, especially the crucial meeting at which Callaghan backed the NEC against the Cabinet. Once again, papers covering these events are now available from the Labour party archives and form an important part of the overall story.

Finally, however, the largest gap is in the discussions of the trade unions. As has been noted, we have the views of Jones, who was one of the main protagonists, and secondary accounts of the views and roles of Feather and Cousins, but there is nothing to match the Cabinet diarists. To this end, essential elements in this study are the official records of the TUC and the larger unions, along with union publications and official statements. As will become clear, minutes of the general council and the finance and general purposes committee tend to be more candid than the corresponding government conclusions and consequently provide

¹² Denis Barnes and Eileen Reid, *Government and Trade Unions, The British Experience, 1964-79* (Heinemann Educational Books, London 1982)

¹³ Jim Tomlinson, *The Labour Governments 1964-70, Volume 3 Economic Policy* (Manchester University Press, 2004)

invaluable insights into the thoughts and behaviour of both trade union and government protagonists.

Received wisdom – the historiography of *In Place of Strife*

Whilst there may be gaps in our knowledge of the period, this has not stopped the growth of received wisdom. Overall four general propositions have emerged from the historiography of *In Place of Strife*: that Barbara Castle was unduly influenced by anti-trade union officials who found in Castle a minister receptive to their own reform agenda; that the contents of the white paper were an ill thought out, knee jerk reaction to the Conservative proposals contained in *Fair Deal at Work*, and were neither philosophically coherent, nor practically effective; that neither Castle or Wilson were of, or understood the trade union movement, and consequently failed to understand both the visceral impact any proposals impinging on the right to strike would have on the Labour movement and the PLP; and that the final, ‘solemn and binding’ agreement, however much it was dressed up by both sides as an honourable compromise, was a failure for Castle and Wilson that demonstrated the inability of a Labour government to escape from its trade union roots.

Both participants and commentators have argued the view that Castle was in the thrall of anti-trade union officials. Geoffrey Goodman comments that the case for legal intervention in industrial relations had been around in draft form in the Ministry of Labour for some time waiting for a suitably compliant minister to pursue it¹⁴, an argument supported by Jack Jones who challenged Castle and Wilson to explain why a Labour government was peddling, ‘the anti-trade union ideas of top civil servants’¹⁵. Similarly, among more recent commentators, Robert Taylor has argued that, during the early 1960s, a more ‘robust’ attitude began to emerge towards trade unions within the Ministry of Labour and this was reinforced by a number of senior appointments from outside the Ministry¹⁶. Three general issues emerge; that the creation of the DEP led to the arrival of a much more interventionist philosophy; that this served to reinforce a growing view

¹⁴ Goodman (1979) p. 572

¹⁵ Jones (1986) p.204

¹⁶ Taylor (1993) pp. 157-159

within the department that something needed to be done about industrial relations; and that Castle provided a ready ear for such advice.

The view that the white paper lacked a coherent philosophy owes much to general criticisms of Harold Wilson's style of government and was certainly not helped by his reported remark on first reading *In Place Strife* that Castle had 'not so much out-heated Heath as outflanked him'¹⁷. As Ben Pimlott has remarked, 'Wilson was apt to distil a major policy choice in a quip'¹⁸, but such remarks continue to exert their influence over thirty years later: Anne Perkins refers to *In Place of Strife* as a 'short term political fix, a way of scoring off the Tories'¹⁹. This sense of yet another Wilson gimmick undoubtedly led to the view that the paper lacked a coherent philosophy, but the proposals also suffered from Castle's attempt to forge a middle way between the legalistic approach favoured by the Conservatives and the Confederation of British Industry (CBI) on the one hand, and the refusal by the unions and their representatives to contemplate anything that hinted at coercion. In the circumstances, it suited both sides to argue that the proposals would not work, and this in turn has led to the perception that the pursuit of such limited proposals was not worth the schism that it seemed to be creating.

Similarly, their opponents advanced the view of both Castle and Wilson as academics with little or no understanding of the trade union movement from the outset. Leading trade unionists such as Jack Jones made it clear from the moment that he became aware of the contents of the white paper that he regarded them both as, 'basically academics', who it was difficult to persuade to see things, 'from a shop-floor angle'²⁰. Similarly, Geoffrey Goodman quotes Feather on Castle thus, 'Barbara's knowledge and understanding of how trade unions work and function is nil'²¹. Cabinet opponents eagerly took up the charge, most notably Jim Callaghan who was anxious to enhance his own reputation as an ex-trade union official who understood the movement, the 'keeper of the cloth cap' as

¹⁷ Castle (1984) p.566 entry for 4 December 1968

¹⁸ Ben Pimlott, *Harold Wilson* (HarperCollinsPublishers, London 1992) p.527

¹⁹ Perkins (2003) p.324

²⁰ Jones (1986) p.204

²¹ Geoffrey Goodman, *From Bevan to Blair, 50 years reporting from the political front line*, (Pluto Press, London 2003) p.125

Peter Jenkins expressed it²². This sense that they just didn't understand the trade union movement continued to be expressed by senior trade union figures such as Len Murray²³, who argued that Castle was, 'not within a million miles of making it [*In Place of Strife*] saleable'²⁴.

Finally, there is an almost universal acceptance that the final agreement represented a failure for both Castle and Wilson. Significantly, and understandably, Wilson sought to present the solemn and binding agreement both as an honourable outcome, in which the TUC's proposals had been accepted only because the unions had, 'moved forward forty years in a month'²⁵, and as the logical culmination of a negotiating process in which he had always been prepared to adopt the TUC proposals in preference to his own if they could be demonstrated to be as effective and as fast-acting as the government's own proposals. Needless to say, his contemporaries and future commentators rejected Wilson's analysis. Richard Crossman, Secretary of State for Health and Social Security, concluded, on hearing that Wilson and Castle had rejected any future legislation for sanctions that, 'they had just chucked it all away' and, following the meeting of the PLP at which Wilson outlined the terms of the agreement, concluded that, 'They [the PLP] had got the climb-down they wanted'²⁶. Equally damning were the comments of Castle's permanent secretary, Denis Barnes that, 'The attempt to reform industrial relations with a degree of urgency greater than that of the Donovan Commission [Royal Commission on Trade Unions and Employers Associations, Lord Donovan was the chairman] or the TUC had failed'²⁷.

How far was the white paper a product of the Civil Service, and how far did it represent an attempt to frame a coherent philosophy of industrial relations? Was it the ignoble failure that it came to appear, or was Wilson right to present it as the negotiated settlement he had always wanted, and how far did the outcome

²²Jenkins (1970) p.82 and Kenneth O. Morgan, *Callaghan A Life* (Oxford University Press, Oxford 1997) p. 333 'Callaghan's view was that Barbara Castle and most of her associates were ill-informed about industrial relations, unlike a participant like himself, and oblivious to the intensity of the TUC's reaction'.

²³ At the time Murray was the TUC's head of research

²⁴ Quoted in Pimlott (1992) p.530

²⁵ Wilson (1974) p.833

²⁶ Crossman, (1977) p.529, entry for 18 June 1969

²⁷Barnes and Reid (1982) p.126

demonstrate serious misjudgements and a fundamental lack of understanding on the part of Wilson and Castle? The aim of this study is to address these four broad areas and, taking into account new and existing sources, seek to determine how far the newly emerging evidence supports the received wisdom.

A growing sense of crisis: 1964 - 1968

When Harold Wilson launched his 1964 election campaign at the annual meeting of the Trades Union Congress (TUC) and called on the unions to become, 'partners in a great adventure'²⁸, there was little sign of what was to come. The manifesto made no mention of trade union reform, rather the national plan was to square the circle of full employment and wage inflation via increased productivity. Similarly, whilst the Conservative manifesto did mention industrial relations, it confined its commitments to an early enquiry into trade union law following 'recent decisions in the Courts' that had highlighted 'aspects of the law affecting trade unions and employers' associations'²⁹. However, whilst neither party seemed prepared to acknowledge it, the previous ten years had seen a sea-change both in trade unions, and in the public perception of them, that was to undermine the somewhat complacent tone that dominated the 1964 election.

The election of Frank Cousins as general secretary of the transport and general workers union (TGWU) in 1956 is generally regarded as the point as which attitudes within and towards trade unions began to change³⁰. Up until 1955, the TUC was dominated by a triumvirate of Arthur Deakin, general secretary of the TGWU, Sir William Lawther, president of the national union of mineworkers (NUM), and Thomas Williamson, general secretary of the national union of general and municipal workers (GMWU). These three, all on the right of the Labour party, oversaw the emergence of the TUC as an establishment body that flourished in the pro-trade union environment of the early 1950s, and ruled over the trade union movement with an authoritarian air that created considerable resentment among many rank and file members. However, the death of Deakin in

²⁸ Quoted in Taylor (1993) p.130

²⁹ F.W. Craig, *British General Election Manifestos 1918 – 1966* (Political Reference Publications, Chichester, 1970) p.219

³⁰ Eric Wigham, *What's Wrong with the Unions?*, (Penguin Books Ltd, Middlesex 1961). Wigham offers a near contemporary account of these changes.

1955 and his replacement by Cousins in 1956, following the short-lived rule of Arthur Tiffin³¹, heralded a change in leadership and attitudes that were to gain ever-greater momentum as the decade continued.

According to Denis Barnes, Cousins favoured a return to what he considered to be a more 'democratic' role in which 'the overriding purpose of officers of the unions, including himself, was to give effect to the immediate aims of the members as expressed by their more active and militant spokesmen'³². Cousins' philosophy reflected the growing power and influence of shop stewards, whose role had grown steadily during the full employment of the 1950s, and who had become increasingly alienated by the authoritarian leadership of Deakin and his colleagues. Cousins was the first example of the 'shop floor' reasserting control, and he was to be followed by both Jack Jones of the TGWU and Hugh Scanlon of the Amalgamated Engineers Union (AEU), both of whom were to play a major role in the struggle over *In Place of Strife*, and in which, as will become clear, they were to reflect the militancy of the shop floor as against the establishment tendencies of a number of their TUC colleagues.

The growing strength of the shop floor, coupled with a worsening economic situation after the 1955 general election, was reflected in a growing number of unofficial strikes, particularly in the motor manufacturing industry, where the interrelated nature of individual manufacturing plants meant that a small strike in one factory could have a much wider effect on related plants. As an example of the exaggerated impact a small dispute could have, Eric Wigham, writing in 1961, quotes the example of a strike by 500 door assemblers in one factory leading to 9300 workers being laid off in related plants³³. By 1959, newspapers had started to adopt the American term, 'wildcat strikes', when referring to unofficial strikes, and such was the concern that the TUC announced an inquiry into unofficial strikes and the position of shop stewards, whilst the Conservative Minister of Labour, John Hare, convened a series of meetings with representatives from each

³¹ Arthur 'Jock' Tiffin was elected General Secretary in succession to Deakin in June 1955. He died of cancer on 27 December 1955, and Cousins was elected to succeed him in May 1956. See Goodman (1979) pp.100-113

³² Barnes and Reid (1982) p.27

³³ Wigham (1961) p.97

of the more strike prone industries, including motor manufacturing, to seek solutions to the growing problem.

Growing industrial unrest and militancy was also reflected in popular culture, often a useful barometer of changing social attitudes. Two films, *I'm All Right Jack*, released in 1959, and *The Angry Silence*, released in 1960, highlighted the almost dictatorial power of the local shop steward, and the tyranny of the closed shop, whilst a popular television series, *The Rag Trade*, broadcast in 1961, satirised a growing belief in the prevalence of strikes with the phrase, 'Everybody out'. It was not just popular culture that was reflecting this change. Andrew Shonfield, economics editor of the *Observer*, and the aforementioned Eric Wigham, industrial relations editor of *The Times*, both published books that were critical of existing attitudes among the trade unions. Shonfield wrote of the, 'new belligerent mood of labour'³⁴, whilst Wigham wrote a 1961 Penguin special entitled, *What's Wrong with the Unions?*, in which he identified 23 specific complaints ranging from, 'The structure of the movement is out of date', to, 'The closed shop restricts individual freedom'³⁵, and suggested that an inquiry be held into the implications of making collective agreements legally binding. It was perhaps not surprising that, when Wilson decided to appoint a royal commission to review industrial relations, both would become members.

Wigham's reference to legally binding procedure agreements reflected, from the union perspective, the most worrying strand in growing concerns over trade union activities: the role of the law. In 1958 the Inns of Court Conservatives produced a pamphlet, *A Giant's Strength*, in which they called for a new legal framework for industrial relations, including the loss of all legal privileges in the event that a union went on strike in defiance of union rules. According to Robert Taylor, the pamphlet had a limited impact, but was influential when the Conservatives came to develop new policies after the 1964 election³⁶. Four years later, however, a ruling by the House of Lords in the case of *Rookes vs. Barnard* was to re-open the relationship of trade unions and the law with significant results. The ruling

³⁴ Quoted in Taylor (1993) p.116-117

³⁵ Wigham (1961) p.197

³⁶ Taylor (1993) p.107

indicated that Rookes, a non-unionist who had been sacked because the union had threatened to strike in support of the closed shop, was entitled to damages from the union. The ruling made it clear that the Trade Disputes Act, 1906 did not give the blanket protection assumed by trade unionists to have existed for nearly 60 years.

George Woodcock, then general secretary of the TUC, pressed immediately for a Bill to restore the protection trade unionists thought they had under the 1906 Act, offering to accept in return the appointment of a royal commission to consider wider aspects of trade union relations. The Conservatives however, felt that the implications would need to be examined as part of a wider inquiry, hence the manifesto commitment highlighted at the outset. Wilson, on the other hand, committed his future government to the reverse the decision, whilst taking up Woodcock's agreement to a royal commission. Thus it was that when Wilson took office he immediately charged Ray Gunter, Minister of Labour, with reversing *Rookes vs. Barnard* and establishing a Royal Commission. In addition, as a public demonstration of his commitment to work with trade unions, Wilson invited Cousins, in a clear echo of Winston Churchill's appointment of Ernest Bevin, to join the government as minister for technology. The reversal of *Rookes vs. Barnard* was achieved quickly with the Trade Disputes Act, 1965 and, in the same year, the government appointed a Royal Commission on Trade Unions and Employers Associations to investigate and review the existing state of industrial relations. However, whilst Wilson may have felt that he had kicked industrial relations into the long grass, a series of economic crises dragged government and trade union relations increasingly to the forefront of both the political and the public mind, exposing all the issues that had been emerging since the middle of the 1950s.

In 1966, a seven-week strike by the National Union of Seamen (NUS) demonstrated both the fragility of government attempts to control incomes, and the growing frustration of Wilson with what he saw as politically motivated attempts to damage his government. As Cabinet conclusions from 19 May 1966 record, concessions to the NUS would lead to the country suffering, 'both the industrial dislocation of the strike itself and the grave economic consequences of

concessions on pay which would totally undermine the Government's policy on prices and incomes'³⁷. Just over a month later, on 20 June, Wilson launched an attack on what he saw as the militant elements within the union, famously referring to 'a tightly knit group of politically motivated men'³⁸.

The ensuing economic crisis saw the government introduce a six month freeze on prices and incomes, to be followed by a further six months of 'severe restraint'. In response Cousins resigned his Cabinet post and returned to the union, but, in September 1966, the Cabinet agreed to a system of fines to be applied to both individual trade unionists and trade unions in the event of non-compliance with the freeze³⁹. By the following autumn, trade union patience was running out and the TUC congress passed a resolution condemning the government's statutory approach.

Whilst the tightening of prices and incomes was creating pressure on government/trade union relations, a steady rise in unofficial strikes was leading to increasingly loud calls for legal measures to restrict 'unconstitutional' action. As early as September 1965, the Cabinet had considered a report from Gunter on the frequency of disputes in the motor industry. In his report, he noted that 'already in 1965 there had been one hundred and twelve stoppages of which only five had been official strikes'⁴⁰. Furthermore, he reported that it was 'privately acknowledged by the leaders of the unions concerned that they no longer had adequate control over the actions of their members in the industry'.

The growing tensions between trade unions and government, and trade unions and industry led inevitably back to the Royal Commission. When Wilson was forced to devalue the pound in November 1967, heralding a further period of economic restraint, George Brown urged the introduction of immediate trade union legislation⁴¹. Similarly, such was their sense of the worsening state of industrial

³⁷ National Archives, Public Record Office [hereafter NA, PRO] CAB128/41 CC(66) 25th Conclusions 19 May 1966

³⁸ Quoted in Pimlott (1992) p.407

³⁹ *ibid.* 44th Conclusions 1 September 1966

⁴⁰ *ibid.* 46th Conclusions 1 September 1965

⁴¹ Eric Wigham, *Strikes and the Government 1893 – 1981* (The Macmillan Press Ltd, London & Basingstoke second edition 1982) p.142

relations, that the Confederation of British Industry gave further evidence to the Commission in December 1967, arguing that, since they first gave evidence in November 1965, opinion had hardened and they were now in favour of penalising individuals who took ‘unconstitutional’ action, the legal enforcement of procedure agreements, and suggested that a new registrar of trade unions be empowered to take action against unofficial strikers⁴². Wilson had referred to royal commissions taking minutes and spending years⁴³, and the standard response to Brown was that the government needed to wait for Donovan⁴⁴. Whilst Gunter was to see Donovan in early 1968 to try and hurry the report along, it was clear that he was not to be hurried. The report was though eventually published in June 1968, by which time Barbara Castle had replaced Gunter and the storm clouds were gathering.

⁴²Barnes and Reid (1982) p.95

⁴³Jenkins (1970) p.15

⁴⁴ Lord Donovan was chairman of the Royal Commission and the report became known generally as the Donovan report.

CHAPTER ONE – SEARCHING FOR SOLUTIONS: APRIL – OCTOBER 1968

1.1 Introduction

When Harold Wilson appointed Barbara Castle as First Secretary and Secretary of State for Employment and Productivity in April 1968, the appointment was regarded widely as a last ditch attempt to retrieve prices and incomes policy from the post-devaluation cul-de-sac that had become characterised by confrontation and wage constraint. However, the decision by the Conservatives to publish *Fair Deal at Work*, their prescription for industrial relations reform, on Castle's first day in office, coupled with the imminent publication of the report of the Royal Commission on Trade Unions and Employers' Associations⁴⁵, meant that industrial relations were never far from the surface. Subsequently, as her officials began work on a response to both reports, Castle was faced with a series of official and unofficial strikes during the summer of 1968 that highlighted the need for urgent reform. When both the TUC and the CBI responded to Donovan with a simple reaffirmation of their previously stated positions, and her own officials appeared to endorse Donovan's gradualist approach to reform, Castle was left with little choice but to develop her own proposals.

1.2 A new department and a new minister

When Castle's new appointment was announced, the press had little doubt as to her main priority. The *Guardian* led with, 'Mrs Castle put in charge of wages policy'⁴⁶, the *Daily Telegraph*, 'Pay freeze job for Mrs Castle'⁴⁷, and *The Times*, 'Mrs Castle will run pay policy from new ministry'⁴⁸. This is confirmed in her own account of the appointment. According to her diaries, Castle was offered initially the post of first ever Lady President of the Council and Leader of the House with responsibility for collective Cabinet strategy and the public promotion of government policy⁴⁹. She rejected this, arguing that an economic post was

⁴⁵ Royal Commission on Trade Unions and Employers Associations 1965-68, Cmnd. 3623 (HMSO, London 1968) Subsequently referred to as 'Donovan' or 'the Donovan report' after the Commission's chairman, Lord Donovan

⁴⁶ *Guardian*, 5 April 1968

⁴⁷ *Daily Telegraph*, 5 April 1968

⁴⁸ *The Times*, 5 April 1968

⁴⁹ Castle (1984) p.417, entry for 2 April 1968

more appropriate and suggested the Department of Economic Affairs (DEA). As early as February 1968, she had been arguing in Cabinet that, 'we had never known what type of P and I policy we were trying to pursue'⁵⁰, and, in early April, she reiterated the point to Wilson, arguing that the only way out of the, 'disastrous negative stance', was to raise wages through increased productivity⁵¹.

Whilst Wilson agreed with her approach to prices and incomes policy, he was lukewarm about sending Castle to the DEA, suggesting that Roy Jenkins would not accept it because a strong minister at the DEA would lead to conflict with the Treasury such as had occurred between Jim Callaghan and George Brown, Secretary of State for Economic Affairs⁵². After discussion, Wilson suggested the Ministry of Labour with the addition of prices and incomes policy and the suggestion of a new title, Minister of Employment and Productivity. In the gaps between discussions, Castle had spoken to Richard Crossman and told him of Wilson's concerns about an appointment to the DEA. Crossman was due to dine with Jenkins that night and agreed to raise the issue with him. On the following day, he confirmed to Castle that Jenkins was opposed to the idea because he didn't want a strong minister at the DEA, and this was followed by Jenkins asking to see Castle to explain his reasoning. According to Castle, Jenkins explained his concerns over a potential conflict and, whilst she argued against him, 'he was clearly not convinced'⁵³. Subsequently, Castle was summoned to see Wilson who again put the idea of the Ministry of Labour and was again met with a lukewarm response. It was only on the following day, following an intervention by Crossman, who suggested to Wilson that he offer Castle the title of First Secretary as well as Minister of Employment and Productivity, that Castle accepted the new post.

The focus on a new start for prices and incomes policy was evident in a telephone conversation between Wilson and George Woodcock, General Secretary of the

⁵⁰ Castle (1984) p.386, entry for 29 February 1968

⁵¹ *ibid.* p.418, entry for 2 April 1968

⁵² Jenkins (1994) p.249. In his view he had just succeeded in 'reknitting together the power of the Chancellor within the Government'

⁵³ Castle (1984) p.419, entry for 3 April 1968

TUC, on 5 April 1968⁵⁴. Wilson opened by explaining that he had decided to take prices and incomes policy away from the DEA and put it into a new department to be known as the Ministry of Employment and Productivity. Wilson was effusive in describing the characteristics of the new ministry, 'a modernised and bigger Ministry of Labour whose policies would put the emphasis on growth and measures towards a high wage economy'. He continued in the same vein that Castle would be in charge of the new department and, 'the emphasis would be much more on productivity bargaining and an expansionist approach than in recent months'. Wilson concluded that he had never intended the DEA to play a major role in prices and incomes policy but that, 'Mr Brown, as First Secretary, had been for D.E.A. [sic] to take the lead in this policy and his two successors had become "bogged down" with prices and incomes policy'.

The upbeat tone was still in evidence at a meeting between Wilson, Castle and the President of the CBI on 10 April⁵⁵. The aim of the meeting was to explain the background to the decision to transfer responsibility for prices and incomes policy to the DEP. Wilson's opening comments covered slightly different ground from the call to Woodcock. He said that 'he had felt for some time that it was inappropriate to separate the responsibility for the "theology" of prices and incomes policy from the responsibility for the practical implementation by the Ministry of Labour'. In her comments, Castle stressed the positive aspects of her role as she had set them out for Wilson, 'She wanted to get away from the negative concept of Prices and Incomes policy; she therefore attached particular importance to productivity agreements - but only where they were what the Prime Minister had termed "copper bottomed"'.

The accounts given by Castle, Wilson and Jenkins, coupled with the official records, give a number of insights into the reasons for Castle's appointment and the direction it was likely to take. Firstly, Wilson's logical justification for the shift of prices and incomes responsibility hid a typical mix of politics, pragmatism

⁵⁴NA, PRO, PREM13/2128, Note of a telephone conversation between the Prime Minister and Mr George Woodcock at 7.15P.M. on Friday, April 5

⁵⁵NA, PRO, PREM13/2128 'Record of a meeting between the Prime Minister and the First Secretary of State with the President of the Confederation of British Industry at 10, Downing Street at 11.00a.m. on Wednesday, April 10, 1968'.

and policy. In the first instance, if Jenkins had not objected, Castle could well have ended up at the DEA and if she had done so it would seem likely that prices and incomes policy would have remained with her. In his memoirs, Jenkins notes that Peter Shore, Secretary of State for Economic Affairs, 'by an unfortunate performance during the Budget debate had made it clear that he did not have the guns to carry through the House of Commons the new Prices and Incomes legislation'.⁵⁶ Shore has acknowledged subsequently that he did not have the political weight necessary to carry through the legislation⁵⁷. As such, a political heavyweight like Castle was required and, given that the DEA was barred to her, transferring the policy to her new department was the pragmatic alternative⁵⁸. Finally, Castle's stress on productivity agreements and the development of a high wage economy was in accord with Wilson's own focus on increased productivity as a way out of the negative stress on wage restraint, and a way of offering a more positive way forward to both the trade unions and elements within the PLP, both of whom were likely to vote against further legislation as soon as the opportunity arose.

However, in all these discussions industrial relations reform was very much the dog that did not bark in the night⁵⁹. None of the press quoted above referred to Donovan and the imminent publication of his report, and, as we have seen, nor did it figure in the discussions between Castle and Wilson or in those with Woodcock or the CBI. Castle has since recalled that when Wilson offered her the Ministry of Labour he made it clear that he thought her very good with the unions⁶⁰, but no explicit mention was made of Donovan or the likely response to it. However, there is some evidence that reform was beginning to appear on the ministerial radar. Since January, Ministry of Labour officials had been receiving draft

⁵⁶Jenkins (1994) pp.248-9

⁵⁷Interview with Lord Shore of Stepney, House of Lords, 10 May 2000

⁵⁸ Jenkins has made it clear subsequently that it was split control over macro-economic policy that concerned him. He did not consider the detailed working through of prices and incomes legislation to present a major challenge to the Treasury and as such was happy for Castle to take responsibility for it. Interview with Lord Jenkins of Hillhead, London, 20 September 2001

⁵⁹ See, Sir Arthur Conan Doyle, 'Silver Blaze' in *The Complete Sherlock Homes Short Stories* (John Murray Ltd, London 1976) pp.326-327, 'The dog did nothing in the night-time', "That was the curious incident", remarked Sherlock Homes'

⁶⁰Interview with Baroness Castle of Blackburn, Buckinghamshire 3 March 2000. According to Castle, Wilson's opinion was based on her resolution of a dispute with the transport unions over the introduction of 'open' transport terminals. See Castle (1984), p.84, entry for 29 December 1965 and p.230, entry for 2 March 1967

chapters from Donovan, and had held a series of meetings to agree on a likely legislative timetable and work programme that would have figured in early ministerial briefings⁶¹.

Of more immediate significance, on 8 April, Castle's first day in office, the Conservatives launched *Fair Deal at Work*, their own proposals for industrial relations reform, and the official records contain a note on the same day from Wilson to Castle referring to its publication and requesting a discussion as to 'how we can mount under your direction a serious study of the proposals'⁶². Furthermore, he suggested that Castle establish a small ministerial committee to supervise the work and pointed out that the work was 'fairly urgent'. In response Castle reported that she had met Lord Donovan to discuss likely publication dates for his report, further indicating that reform was higher in her mind than the earlier exchanges suggest, given that she had only been in post for a matter of days. Donovan had told her that the report should be completed by the end of May and Castle suggested that, 'it would be sufficient for the Committee to be in being ready to consider the Royal Commission's Report just as soon as this is available'⁶³.

1.3 *Fair Deal at Work*

When Castle did come to look at the reform of industrial relations, there were two broad models available to her. The first, *Fair Deal at Work* drew heavily from the submission to Donovan by the Inns of Court Conservative and Unionist Society, proposals that began from the premise that a clear legal framework was an essential prerequisite for effective industrial relations. The detailed proposals focused on two main issues, the rising number of short unofficial strikes, and

⁶¹ See NA, PRO, LAB 10/3418 'Royal Commission on Trade Unions and Employers Associations' 15 March 1968. It was noted that the Cabinet Secretary had asked that the department 'give the earliest possible warning of the point at which some collective ministerial discussion of the Report might be needed', and agreed that the permanent secretary should write to the Cabinet secretary as soon as the publication date was known. It was also agreed that preparatory work should begin based on the draft chapters that were beginning to come in from the commission and that they should identify those items on which action by the government would be needed, whatever the precise final recommendations of the commission

⁶² NA, PRO, PREM 13/2165 Note from Harold Wilson to Barbara Castle, 8 April 1968

⁶³ *ibid.* Note from Barbara Castle to Harold Wilson, 10 April 1968

strikes, both official and unofficial, that were considered to be against the national interest.

Unofficial strikes were to be dealt with by making it obligatory for collective agreements to be legally enforceable, with unions liable for any action by their members in breach of such an agreement. Furthermore, for a wide range of strikes, including; sympathetic strikes and the blacking of goods or services of a different employer not in dispute with his employees (a significant problem in the motor industry); inter-union disputes; and strikes aimed at enforcing the closed shop, it was proposed that the legal definition of a trade dispute should be amended to remove the legal protection accorded to unions under the Trade Disputes Act 1906.

In respect of official disputes that might affect the national interest, the Minister of Labour would be empowered to set up a Board of Inquiry to report on the dispute. The Minister would then be able to apply to a newly created industrial court for arbitration. If the parties did not accept the decision of the court, the Minister could apply for an injunction to delay the strike for a specified period during which there would be a secret ballot on the employer's most recent offer⁶⁴.

As we have seen, the significance of the proposals was not lost on Wilson. However, the initial press response was lukewarm and split broadly along existing party lines, suggesting that Castle was right to suggest waiting until Donovan was published before undertaking a detailed analysis. The proposals did not merit mention in the *Guardian*, whilst *The Times* concluded that there was a case for new laws, but only if they could be shown to improve industrial relations. In this context, the Conservatives had been 'insufficiently selective', and whilst a number of their proposals were sensible, 'it would not be useful to bind people, as they suggest, to observe a collective bargaining system which has ceased to function'. Rather the priority was to reform the system⁶⁵. By contrast, the *Daily Telegraph* commented that the proposals were a 'commendable policy document' that started

⁶⁴ NA, PRO, LAB10/3422 RCR(68)4, 'Conservative Political Centre Publication Fair Deal at Work: The Conservative approach to modern industrial relations. Summary and comparison with Royal Commission Recommendations', 24 May 1968

⁶⁵ *The Times*, 9 April 1968

‘very properly’ from the premise that trade unions must be brought within the normal framework of the law⁶⁶. A point supported by the *Economist*, albeit in a back-handed manner, ‘the good part of their policy is traditional stuff by now’, arguing that the Conservatives were finally supporting a policy that the paper had been advocating for a number of years and that it had ‘hardly grabbed the headlines’⁶⁷.

The Conservative attempt to pre-empt Donovan was largely overshadowed by Wilson’s reshuffle, and did little to ignite a debate about the future shape of industrial relations. However, as will become clear, it did reflect an emerging tendency towards a legalistic approach and highlighted the limitations of Donovan and, as Ann Perkins has commented, closed down several avenues for Castle⁶⁸. Although, when *In Place of Strife* was published, many in the Labour Party were to accuse her of borrowing ‘Tory’ policies, and the Conservatives were to welcome her proposals as a step in the right direction.

1.4 Royal Commission on Trade Unions and Employers’ Associations

The Royal Commission’s report was published on 13 June 1969. It had taken three years to produce, ran to 145,000 words and had considered evidence from 450 organisations and individuals. At its heart was an analysis of what it called Britain’s ‘two systems’ of industrial relations, ‘the one is the formal system embodied in the official institutions. The other is the informal system created by the actual behaviour of trade unions and employers’ associations, of managers, shop stewards and workers’⁶⁹. According to the Donovan analysis, it was the conflict between these two systems that was at the heart of Britain’s industrial relations problems, and the solution was to bring the formal systems more closely into line with the informal through the medium of the factory-wide agreement, which would ‘put an end to the conflict between the pretence of industry-wide agreements and the realities of industrial relations’⁷⁰.

⁶⁶ *Daily Telegraph*, 8 April 1968

⁶⁷ *Economist*, 12 April 1968

⁶⁸ Perkins (2003) p.277

⁶⁹ Royal Commission on Trade Unions and Employers Associations 1965-68 (Cmnd.3623), paragraph 46

⁷⁰ *ibid.* paragraph 176

In order to facilitate the move towards factory-level agreements and improve collective bargaining, Donovan proposed an Industrial Relations Act in order to place an obligation on companies with over 5000 employees to register their collective agreements with the Department of Employment and Productivity as a means of encouraging good practice. In addition, it proposed the establishment of an Industrial Relations Commission that would be expected, on a reference from the Secretary of State, to investigate and report on cases and problems arising from the registration of agreements. Significantly, whilst a failure on the part of a company to register its agreements would result in some form of monetary penalty, Donovan rejected penalties for failure to carry out the recommendations of the Commission, or for companies that refused to recognise trade unions⁷¹.

Having diagnosed the problem and offered a solution, Donovan then addressed the more controversial issue of enforcement and systematically rejected various proposals; making collective agreements into legally binding contracts; compulsory strike ballots; cooling-off periods; and automatic sanctions against those striking in breach of procedure agreements. The one exception to this was a majority view that protection offered under section 3 of the Trade Disputes Act 1906 should be limited to those acting on behalf of a trade union, although the report was at pains to stress that ‘none of us sees this as the primary means of securing a reduction in the incidence of unofficial strikes’⁷². None of this was to say that Donovan was ‘in principle’ opposed to the use of legal sanctions for the enforcement of agreed procedures. However, they concluded, ‘sanctions will remain unworkable until a fundamental change in our system of industrial relations has led to a situation in which employers may be able and willing to use such rights as the law gives them’⁷³.

Whilst the main body of the report reflected the two systems analysis, there were dissenting opinions. Peter Jenkins provided a valuable insight into the internal divisions within the Royal Commission over the direction of the report and these

⁷¹ The refusal to endorse sanctions was not supported by all of Donovan’s members and led to notes of reservation that will be returned to later.

⁷² *ibid.* paragraph 488

⁷³ *ibid.* paragraph 502

are reflected most clearly in Andrew Shonfield's note of reservation⁷⁴. Shonfield, an economic journalist, argued for the introduction of the law into industrial relations on the grounds that, 'If organisations are powerful enough to act the bully then very special grounds are necessary to justify the decision not to subject their behaviour to legal rules.'⁷⁵ Specifically, he proposed that the Industrial Relations Commission should have a more autonomous function, instigating its own investigations and able to exercise independent judicial authority in certain matters relating to collective bargaining. Under Shonfield's proposal, the Commission would be able to order both sides to 'bargain in good faith', and, in instances where either side had been found to disregard this, the Commission would have the power to fine those responsible. Shonfield's proposals were significant. Not only did they expose some of the tensions within the Commission, but they were also the subject of serious consideration by both the Department of Employment and Productivity, and Cabinet ministers when they came to consider strengthening the main Donovan proposals.

Reaction to Donovan was not dissimilar to that to *Fair Deal at Work*. The *Daily Telegraph* rejected the report as 'complacent', concluding that, 'The advocates of trade union reform – a relatively new cause – are obviously not yet as practised or as eloquent as the experienced defenders of the *status quo*.'⁷⁶ By contrast, the *Guardian* supported the overall analysis that, 'purpose and will cannot be legislated into existence', and concluded that the report had 'wisely rejected the temptation to seek a solution in law'⁷⁷. *The Times* was more balanced. It was noted that the bulk of the report was a skilful attempt to steer a course between 'legalist' and 'traditional' schools, and whilst there was some substance to Shonfield's criticism, overall the report was 'a remarkably forward looking document'. However, there was a slight sting in the tail, as the paper concluded that 'it could have been guessed that the report would come at a moment when major strike threats are emphasising the urgency and difficulty of the problems'⁷⁸.

⁷⁴ See Peter Jenkins (1970) Chapter 2, for a detailed account of the workings of the Royal Commission.

⁷⁵ Royal Commission on Trade Unions and Employers Associations 1965-68 (Cmnd.3623), p.290, paragraph 7

⁷⁶ *Daily Telegraph*, 14 June 1968

⁷⁷ *Guardian*, 14 June 1968

⁷⁸ *The Times*, 14 June 1968

For Castle and the DEP this was the main problem with Donovan, for in grounding its prescription in the voluntary model and comprehensively rejecting enforcement and sanctions, it was forcing the government either to endorse an approach that was already under threat and accept a system that was buckling under the stress of increasing industrial tension, or to go beyond Donovan and embrace some form of enforcement and the sanctions that came with it. As Castle's officials concluded, the effects of implementing either set of proposals would be hard to predict, although for different reasons. In respect of *Fair Deal at Work*, 'it cannot be foretold how far employers and trade unions would use the new powers that would be given to them'⁷⁹. Whilst the effect of the Donovan proposals were unpredictable because 'it is hard to say how quickly and effectively employers and unions themselves can bring the changes in bargaining machinery about.'⁸⁰. It was for Castle and her officials to try and find a way forward.

1.5 The political response

Ministerial concerns about the direction Donovan was taking had been expressed as early as October 1967 when Ray Gunter, then Minister of Labour, had warned Wilson that the report was not likely to propose any radical solutions, rather it was likely to stress the need to strengthen the existing institutional framework and to reject proposals for any general legislation⁸¹. Subsequently in January 1968 Gunter met Hugh Clegg, a member of the Royal Commission and principal architect of the two systems analysis. According to Bill McCarthy⁸², Gunter complained to Clegg that the report was not radical enough. Gunter pressed for a more radical approach so that the government could be seen to be taking a more moderate stance. Clegg's response was succinct, if the minister wanted such a report he should write it himself⁸³.

⁷⁹ *ibid.*

⁸⁰ *ibid.*

⁸¹ NA, PRO, PREM 13/2165, Note from Ray Gunter to Harold Wilson 27 October 1967

⁸² Bill, now Lord, McCarthy was head of research for the Royal Commission

⁸³ Interview with Lord McCarthy, Oxford, 26 May 2000

The concern that the report would not be radical enough was clearly on the ministerial agenda when Wilson suggested an urgent analysis of *Fair Deal at Work* and the setting up of a ministerial committee to consider the shape of any future legislation. On 22 April, Castle met Wilson to discuss the composition of a new committee and, following the suggestion of Wilson's Secretary of the Cabinet, Sir Burke Trend, it was agreed that membership should be drawn from two distinct groups. The first from those whose departments had a direct interest in both Donovan and *Fair Deal at Work*. In this group Trend included, the Treasury, Department of Economic Affairs, Board of Trade and the DEP. Whilst the second should include, 'one or two Ministers in a personal capacity' on the grounds that the committee might be responsible for 'formulating policy for legislation'⁸⁴. In the second group Trend included Fred Peart⁸⁵, Richard Crossman, Fred Lee⁸⁶ and Jim Callaghan. Trend also proposed terms of reference; the committee was to consider the Donovan report and 'related matters which would comprise inter alia the Conservative Party proposals and to submit proposals for action'⁸⁷.

After a sequence of notes between Wilson's private office, Trend and Castle, membership of the second group was eventually finalised as: Gerald Gardiner⁸⁸, Richard Crossman, Fred Peart and Fred Lee. In the light of his subsequent claims to have been deliberately excluded from the development of legislation, claims that will be shown to be true, the most notable absentee was Jim Callaghan. Following Trend's initial recommendation, Wilson's private office replied on 23 April adding the name of Gerald Gardiner, the Lord Chancellor, but confining comments on the others to, 'he [Wilson] would like, as you suggest, to consider these proposals at a later stage'⁸⁹. Callaghan's name did not reappear on any of the subsequent lists.

The extent of Wilson's involvement in the composition of the committee and the decision not to appoint Callaghan are significant. They demonstrate, along with

⁸⁴ NA, PRO, PREM13/2165 Note from Burke Trend to Harold Wilson, 21 April 1968

⁸⁵ Lord President of the Council

⁸⁶ Chancellor of the Duchy of Lancaster.

⁸⁷ *ibid.* Note from Burke Trend to Harold Wilson, 14 May 1968

⁸⁸ Lord Chancellor

⁸⁹ *ibid.* Note from Prime Minister's Private Office to Burke Trend, 23 April 1968

his concern for an urgent briefing on *Fair Deal at Work*, the level of his involvement from the outset, something on which his own account of the period is notably vague⁹⁰. Furthermore, the decision to exclude Callaghan was perhaps a reflection of his close relationship with the trade unions. Callaghan had been elected as Labour Party Treasurer at the party conference in October 1967 and Kenneth Morgan has noted that, for the first time, his election ‘built up a powerful alliance with the unions, whose spokesman Callaghan now to some degree became’⁹¹. Consequently, the decision to exclude him appears to indicate that Wilson was already concerned that any legislative proposals could antagonise the trade unions.

The Industrial Relations Committee met for the first time on 30 May 1968. In attendance, along with Castle, were Gerald Gardiner, Peter Shore, Sir Elwyn Jones, Richard Crossman, John Diamond and Harold Walker⁹². The committee had been circulated with a memorandum from Castle dealing with the implementation of the report and the timetable for inclusion in the legislative programme. Attached to the memorandum were three annexes; a summary of the main points of the report; a draft of Castle's statement on Donovan; and a summary of *Fair Deal at Work*⁹³. The first section of the memorandum dealt with the overall response to Donovan and, under the heading 'Should the report be implemented?' set out Castle's initial response that ‘the report is generally acceptable’. However, it was also noted that the Conservatives and ‘organised management’ were likely to contest the rejection of the legal enforcement of collective agreements and action against unofficial strikers⁹⁴. Furthermore, the level of consultation would make it very difficult to legislate before the 1969/70 session, and this would raise legitimate objections that reform was needed urgently and should start as soon as possible.

⁹⁰ See Wilson (1974), p.746 – 747, ‘In early December, the First Secretary, who had been working with a small group of ministers on her scheme, discussed the proposed timetable with the Chancellor and me’. There is nothing here to indicate that he instigated and chaired the group’.

⁹¹Morgan (1997) pp.285-287

⁹² Respectively, Lord Chancellor, Secretary of State for Economic Affairs, Attorney-General, Lord President, Chief Secretary to the Treasury and Joint Parliamentary Under-Secretary at the Department of Employment and Productivity.

⁹³NA, PRO, CAB134/2936, IR(68)2 Ministerial Committee on Industrial Relations, Action on the report of the Royal Commission on Trade unions and Employers' Associations, Memorandum by the First Secretary of State.

⁹⁴ibid.

In discussion Castle noted that not only would the Conservatives and the CBI object to the lack of legislative recommendations, but the TUC were also likely to be 'wary' of the key recommendation that the emphasis of collective bargaining should be at the factory, rather than at the industry level. As a consequence of these reactions and the need for considerable consultation and further study, Castle suggested that her statement 'should be brief and as neutral as possible'⁹⁵. Furthermore, the consultation process was likely to last until early October, suggesting that a white paper could not be published until the end of the year. In respect of the timing of any legislation, Castle reiterated the issues detailed in her memorandum and noted that the government had publicly stressed the need for early action on the report and that the opposition would expect it. In the circumstances, 'it was important that the Government should not be thought to be delaying action because of indecision'⁹⁶. As such, Castle proposed that she ask for a provisional place to be earmarked for a short bill late in the 1968-69 session and that there should be a second bill in 1969-70. In discussion, it was agreed that Castle should make a neutral statement, subject to endorsement by the Cabinet.

Instead of being considered by the full Cabinet, Castle's statement was referred to the Cabinet's parliamentary committee that was chaired by Wilson⁹⁷. Wilson was briefed on the key issues by Trend on 10 June, and the committee considered the statement on 11 June. In his briefing note, Trend summarised the views of the IR committee and offered his own analysis of likely public reaction. In Trend's view 'there may well be considerable public support for the likely Opposition criticism of the report. And Ministers, when they have had time to digest the report and public reaction to it, may themselves want to go further on some points than the

⁹⁵ *ibid.*

⁹⁶ *ibid.*

⁹⁷ Peter Hennessy has defined the role and responsibilities of the Parliamentary Committee thus: 'Wilson created his Parliamentary Committee in early April 1968 on the back of a ministerial reshuffle built around the substantial promotion of Barbara Castle from the Ministry of Transport to a newly refashioned Department of Employment and Productivity as First Secretary of State. Wilson explained the purpose of the new committee to the full Cabinet on 9 April 1968. It was to coordinate the political (as opposed to the policy) strategy of the government with a special emphasis on the presentation of policy. In future the full Cabinet would do rather less. More work would fall on Cabinet committees, where detailed decisions would be taken conclusively.' See Peter Hennessy, *The Prime Minister, The Office and its holders since 1945* (Allen Lane, The Penguin Press, London, 2000) p.320

report recommends.' However, 'because action on the report could have profound and lasting effects on the structure of the British economy which need to be fully considered in advance', Trend supported the adoption of a neutral line and argued that Castle should avoid being drawn on the substance of the issues 'more than is absolutely unavoidable or to commit the Government on any specific recommendations'⁹⁸.

In discussion, two broad opinions emerged. There were those who supported the line taken by the IR Committee and argued that it was wrong to be defensive about a report whose analysis 'was in line with Government thinking and with that of most informed observers'. By contrast, there was wide support for the view that the government should avoid a blanket endorsement of the report. In a passage that echoed Trend's briefing, and therefore suggests that it came from Wilson himself, it was argued that 'the Government should not rule out the possibility that they might want to go beyond the Commission's recommendations in some respects'.

Most notably, it was suggested that the government might wish to go beyond Donovan in respect of unofficial strikes, where 'it could not be taken for granted that implementation of the Commission's recommendations represented all that could be done about the problem of unofficial strikes'. In his summing up, Wilson noted that the committee endorsed Castle's statement as recommended by the IR Committee, but agreed that Castle needed to avoid giving the impression of a 'blanket endorsement' of Donovan's recommendations, and should make it clear that the government did not rule out 'exploring in their forthcoming consultations proposals which were not discussed in the report'⁹⁹. Subsequently, Castle issued a statement in which she acknowledged that the report was both detailed and far reaching and that consultations on future legislation were starting, as 'a matter of urgency'¹⁰⁰.

⁹⁸NA, PRO, PREM13/2165

⁹⁹NA, PRO, CAB134/3031 Parliamentary Committee, 7th Meeting 11 June 1968 Item 1 'Trade Unions and Employers Associations: Report of the Royal Commission'

¹⁰⁰ *Guardian*, 14 June 1968

It is clear from the discussions that took place at both the IR Committee and the parliamentary committee that the government was in a quandary as to the best way in which to respond to Donovan. For those who supported its overall approach there were concerns about how best to deal with the opposition from both sides of industry, so that adopting a neutral approach offered the opportunity to use the consultation period to find a way forward. For those who felt that it did not go far enough in addressing concerns over trade union behaviour, a neutral statement was also supported because it bought time whilst more radical options could be considered. However, the need for urgent action could not be avoided. The publication of *Fair Deal at Work* and the supportive reaction of both employers and some of the press meant that the government had limited time in which to produce its own proposals. The consultation period was due to last until the end of October and it was clear that a white paper was needed by the end of the year. This gave the government four months in which to resolve its concerns and produce some proposals of its own.

1.6 Seeking Solutions

In looking to develop her own proposals, Castle was reliant principally on two sources; the formal consultation process during which the TUC and the CBI were asked to comment on the Donovan recommendations; and the response of her own officials as they worked through the detail of the report. In the historiography of *In Place of Strife*, it is Castle's officials who have been credited or blamed, depending on the perspective of the writer, for the more controversial elements of the white paper. Geoffrey Goodman comments that the case for legal intervention in industrial relations had been around in draft form in the Ministry of Labour for some time, waiting for a suitably compliant minister to pursue it¹⁰¹, whilst Peter Jenkins has argued the case for a more robust approach to industrial relations was confirmed by the merging of key elements from the Department of Economic Affairs (DEA) with the Ministry of Labour to form the Department of Employment and Productivity (DEP) in April 1968, an event that was akin to 'theologians entering a corrupt monastery bearing texts'¹⁰².

¹⁰¹ Goodman (1979) p. 572

¹⁰² Jenkins (1970) p.8

However, whilst the above writers have based their case on a Ministry of Labour submission to Donovan that appeared to advocate the legal enforcement of collective agreements¹⁰³, an examination of the departmental papers and interviews with a number of those present in the department during this period suggest a more complex position. Certainly the creation of the new department brought an influx of new functions and personnel that changed the prevailing culture of the Ministry of Labour. Most notably this was seen in the creation of a prices and incomes division headed by Alex Jarratt who had been secretary to the National Board for Prices and Incomes (NBPI) from its inception in 1965 until March 1968, and of a manpower and productivity division whose deputy secretary, George Cattell had previously worked in the motor industry¹⁰⁴. At a more junior level, the department responsible for dealing directly with Donovan, industrial relations one (IRD1), was to be managed by a new recruit from the Department of Economic Affairs, John Burgh. An organisation chart showing the new structure is shown in appendix 1.

How far, however, did this influx of new blood affect the nature of advice available to Castle? In order to consider this it is necessary to consider the organisational culture of the Ministry of Labour and the changes that occurred during the course of the restructuring. Ian Dewar was an assistant secretary in IRD1 during 1968-69, and as such was responsible for much of the department's response to Donovan. Dewar entered the Ministry of Labour in the early 1950s whilst Sir Walter Monckton was minister, and confirms the view that, during that period, the stress was placed firmly on conciliation and a firm adherence to the voluntarist tradition. However, as industrial relations deteriorated during the late 1950s and early 1960s, the conciliatory approach began to come under pressure. Dewar recalls an article in *The Economist*, written towards the end of the 1950s, referring to the ministry as 'the expendable ministry', on the grounds that it was not perceived to offer any solutions to the rise in industrial unrest. When the increase in unofficial strikes in the early and middle 1960s led to discussions over

¹⁰³ Taylor (1993) p. 158

¹⁰⁴ Castle (1984) p.449n. 'George Cattell had been Personnel Director at Rootes before being sent to take charge of Rootes' Linwood factory. He had also served on a Motor Industry Industrial Relations panel under Ray Gunter and had got to know Dennis Barnes who had recommended him to me as someone who was liberal on industrial relations issues and very interested in productivity'.

the need for a more rigorous approach to industrial relations, the ministry began hesitant discussions over the requirements of greater regulation. However, according to Dewar, many in the ministry, including himself and a number of staff working for him, were ‘unsympathetic’ to this point of view¹⁰⁵.

Another civil servant in the DEP, Alan Brown, reinforces Dewar’s perception of the changing culture. Brown was a private secretary in Castle’s office and recalls clear differences between those who advocated the implementation of Donovan, such as Dewar, and those who wished to go further and advocated what became known as ‘Donovan plus’¹⁰⁶. That position, whilst accepting the general direction of the Donovan analysis, felt that it needed to be given ‘teeth’ in the form of legal sanctions that could be invoked if the voluntarist approach failed. Among the advocates of Donovan plus, according to Brown, were Dennis Barnes, Conrad Heron¹⁰⁷, and the new appointee, John Burgh.

According to Dewar, Burgh had been brought in especially to deal with Donovan. Burgh, whilst claiming no direct proof for it, concurs with the view that he could well have been brought in as an outsider with no preconceived ideas. Burgh also acknowledges that whilst he was woefully ignorant of the finer points of industrial relations, he had seen the impact of unofficial strikes and industrial unrest during his time at the DEA and was receptive to the idea that ‘something needed to be done’ about the trade unions. Whilst he lacked the experience to arrive at specific policy prescriptions and, according to his own recollections, shied away from doing so, he was open to the need for action and became an enthusiastic supporter of *In Place of Strife* once it had been conceived¹⁰⁸.

Thus, whilst there is clear evidence of the growing pressure for a ‘Donovan-plus’ approach among senior staff, Dewar’s recollections suggest that this was not

¹⁰⁵ Interview with Mr Ian Dewar, Penarth 7 April 2000

¹⁰⁶ Interview with Mr Alan Brown, Godalming 5 April 2000

¹⁰⁷ Douglas Barnes was appointed Permanent Secretary in June 1966, and Conrad Heron was appointed as Deputy Secretary with responsibility for industrial relations in the reorganisation of April 1968

¹⁰⁸ Interview with Sir John Burgh, Sussex 19 July 2000. Burgh noted that he had read early extracts from Donovan over the Easter holiday in 1968 and that this was the first time he had come across a detailed explanation of the term ‘collective bargaining’

necessarily shared amongst those within the division that would be charged with producing the initial response to Donovan and the early drafts of any government legislation, and whilst Burgh may have been amongst those supporting ‘Donovan-plus’ he was insufficiently experienced to impose policy prescriptions on the ‘experts’ within his own division. However, there were other pressures for change emerging in the form of the new responsibilities for prices and incomes and perhaps it would be from here that some alternative policy prescriptions would emerge?

Denis Barnes has written that the transfer of new responsibilities brought advantages, since ‘it would contain the conciliation activities of the Ministry of Labour within a policy for which the new Department was responsible - conciliators would no longer be the engineers of inflationary wage settlements’. But it also brought disadvantages, for ‘it more or less destroyed the remnants of any claim the Ministry of Labour still had to provide an “independent” and acceptable conciliation service’¹⁰⁹. This view echoed that of the DEA that, in its submission to Donovan drew attention to ‘the possible conflict between, on the one hand, the Government’s responsibility of conciliation in industrial matters as a means of maintaining industrial peace and, on the other, their responsibility for promoting an effective productivity, prices and incomes policy as an essential condition for achieving sound economic growth’¹¹⁰. That conflict was confirmed recently by Alex Jarratt.

When he arrived at the DEP as a deputy secretary responsible for prices and incomes, Jarratt’s perception was of a conciliation ministry whose role was ‘to keep the machine going’, and whose senior staff were steeped in the culture of negotiation and compromise to such an extent that the inclusion of prices and incomes policy was never going to see the two roles working well together. Consequently, according to Jarratt, there was, ‘virtually no’ relationship between the different divisions within the department. However, in his view, reform of industrial relations held the key to the impasse that had been reached in prices and

¹⁰⁹ Barnes & Reid (1982) p.101

¹¹⁰ *Royal Commission on Trade Unions and Employers Associations, Minutes of Evidence 25th January 1966*, ‘Written Memorandum of evidence submitted by the Department of Economic Affairs in advance of the oral hearing’ p.652, paragraph 22

incomes policy. Jarratt had served for three years as secretary to NBPI during which time he had plenty of opportunity to observe the behaviour of trade unions at first hand. In his view prices and incomes policy had ‘staggered to a halt’. A number of NBPI reports had argued that individual trade unions did not have sufficient authority over their members to effectively implement the required incomes policy. Furthermore, whilst the TUC’s early warning and vetting system had been welcomed, questions were being raised as to the ultimate ability of a body such as the TUC to exert authority over its autonomous members. In the circumstances, something else was needed to constrain behaviour that was damaging the economy and the country and it followed, according to Jarrett, that some constraints on collective bargaining were the logical way forward¹¹¹.

It is clear that a ministry steeped in the culture of consensus and arbitration was being yoked to a set of policy objectives that were, by their very nature, confrontational. By early 1968, prices and incomes policy was little more than a means of freezing wage demands, and as such cut directly across free collective bargaining. The old Ministry of Labour was now being forced into a dual role of determining incomes policy and then being required to manage the consequences, with any sense of an informal arbitrator was being rapidly lost. Similarly, the influx of new staff brought attitudes reflecting a different set of priorities. These were not staff whose main priority was to manage the existing relationship between management and labour. Rather, they were concerned with the wider economic situation. If the relationship between management and labour were damaging the economy they would be happy to see the relationship redefined.

Such a change would not have prospered if there had been opposition at the top of the department. As has been indicated though, there had been a change in outlook amongst the senior staff which, when coupled with the different outlook of some of the newer recruits, enabled more interventionist ideas take root. However, as will become clear, the introduction of new strands of policy advice did not affect directly the initial work that was produced in response to Donovan. As Jarratt recalls, there was no direct working relationship between the two different sides of

¹¹¹ Interview with Sir Alex Jarratt, London 19 June 2000

the department. In addition, there still existed a core group of civil servants that remained loyal to the previous role of the ministry and the voluntarist tradition of industrial relations. Significantly, aside from Burgh who was still finding his feet, IRD1 represented just such a group and, if attention is turned to the policy advice produced during this period, it is clear that the voluntarist tradition continued to prevail.

Castle's officials spent some time discussing the most effective way to manage the Donovan report and concluded that there might be a need for inter-departmental committees at both ministerial and official levels, once 'the Ministry had formulated its own views'. Subsequently, they recommended that an official committee be established with a small core membership, but with papers circulated to the other departments that were less directly concerned¹¹². Burgh then established an official level committee, the Royal Commission Report Working Group (RCRWG) to work through the implications of Donovan.

At the first meeting of the group on 10th May, Burgh noted that the machinery for carrying out inter-departmental consultations 'had not been finally decided', but that 'there was likely to be a ministerial committee for this purpose' which would be chaired by Castle. If such a committee were established, it 'might be serviced' by an inter-departmental official committee. The working group's role would be to 'co-ordinate views within the Department, and would service any such official committee'. However, whilst the ministerial committee met on 30 May, it did not meet again until 6 November, and consequently Burgh's working group took on the role of the inter-departmental official committee, although without a ministerial committee for it to feed into. Burgh concluded that the group should meet 'as necessary' rather than regularly, and that there would not be a fixed membership. Rather, 'people should attend according to the subjects which were to be discussed.' The lack of a ministerial committee for the working group to feed is significant. As was noted above, the ministerial committee that met on 30 May to consider a formal response to Donovan did not give any consideration to

¹¹² NA, PRO, LAB 10/3418 D.A. Bayliss to J.C. Burgh 29 March 1968

the content of legislation. The reasons for this are unclear, but, given the stress placed on consultation, it seems likely that ministers felt there was little need to have formal input ahead of the consultation being completed. However, as will be made clear below, Burgh in particular was clear about the political pressure emerging for a ‘Donovan-plus’ option, but met with little support from members of the working group. It is arguable that earlier ministerial input would have helped to focus official minds on more rigorous alternatives.

The key question was how far the working group limited its role to addressing the practical issues of translating the Donovan recommendations into draft legislation, and how far it sought to critically appraise the relative effectiveness of the recommendations in the light of the identified pressure emerging for a ‘Donovan-plus’ solution. The tension between those who supported the former approach, and those seeking more rigour was evident in exchanges recorded during the first meeting of the working group. The working group received a paper outlining the priorities emerging from the early drafts of Donovan that argued for ‘highest possible priority’ to be accorded to the recommendations relating to the need to accelerate the, ‘present trend from industry-wide to company or plant bargaining’. Furthermore, it was recommended that the government state its support for these recommendations immediately, a line that was consistent with earlier correspondence between Dewar and Burgh in which the former had argued for the release of a statement as soon as possible following publication of Donovan, endorsing and supporting the approach set out in the report¹¹³.

In the general discussion that arose from the paper however, Burgh argued that whilst Donovan was likely to make recommendations on changes in the system of collective bargaining, ‘it might be criticised for not suggesting more effective means of bringing them about’. For, ‘Whilst Donovan proposed the registration of collective agreements by large firms, its basic voluntarist approach meant that further coercive measures were ruled out on the grounds that industrial relations could not be reformed by force’. Burgh continued, ‘Ministers might take the view that a more vigorous approach was necessary’ and he proposed that the group

¹¹³ NA, PRO, LAB 10/3425 ‘Report of the Royal Commission – Reform of Collective Bargaining’ I.S. Dewar to J.C.Burgh 9 May 1968

might consider what could be done along these lines. Consequently, he asked his officials to ‘circulate a paper on the probable recommendations about the reform of collective bargaining, with particular reference to possible ways of enabling the Government to bring greater pressure to bear on employers for this purpose’,¹¹⁴

Burgh’s intervention was significant. As we have seen, the parliamentary committee expressed a concern that the government might wish to go further than Donovan and that consequently, Castle should be careful to avoid a blanket endorsement of the proposals. It is clear that Burgh as a supporter of the Donovan plus approach was more in tune with current political thinking, and likely to be more sympathetic to it than the longer standing Ministry of Labour officials working for him. Subsequently, his officials produced a paper for the next meeting, ‘The Reform of Collective Bargaining’,¹¹⁵ that set, as its stated objective, the examination of Donovan’s assumptions with the aim of pointing out possible objections, drawing attention to other relevant recommendations and enquiring ‘whether more drastic action should be proposed by the Government to speed up the reform of collective bargaining’.

The paper set out the basic recommendations of Donovan and noted that ‘these recommendations [were] very much in line with the Department’s thinking’. Under the heading of ‘Other Possibilities’, the paper considered a further five proposals that went beyond the recommendations of Donovan;

- a) Increases beyond those recommended by Donovan in the DEP’s research, information and advisory work, with particular emphasis on successful methods of conducting company or plant bargaining.
- b) Making the Commission for Industrial Relations’ (CIR) recommendations enforceable. Donovan had suggested that the government should consider this if necessary. The paper indicated that this might be done by enabling the Secretary of State to make an order on the advice of the CIR requiring an employer or union to comply with a given recommendation, and providing for suitable penalties if necessary.
- c) Enabling the CIR to investigate without a reference to the Secretary of State, and giving it quasi-judicial functions. This proposal was drawn from Andrew Shonfield’s note of reservation that was discussed above.

¹¹⁴ NA, PRO, LAB10/3422 RCR(68) 1st Minutes 10 May 1968

¹¹⁵ NA, PRO, LAB10/3422 RCR(68)8, 2nd July 1968 ‘The Reform of Collective Bargaining’

- d) Enabling the CIR, if a company failed to register suitable agreements, to draft a disputes procedure which the minister might by order make binding, along the lines of Lord Tangle's note of reservation¹¹⁶.
- e) Finally, it was suggested that negotiating arrangements could have to be formally approved by the department of the CIR, but crucially without any direct sanctions on those that were not approved.

The paper was considered at the second meeting of the group on Thursday, 4th July by which time both the ministerial committee and the parliamentary committee had met and provided political backing for at the very least an examination of measures that went further than Donovan. The working group had no problem in accepting the section dealing with the Donovan proposals for reform and its measures to speed up the reform, subject to the request for additional papers on a number of the subjects raised. However, the section on 'other possibilities' was greeted with less enthusiasm. Burgh noted that the actions outlined in (b) to (d) raised questions that were 'fundamental' to the role of the CIR, but, as if to put some steel into the discussions, told the group that Castle had told the TUC that 'any decision on the introduction of sanctions would depend on consultations, and that since public attitudes to trade unions were not favourable at the moment, the public would expect major trade union reforms if sanctions were to be avoided'.

In the general discussion that followed however, little steel was on display. Shonfield's proposal was rejected on the grounds that the CIR should be accountable to Parliament via the Secretary of State. Similarly, option (e) was rejected on the grounds that it was not current practice, and 'it could be embarrassing if approval were given and a serious dispute then arose.' The discussion concluded by requesting a further series of papers on the details of the other proposals. Thus, despite Burgh's reminders of the political context, the working group was reluctant to proceed beyond Donovan's analysis. The only voice of dissent was that of an unnamed Treasury official who asked whether the country could 'afford a specialist "health service" to cure the disease of unofficial

¹¹⁶ In a supplementary note, Lord Tangle proposed that the Industrial Relations Commission should have the power to submit to the Minister a disputes procedure code which the Minister may by order make binding on both parties. Donovan (1968) p.285

strikes'. He argued, 'that the problem was too large and wondered whether it would not be better to deal with strikes in other ways, for example by legal sanctions'¹¹⁷.

However, whilst the working group may have been reluctant to go beyond Donovan, they did commission an analysis of legal sanctions that provides further insights into the prevalent thinking on the subject within the DEP. The first draft of a paper titled 'Sanctions in Industrial Relations' was produced with the aim of evaluating the different types of sanctions that were available to the government and 'their relevance and value in the U.K.' The introduction to the paper set the overall tone; it was noted that arguments in favour of sanctions were based on the premise that unofficial and unconstitutional strikes were the root cause of the country's economic problems. However, the paper continued, 'this premise is not based on any quantifiable evidence'. Similarly, many of the arguments in favour of sanctions were considered 'too optimistic' about their likely effects. Crucially, the government would be resistant to starting penal procedures against workers or their leaders, as would employers. It was in this context, therefore, that the practicality of sanctions needed to be considered, and the paper then considered all of the available penal and civil sanctions before concluding that, 'None of the types of sanctions surveyed in this paper is likely to produce any marked improvement in the strike situation in this country'¹¹⁸.

However, the paper continued, 'if there were a political decision that public opinion demanded some form of sanctions', the furthest a Labour government could go would be, the withdrawal of the protection of section 3 of the Trade Disputes Act 1906 from unofficial strike leaders, and the repeal of section 4 of the Trade Union Act, 1871, enabling all collective agreements to be made legally enforceable if the parties so wished. However, '(i) would be very difficult and (ii) rather difficult for a Labour Government to carry through.' As far as the Conservative Party's policies were concerned, it was doubtful whether a

¹¹⁷ NA, PRO, LAB10/3422 RCR(68) 2nd Minutes 4th July 1968

¹¹⁸ NA, PRO, LAB10/3422 D.A. Bayliss to I.S. Dewar 1 November 1968A note from Bayliss to Dewar, 1 November 1968 set out the work programme for the immediate future. It was noted that there were nine or ten papers outstanding for the group to consider including a paper on legal sanctions. However, the working group did consider any of the outstanding papers as it did not meet again after 30 October

Conservative government would go as far as its current policies suggested. However, they might have marginally more options. Aside from the proposals outlined above, it was suggested that a Conservative government might wish to include two proposals from *Fair Deal at Work*; the exclusion of sympathetic and other forms of strikes from the definition of 'trade dispute' and the related legal immunities; and provisions for a cooling-off period in the case of strikes seriously endangering the national interest.

The paper was a significant demonstration of departmental thinking. It followed almost exactly the lines of the Donovan report in outlining the practical problems inherent in the introduction of sanctions. Furthermore, it was seemingly endorsed at the highest levels within the DEP. Firstly, the paper itself was modified by the departmental solicitor, and was seen by the permanent secretary, Dennis Barnes, who requested that it be circulated within the department¹¹⁹. Secondly, and perhaps more significantly, the paper formed the basis of a briefing note for Castle in advance of a series of meetings with the motor industry in September 1968. The note was prepared by Ian Dewar who, as we have already noted, was not a supporter of the Donovan plus approach and who, in a covering note made it clear that, whilst he had set out a number of proposals for making collective agreements enforceable and for introducing new legal sanctions, he had 'no confidence at all that these would improve the situation in the motor industry.'

In the note, the growing pressure for sanctions was acknowledged: it was noted that the Society of Motor Manufacturers and Traders had written to *The Times* supporting Shonfield's proposals and that this had been reinforced by a letter from Lord Hankey calling for 'legal backing to collective agreements'¹²⁰. Whilst the briefing stressed that 'at this stage' no government view could be given, it covered the same ground as the earlier paper, and its influence was evident in Castle's response to the Society of Motor Manufacturers and Traders when, at a meeting on 18 September, she was called on to respond to their call for the introduction of

¹¹⁹ NA, PRO, LAB10/3447 Note from D.A. Bayliss to I.S. Dewar with revised draft of sanctions paper entitled 'Sanctions in Industrial Relations' 14 August 1968. Handwritten comment from Barnes requesting that the paper be circulated dated 14 August 1968

¹²⁰ NA, PRO, LAB10/3447 'First Secretary's Conference with the motor industry, 26th September' I.S. Dewar to Mr Marre 24 September 1968.

legislation against unofficial strikes. She commented that, ‘the Donovan Commission had considered very fully the question of legal sanctions with particular reference to the motor industry and had concluded that they would not provide an immediate practical means of improving relations’¹²¹. To a certain extent Castle was constrained from expressing a more detailed view because of the ongoing consultation with both the CBI and the TUC, but it is also clear that the content of the briefing note indicated that the DEP was not proposing anything that went beyond the Donovan analysis.

It is clear that Burgh, as chairman of the working group was aware of the mounting political pressures to speed up the reform of collective bargaining. However, the response of the working group indicated that there was little enthusiasm for such an approach, and the detailed list of papers discussed by the group indicate that they were much more comfortable teasing out the policy implications of Donovan than in questioning its approach. When this was coupled with a lack of direct political input in the form of a ministerial committee it is clear that there was little incentive to question the Donovan consensus. The question then remains as to why there was such a lack of enthusiasm, particularly given the support for Donovan plus among senior members of the department, and here the sanctions paper is pivotal. The paper indicated both the depth of opposition to legal sanctions among the officials charged with the policy work and the genuine, practical difficulties involved in any attempt to implement them. Whilst there may have been a sense of something needing to be done, it was very difficult to construct options in the face of such concerted opposition. In the circumstances, Castle and her senior officials were left waiting to see if the NJAC consultation delivered any more constructive results. However, before then, Castle was faced with the more immediate problems arising from a series of official and unofficial strikes.

1.7 The challenge of official strikes

Official strikes were both quantitatively and qualitatively different from unofficial strikes. Whilst unofficial strikes were characterised by sudden, short stoppages,

¹²¹ NA, PRO, LAB10/3447 ‘Note For The Record, Industrial Relations in the Motor Industry’ D.B. Smith 19 September 1968

generally arising out of local disputes, official strikes tended to be much fewer in number but, because they were generally the result of claims affecting a whole industry, the effect in terms of working days lost and consequently on the wider economy could be much more dramatic. The seamen's strike in 1966, for example, resulted in the loss of almost a million working days and triggered the July 1966 sterling crisis¹²². However, whilst proponents of reform could highlight a breakdown in procedure agreements and the divergence of local and national bargaining to explain the growth in unofficial action, official strikes were contingent on the wider economic climate. Consequently, the post-devaluation tightening of prices and incomes policy saw an increase in official strikes as workers protested against wage restraints. However, the fact that such strikes were official posed constitutional problems: any government seeking to restrict official action would face the charge that they were impinging on the legally enshrined right to strike. The Conservative solution was to target their proposals at official strikes that were deemed to be against the national interest on the grounds that an elected government had a wider responsibility for the economic well being of the country.

For the Wilson government, the focus on prices and incomes policy had drawn the problems of official strikes into even sharper relief. As early as 1966, the Department of Economic Affairs had drawn attention to 'the possible conflict between, on the one hand, the Government's responsibility of conciliation in industrial matters as a means of maintaining industrial peace and, on the other, their responsibility for promoting an effective productivity, prices and incomes policy as an essential condition for achieving sound economic growth'¹²³, and through the summer and autumn of 1968 the Cabinet was faced with a series of official disputes which brought this conflict into sharp relief, confirming Alex Jarrett's conclusion that prices and incomes policy had 'staggered to a halt'¹²⁴.

¹²² See H.A. Clegg, *The System of Industrial Relations in Great Britain* (Basil Blackwell, Oxford, 3rd Edition, 1976) p.337

¹²³ *Royal Commission on Trade Unions and Employers Associations, Minutes of Evidence 25th January 1966*, 'Written Memorandum of evidence submitted by the Department of Economic Affairs in advance of the oral hearing' p.652, paragraph 22

¹²⁴ Interview with Sir Alex Jarratt, London 19 June 2000

The first major dispute to reach the Cabinet was that of the railway workers¹²⁵

The Cabinet discussed the dispute on 4 July 1968 where it was clear that the economic consequences of strike action were considered to be as important as a potential breach of incomes policy. In the general discussion, Cabinet were reminded of the impact of the seaman's strike and its, 'serious consequences for the economy', and it was agreed that a national strike would be 'a serious matter', with the government's willingness to face it being conditioned by 'their assessment of the consequences for the economy, the effect on foreign opinion and the likelihood of sympathetic action by other groups of workers, for example, in the docks',¹²⁶.

Three weeks later, Castle alerted the ministerial committee on prices and incomes to a proposed interim settlement of 15% in the shipping clerks dispute. In her diary Castle noted that she pointed out that the settlement was 'totally incompatible with P and I policy and that if they wanted me to accept it I should have to withdraw the bus standstill as one without the other would be intolerable'. According to Castle's account Anthony Crosland¹²⁷ 'sat up in alarm at this, pointing out that £30m of exports would be at stake if the tally clerks came out on strike', to which she responded that, 'it is a very different thing to come down from the general in P and I policy to the particular'¹²⁸. The point was reiterated at the parliamentary committee on the following day. According to Castle, both Jenkins and Crosland said 'unequivocally' that 'we could not afford a strike and if necessary we must climb down.'¹²⁹.

The shipping clerks dispute did not go away and, on 17 October, the matter was considered by the full Cabinet. By this stage the potential for disruption had increased. The interim offer of 15% had been made, of which 5% was covered by increases in productivity and 10% represented a payment on account in advance of

¹²⁵ The dispute began in February 1968 when wage increases offered by the British Railways Board (BRB) were turned down and the National Union of Railway Workers (NUR) demanded a 9% increase irrespective of any productivity deals. This in turn was rejected by the BRB and the NUR began a work to rule on 22 June. Following further negotiations, an agreement was negotiated on 5 July that gave increases of between 3 and 4.5% that would be paid immediately and was, according to Castle, attacked in the press as a 'sell-out'. Castle (1984) p.477 note

¹²⁶ NA, PRO, CAB 128/43 CC(68)34th Conclusions 4 July 1968

¹²⁷ President of the Board of Trade

¹²⁸ Castle (1984) p.498 Entry for 30 July 1968

¹²⁹ *ibid.* p.499, entry for 1 August 1968

an expected major productivity settlement. The Transport and General Workers Union (TGWU) and the majority of clerks, with the exception of those working in London's Royal Docks, accepted the interim offer. However the clerks in the Royal Docks had instigated an unofficial 'go slow' in protest over productivity conditions, claiming a general increase of 3-3.5% unrelated to productivity and an unspecified additional increase on account of past productivity agreements. The employers had decided to send home clerks refusing to undertake normal working and as of 17 October the Royal Docks were at a standstill. Castle summed up the now common dilemma;

It was clear that acquiescence in the 15% offer, assuming a settlement was now possible on this basis, would have a very serious effect on incomes policy generally. On the other hand a major dock strike would have the gravest consequences for the economy. In the circumstances she thought that the right course would be to secure a settlement up to the limit of the 15 per cent interim offer but for less if possible; and she sought discretion to proceed on this basis.¹³⁰

The subsequent discussion covered the arguments for and against settlement. Among those pressing for a settlement it was argued that the impact of a dock strike in London alone might cost the balance of payments £50-£70m over three weeks and 'deal a severe blow to our post-devaluation economic strategy'. To this group a settlement of 15 per cent would be harmful to incomes policy but need not be fatal. By contrast those against the settlement argued that to acquiesce 'might well be fatal to incomes policy' and that, apart from such practical considerations, 'it was wrong that the incomes policy should be applied less stringently to those in a strong negotiating position than to those who were in a weak position'.

In his summing up Wilson acknowledged that the dispute 'presented the Government with a most difficult choice. While it was clear that to concede the 15 per cent increase would be harmful to incomes policy, the balance of opinion in the Cabinet favoured a settlement within this total if the alternative was a stoppage in the docks which would have the most serious effects on our economic prospects'. It was agreed that Castle should try and reach a settlement within

¹³⁰ NA, PRO, CAB128/43 CC(68) 42nd Conclusions 17 October 1968



15%, but if this proved impossible and a serious strike was likely then 'a new situation would be created which the Cabinet would have to consider.'¹³¹

The debate over productivity agreements and the reality of balancing maintenance of the prices and incomes norms with the impact of industrial action make it clear that, by the autumn of 1968, prices and incomes policy had, in Jarratt's words, 'come to a standstill'. The 3.5% pay norm was under pressure in a number of economically crucial industries and, it is clear from the political debates, ministers were vacillating between a tough adherence to the policy and backing down in the face of threats of industrial action. Furthermore, the situation was creating perverse results, with smaller, less economically vital industries being held to the pay norm, whilst the larger, export industries were able to obtain better deals with little more justification. When this was combined with the outright rejection of any further prices and incomes legislation by the Trade Unions Congress (TUC) at their annual congress in September 1968, and the subsequent rejection of the policy at the Labour Party conference in October, it was clear that alternative measures were needed and attention turned logically to the control of official strikes. Donovan had identified the potential impact of large-scale official strikes, but had concluded that these were sufficiently infrequent as to not pose a major problem for industrial relations reform. Over the summer of 1968 it was becoming increasingly clear that not only were official strikes becoming more frequent, but some account needed to be taken of the wider national interest among those calling them, a potential answer to which was suggested by an ongoing dispute in the engineering industry.

At a meeting of the Cabinet on 24 September, Castle reported on the breakdown of wage negotiations in the engineering industry¹³². The dispute was between the Engineering Employers Federation (EEF) and the Confederation of Shipbuilding and Engineering Unions (CSEU). The national committee of the Amalgamated Engineering and Foundry Workers Union (AEF) had voted 31 to 30 to call for strike action in support of the claim. This had been critically received by other members of the Confederation, but the executive of the CSEU had endorsed the

¹³¹ NA, PRO, CAB128/43 CC(68) 42nd Conclusions 17 October 1968

¹³² NA, PRO, CAB128/43, CC(68) 39th Conclusions 24 September 1968

strike action. It was noted that a number of the unions were balloting their members and the result of the ballot by the Electrical Trades Union (ETU) was expected to show a large majority against the strike. At the next meeting of the Cabinet on 8 October¹³³ it was reported that, as well as the ETU ballot, the National Union of General and Municipal Workers (GMW) was also balloting its members and they too were expected to show a majority against strike action. It was also noted that both the ETU and the GMW had approached Castle, asking for the government to intervene.

Subsequently, on 17 October, Castle was able to report to the Cabinet that general terms had been agreed involving clear productivity conditions and a settlement proposing wage increases in the region of 10% over three years. In the general discussion that followed, it was noted that the claim was of ‘crucial importance to the economy and to incomes policy, and that the great majority of employees were opposed to the strike’. Furthermore, in the circumstances it was important ‘that a satisfactory settlement should be reached which was not a defeat for incomes policy or a victory for militancy’¹³⁴. The use of the ballot, in this instance therefore, seemed to offer a way of squaring the circle, and that is certainly how it appeared to Peter Shore, who has confirmed that he became a firm supporter of the strike ballot during this period because he saw it as an opportunity to spell out the economic consequences of their action to the wider workforce ahead of industrial action being taken and that, on the basis of the engineering dispute, there was clear evidence that many workers would respond positively to appeals made in the wider national, economic interest¹³⁵. As will become clear, Shore’s opinion was significant. As an attendee at Castle’s Sunningdale weekend a little over a month later, his support for the use of strike ballots was to play a significant part in their inclusion in the white paper.

1.8 Unofficial Strikes: reaching an impasse

Donovan considered unofficial strikes to be a consequence of failures in collective bargaining and considered that the problem was to be solved by reform of the

¹³³ NA, PRO, CAB128/43 CC(68) 40th Conclusions 8 October 1968

¹³⁴ NA, PRO, CAB128/43 CC(68) 41st Conclusions 17 October 1968

¹³⁵ Interview with Lord Shore of Stepney, House of Lords 12 November, 2000

bargaining process. By contrast, the Conservatives sought to deal with unofficial strikes by making collective agreements legally binding and imposing fines on those who took industrial action in breach of the agreements. The Cabinet's parliamentary committee had acknowledged that the government might need to go further than Donovan in dealing with the problem, although it was hoped that solutions would emerge from the consultation process.

By September 1968, unofficial strikes in the motor industry had once again become a major source of concern. Statistics prepared by the DEP indicated that the number of stoppages predicted for 1968 was the highest since the government came to power in 1964¹³⁶, whilst the number of working days lost (660,000) was second only to 1965¹³⁷. The majority of these disputes were unofficial and lasted for between one and five days. However, the cumulative effect was a significant impact on production and subsequently on exports. On 17 September, Castle noted in her diary that she thought 'we must do something about the catastrophic deterioration which is taking place in industrial relations in the motor industry'¹³⁸ and proposed a meeting of both sides of the industry with herself in the chair. Whilst discussing this idea with her officials, a message was received from Donald Stokes¹³⁹ on behalf of the Society of Motor Manufacturers and Traders (SMMT), requesting an urgent meeting. Castle arranged to meet with both SMMT and trade union representatives (separately) the next day.

The *Financial Times* reported that the meeting with SMMT was called at their request, 'after the employers had decided they had to urge on her some form of support in combating unofficial and other strikes in car and component factories'¹⁴⁰. Castle notes in her diary that 'they were clearly desperate men' who argued that they had hardly had a strike-free day in the past few months and that the majority of them were 'wild-cat' unofficial strikes. According to the SMMT, 'they didn't think the situation could be improved until collective bargains were

¹³⁶NA, PRO,LAB10/3336 'Industrial Relations in the Motor Industry' Note by the Department of Employment and Productivity 24 September 1968

¹³⁷In September 1965 the Prime Minister and the Minister of Labour had instigated a series of conferences with the motor industry in response to the number of industrial disputes.

¹³⁸Castle (1984) Entry for 17 September 1968 p.515

¹³⁹Sir Donald Stokes, Chairman of British Leyland Motor Corporation

¹⁴⁰NA, PRO, LAB10/3336 Extract from the *Financial Times*, 19 September 1968

made legally enforceable'¹⁴¹, but they agreed to Castle's idea of a joint meeting although sceptical. Following the meeting with SMMT, Castle met representatives of the trade unions. Castle had invited Hugh Scanlon¹⁴² but he failed to attend. Those present 'sat there helplessly while I spelled out my idea' and noted that the event would fail without Scanlon and the AEF¹⁴³. Castle concluded that 'my only hope is to force the trade unions to face up to their responsibilities publicly.'¹⁴⁴

Two days later, on Friday 20 September, Castle visited Birmingham and took the opportunity of discussing with both the West Midlands Engineering Employers' Association and the Regional Advisory Committee of the TUC the problem of industrial relations in the motor industry¹⁴⁵. The employers noted that they felt the future of the industry to be in jeopardy because of the 'anarchic' situation that had developed and made a number of comments on the perceived problems and possible solutions. Amongst their proposals was that collective agreements should be legally enforceable. By contrast the trade union representatives, in comments that mirrored the Donovan analysis, argued that the problems arose from local representatives being forced to operate within national pay negotiations and dispute procedures. The latter were considered to be 'ponderous, largely ineffective and no longer respected by workers'¹⁴⁶.

Finally, on Thursday 26 September, Castle held her 'great meeting'¹⁴⁷ on the motor industry. Once again, Scanlon was absent due to a prior engagement¹⁴⁸. In her introductory remarks, Castle stressed that the majority of strikes were unofficial and unconstitutional and that, in the majority of cases, had not been pursued

¹⁴¹Castle (1984) Diary entry for Wednesday, 18 September p.516

¹⁴²General Secretary, Amalgamated Union of Engineering and Foundry Workers (AEF)

¹⁴³George Barratt, Confederation of Shipbuilding and Engineering Unions; Les Kealey, Transport and General Workers Union

¹⁴⁴Castle (1984) p.517 Entry for 18 September 1968

¹⁴⁵In her diary entry, Castle claims that she was tough on both sides, calling on the employers to reform wage structures and the unions to come up with solutions that would produce results. Castle (1984), p.518, entry for 20 September 1968

¹⁴⁶NA, PRO, LAB10/3336 Note to Mr Heron from D.B. Smith 23rd September 1968

¹⁴⁷Castle (1984) Diary Entry for Thursday, 26 September 1968 p.521

¹⁴⁸Scanlon was later to comment that he was fully engaged in negotiations with the Engineering employers and did not think it appropriate to break off to have general discussions about the state of industrial relations. See NA, PRO, LAB10/3336 Telex report, 'The Car Industry Troubles' 26 September 1968

beyond the initial stages of procedure. Responding, the employers confirmed Castle's analysis of the significance of unofficial strikes and concluded that the only remedy lay in legislation. The union representatives, whilst sharing the general concern, reiterated the Donovan analysis that had led to the rejection of legislation, and argued that the effectiveness of any such legislation would depend on the willingness of employers to instigate legal action, and 'it was unlikely that employers would be less reluctant to do so than they were to initiate civil proceedings for breach of contract at present'¹⁴⁹. In her diary, Castle noted that the employers were 'obsessed by the need for legislation', but 'made out a sensible case for it'¹⁵⁰, whilst 'drawing out' the unions was much more difficult. It was agreed that the meeting should be adjourned and resumed in early October.

The meeting was considered important enough to warrant a seven minute slot on that evening's *ITV News at Ten*¹⁵¹. Whilst Castle made encouraging noises about the 'atmosphere of the meeting', the report focused on the absence of Hugh Scanlon. When interviewed Scanlon was asked about the employers' proposal that collective agreements be made legally binding. He reiterated the standard union line; employers were already able to sue individual employees for breach of contract but declined to do so; and the focus needed to be placed on effective collective bargaining as Donovan had recommended.

The conference was reconvened on 7 October with Scanlon present. In her opening remarks, Castle noted that there were three main matters for discussion; the enforceability of collective agreements; reform of procedures; and the revision of pay structures. In respect of the enforceability of collective agreements, Castle once again stressed that this would need to be considered 'in the wider discussions which the Government would be having with both sides of industry on the Donovan Report'¹⁵². Whilst the employers reaffirmed their conviction that

¹⁴⁹ *ibid.*

¹⁵⁰ Castle (1968), pp.521-2, entry for 26 September 1968

¹⁵¹ NA, PRO, LAB10/3336 Telex report 'The Car Industry Troubles' 26 September 1968

¹⁵² NA, PRO, LAB10/3336 'Industrial Relations in the Motor Industry, Note of a meeting between the First Secretary of State and representatives of the motor industry held at the Department of Employment and Productivity on 7th October 1968'

legislation was required¹⁵³, the meeting was then confined to discussions of procedure and pay structures and concluded with a joint commitment to the establishment of a national joint council for the motor industry. In spite of Castle concluding the meeting by noting that, 'in view of the urgency of the situation, it was clearly desirable for the discussions between the two sides to take place in the immediate future', the Joint Council for the Motor Vehicle Manufacturing Industry was not established until 26 November 1969.

It is evident that Castle invested both personal time and prestige in seeking solutions to the problems of the motor industry, but the outcome offered nothing that could be usefully incorporated into a white paper. The employers remained convinced of the need for legislation that was opposed by the unions on both practical and political grounds. As we have seen, the practicalities of legally binding procedure agreements were questioned within the DEP, whilst politically legislation was opposed by the unions and proposed by the Conservatives; a combination guaranteed to give Castle pause for thought. In the circumstances, it was hoped that the response of both the TUC and the CBI to the Donovan consultations would provide a way forward.

1.9 The outcome of consultation

As was noted above, one of the reasons given by Castle and the department for not making a detailed response to the pressure for sanctions was the ongoing consultation with both the TUC and the CBI that was carried out under the auspices of the NJAC. Consultation was considered an essential part of the white paper process from the outset. The delay in the publication of Donovan and subsequent problems in arranging a meeting of the working group, meant that the paper was not discussed by the national joint advisory committee (NJAC) until 24 July 1968, at which point it was agreed that responses would be needed by the middle of October¹⁵⁴.

¹⁵³ NA, PRO, LAB10/3336 'Motor Industry Talks'. In an unsigned and dated briefing on tactics for the meeting, it was noted that, whilst the employers are likely to raise the need for legislation against unofficial strikes, they are unlikely to pursue 'in great detail or with great vigour' given the opposition of the unions and Castle's indication that it will have to be dealt with as part of the wider consultation on Donovan.

¹⁵⁴ NA, PRO, LAB10/3417 J.C. Burgh to D.B. Smith 21 June 1968 In some frustration, Burgh noted the 'overwhelming difficulties' that have been encountered on setting up a meeting of the

On 7 October, the DEP received the TUC's 72-page response, and it was clear from the outset that they were not minded to provide quick solutions¹⁵⁵. Thus, the Donovan analysis failed to distinguish between the issues, 'which are common to all industries and those which are specific to particular industries'. Consequently, the General Council would need, 'to consult unions on an individual basis before they [could] commit themselves to a definite view affecting any particular industry'¹⁵⁶. The General Council's response had been predicted by Burgh in the early meetings of the RCR Working Group, and was to lead to the TUC organising a series of industry specific conferences that took place during January and February 1969. However, their initial response was of limited use to the DEP in its drafting of a more general white paper. It also confirmed the view expressed by Castle in her diaries, that the TUC had failed to grasp the urgency of the situation¹⁵⁷.

The sense of complacency was compounded by the General Council's response to all of the possible sanctions. The section dealing with the legal enforcement of collective agreements provided the most succinct statement of TUC policy. 'The General Council shares the Royal Commission's view that the legal enforceability of collective agreements would be both undesirable and impracticable.'¹⁵⁸ Similarly, in their response to the section dealing with strikes and the law on trade disputes, the General Council made it clear that they agreed with Donovan's analysis of the causes of industrial relations and with the analysis of the effectiveness of sanctions. As a consequence, strike ballots and 'cooling off' periods were rejected with the comment that Donovan had 'exhaustively examined' the proposals and the General Council had nothing to add to the Commission's reasoning for rejecting them. Similarly, amendments to the Trade Disputes Act 1906 were rejected with equal vigour. For a department and a

NJAC. He concluded with the request that Castle 'will suggest to Mr Woodcock and Mr Davies that they should give instructions to their officials to co-operate in arranging an earlier meeting'.

¹⁵⁵ NA, PRO, Lab10/3422 'Consultative document on the Royal Commission - Statement by the TUC General Council' 7/10/68

¹⁵⁶ *ibid* paras.1-2

¹⁵⁷ Castle (1984) p.477, entry for 2 July 1968, 'I can't see any revolutionary changes being carried through unless the Government is prepared to impose them on an unwilling TUC'

¹⁵⁸ NA, PRO, LAB 10/3422 para. 38

minister anxious to produce effective legislation, the TUC response represented the worst of all worlds. On the one hand, the Donovan analysis was considered too broad-brush for unequivocal endorsement, whilst on the other, all forms of sanctions were rejected because, in the view of the General Council, they did nothing to solve the underlying problems that were caused by inflexible agreements.

The formal response of the CBI was less ambitious in scope than the TUC document and confined to 17 pages but it was no less problematic. In their comments on the reform and extension of collective bargaining, the CBI raised similar concerns to the TUC. Whilst agreeing with Donovan's emphasis on the need for 'greater order in factory and workshop relations', and with the identification of the lack of flexibility in some industry-wide agreements, the CBI felt that there were a number of 'major defects' which needed to be taken into account in the development of a white paper. The 'two systems' analysis was considered to be too precise a formulation that overstated both the position itself and the conflict that arose as a consequence.

Consequently, the CBI rejected the 'inference throughout the analysis that complacency and a reluctance to innovate, particularly on the part of management and of employers' associations, are at the root of most of our present problems'. Rather, it was their view that much of the blame for failure should be 'placed on factors outside the control of management, e.g. defects in trade union structure and organisation, inadequate control by unions over their members, and the latitude that the law allows both unions and "unofficial" combinations of workers'. Consequently, the CBI took the view that Donovan was being too optimistic in the benefits that would flow from the wider implementation of factory level agreements, and too simplistic in its general condemnation of industry-wide disputes procedures. Finally, the CBI echoed the TUC in rejecting the blanket introduction of the Donovan thesis; 'In practice the nature of the relationship between industry-wide and factory agreements is bound to depend on the circumstances of the industry and of the individual factory and it is neither practicable nor desirable to set a pattern for general adoption throughout industry.'

However, whilst the CBI may have agreed with the TUC on the generalised nature of the Donovan thesis, there was a significant difference over sanctions. In dealing with the section on the legal enforcement of collective agreements, the CBI echoed both the motor manufacturers and the Conservatives in stating that it did not agree that, 'a satisfactory case [had] been made out by the Commission for deferring action to make procedure agreements legally enforceable'. Subsequently, they called for a 'selective legal requirement' to be introduced. While acknowledging the view that not all procedure agreements would be enforceable, it expressed the view that 'where agreements are enforceable, there should be legal provision for their enforcement in two circumstances, viz. - where the parties to the agreement wish it, or where the CBI (or some other independent body¹⁵⁹) certifies it to be necessary in the public interest.' The CBI acknowledged the reluctance of individual employers to initiate legal action against those in breach of such an agreement (a point made in the DEP paper on sanctions), and suggested that consideration should be given to a neutral body, such as the CIR or the Registrar acting in the public interest.

The position taken on the legal enforcement of collective agreements was reinforced in the response to the section on strikes. Whilst agreeing with the TUC in rejecting compulsory strike ballots on the grounds that they 'would not be effective in practice and might indeed prevent the early settlement of strikes', the CBI were less convinced of the commission's arguments against cooling off procedures and felt that this was an area that they wished to consider further. Similarly, they were supportive of the proposals regarding the removal of protection for unconstitutional strikers currently offered under section 3 of the Trade Disputes Act 1906¹⁶⁰.

1.10 The way forward?

Following the production of both responses, John Davies, director general of the CBI, wrote to Barbara Castle on 23 October on behalf of himself and George Woodcock, setting out a number of recommendations concerned with the

¹⁵⁹ It is not clear who was being referred to here

¹⁶⁰ NA, PRO, LAB 10/3422 'Confederation of British Industry, Report of the Royal Commission on Trade Unions and Employers' Associations' 7 October 1968

improvement of collective bargaining on which they were agreed. These included a joint review to; define the scope of both industry-wide and factory wide agreements; ensure that industry-wide agreements were appropriate to present-day circumstances; and ensuring that industry-wide agreements gave suitable encouragement to the development of effective collective bargaining at the factory or company level. However, as with Donovan itself, none of this proceeded from the sense of urgency that Castle and her supporters were beginning to feel, and conspicuously avoided any mention of the role and potential effectiveness of sanctions. In the circumstances, the responses to consultation provided little by way of immediate solutions and, when coupled with the conclusions of the working group pointed clearly in the direction of implementing Donovan rather than developing Donovan plus. For a minister in search of more immediate solutions, however, they offered little by way of a solution. It was becoming increasingly evident that, if Castle wanted solutions she would have to come up with them herself.

1.11 Summary

Contrary to the received view, that the civil service were just waiting for a receptive minister on whom to foist their anti-trade union views, the new evidence indicates that, if left to their own devices, Castle's civil servants would have progressed little further than Donovan. Despite the best endeavours of the likes of John Burgh it is clear that, among those charged with developing policy, not only was there little enthusiasm for a more rigorous approach, there was active support for the Donovan analysis. Furthermore, the weight of experience of those developing policy made it very difficult to argue with either their support for Donovan or their opposition to the legal measures outlined in *Fair Deal at Work* and this in turn led inexorably back to the need for a political solution and the pivotal role of Castle. Wilson may have appointed her initially to tackle prices and incomes, but he would have been very aware that her interventionist tendencies would lead to a much greater involvement in policy development than might have been the case with other ministers. After all, one of the reasons Jenkins objected so strongly to her going to the DEA was a well grounded concern that her energy and enthusiasm would bring her into conflict with the Treasury. Whatever policy emerged from the DEP, it was always going to have Castle's

stamp on it, but it is now clear that her officials gave her little choice but to roll up her sleeves and jump in.

By the autumn of the 1968, Castle was caught in a cleft stick. Donovan had failed to deliver the radical prescription that many had hoped for, and whilst there may have been support for a 'Donovan plus' approach within the higher echelons of the DEP, the combination of a lack of clear political direction, the limited impact of departmental outsiders, and the strength of intellectual argument against more interventionist approaches, limited the available policy options. However, it was clear that Castle could not just limit herself to implementing Donovan. Prices and incomes policy was running into the sand, with the power of key groups of workers too strong to impose arbitrary levels of wage restraint in areas of such economic importance as the docks. Similarly, the rising number of unofficial strikes, especially in the motor industry, suggested industrial relations were running out of control as well as doing serious damage to key exports.

Castle's challenge was made all the harder by the publication of *Fair Deal at Work*, which indicated that the Conservatives were prepared to consider radical options that went well beyond the existing consensus. Furthermore, the CBI supported their proposals, and could argue that their support arose from practical experience. By contrast, the TUC was not prepared to consider any options that went beyond Donovan and were reluctant to commit to any detailed proposals ahead of discussions with individual unions.

Against this backdrop Castle's problems were significant; she was required to find a form of middle ground between the apparent extremes of Donovan and *Fair Deal at Work* that was both intellectually coherent and politically attractive. It is arguable that, left to her own devices, Castle would have left action against official disputes out of the proposals; ideologically she opposed crude wage restraint and was inclined to see attempts to control official strikes in such terms. However, the problems associated with unofficial disputes did require action, and it was her attempts to find a way between these two extremes that forms the basis of the next chapter.

CHAPTER 2 – *IN PLACE OF STRIFE*: OCTOBER 1968 – JANUARY 1969

2.1 Introduction

This chapter covers the period from the genesis of a white paper in October 1968 to its publication as *In Place of Strife* in January 1969. Detailed consideration is given to the development of the white paper, and the respective roles of Castle, her officials, advisors and a range of outsiders, and to the evolution of an industrial relations philosophy that sought to offer something distinct both from the voluntarist approach of Donovan, and the legalistic approach of the Conservatives. Attention is then focused on internal discussions, the determination to avoid criminal sanctions, and the opening meetings and responses of the TUC and CBI. Finally, there is a detailed examination of the series of Cabinet meetings held before the white paper was finally published on 17 January 1969.

2.2 First draft: August – October 1968

The process that was to lead to the white paper began in August 1968. On 19th August, IRD1 produced an outline of a white paper derived from the Donovan Report¹⁶¹. Consisting of little more than a list of headings, it was discussed at a meeting with the permanent secretary, Denis Barnes, on 22 August and it was agreed that, subject to some minor changes, the outline should form the basis of a first draft ready for discussion with Castle¹⁶². The first full draft was produced on 4 October, and circulated on 11 October. The paper was intended to form the basis of a discussion with Castle that was scheduled for 14 October. In the covering note to Castle's private office¹⁶³, Burgh stressed that the term 'draft White Paper' was a misleading description because the paper had been written before consultation was complete. Burgh's note drew attention to major points in the paper, but excluded any detailed discussion of sanctions. His justification for the omission was one of complexity, considering the subject to be 'so vast and

¹⁶¹ NA, PRO, LAB10/3478 'Outline of White Paper on Donovan Report' 19 August 1968

¹⁶² NA, PRO, LAB10/3420 'Note of conclusions reached at a meeting held on 22nd August 1968 to discuss the implementation of the Donovan Report between the PUS, Mr. Burgh, Mr. Dewar, Mr. Bayliss and Mr. Brimmer'

¹⁶³ Ibid 'Donovan' J.C. Burgh to D.B. Smith 11 October 1968

important' that Castle might wish to discuss it separately. Consequently he proposed submitting a separate note dealing specifically with sanctions¹⁶⁴.

In overall terms, the paper accepted the Donovan analysis and omitted any detailed discussion of sanctions. However, it did refer to the proposals considered by Donovan; 'cooling-off' periods; strike ballots; and the majority recommendation proposing amendments to Section 3 of the 1906 Trade Disputes Act. In each case, the draft paper included one paragraph for the proposal and another one against. In the section on strikes therefore, paragraph 27 discussed the introduction of a "cooling-off" procedure and endorsed the Royal Commission's rejection of the proposal on the grounds that it had 'not helped much in the U.S.A., and that it would deprive the Government of some of its freedom of action in a serious dispute.' However, an alternative paragraph 27 concluded that 'a procedure of this kind would be a useful addition to the instruments which the Government has at its disposal in dealing with a serious dispute'.

Thus the first draft of the white paper was very much in line with the approach that the department had taken towards sanctions, offering little more than an endorsement of the Donovan analysis. It may have been the case, as suggested in Burgh's covering note, that the document was intended to stimulate discussion, but it also reflected both a reluctance on the part of the DEP to offer a view ahead of Castle's own deliberations, and a more general reluctance to advocate penal sanctions¹⁶⁵. However, if Burgh's intention had been to stimulate debate he certainly succeeded. The meeting with Castle took place on Monday, 14 October and, as her diary records, she was not impressed with the draft:

I plunged into the day with a lively office meeting on the Donovan Report. Burgh has put in a basic paper which is nothing more than a catalogue of Donovan recommendations and our suggested reaction to

¹⁶⁴ The paper on sanctions was discussed in chapter one. There is no evidence in the files, or in Castle's diary, that this paper was discussed with her specifically. However, as we have seen, it did form the basis for her meetings with the motor industry in September 1968 and as such she would have been aware of her officials' thinking.

¹⁶⁵ John Burgh has since confirmed that sections on sanctions were written in this way on the basis that decisions on the form or use of sanctions involved political rather than administrative decisions. Interview with Sir John Burgh, Sussex 19 July 2000

them. I held forth about the need for us to have our own discussions about whether we accept the Donovan analysis and above all our own philosophy of the role of the trade union movement in the present day. I insisted we must do a 'Windsor' weekend and fix 15 November on the spot. They went off reeling a little, but stimulated, I think, to produce various analytical papers on the lines I suggested.¹⁶⁶

The doing a 'Windsor' was a reference to a weekend session that had been held recently at the Civil Defence Staff College at Sunningdale to discuss developments in prices and incomes policy. Castle regarded the idea of taking a group of 'experts' away for a detailed policy session as a success and decided to repeat the exercise with industrial relations. This was to lead to the session at the staff college over the weekend of 15 - 17 November from which the fully formed white paper was to emerge.

2.3 Doing a 'Windsor': 15 – 17 November 1968

Castle's comments to Burgh produced an immediate effect. On the day after the meeting with Castle he circulated a note on the subject of papers for the 'First Secretary's weekend'. In Burgh's view two papers were required; 'First, a description of the development of Government/Employers/Trade union relationships in the light of social and economic changes leading to suggestions on future relationships'¹⁶⁷. This was to be written by Bill McCarthy, who, had been the head of research for Donovan and had been recruited subsequently by Castle to become a member of the DEP's research department¹⁶⁸. The second paper would cover much the same ground as the draft white paper¹⁶⁹.

McCarthy's background is important. He was a close friend and academic colleague of Hugh Clegg, and not a natural supporter of government restrictions on industrial action. Indeed he remained of the view that prices and incomes policy was a more effective means of controlling wage increases and promoting industrial efficiency. Consequently his paper sought to provide a historical justification for the intervention of the state in industrial relations, whilst rejecting

¹⁶⁶ Castle (1984) p.528 Entry for 14 October 1968

¹⁶⁷ NA, PRO, LAB10/3418 'Donovan' J.C. Burgh to Mr Marre 15 October 1968

¹⁶⁸ See chapter one

¹⁶⁹ Subsequently Burgh simply re-circulated the draft that had been discussed with Castle on 14 October. Conversation with Sir John Burgh, Kew, 28 July 2000

general sanctions¹⁷⁰. Subsequently, the paper set itself three objectives: ‘first, to analyse principles that underline trade union law in Britain and to describe how they emerged; second, to relate these to the proposals contained in the Donovan Report; third, to pose what appear to me to be some of the main issues that arise in the contemporary debate about the future of trade union law’¹⁷¹.

Firstly, McCarthy sought to demonstrate how a doctrine of *collective laissez-faire* in respect of labour relations developed at the end of the nineteenth century. Under this doctrine, the role of the state was confined to providing facilities to help the parties to agree, and was characterised by the belief that, ‘so far as possible the law should be kept out of labour relations and the parties should be encouraged to develop their own ‘non-legal’ sanctions’. However, successive governments had undermined the doctrine, in particular in the period from 1964 onwards, and when this was taken in conjunction with outright attacks on the doctrine itself, such as those expressed in *Fair Deal at Work*, McCarthy concluded that there was considerable confusion over the government’s role in industrial relations. In this context, he argued, Donovan did not advocate a return to collective laissez-faire. Rather it recognised the potential for the abuse of trade union power especially through the closed shop and sought to enhance the state’s capacity for useful intervention. However, ‘Donovan never [faced] the question of the role of the State in industrial relations head on’.

McCarthy’s solution was to spell out the role of the state through a list of general principles or objectives that would govern its role and significantly these included, ‘the prevention and settlement of disputes likely to result in an interruption of production, especially in circumstances involving a serious threat to other important government objectives (e.g. the promotion of exports and the maintenance of public safety)’. Furthermore, as far as the use of sanctions was concerned, McCarthy argued that these should demonstrate ‘specific and observable effects’ that would ‘advance particular policy objectives’, and to this

¹⁷⁰ Interview with Lord McCarthy, Oxford, 25 May 2000

¹⁷¹ Copies of the original paper do not appear in the DEP files. However, an edited copy of was subsequently reproduced in *Trade Unions* editor W.E.J. McCarthy (Penguin, Middlesex 1972) pp.345-365, under the title ‘Principles and Possibilities in British Trade Union Law’. Interview with Lord McCarthy, Oxford 25 May 2000

end he rejected general measures such as the removal of protection under section 3 of the Trade Disputes Act 1906 on the grounds that it was impossible to say what would be the results of enacting them.

McCarthy's paper was doubly significant. It went a long way to challenging the view that Donovan had simply reaffirmed the voluntarist tradition, but it sought to make explicit a philosophy of state/trade-union relations from which Donovan had shied away. In doing so it provided a theoretical underpinning for Castle's dirigiste tendencies. However, in calling for sanctions to be linked to specific policy objectives, it also provided Castle with the means to avoid the Conservatives' blanket legalistic approach, whilst justifying the use of sanctions in relation to specific ends. In retrospect, McCarthy is ambivalent about its effect: 'I like to think the paper influenced her against general attacks... But they may have caused her to think up, or back, the three specific "penal clauses" she eventually came out with.'¹⁷²

Once the background papers were settled, attention could focus on personnel. On 5 November, Castle circulated a note to the Ministerial Committee on Industrial Relations summarising the current position. She concluded that, 'Our decisions on industrial relations policy will be of very great industrial and political importance' and as such required careful thought and, in the circumstances, 'I am holding a private and confidential weekend conference on 15th-17th November, to which I have invited people from both sides of industry, the academic world, and government'¹⁷³. The list was certainly wide ranging; 'In addition to myself, my two junior ministers (Roy Hattersley & Harold Walker), John Fraser and a phalanx of officials, I had invited Peter Shore as Secretary of State for Economic Affairs, Campbell Adamson (who was shortly to succeed John Davies as Director-General of the CBI), Donald Stokes¹⁷⁴ of Leylands (subsequently replaced by George Turnbull, Deputy Managing Director of Leylands), Jim Mortimer¹⁷⁵, Len

¹⁷² Letter from Lord McCarthy 1 June 2000

¹⁷³ NA, PRO, CAB134/2936, 'Progress Report on Consultations' 5 November 1968

¹⁷⁴ Stokes had been present at Castle's meeting with the Society of Motor Manufacturers and Traders on 18 September 1968. NA, PRO, LAB10/3447, 'Note for the record, Industrial Relations in the Motor Industry' D.B. Smith 19 September 1968

¹⁷⁵ National Official, Draughtman's and Allied Technicians' Association (DATA) and member of NBPI since May 1968

Neal¹⁷⁶, Aubrey Jones¹⁷⁷, Professor Clegg of the Donovan Commission and Professor Robertson of Glasgow, another of the Department's trouble-shooters¹⁷⁸.

Perhaps the most striking thing to emerge about the list of invitees was the absence of senior trade unionists. Jim Mortimer was a full-time union official and had recently co-authored a book calling for certain trade union rights to be enshrined in law, but he was still a relatively junior figure and did not, for example, sit on the TUC general council¹⁷⁹. His attendance suggests a genuine attempt to get beyond the kind of stock responses that had been all too evident in the formal responses of the TUC and CBI to Castle's consultation document. Whatever the seniority of those present however, those invited were almost guaranteed not to provide a consensus. Adamson and Turnbull could be expected to follow the interventionist line advocated by the CBI and expressed by the Society of Motor Manufacturers, whilst Mortimer would be expected to support extended trade union rights; Clegg was unlikely to deviate from the arguments made in Donovan. In the circumstances, an environment was being created in which an 'open' discussion was inevitable and such proved to be the case.

A note of the weekend does not appear in the official records and there are doubts as to whether a formal record of the weekend was taken¹⁸⁰. As such, the only written account is that found in Castle's diaries. However, if this is taken together with the eye-witness accounts of a number of those present, it is possible to piece together an impression of the main events. According to Castle's diaries, the weekend started with a dinner on the Friday evening and then continued all day on Saturday¹⁸¹. There is no diary entry for Sunday 17 November and entries resume on Monday 18 November. However, according to two of those present at the

¹⁷⁶ From 1967 labour relations advisor to Esso Europe Inc. Member of British Railways Board from 1967 to deal with labour relations side. Came into contact with Castle during railway guards, 'go-slow' in September 1967. See Castle(1984) Entry for 25 September 1968 and footnote p.298

¹⁷⁷ Chairman of NBPI from inception in 1965 and former Conservative minister

¹⁷⁸ Castle (1984) p.549, entry for 15 November 1968

¹⁷⁹ C. Jenkins & J.E. Mortimer, *The Kind of Laws the Unions ought to Want*, (Pergamon Press, Oxford 1968) which called for the enshrining in law of certain trade union rights including the right to free collective bargaining.

¹⁸⁰ Alan Brown, former private secretary in Castle's office, was the organiser of the weekend. He did not take a formal record, assuming that IRD1 would be doing so. However, no such record appears in the relevant files. Interview with Mr Alan Brown, Godalming, 5 April 2000

¹⁸¹ Castle (1984) pp.549-551, entries for 15, 16 November 1968

weekend, McCarthy and Burgh, a crucial meeting took place on the Sunday that is not recorded in either the published diaries or the original transcripts. On the basis of their accounts, the formal discussions were completed on the Saturday at which point the majority of those present left. However, officials were retained for a meeting with Castle on the Sunday. At this meeting Castle outlined the proposals that she wanted included in the white paper and McCarthy was charged with producing the first draft. There is no record of the meeting with officials in the original transcripts

The majority of Castle's account is contained in an italicised section between the entries for Friday 15 and Saturday 16 November. These sections were not contemporaneous, but were added when the diaries were prepared for publication as linking passages or points of explanation. According to the section covering the conference, the two most contentious elements of the white paper, the conciliation pause and the strike ballot, 'began to emerge' from the general discussion, with Peter Shore identified as the principal instigator. The section concludes, 'altogether there was a surprising amount of agreement between us, though some would have preferred to go further'¹⁸². However, this claim of a gradually emerging consensus is directly contradicted by three of those present.

According to McCarthy, Castle refused to be drawn during all of the discussions on Donovan, both prior to and during the Sunningdale debates¹⁸³. Whilst she was prepared to comment on departmental proposals, she was not prepared to offer her own views. Similarly, during the discussions at Sunningdale she was prepared, in McCarthy's words, for the 'battle to rage' between the various interests represented at the meeting whilst reserving her own position. In particular, McCarthy recalls Clegg systematically destroying each of the arguments put forward for greater intervention and the use of sanctions but, such was the lack of resolution that, after Castle had gone to bed on the Saturday evening, McCarthy

¹⁸² Castle (1984) pp. 549-550 Throughout the diary Castle uses italicised 'linking' sections to explain the background to particular events or policies and, although not made explicit, it would seem that these were added at the time of publication to add clarity or context. Generally, they are included between individual diary entries, for example between pp.560-562, entries for 28 November and 2 December 1968, giving details of the white paper. The section quoted is unusual in that it breaks up the single entry for 15 November.

¹⁸³ Interview with Lord McCarthy, Oxford 25 May 2000

recalls asking Bernard Ingham¹⁸⁴ what she was going to say in the morning and Ingham professing that he had no idea. Others present at the weekend, notably Ian Dewar and Alan Brown, also recalled a robust debate. Dewar recalls the overall atmosphere being pro intervention and being one of the minority speaking out against a more interventionist approach¹⁸⁵. Similarly, Brown recalls Jim Mortimer making the case for trade union rights, only to be countered by the representatives from industry who called for these to be matched by a greater sense of trade union responsibility¹⁸⁶.

In this revised context, Castle's presentation of the emergence of the penal clauses needs some qualification. Whilst Peter Shore has confirmed that he was an advocate of both the conciliation pause and the strike ballot¹⁸⁷, it would seem likely that these were raised as options within the overall debate rather than being agreed upon as a general way forward. This would account for an entry in Tony Benn's diary for Saturday 16 November¹⁸⁸. He recounts the details of a dinner at Chequers on that evening at which Peter Shore was present having, presumably, come directly from Sunningdale. During the course of dinner the discussion turned to industrial relations and Benn noted that those present agreed that the strike ballot and the conciliation pause were to be supported. This appears to confirm that they were at least discussed at the conference as it seems highly likely that Shore, having proposed the measures, would have been keen to enlist Wilson's support when given the opportunity. However, that does not confirm that they were agreed at Sunningdale, merely that they were discussed. This would also account for Jim Mortimer's recollection of the weekend, subsequently confirmed in interview, that the specific penal clauses were not discussed while he was there¹⁸⁹.

¹⁸⁴ Castle's Press Secretary

¹⁸⁵ Interview with Ian Dewar, Penarth 7 April 2000

¹⁸⁶ Interview with Alan Brown, Godalming 5 April 2000

¹⁸⁷ Interview with Lord Shore of Stepney, House of Lords 10 May 2000

¹⁸⁸ Benn (1988) pp.121-123, entry for 16 November 1968

¹⁸⁹ J.E. Mortimer, *A Life on the Left* (The Book Guild Ltd, Sussex 1998) p.247 'The discussion centred around proposals for a new Commission for Industrial Relations, employment rights, industrial relations at the workplace level and trade union recognition. I do not recall any significant exchange of views about possible new legislative sanctions against trade unions'.

All of the guests departed on Saturday night, leaving Castle and her officials to discuss the content of the white paper. McCarthy recalls waiting for Castle to emerge from breakfast on Sunday morning and having no idea what to expect, whilst Burgh remembers Castle make a ‘stately’ entrance, sitting down and proceeding to give a skeleton of the main contents of the white paper. McCarthy has confirmed this. According to his account, he was told to get a pencil and take down what was to be done. The substance of her proposals followed Donovan but, ‘Just as I thought we were out of the woods she came up with the three penal clauses’¹⁹⁰. The three penal clauses being the strike ballot, conciliation pause and the enforcement of decisions of the CIR

What emerges from this revised version of events is that the white paper was almost entirely Castle’s creation. As we have seen, this was always likely to be the case once it became clear that the TUC, CBI and even her own department had little to offer beyond well rehearsed positions. It did not emerge out of the consensus that her diary seeks to portray and this is crucial to an understanding of much that followed. Castle’s unwavering faith in the white paper reflected its genesis on that solitary Saturday night and Sunday. The lack of consensus amongst those present continued to provide an insurmountable barrier to its progress in the months that followed, whilst Castle’s strength of conviction led her to alienate many of her Cabinet colleagues through failures of consultation. In the circumstances it is perhaps understandable that she should seek to present the events of that weekend in a very different light.

2.4 ‘Partners in Progress’¹⁹¹

McCarthy wrote the first draft of what was to become *In Place of Strife* in the two days following Sunningdale. Provisionally entitled ‘Partners in Progress, A Policy for Industrial Relations’, the first draft had just 6 sections, unlike Donovan and the pre-Sunningdale draft that had 16 and 15 sections respectively. McCarthy recalls that Castle did not like his title, but that, in turn, he thought her choice, ‘a bit daft – if only because my first sentence began, “There has always been

¹⁹⁰ Letter from Lord McCarthy, 1 June 2000

¹⁹¹ ‘Partners in Progress – A Policy for Industrial Relations’, undated first draft provided by Lord McCarthy, 1 June 2000

conflict..”¹⁹². Significantly, whilst there were a number of additions and amendments before its publication in January 1969, the majority of *In Place of Strife* remained as drafted by McCarthy in the two day period following Sunningdale.

McCarthy’s draft reduced the somewhat cumbersome DEP submission to a more manageable size. The first two chapters covered much the same ground as his Sunningdale paper, setting out the case for state involvement in industrial relations, and the case for action under four broad headings: the reform of collective bargaining; the extension of collective bargaining; aid to those involved in collective bargaining; and measures that were needed to deal with the outstanding problems that would remain ‘even within a reformed and extended system of collective bargaining.’

Castle has always maintained that *In Place of Strife* was intended as a statement of trade union rights and responsibilities with its main aim being the strengthening of trade unions and the rights of individual trade unionists¹⁹³. This claim was derided by her opponents from the moment the proposals became known, with all attention focused on what were to become known as the ‘penal clauses’. However, a detached reading of McCarthy’s first draft reveals just how far this was the case.

The chapters on the reform and extension of collective bargaining were largely a reaffirmation of Donovan. Proposals for the reform of collective bargaining accepted the Donovan ‘two-systems’ analysis and called for a reappraisal of collective bargaining arrangements by management and trade unions, to be supported by the establishment of the CIR and the registration of agreements (initially confined to companies with over 5000 employees). Similarly joint moves for the legal enforcement of collective agreements were to be encouraged through the amendment of section 4 of the 1871 Trade Union Act, although they were not to be made compulsory. However, in a direct attack on the Conservative proposals, the paper rejected compulsory legal enforcement: ‘The Government

¹⁹² Letter from Lord McCarthy 25 August 2000

¹⁹³ Interview with Baroness Castle of Blackburn, Buckinghamshire, 3 March 2000

does not believe, however, that a more ordered system of collective bargaining can be achieved by a law designed to change non-legal obligations into legal obligations.’ Furthermore, the paper argued that the trade unionists had a right to expect adequate information to enable them to take a view on new management proposals. To this end, the paper proposed to give trade unions a legal right to certain categories of information from employers with whom they negotiated.

Similarly, considering the extension of collective bargaining, the paper proposed to give the CIR powers to intervene in recognition disputes, both between firms and trade unions and between two or more trade unions seeking recognition within the same firm, based on the premise that the government sought to, ‘encourage the growth of collective bargaining based on strong and independent trade unions’. To this end, the paper also proposed to make it illegal for employers to sack workers for being members of a trade union and proposed the establishment of a trade union recognition fund to support an increase in full time trade union officials and expand shop steward training, concluding that its proposals aimed, ‘to assist union growth, extend recognition and expand collective bargaining’.

It is clear that the bulk of the proposals were aimed at strengthening and improving collective bargaining largely through an extension of trade union rights. The only area of likely contention in these sections related to proposals for the government to hold a reserve power to fine both employers and trade unions in the event of either failing to abide by a ruling of the CIR during a recognition dispute. The final section of the paper moved on to ‘problems that remain’ and once again opened with the rights of the worker and the problem of unfair dismissal. Whilst it might ‘be possible to rely on collective bargaining’ to resolve the problem, this would take time and in the interim the government was prepared to legislate against unfair dismissal. However, with a hint of what was to come, it was argued that, ‘when action is taken to reinforce and extend the influence of trade unions...it is arguable that some degree of public regulation is both required and justified’. To this end, a special section of the Industrial Court would be empowered to hear complaints from both unionists and non-unionists concerning allegations of arbitrary exclusion from trade union membership and related matters.

Finally, the section turned to the issue of strikes, noting that, 'these reforms may take some time, and that even when they are complete there is still the possibility of disruptive and economically disastrous strikes which Britain can ill-afford.' To this end, the paper proposed two 'selective' measures, the first to deal with official strikes and the second to deal with unofficial strikes. In the case of the former, the strike ballot was to be invoked, whilst in the latter the 28-day 'cooling-off' period or conciliation pause was to be used. In both cases, the Secretary of State was to be given the discretionary power to enforce such measures and the power would only be used where the Secretary of State believed that 'the strike proposed would involve a serious threat to the general economy or the national interest'.

Much emphasis was placed on the discretionary nature of the power and the fact that it was not intended to be used in a blanket manner. Similarly, the sanctions behind both measures would be for the government to determine. The paper went as far as to say that, in the case of a refusal to comply with a compulsory ballot, the sanction would take the form of a fine against the union concerned. However, in the case of the conciliation pause it was assumed that the unions would not take any action to undermine an order requiring a return to work, but 'it follows that if the order is not complied with action will have to be taken against certain individuals or groups.' It was this proposal that the trade unions were to condemn immediately as the start of the criminalisation of strikers.

At first glance the proposals seemed to mirror those of the Conservatives who had proposed the use both of the strike ballot and the conciliation pause. However, there were significant differences; the overall approach of the draft confirmed the validity of the Donovan analysis; there were a series of proposals that offered a considerable extension of trade union rights; and the paper rejected the legalistic approach to sanctions of *Fair Deal at Work*. Under Castle's proposals, the power to order a strike ballot or instigate a 'cooling-off' period was given to the Secretary of State rather than the courts. The decision became political rather than legal.

As Castle has since noted, it would be her responsibility to put the case before the House of Commons and justify her reasoning on a case-by-case basis¹⁹⁴.

Finally, the Conservatives had proposed the use of a conciliation pause and strike ballot for official strikes whilst seeking to rely on the legal enforcement of collective agreements to deal with unofficial action. By contrast, Castle had rejected the legal approach and opted to use strike ballots for official strikes considered to be against the national interest and the conciliation pause in the case of unofficial strikes. The difference was significant. Castle has always argued that she was opposed to strike ballots and that they were Wilson's idea. There is no direct evidence of Wilson's involvement and in his own record of the period he restricts his comments to the decision in April 1969 to leave ballots out of the interim white paper¹⁹⁵. His close colleague Peter Shore was a firm supporter of the strike ballot, concerned primarily with the economic effects of industrial action. In Shore's view, calling a strike ballot in cases considered to be contrary to the national interest gave the government the opportunity to go over the heads of the trade union leaders and make the economic case directly to the workers involved¹⁹⁶. For a prime minister who had seen his economic strategy blown off course by small groups of 'politically motivated men', being able to appeal above their heads to the wider workforce would have seemed an attractive proposition.

If the approach to official strikes was driven by wider economic considerations, the approach to unofficial strikes was more firmly rooted in the day-to-day problems of industrial relations. Once the legal approach had been rejected, there were limited tools available. The choice of the conciliation pause, however, satisfied a number of considerations. It was not a blanket sanction, but rather would be applied on a case-by-case basis, and remained a political decision governed by consideration of the national interest. Finally, and perhaps most significantly from the industrial relations perspective, under the terms of the conciliation pause, both sides were to return to the status quo. This meant that whatever incident had led to the dispute, for example a perceived unfair dismissal,

¹⁹⁴Interview with Baroness Castle of Blackburn, Buckinghamshire 3 March 2000

¹⁹⁵See Wilson (1974) p.808

¹⁹⁶Interview with Lord Shore of Stepney, House of Lords, 12 November 2000

was to be rescinded to give both sides a chance to either negotiate a settlement or put in place the procedures required to enable settlements to take place. According to Castle this meant that it was generally the employers who were required to make the first move because of the number of disputes arising from 'arbitrary action by management'¹⁹⁷.

The first draft of what was to become *In Place Of Strife* sought then to balance a number of considerations. It accepted and supported the Donovan analysis; it rejected the legalistic approach being proposed by the Conservatives and the employers associations; it recognised that Donovan's proposed reforms could not take place fast enough to avoid ongoing disputes and that measures would be required to control strike action; it proposed the extension of trade union rights into a number of important areas; and it proposed two specific measures which were carefully designed to control those strikes considered damaging to the national interest without placing blanket restrictions on the basic right to strike. As such, it can be argued that the draft paper contained a well balanced set of proposals which provided a coherent analysis of the current state of industrial relations, and sought to couple enhanced trade union rights with a wider set of responsibilities. However, it can equally be argued that it was naive to assume that the carefully balanced set of rights and responsibilities would survive the realpolitik of Cabinet and trade union negotiations, assuming that the trade unions would have allowed it to work anyway. It is to these 'smoke-filled rooms' that consideration must now be given.

2.5 First Reactions: November 1968

McCarthy worked very quickly, and his draft was with the DEP by Wednesday 19 November. In parallel, the DEP was producing its own sections, initial drafts of which were circulated within the department on Thursday 20 November¹⁹⁸. Work was then undertaken to bring the two elements together, and the first draft was completed on Wednesday 27 November¹⁹⁹. In practice, aside from a few technical additions, the draft remained as McCarthy had written it. It was sent to Castle and

¹⁹⁷Interview with Baroness Castle of Blackburn, Buckinghamshire 3 March 2000

¹⁹⁸NA, PRO, LAB10/3478 I.S. Dewar to J.C. Burgh, 20 November 1968

¹⁹⁹NA, PRO, LAB10/3478 Note from J.C. Burgh to A.W. Brown, 27 November 1968, 'Draft White Paper on Industrial Relations'

copied to all senior staff within the DEP. In the covering note, Burgh noted that the draft arose from the weekend conference and was based on a first draft written by McCarthy, which 'incorporates part of an alternative paper written by Mr Dewar'²⁰⁰. It was also noted that the paper had not been cleared within the department before going to Castle and asked that any amendments be submitted by Friday 29 November.

In parallel with the production of the draft, discussions were taking place about the 'tactics and timing for consultations'²⁰¹. At a meeting on 20 November, Sir Denis Barnes, Conrad Heron and Burgh considered the key events of the coming weeks. The draft white paper would be circulated to ministers and discussed by the ministerial committee on industrial relations during the second week of December. The Cabinet office had already been alerted to the need for meetings on 10 and 16 December. Subsequently, a joint meeting was planned for early January to which the CBI, nationalised industries and the TUC would be invited. At this meeting it was suggested that Castle would outline her proposals and seek views on 'such questions as the enforcement of collective agreements, control of unconstitutional strikes, recognition disputes, and inter-union demarcation issues.'²⁰² However, it was noted that she would prefer not to circulate 'any document outlining the Government's proposals.'²⁰³ Finally, the final version would need to be approved by the Cabinet, and possibly by the ministerial steering committee on economic policy (SEP) by the end of the second week of January.

The need for such speed was explained by both the political desire to counter the Conservative proposals, and the demands of the legislative timetable. In a briefing note for Wilson, Trend noted that Castle was hoping that discussions within the Industrial Relations Committee would clarify 'whether a first instalment of legislation on industrial relations is to be introduced this session'²⁰⁴. Whilst parliamentary time had been allocated for the introduction of a bill in the

²⁰⁰ *ibid.*

²⁰¹ NA, PRO, LAB10/3420, Note from A.W. Brown to Mr Burgh, 20 November 1968, 'Industrial Relations White Paper'

²⁰² *ibid.*

²⁰³ *ibid.*

²⁰⁴ NA, PRO, PREM 13/2165 'Industrial Affairs', Note to Harold Wilson from Burke Trend, 20 November 1968

spring, Trend noted that the proposals were of such 'complexity and importance' that the programme looked 'extremely tight'. In the circumstances, Trend suggested that Wilson might wish to ask Castle if she thought there was still sufficient time to reach a decision and introduce legislation in the current session.

Castle had her first meeting with officials to discuss the draft on 2 December. Her diary entry records her satisfaction with the document, 'really excellent for a first draft'²⁰⁵. However, strikes in the motor industry were once again at the forefront of public opinion following a strike at car component manufacturer, Girling Limited. Girling was virtually the sole supplier of disc brakes to the motor industry and, on 11 November, 22 members of the Amalgamated Union of Engineering and Foundry Workers (AEF) walked out following a demarcation dispute with members of the Association of Scientific, Technical and Managerial Staffs (ASTMS). According to a briefing prepared by the DEP the strike was a consequence of past managerial weaknesses and the activities of a group of 'irresponsible trouble makers'²⁰⁶. Despite having little or no support among their fellow AEF members at the factory, and disregarding appeals from local and national officials, the men remained on strike until 6 December when, following the personal intervention of the AEF president, Hugh Scanlon, they returned to work. Such was the interrelated nature of the motor industry, that by the time they returned to work, 500 other employees at Girling had been laid off, along with a further 7000 in other parts of the motor industry.

Castle was subsequently to use the Girling dispute as a good example of an unofficial strike that would be covered by the conciliation pause, but in early December she was more concerned that Edward Heath was, 'trying to whip up the issue of legal sanctions'²⁰⁷. Consequently, she was determined to bring publication of the white paper forward in order to, 'take everyone by surprise'²⁰⁸. This in turn, meant avoiding leaks, and therefore she decided to ask Wilson if, following a meeting of the industrial relations committee, she could report directly

²⁰⁵Castle (1984) p.562, entry for 2 December 1968

²⁰⁶ NA, PRO, CAB134/2937 Ministerial Committee on Industrial Relations, 'Use of the "Conciliation Pause"', Note by the First Secretary of State and Secretary of State for Employment and Productivity, 6 January 1969.

²⁰⁷ Castle (1984) p.562, entry for 2 December 1968

²⁰⁸ *ibid.*

to the Cabinet rather than via the ministerial standing committee on economic policy (SEP), on which, she concluded, there was, 'more than one blatherer'²⁰⁹. Castle's proposal to by-pass SEP was recorded formally in a note of the meeting circulated by her private office on the following day. A meeting of the Industrial Relations Committee was being organised for 11 December and, 'the P.U.S. agreed to have a word with Sir Burke Trend to see whether it would be acceptable to by-pass the Ministerial Steering Committee on Economic Policy (to which the I.R. Committee would ordinarily report).' Furthermore, Castle was also anxious to bring forward the joint meeting with the TUC, CBI and nationalised industries from early January to the middle of December, 'in order to expedite the process leading to publication of the White Paper'²¹⁰.

On 3 December Castle's private office sent a copy of the draft to Wilson²¹¹. In the covering note, it was stressed that the draft was still subject to departmental amendment but 'the First Secretary hopes it will indicate the main lines along which her thoughts have been going.' Castle then met Wilson on 4 December to discuss the process for consultation and the role of the ministerial committee. Castle's diary entry for Wednesday 4 December covers the meeting in detail:

At 6.15 went in to see Harold. He had just read the first draft of our White Paper and was quite lyrical. He said we had obviously done a first-class job and a lot of hard work. 'As I said to Marcia, Barbara has not so much out-heathed Heath as out-flanked him.' He is not only as keen as I am to get the report out quickly but he is even keener on stopping leaks. He is therefore scrapping the ministerial committee he set up and intends to call just three or four Ministers together as soon as possible under his chairmanship to discuss my White Paper. From there it will go straight to Cabinet. He is even prepared to call a special Cabinet meeting on 2 January if he can persuade Burke Trend to come back to work in time. Of course, I was pleased but a little nervous, too.²¹²

²⁰⁹ *ibid.*

²¹⁰ NA, PRO, LAB10/3420, Note from A.W. Brown to Mr Burgh, 3 December 1968, 'Draft white paper on industrial relations'

²¹¹ NA, PRO, PREM13/2165, Note from A.W. Brown to R.J. Dawe, 3 December 1968 enclosing first draft of the white paper

²¹² Castle (1984) p.566, entry for 4 December 1968

There is no official note of the meeting between Castle and Wilson²¹³, however Castle met with her officials on the following day, Thursday 5 December, and a note from this meeting confirms the decision taken with Wilson the previous day. At the meeting Castle outlined plans for the publication of the white paper and that, 'the draft will be discussed towards the end of next week by a small group of Ministers and not (as originally envisaged) by the Ministerial Committee on Industrial Relations'²¹⁴. The final draft would then be circulated to the Cabinet for discussion on either 2nd or 6th of January with publication 'about two days after it has been agreed by Cabinet'²¹⁵. Finally, it was confirmed that the meeting with TUC, CBI and the nationalised industries had been brought forward to the week beginning 30 December.

The decision to by-pass the ministerial committee was to prove a source of major controversy, leading to accusations that Castle and Wilson were attempting to 'bounce' the proposals through the Cabinet. The official notes, together with Castle's diary, confirm that, while Castle was concerned about leaks, they were confined to the SEP. It was Wilson who took things a stage further and sidelined the standing committee on industrial relations in favour of an informal group of ministers²¹⁶. Wilson's own account of these events is vague. According to his memoir, his involvement at this stage was minimal; 'In early December, the First Secretary, who had been working with a small group of ministers on her scheme, discussed the proposed timetable with the Chancellor and me..As I understood it, her ministerial group would finalise her draft just after Christmas and would then report to Cabinet on 3 January'²¹⁷. It is notable that he fails to mention both his involvement in the decision to create a 'small group of ministers', and his own chairmanship of that group. Wilson seems to have been deliberately vague. It is clear that he chose to chair the small group, and difficult, given that he would have had access to the papers, to accept that he was mistaken on most of the key details.

²¹³ It appears to have been a private meeting without officials.

²¹⁴ NA, PRO, LAB10/3420 Note from A.W. Brown to P.U.S. 6 December 1968

²¹⁵ *ibid*

²¹⁶ Castle chaired the industrial relations committee, and Jenkins the SEP, therefore Wilson was making a deliberate decision to chair the informal group.

²¹⁷ Wilson (1974) pp.746-7.

Other sources have confirmed the secrecy surrounding the circulation of the first draft of the white paper. Richard Marsh²¹⁸ recalls that he heard rumours of an informal ministerial committee in early December and confronted the Cabinet secretary about its existence. According to Marsh, Trend denied its existence²¹⁹. Roy Jenkins has confirmed that both Castle and Wilson were concerned about the prospect of Jim Callaghan leaking the proposals to trade unions²²⁰ and, perhaps most significantly, John Burgh recalls specific instructions being given within the DEP that the first draft should not be circulated to the Home Office²²¹. Finally, when papers were circulated for the first meeting of the ministerial group, they were not only classified as secret but, 'in view of the particularly sensitive nature of its contents it is being circulated on a personal basis for the information and use of the Ministers concerned'²²².

It was ironic, therefore, that the leak, when it came, should come not from Callaghan but from Roy Jenkins. Wilson's informal group were due to meet on 19 December and Jenkins, as a member of the group, received the papers during the previous week. According to Ann Perkins, Jenkins showed them to his parliamentary private secretary Tom Bradley who, promptly leaked them to Ian Aitken of the *Guardian*²²³. The *Guardian* ran a story on 12 December, focusing on the conciliation pause and the similarity with the Conservative proposals. Aitken was quick to see the 'obvious problem' with enforcement and, 'some kind of legal sanctions', raising the prospect of a similar row to that which had taken place over the enforcement of prices and incomes policy²²⁴. The cat was at least partially out of the bag, and that weekend Castle and Wilson decided it might as well be released.

A meeting of the National Economic Development Council (NEDC), was scheduled to take place at Chequers over the weekend of 14-15 December. In her diary entry for Sunday 15 December, Castle records that a small group consisting

²¹⁸ Minister of Transport

²¹⁹ Interview with Lord Marsh of Mannington, House of Lords, 28 June 2000

²²⁰ Interview with Lord Jenkins of Hillhead, London 20 September 2001.

²²¹ Interview with Sir John Burgh, Sussex, 19 July 2000

²²² NA, PRO, PREM13/2724 Note from Dan Gruffydd Jones to Michael Halls, 13 December 1968

²²³ See Perkins (2003) p.285.

²²⁴ *Guardian*, 12 December 1968

of, Frank Cousins²²⁵, Jack Cooper²²⁶, Alf Allen²²⁷, Roy Jenkins and Fred Lee remained after the majority had left. Castle noted that 'Harold had already plotted with me that we would have an informal chat with them after dinner about some of my proposals for action on Donovan.'²²⁸In the discussions that followed Wilson outlined the two controversial ideas, the conciliation pause and the power to order a strike ballot. The response was mixed; Cousins, 'bridled at the very suggestion', Allen said that, 'trade unions just didn't like the idea of legislation at all', whilst only Cooper accepted that the conciliation pause, 'might be acceptable'²²⁹. Castle excluded from the published diaries a 'little tiff' that she had with Wilson later the same evening that gave an early indication of his more pragmatic approach. According to the original transcript, Castle became annoyed as Wilson suggested that industrial relations legislation 'might be bartered for dropping statutory powers on P&I', to which Castle 'snapped', "I'm not suggesting this because it's electorally popular but because I believe it is right."²³⁰

However, by now a head of steam was developing. The TUC general council met on 18 December and Jack Jones raised the press reports suggesting that the white paper would propose some form of 'repressive legislation'. He asked if it was known whether the government intended to consult in advance of publication and suggested that the general council should 'publicly declare their total opposition to any legislation restricting the right to strike'. Cousins, who argued that both the general council and Woodcock had stated on many occasions that there must be no attempt 'to control the trade union movement and their activities by legislation' supported him. Woodcock responded that it would 'not be desirable for the General Council to be put in the position when it was thought that they were not susceptible to argument and discussion'. In that way, he argued, they would be isolated from decision-making²³¹.

²²⁵ Transport and General Workers Union

²²⁶ General and Municipal Workers Union

²²⁷ Union of Shop, Distributive and Allied Workers

²²⁸ Castle (1984) pp.571-572, entry for 15 December 1968. Further evidence of Wilson's active involvement in the formative discussions of the white paper

²²⁹ *ibid*

²³⁰ BCC, entry for 15 December, 1968

²³¹ Modern Records Centre, University of Warwick (henceforward MRC), MSS 292B/20/9 Trades Union Congress, General Council, Minutes of fifth meeting (1968-69) held on Wednesday, 18 December 1968.

On the following day Woodcock met Castle and, when she decided 'on an impulse' to take him into her confidence over the white paper, it is likely that the exchange with Jones and Cousins was uppermost in his mind. Castle outlined all of the main proposals to which, 'to my surprise, [Woodcock] said that he didn't think there was anything there that need alarm the trade union movement. I could hardly believe my ears!' Woodcock then went on to propose that Castle also take the TUC finance and general purposes committee into her confidence by seeing them separately at the next round of consultation, rather than together with the CBI and the Nationalised Industries as had been planned. Castle was unsure. She knew that whatever she told the TUC would leak and it would be obvious that she had consulted them ahead of the Cabinet. Woodcock acknowledged the risk, but 'was sure it would reap dividends. The TUC would then never be able to say they had not been consulted fully before the Government had made up its mind'. The meeting closed with Castle agreeing to 'think it over'. Subsequently she decided to meet the TUC alone on 30 December, but news of the meeting leaked and there was considerable anger among the Cabinet²³².

Doubts have been expressed as to the veracity of Woodcock's response to Castle. In his biography of Vic Feather²³³, Eric Silver quotes Woodcock as recalling that what he actually said was 'There's nothing here that surprises me'²³⁴. Silver continued, 'After the Government's grudging welcome to the Donovan Report, world-weary George was hardly astonished that it was going to introduce penal sanctions against unofficial strikers.'²³⁵ Neither Len Murray, who was head of the TUC research department, nor his deputy David Lea, have any recollection of Woodcock discussing the contents of his meeting with Castle²³⁶. However, it seems equally likely that, given the exchange that had taken place with Jones and Cousins at the general council, Woodcock's overwhelming priority was to keep the trade unions at the negotiating table. Whatever his recollection, and Silver

²³²Castle (1984) pp.574-575, Entry for 19 December 1968

²³³Formally succeeded Woodcock as TUC General Secretary in September 1969. Acting General Secretary from February 1969 following Woodcock's appointment as chairman of the Commission for Industrial Relations (CIR)

²³⁴Silver (1973) p.134

²³⁵ibid

²³⁶Interview with Lord Murray of Epping Forest, House of Lords, 11 May 2000 & Interview with Lord Lea of Chroddall, House of Lords, 5 May 2000

notes that he may have 'been more precise in retrospect than he was at the time'²³⁷, it is clear that Castle was sufficiently convinced by his response to risk a serious row with the Cabinet and consult the TUC first. As Silver concludes, the exact words spoken were 'immaterial', what was important was that Castle was 'impressed with what she thought he said, and accepted the general secretary's advice to discuss the document with general council'²³⁸.

The decisions taken in November and early December 1968 over the production and consultation on the white paper characterised many of the problems that were to arise over the forthcoming months. The late production of the first draft imbued the process with a great sense of urgency resulting in rushed decisions over who and when to consult. Wilson, contrary to his published account, was heavily involved from the outset and it is clear that decisions on which ministers to involve and at what stage were as much his as Castles. The fear of leaks and the desire to out-flank Heath were central to the decision to by-pass the established ministerial committee, whilst Castle was sufficiently encouraged by Woodcock's reaction to consult the TUC in advance of the Cabinet. These decisions were to shape the opening Cabinet debates, and the relative isolation in which Castle and Wilson operated was to characterise the months of negotiations with both Labour Party and TUC. Significantly, in his account of events, Wilson quotes a letter he received from Richard Crossman some time afterwards, in which Crossman gave his view that the decision to talk to the TUC first was one of the biggest mistakes made during this period. A view Wilson was by 1974 forced to agree with²³⁹.

2.6 Soundings and Leaks: December 1968

Such were the pressures of the legislative timetable, that Castle was now forced into consulting ministerial colleagues and fine-tuning the white paper whilst conducting her opening meetings with the TUC and the CBI. Furthermore, her decision to talk to the TUC alone meant that she felt obliged to offer the same opportunity to the CBI. In the outside world, the rumours of draconian legislation

²³⁷Silver (1973) p.134

²³⁸ibid

²³⁹ Wilson (1974) p.747

continued to do the rounds and Cabinet ministers like Marsh were, as we have seen, beginning to ask what was going on. Against this backdrop, the first meeting of ministers was scheduled for 19 December, to be followed by the TUC on 30 and CBI on 31 December.

The ad hoc ministerial group, which was now officially called the Cabinet committee on industrial affairs, MISC 230, was made up of Wilson, Castle, Jenkins, Fred Lee, Gerald Gardiner, Fred Peart and Elwyn Jones²⁴⁰. The inclusion of Jenkins emphasised the increasing economic importance of industrial relations and reflected the need to gain early support from one of the most powerful members of the Cabinet. Gardiner and Jones the Attorney-General, had both been members of the original ministerial committee and Jones' inclusion indicated the importance that both Wilson and Castle were to place on the development of effective sanctions which avoided the 'criminalisation' of strikers. Finally, Peart and Lee were Wilson loyalists who could be relied on not to leak the proposals and to give Wilson active support in both Cabinet and the wider Labour party.

In her diary, Castle records that the meeting went well and that all of those present backed her, 'unquestioningly', although Fred Lee had some 'queries' about the conciliation pause²⁴¹. Her account is borne out by the official minutes that concluded that there was 'general agreement' that the proposals, taken as a whole, 'provided a balanced and valuable programme of action'. However, it was also noted that 'it would be necessary to consider carefully the detailed proposals and in particular those for new legal sanctions and penalties'. Arguments for and against strike ballots were seen to be 'fairly evenly balanced'. The point was made that such proposals involved 'practical difficulties' and that the experience of other countries cited in Donovan was not encouraging. However, it was also noted that the presence of such powers might make union leaders more ready to accept a settlement without threatening a strike.

By contrast, there was general agreement on the desirability of the conciliation pause. It was noted that the CBI were likely to oppose the return to the status quo,

²⁴⁰ Attorney-General

²⁴¹ Castle (1984) p.574, entry for 19 December 1968

but agreed that it was important to take this power because 'many unofficial strikes were caused by management decisions to change existing custom and practice without adequate consultation'. Castle was asked to consider the possibility of taking a further power to extend the period of delay for a second period of 28 days if it was felt to be required²⁴².

The discussion then returned to the issue of enforcement. It was agreed that the Industrial Court²⁴³ was a more appropriate body to consider the enforcement of sanctions arising from non-compliance with the penal clauses, although it was also argued that this would prejudice its role as a conciliating body, and suggested that a possible solution would entail setting up a new court, consisting of the President of the Industrial Court and two trade union assessors. It was agreed that Castle should consult with the Lord Chancellor and the Attorney-General over the practicalities of this suggestion. As for the sanctions themselves, concern was raised that differences between civil and criminal law could lead to 'the somewhat paradoxical situation that civil proceedings might lead to harsher penalties than criminal ones'²⁴⁴, and it was agreed that Castle should discuss this too with the Lord Chancellor and the Attorney-General.

The rest of the proposals were agreed with limited comment, and Wilson was able to sum up by concluding that the meeting 'agreed generally' with the draft. It was agreed that a revised version should be circulated for consideration by the Cabinet on Friday 3 January, and that the committee would resume on Thursday 2 January, when Castle would be able to report on the outcome of her consultations with the TUC and the CBI. Wilson concluded that, subject to Cabinet approval, the government should aim to publish the white paper as soon as practicable after 3 January²⁴⁵.

²⁴² NA, PRO, CAB130/404 MISC230 1st Meeting, 19 December 1968

²⁴³The Industrial Court was established by the Industrial Courts Act, 1919. It was a permanent independent tribunal for voluntary arbitration at the request of either party to a dispute. See H.A. Clegg, *The System of Industrial Relations in Great Britain* (Third Edition, Basil Blackwell, Oxford 1976) pp.367-369

²⁴⁴Under existing statutes, a striker could be imprisoned for ignoring a civil injunction, while a fine imposed in criminal proceedings could be attached from earnings.

²⁴⁵ NA, PRO, CAB130/404, Cabinet, Industrial Affairs, Minutes of a meeting held on 19 December 1968

Subsequently, a meeting took place between the senior law officers in the DEP, Elwyn Jones, the Attorney-General, Solicitor-General and the chairman of the Industrial Court to discuss the problems of enforcement and any resulting penalties. The meeting agreed that such cases should be dealt with by the chairman of the Industrial Court sitting with trade union panel members (members of the Industrial Court) in the case of a hearing against a trade union, and with both employer and trade union representatives in the case of a hearing against an employer. It was agreed that the body should be called the Industrial Board and should be distinct from the Industrial Court. It was also agreed that the penalties imposed by the Industrial Board would be treated as civil debts and as such would be registered in the County Court for recovery purposes²⁴⁶.

Following the meeting, Castle wrote to the Lord Chancellor, Gerald Gardiner, on 31 December. In the letter she noted that the proposals were likely to 'revive all the controversy we experienced over the prices and incomes legislation about the possible imprisonment of trade unionists who refuse to pay fines'²⁴⁷. Alluding to the recent meeting, Castle noted their view that it ought to be possible to avoid imprisonment, even in circumstances where fines were not paid and asked for Gardiner's views. Gardiner replied on 1 January 1969²⁴⁸. He stressed the need to emphasise that financial penalties should be enforceable as civil debts by attachment of wages and not by imprisonment and, in a second letter, included a redraft of the enforcement section that stressed that the new Industrial Board would, 'have the power to impose financial penalties, which will be recoverable in the appropriate county court by means of the usual civil remedies, including attachment of wages and without liability to imprisonment in default of payment or on account of a failure to obey an order'²⁴⁹.

²⁴⁶NA, PRO, LAB43/538, Note from Frank Lawton to John Burgh, 'White Paper', 23 December 1968.

²⁴⁷NA, PRO, LAB10/3478 Letter from Barbara Castle to Gerald Gardiner, 'Draft White Paper on Industrial Relations' 31 December 1968

²⁴⁸NA, PRO, LAB10/3478 Letter from Gerald Gardiner to Barbara Castle, 'Draft White Paper on Industrial Relations', 1 January 1969

²⁴⁹NA, PRO, LAB10/3478 Letter from Gerald Gardiner to Barbara Castle, 'Draft White Paper on Industrial Relations', 2 January 1969

The attention given to sanctions and the need to avoid imprisonment was indicative of Castle's sensitivities to the issue. She was aware of the problems that had been faced with both the Cabinet and the trade unions over the imposition of sanctions as part of the prices and incomes legislation and was determined to avoid the same pitfalls with the white paper. Castle and her officials were assuming crucially that, once the legislation was in place, the trade unions would comply. However, it became clear very quickly that such was the level of opposition that a significant number of trade unionists were prepared to defy the proposals even if they became law,

While Castle's officials were trying to resolve the tangled issues of enforcement, Castle was embroiled in the opening meetings with the TUC and the CBI. She opened the meeting with the TUC finance and general purposes committee on 30 December with a plea for confidentiality, 'as I had not yet put my ideas even to my Cabinet colleagues, I was taking a great risk and could only tell them what was ~~in~~ on my mind on condition that no one in the room communicated what I had to say to any person or organisation outside the room'²⁵⁰. Needless to say, whilst the plea was met with 'silence and portentous nods', the following day's press were full of accounts of what took place²⁵¹. The meeting itself was quiet and restrained. Castle stressed that the proposals were based firmly on the Donovan philosophy and that legal sanctions on their own could not bring industrial peace. However, 'the law had a role to play at a few specific points where it could have an immediate practical effect without damaging the essential freedoms of the trade union movement, including the right to strike'²⁵². The committee confined their response to questions of clarification and an agreement to produce an initial response by 2 January.

Similarly, at the meeting with the CBI and the nationalised industries, Castle made it clear why she had rejected the call for legally enforceable procedure agreements, arguing that such a policy would remove responsibility from the

²⁵⁰ Castle (1984) p.576, entry for 30 December 1968

²⁵¹ For example, the *Guardian*, 31 December 1968, led with 'Cooling-off strikes to be forced on unions', and *The Times*, 31 December 1968, 'Mrs Castle's shock for the TUC', quoting an unnamed union leader, that the proposals were 'more like a Tory policy'.

²⁵² NA, PRO, LAB43/538 Minutes of the First Secretary's meeting with the TUC about Government proposals on industrial relations, 30 December 1968

management to resolve disputes, and 'if employers were seldom prepared themselves to exercise their legal rights to sue employees who acted in breach of their individual contracts of employment, it did not seem sound policy for the Government to seek to do the job for them'²⁵³. As with the TUC, those present confined their comments to questions of clarification and it was agreed that a second meeting would take place on 2 January at which point they would in a position to give initial reactions. Just as with the TUC, however, the following day's papers were full of reports of the discussions; the *Guardian* reported a 'scathing attack' by the CBI director-general John Davies, who described the proposals as 'like taking a nutcracker to crack a cannon ball' and reiterated the call for collective agreements to be made legally enforceable²⁵⁴.

Castle had been quite right to be concerned about the reaction of the Cabinet if they learnt that she had spoken to the TUC first. In a telex message to Wilson, his private office noted that Richard Marsh had telephoned Burke Trend's office regarding the white paper saying that, 'he knew about it (sic) he had obtained from today's press and ministers should not have to rely on the press for information on the government's proposals'²⁵⁵. The telex is undated, but Marsh's comments suggest he was responding to the press reports of Castle's meeting that appeared on 31 December. Trend's office had responded that he should have had the draft white paper 'which was circulated this morning' for the meeting on Friday²⁵⁶. Furthermore, Marsh recalls contacting Callaghan as soon as he received his copy of the draft to make sure that he had seen it, so concerned was he as to its contents²⁵⁷. Finally, Richard Crossman requested a meeting with Castle on 1 January to discuss the white paper, the draft of which he had already received²⁵⁸. At the meeting, Castle noted, Crossman was 'torn between a reluctant admiration

²⁵³NA, PRO, LAB10/3454, Government proposals on industrial relations, Note of a meeting held with representatives of the CBI and the Nationalised Industries held at 8 St. James Square on Tuesday 31 December 1968

²⁵⁴*Guardian*, 1 January 1969

²⁵⁵NA, PRO, PREM13/2724 Undated telex'

²⁵⁶Cabinet discussion was scheduled for Friday, 3 January 1969

²⁵⁷Interview with Lord Marsh of Mannington, 28 June 2000.

²⁵⁸This, along with the comments to Marsh, suggest that the draft was circulated on the morning of 31 December.

of it and his pique at being excluded from the ministerial group which had okayed it²⁵⁹.

Thus, in the space of six weeks the first draft on *In Place of Strife* had been written and shared with both the TUC and the CBI. There was no doubt that a combination of the legislative timetable and 'events' in the form of rising unofficial strikes and press leaks pushed Castle into the early discussions that were to cause so much anger among her Cabinet colleagues. However, it was already clear, from the leaked reactions of both the TUC and the CBI that neither side were happy with the proposals, and that, in seeking to occupy the centre-ground, Castle was in danger of slipping down through the middle.

2.7 Detailed responses and dead ends

If Castle and Wilson had hoped to spring a surprise with the launch of their proposals, they had failed. On 1 January, the *Guardian* reported that the forthcoming Cabinet discussion was likely to take place in 'a mounting atmosphere of criticism and hostility', as many left-wing backbenchers reacted to Castle's proposals in, 'something close to horror'²⁶⁰. Acknowledging that the key question was how far the relatively moderate membership of the trade union group of MPs would unite with known left-wingers, the paper quoted John Mendelson MP, a leading member of the left-wing 'Tribune' group who said that, if the trade unions came out against the proposals, 'it would be the duty of all MPs who regarded themselves as trade unionists to oppose the Government'. In the circumstances, the reaction of the TUC was going to be crucial.

Castle met the TUC finance and general purposes committee for a second time on 2 January. The committee held a special meeting at 2.30pm, prior to the meeting with Castle that was scheduled for 5pm²⁶¹. Each of Castle's proposals was discussed individually, and it was agreed that more information was needed before decisions could be made. However, on the two most controversial proposals, strike ballots and the conciliation pause, the opposition was clear. Strike ballots

²⁵⁹Castle (1984) p.581 Entry for 1 January 1969

²⁶⁰*Guardian*, 1 January 1969

²⁶¹MRC, MSS 292B/24.1/8, Trades Union Congress, Finance and General Purposes Committee, Minutes of fifth (special) meeting held at 2.30pm on Thursday, January 2, 1969

were considered to be of 'no practical value whatsoever' and counter to the Donovan recommendation, and it was agreed that the proposal should be discussed with Castle 'on the lines of the Committee's views'.

In dealing with unconstitutional strikes the committee was slightly more equivocal. Whilst it was agreed that the general answer to unconstitutional strikes was to provide 'more adequate constitutional procedures', it was acknowledged that the trade union movement did not have an alternative proposal to deal with the problem, and that the action of as little as twenty workers could 'throw 5,000 out of work'²⁶². Furthermore, it was recognised that such strikes threatened the economy of the country. Against this it was argued trade union acquiescence in proposals of limited practical value could open the door for the government to take further powers and, 'it was a dangerous road on which to start'²⁶³. The committee agreed they would state their 'great reservations' and seek further information and clarification.

According to Castle's account, the second meeting took matters little further than the first, 'all they could tell me was that they could not give me final comments because a special meeting had been called of the General Council for Tuesday next'. Once again, however, Castle records Woodcock's comments as being favourable. In a private meeting after the committee had left, at which she offered him the chairmanship of the CIR, she recorded him as commenting that the white paper was 'excellent', and that she had 'given the trade unions the opportunity he had wanted them to be given'²⁶⁴. However much Woodcock hinted that he wished to help, the DEP record of the meeting on 2 January indicates that this did not extend to public support for the penal proposals. The surviving record of the meeting is a handwritten note taken during the meeting by Denis Barnes²⁶⁵ and, on

²⁶² A clear reference to the Girling dispute

²⁶³ MRC, MSS 292B/24.1/8, Trades Union Congress, Finance and General Purposes Committee, Minutes of fifth (special) meeting held at 2.30pm on Thursday, January 2, 1969

²⁶⁴ Castle (1984) p.582, entry for 2 January 1969

²⁶⁵ NA, PRO, LAB10/3478 Untitled series of handwritten notes of the consultations with the TUC and the CBI that took place between December 1968 and January 1969 taken by Sir Denis Barnes, Permanent Secretary, Department of Employment and Productivity. In a covering note dated 8 June 1969, Barnes commented 'Perhaps these scribbled notes of the contentious meetings before the publication of "In Place of Strife" should go on an appropriate file. As far as I know, no more formal record was kept of these meetings, so they may be of historical value.'

each of the three areas in which sanctions could be evoked, inter-union disputes, strike ballots, and the conciliation pause, Woodcock expressed his doubts about both the practicality of the proposals and the likelihood of its being agreed by the General Council. In relation to inter-union disputes, Woodcock 'queried the usefulness of penalty', and similarly, commenting on the proposal for strike ballots, 'don't see it will be of any practical value' and didn't think it would pass the General Council. Finally, he expressed doubts about the value and practicability of the conciliation pause, worrying that it would be applied too crudely.

The TUC record of the meeting offers a more detailed account of the their initial concerns. Attention focused on three areas; the strike ballot; the conciliation pause; and likely penalties. Opposition to strike ballots and the conciliation pause was in line with the discussion at the pre-meeting, whilst on penalties, the committee asked what form they might take. Castle stressed that she was determined to eliminate any risk of imprisonment and avoid any recourse to the criminal courts, but the committee remained sceptical as to how this could be managed when some measure would be needed to ensure that fines were collected. The meeting closed with an agreement that the committee would meet Castle again on 8 January, after the special meeting of the TUC General Council that had been called for 7 January²⁶⁶.

In meeting Woodcock privately, Castle was establishing a pattern that was to continue throughout the negotiations and survive the change of leadership from Woodcock to Vic Feather. In allowing the general secretary this exclusive access, Castle was endowing him with considerable influence. We have already seen Woodcock's influence in convincing Castle to consult with the TUC early in the process, in this instance his influence was evidenced in a telephone conversation between Castle and Wilson on the following morning, during which Castle reported Woodcock as saying that he was, 'personally happy' with the package but could not guarantee the support of the general council. However, he did feel that the strike ballot was more likely to be opposed than the conciliation pause,

²⁶⁶ MRC, MSS292B/20/9, TUC Minutes of the sixth (special) meeting held on Tuesday, 7 January 1969

presumably a reflection of the discussion at the finance and general purposes committee on the previous day, and his view was enough for Castle to decide to report this to the Cabinet²⁶⁷.

As it turned out, Woodcock appeared initially to have underestimated the strength of opposition to the whole package at the general council. Once again, Castle's diary provides a useful starting point. In her entry for 7 January, Castle notes that Denis Barnes telephoned her following a conversation with Vic Feather, during which Feather outlined the main points of the meeting. According to Feather, Cousins had moved a resolution rejecting the whole white paper. This was rejected in favour of a statement that had been prepared by the TUC office; Woodcock had delivered a 'little homily' at the end of the meeting during which he told the GC that it would be difficult to get any changes in industrial relations unless there were sanctions behind them²⁶⁸.

The TUC record confirms that Cousins was the main focus for outright opposition to the white paper²⁶⁹. Once the general council had discussed the individual proposals, matters were opened out for a general debate. Cousins argued that the proposals were misguided, which was a 'grave reflection on them and on the whole trade union movement'. Whilst Castle had argued that her underlying philosophy was to strengthen the union movement, 'all the proposals were an extension of power to limit and control'. In Cousins' view, the general council should reject all the proposals that widened government control, especially those relating to legal sanctions. If the role of the unions was to be modified or changed in any way 'the transfer of power should be given to the TUC itself and not to either the CIR or the DEP'.

Cousins was supported by Danny McGarvey²⁷⁰, who opposed any kind of penalties on trade unionists and Sid Greene²⁷¹, who argued that certain proposals

²⁶⁷ NA, PRO, PREM13/2724, Confidential note for the record, 3 January 1969

²⁶⁸ Castle (1984) p. 584, entry for 7 January 1969

²⁶⁹ MRC, MSS292B/20/9, Trade Union Congress, Minutes of the sixth (special) meeting (1968-69) held on Tuesday, January 7, 1969

²⁷⁰ General Secretary, Amalgamated Society of Boilermakers, Shipwrights, Blacksmiths and Structural Workers. Kenneth Morgan notes that McGarvey was one of several trade unionists that

such as the registration of procedure agreements were acceptable, but opposed the use of ballots and thought penalties would cause problems. The chairman, John Newton²⁷², put Cousins' proposals to the meeting as a motion stating that the GC 'entirely rejects' proposals which give government greater control in official disputes and provide for legal sanctions. As an alternative, it called for an overhaul of existing arbitration machinery, coupled with legal protection against unfair dismissal. Finally, it called for the government to delay any final decisions until after the special Conference of Trade Union Executives arranged for 27 February.

Opposing the motion, Woodcock argued that it was not suggested that the white paper proposals should be supported as they stood. However, there were a wide range of proposals and he thought the general council was under an obligation to give their views on them. In his view, 'the General Council would not be living up to their responsibility if they rejected the proposals out of hand'²⁷³. Furthermore, he had a paper to put to the meeting commenting on all of the proposals in the white paper. The choice before the general council therefore, was between a short statement concentrating on the unacceptable proposals and one that commented on the detail of all the proposals. On reading Woodcock's draft, Cousin's withdrew his motion.

Whilst Castle's account focused on Cousins' opposition, the TUC record also included a number of voices raising concern over the impact of unofficial strikes and the lack of a TUC response. George Lowthian²⁷⁴ referred to the public dislike of unofficial strikes and the reluctance of individual unions to surrender any authority to the TUC to settle disputes. Jack Peel²⁷⁵ supported the Woodcock document, but thought that there should be some comment on what the general council was prepared to do about the problem of unofficial strikes. Les Cannon²⁷⁶

Callaghan kept in close contact with throughout the period of the white paper. Morgan (1997) p.338

²⁷¹General Secretary, National Union of Railwaymen

²⁷²General Secretary, National Union of Tailors and Garment Workers

²⁷³MRC, MSS292B/20/9, Trade Union Congress, Minutes of the sixth (special) meeting (1968-69) held on Tuesday, January 7

²⁷⁴Amalgamated Union of Building Trade Workers

²⁷⁵National Union of Dyers, Bleachers and Textile Workers

²⁷⁶Electrical Electronic Telecommunications Union/Plumbing Trades Union

felt that they needed to acknowledge both public and trade union concern over unofficial strikes, although he did not support the government proposals for dealing with them. William Anderson²⁷⁷ thought that the TUC should start dealing with the problem of unofficial strikes and was 'appalled by the fact that even recently when major strikes were threatened the General Council had not "uttered one word"²⁷⁸. In his view, 'the General Council had a responsibility to the trade union movement to take some action'. Finally, Jack Jones²⁷⁹ acknowledged that, whilst opposed to legislation, it 'could not be disguised that legislation would be proposed if trade unionists behaved irresponsibly and refused to go through established machinery'. In his view, 'it was perhaps a weakness of the document that the General Council could not themselves say how unofficial strikes should be adequately dealt with.'

The general council meeting was an important event. It was the first opportunity the council had to discuss Castle's proposals, and it is evident that there was almost blanket opposition for the penal clauses and next to no recognition of the her intended charter of trade union rights. Significantly, the moderating voices did not speak in favour of Castle's proposals, but more in a belief that the TUC needed more authority to deal with disputes, a point acknowledged even by Cousins and his deputy Jones. Whilst this did not hold out much hope for an agreement, the other significant strand to emerge was Woodcock's determination to keep the TUC at the negotiating table, a position that had emerged clearly in the early discussions during December, and his willingness to engage in debate. Once again, here was an emerging pattern that was to continue throughout the negotiations, as first Woodcock and then Feather worked to stay at the negotiating table whilst the more extreme elements within the general council threatened to walk away. The tangible evidence of Woodcock's approach was his policy document²⁸⁰. The opening paragraphs acknowledged those sections of the white paper which 'could in principle' help to improve industrial relations, including the establishment of the CIR and the right to join trade unions. It also acknowledged

²⁷⁷ National and Local Government Officers Association

²⁷⁸ MRC, MSS292B/20/9 Trade Union Congress, Minutes of the sixth (special) meeting (1968-69) held on Tuesday, January 7, 1969

²⁷⁹ Assistant General Secretary, Transport and General Workers Union

²⁸⁰ The statement was included in full in the *TUC Report 1969, Report of the 101st Annual Trades Union Congress* (Co-Operative Printing Society Limited, London, 1969) pp.205-208

that trade unions recognised the need to make changes in their organisations 'as are required to promote the social and economic advance of the nation', however, these needed to be based on voluntary action, and not on government imposed constraints and restrictions.

Turning to the specific issues, the statement built on the view that there was scope for a wider role for the TUC. Specifically, it was noted that the general council was already looking at ways in which the TUC could play a stronger role in the resolution of inter-union disputes through the strengthening of existing procedures, and in the improvement of trade union organisation and membership. However, as in the general council debate, the penal clauses were rejected unequivocally. Strike ballots were rejected as 'completely misguided and quite unacceptable'²⁸¹. It was argued that the imposition of ballots would remove from responsible trade union leaders the right to exercise any responsibility over the calling of strikes and this would undermine confidence in those leaders, encouraging unofficial action. Similarly, it was argued that Donovan had made an 'exhaustive examination' of the use of 'cooling off periods' for both unofficial and unconstitutional strikes and had reached the unanimous conclusion that they were not beneficial²⁸².

Finally, it was noted that Castle had acknowledged that it was not possible to define in statute those unconstitutional or unofficial strikes that were 'likely to be serious'²⁸³ and that as such the relevant minister would define them. In these circumstances, the document argued that it did not accord with democratic procedures, 'to give a Minister unfettered discretion to invoke powers to fine workpeople solely on the grounds that in his opinion the results of the strike are likely to be serious, using such criteria as he may think appropriate'.

²⁸¹ibid

²⁸²NA, PRO, LAB43/538, Trades Union Congress, White Paper on Industrial Relations – comments by the General Council. The file copy of the TUC response has Castle's handwritten comments in the margins. She notes, correctly, that Donovan only considered cooling off periods in relation to official strikes and proposed the amendment of Section 3 of the Trade Disputes Act, 1906 as a possible sanction against unofficial action

²⁸³Castle's words in outlining the proposals to the TUC

The paper was despatched to the DEP in advance of the meeting with Castle on the following day, and a copy, annotated by Castle survives in the official papers. Castle's handwritten notes in the margins make clear her response: the TUC, having dismissed the positive elements of the proposals with the statement, that these, 'could in principle help to improve industrial relations and to promote trade union objectives' was met with, 'ungenerous!'²⁸⁴. Similarly, TUC comments on the proposed working of the conciliation pause were met with, 'Misunderstanding of what is proposed'. However, the meeting itself was, according to Castle, 'absurdly constrained'²⁸⁵, with little being said beyond a stress on the unanimous support among the general council for the TUC document. The TUC minutes record Castle's welcome for the proposed changes in structure and organisation of affiliated unions and for the recognition of responsibility for the handling of inter-union disputes. In response, the general council said that they thought the statement was a 'clear expression of the General Council's views and apart from answering any question, they had nothing to add at this stage'²⁸⁶. Castle sought to clarify matters relating to the 'cooling-off period' and unofficial strikes, but nothing further was resolved.

Castle's published account is as constrained as the meeting itself, however, the original transcript indicates just how frustrated she had become:

Having seen the document [TUC response] I was all ready to see if there were any items we might negotiate (e.g. the strike ballot against the conciliation pause). But I was warned that the document was a precariously poised common denominator which the TUC didn't want disturbed for fear of revealing their own disagreements. This was all very well for them but it disguised the fact that the criticisms were in reality far from unanimous.

As they left the meeting, Barnes commented that it had gone well. Castle subsequently wrote 'I didn't agree. I thought this uneasy patched up compromise, which leaves them all free to attack something whose merits they refuse to argue, is a symbol of what is wrong with the t.u. movement.'²⁸⁷

²⁸⁴ NA, PRO, LAB43/538, Trades Union Congress, White Paper on Industrial Relations – comments by the General Council

²⁸⁵ Castle (1984) p.585, entry for 8 January 1969

²⁸⁶ MRC, MSS292B/24.1/8, Trade Union Congress, Finance and General Purposes Committee, Minutes of the sixth meeting (1968-69) held on Monday, January 20, 1969

²⁸⁷ BCC, entry for 8 January 1969

The initial consultations with the TUC set the tone for the negotiations that followed. The general council was intransigent in its opposition to the penal clauses and in its support for Donovan as published. Woodcock appeared initially to offer the hope that the General Council would not object. There was no evidence that this was likely to be the case, although the general council debates did serve to highlight a strand of opinion that was calling for some degree of internal reform, and this was to prove important in the months that followed. For Castle, however, these opening exchanges were deeply frustrating. The TUC had given little more than a grudging acknowledgment to her proposed extension of union rights, refused to countenance the limited additional responsibilities, and failed to offer any alternatives of their own. In the circumstances, it was perhaps not surprising that Richard Crossman recorded her as being, 'in a way contemptuous' of the TUC's response, 'saying how silly they were'²⁸⁸.

The CBI were as uncompromising as the TUC: they felt the proposals were 'inadequate to deal with the problems the country faced'²⁸⁹. The majority of their concerns were expressed over the workings of the conciliation pause, the main objection being that the proposals would only operate once a strike had begun. Employers were concerned to discourage strikes before they started, whilst Castle's proposals seemed like 'fire-fighting'. They were also concerned at the suggestion that a return to the status quo would apply in all cases, and asked if the government would be prepared to impose a procedure agreement in instances where the existing one was inadequate and an unofficial strike was taking place.

In response, Castle acknowledged the difference in approach over attempts to pre-empt strike action, but once again emphasised that the CBI proposals would require a degree of government intervention that she was not prepared to support. Similarly, whilst she hoped satisfactory procedure agreements could be developed during a conciliation pause, she was not prepared to force an agreement on 'unwilling parties'. Finally, she acknowledged that the exact application of the

²⁸⁸Crossman (1977) pp.311-312, entry for 8 January 1969

²⁸⁹NA, PRO, LAB10/3454 Government proposals on industrial relations, note of a meeting with representatives of the CBI and Nationalised Industries held at 8 St. James Square on Thursday, 2 January 1969

status quo would require more discussions after the white paper had been published.

The discussions were thus as problematic as those with the TUC. Faced with Castle's rejection of the proposal for legally enforceable procedure agreements, the employers were left welcoming the proposals for strike ballots and the conciliation pause whilst expressing their view that neither proposal was sufficient to deal with the current state of industrial relations. At the end of the first round of consultation Castle was in much the same position as she had been before the Sunningdale Conference: caught between the extremes of unprecedented legal intervention and a continuation of existing doctrines of voluntarism. In the circumstances her carefully crafted 'middle-way' looked vulnerable.

2.8 Finally to Cabinet

As we have seen, the atmosphere leading into the first Cabinet discussion could not have been worse. Initial indications were that the details of Castle's proposals would be overshadowed by her decision to consult with the TUC and the CBI in advance of the Cabinet. Castle phoned Tony Benn to confirm his support and, according to Benn, she told him that her decision to discuss the white paper with the TUC in advance had created 'a tremendous row'²⁹⁰. Richard Marsh's anger at the sequence of events has already been noted, as has Crossman's concern that 'other people' might argue 'that [Castle had] made a mockery of Cabinet'²⁹¹. However, when the meeting opened, both Castle and Crossman were surprised at the lack of concern over the order of consultation. Castle commented that no one criticized her and that 'my critics went out of their way to explain (contrary to Dick's gloomy warnings) that they had no complaints on that score at all'. Whilst anger over the order of consultation may have subsided, Wilson and Castle had clearly lost the initiative. The white paper was discussed at three meetings of the full Cabinet before it was finally agreed and, such was the demand for further details, that Wilson reconvened the Cabinet industrial relations committee five times during this period to work through the detail of Castle's proposals. As

²⁹⁰Benn (1988) pp.140-141, entry for 3 January 1969

²⁹¹Castle (1984) p.581, entry for 1 January 1969

Castle was to note, somewhat bitterly, after the first Cabinet, 'his [Wilson's] short cuts haven't worked, after all'²⁹².

The first meeting was held on 3 January, and opposition was divided between those who disagreed with the overall philosophy of the white paper, and those who were concerned with the working of specific elements of the proposals. Jim Callaghan led the former group with support from Richard Marsh, whilst the latter focused around the concerns of Anthony Crosland and Richard Crossman. According to Castle, 'Jim opened the bowling by saying that the theme in the WP was all wrong. It did not deal in any substantial way with the basic theme of Donovan to the effect that penal measures were "futile and harmful"²⁹³. Castle's account is reinforced by Crossman, who recorded Callaghan's acknowledgement that he'd been speaking to the unions, "'They're all old friends of mine'" and, as Labour party treasurer, "'we are bound to discuss it'"²⁹⁴. Callaghan's response, given his links with the unions, was predictable, and the general nature of his concerns could be countered with Castle's now standard retort that the unions had failed to produce an alternative. Of perhaps greater concern were the detailed questions from Crosland and Crossman because they had the potential to undermine the effectiveness of Castle's proposals.

Concern focused on two specific areas. According to Castle Crosland, 'personally believed the rule of law should be extended to the trade unions but he wanted a series of papers spelling out why we had rejected the Shonfield arguments for giving legal powers to the CIR and the whole-hog line of the CBI'²⁹⁵. Crosland's view was expressed clearly in a letter. Whilst he agreed with the need to go beyond Donovan, the issue was to find the most effective way of doing so. He dismissed the ballot proposals as being of 'not much importance either way'²⁹⁶, but rejected the 'peace-pause' as being 'not only provocative but (much more important) ineffective'. The proposal would mislead the public into thinking that it could be applied effectively to all unofficial strikes and when it became evident

²⁹²Castle (1984) p.583, entry for 3 January 1969

²⁹³Castle (1984) p.582, entry for 3 January 1969

²⁹⁴Crossman (1977) p.305, entry for 3 January 1969

²⁹⁵Castle (1984) p.582, entry for 3 January 1969

²⁹⁶NA, PRO, PREM13/2724 Note from Anthony Crosland, President of the Board of Trade to Wilson, 'Donovan Report' 6 January 1969

that use was to be highly selective, 'the government would appear ineffective, the public would be disillusioned, and the field would be left open for more violent Tory proposals'²⁹⁷. Consequently, Crosland favoured the Shonfield proposals to give the CIR more strength, independence and statutory powers.

Crosland's letter was important because it made clear his indifference to the strike ballot and opposition to the conciliation pause. Once the Shonfield and CBI options had been rejected, Crosland was left, at best, a lukewarm supporter of the remaining proposals, and therefore easily persuaded that the cause was not worth the fight when matters came to a head in June. At this stage, however, it was agreed that there were four possible courses of action; to accept Donovan as it stood and establish the Commission for Industrial Relations (CIR) without legal powers; to follow Shonfield's recommendations and give the CIR quasi-judicial functions; to support the legal enforcement of collective agreements as called for by the CBI; or to support the proposals in the white paper. Consequently, Castle was asked to prepare a set of briefing papers for the industrial relations committee, setting out the case for each option.

The second area of concern was the conciliation pause. Castle was surprised; 'curiously, it appeared that the majority were prepared to support compulsory strike ballots (which I would happily withdraw) while digging their toes in on the conciliation pause'²⁹⁸. In her opening remarks, Castle stressed that the proposal related to unconstitutional or unofficial strikes that, by definition, had not followed agreed union procedures. As such, unions ought to 'welcome the proposal which would strengthen their hands'²⁹⁹. Opponents of the pause, who Castle listed as; Crossman; Judith Hart³⁰⁰; Roy Mason³⁰¹; and Fred Lee³⁰², argued, as Crosland was to do in his letter to Wilson, that, once in place, Castle would be under constant pressure to invoke the pause. In such circumstances, the first

²⁹⁷ *ibid*

²⁹⁸ Castle (1984) pp.582-583, entry for 3 January 1969

²⁹⁹ NA, PRO, CAB128/44 CC(69)1st Conclusions, meeting held on 3 January 1969

³⁰⁰ Paymaster General

³⁰¹ Minister of Power

³⁰² Lee was a member of Wilson's informal group, MISC 230 and there is a certain irony in his opposition, given his position as a Wilson loyalist. However, Castle did note that he had expressed doubts about the pause at the first meeting of the group.

major case that could not be enforced would result in lost credibility. Against this it was acknowledged that whilst it could not be proved that the pause would be effective, something had to be done to tackle strikes like that at Girlings, and that 'psychologically' the existence of the power might make workers more thoughtful about unofficial action. Once again, Castle was asked to prepare a paper for the industrial relations committee, explaining how the pause would work in a typical case, and the Lord Chancellor was asked to prepare a brief report on the enforcement proposals.

From Castle and Wilson's perspective, the first Cabinet meeting was not a success. Far from gaining an agreement to go ahead, they were forced to cede ground and produce a series of briefing papers on the detailed working of the proposals. Whilst, on the following day, the *Guardian* was to report that, 'an overwhelming majority of Cabinet Ministers approved her general approach'³⁰³, it was clear that there were serious concerns over the working of the conciliation pause. Indeed, such were these concerns that Wilson was to come close to rejecting it. In a meeting with Jenkins on 7 January, Wilson noted that he was concerned about the 'peace pause'. According to a note of the conversation, Wilson 'said he recognised it was necessary to have something in the White Paper to deal with the problem of unofficial strikes, but he felt that the First Secretary's case for the peace pause had been somewhat "dented" by the discussion the previous Friday afternoon at Cabinet'³⁰⁴. In the circumstances, the onus was on Castle to make the case to the industrial relations committee.

The ministerial committee on industrial relations met for the first time on 7 January. Membership was exactly the same as the original committee that had been convened in May 1968 to consider Donovan and *Fair Deal at Work*, with the addition of Judith Hart, the Paymaster General³⁰⁵. The one member of the original committee not present was Richard Crossman. Crossman had been Lord President of the Council in May 1968, and membership of the committee listed the Lord

³⁰³ *Guardian*, 4 January 1969

³⁰⁴ NA, PRO, PREM13/2724 Note for the record, conversation between Jenkins and Wilson, 7 January 1969

³⁰⁵ Lord (Gerald) Gardiner, Lord (Eddie) Shackleton, John Diamond, Fred Peart, Judith Hart and Frederick (Fred) Lee

President as a member. However, Crossman had moved to health and social security in October 1968 and been replaced by Fred Peart. Officially Crossman was left off the committee as a result of this oversight, and once Wilson realised, Crossman was reinstated in time to attend the third and fourth meetings. However, given Crossman's opposition to the conciliation pause, it seems possible that the omission was a clumsy attempt to keep him quiet. If this was the case it did not work³⁰⁶.

In line with Wilson's request, the committee considered a number of papers dealing with the Shonfield and CBI proposals, along with papers on the conciliation pause and intended enforcement procedures. There was general agreement with Castle's argument that the Shonfield proposal to give the CIR an independent judicial function with direct powers of enforcement excluded the government from an effective say in the development of industrial relations, and put the CIR in the position of being 'friend and advisor' to both sides of industry whilst also being their judge. The committee also rejected the CBI proposals for the compulsory enforceability of procedure agreements, but supported Castle's proposal for reserve powers to enforce CIR recommendations in the case of inter-union disputes, and to impose pre-strike ballots. Surprisingly, given the controversy it was to rouse with the unions, there was also agreement to the Lord Chancellor's enforcement proposals under which enforcement would be the province of the civil courts and would not involve imprisonment but attachment of earnings³⁰⁷. However, there was no such consensus when it came to the conciliation pause.

The relevant paper had been prepared, outlining the intended use of the conciliation pause and the reasoning behind its inclusion³⁰⁸. Using by now well-rehearsed arguments, Castle outlined the reasoning behind the pause. Donovan's focus on local procedure agreements was a 'lengthy process' that failed to solve

³⁰⁶ See Castle (1984) p.584, entry for 7 January 1969. Castle quotes Wilson on the omission of Crossman, 'adding ingenuously that of course the Secretary of State for Social Services should be a member of the Committee, indeed it was all a mistake that he hadn't attended before'.

³⁰⁷ NA, PRO, CAB134/2937, 'A Policy for Industrial Relations: Draft White Paper, Enforcement Provisions' revised memorandum by the Lord Chancellor

³⁰⁸ NA, PRO, CAB134/2937 IR (69)3, Use of the 'conciliation pause', Note by the First Secretary of State and Secretary of State for Employment and Productivity

the problem of 'wildcat strikes'. The only concrete proposal was the recommendation to amend the 1906 Act and this would be opposed by the trade unions³⁰⁹. The employers had indicated that they would not be prepared to use the amended act and the amendment would result in a general change in the law, leaving the government with no discretion over its use. Similarly, the CBI proposals for legally binding agreements and centrally imposed disputes procedures would put all the responsibility on the government. In the circumstances, the choice being faced, ' was therefore either to conclude that there was nothing the Government could do in the immediate future to deal with unofficial strikes or to accept her recommendation that there were certain limited situations in which it would be possible and proper to invoke the reserve power of a conciliation pause'³¹⁰.

In discussion, there was a general rejection of amending the 1906 Act but there was concerted opposition to the conciliation pause from Judith Hart and Fred Lee, who argued that the unions would get round the pause by making all strikes official, that legal sanctions were ineffective, serving only to antagonise the unions into further action, and that it was better to concentrate on the urgent implementation of Donovan's recommendations. However, Lee and Hart were in the minority, and Castle summed up that, whilst some remained doubtful, the majority were in favour of the proposal. The committee then met for a second time on the following day to consider a number of minor amendments prior to the second meeting of the Cabinet.

The Cabinet meeting opened with Castle's report on the conclusions of the industrial relations committee and attention soon focused on the conciliation pause. Castle's account of the meeting indicates that Crossman was 'intransigent' on the issue of the conciliation pause. Whilst Wilson thought he had sufficient votes (16 for and 7 against) to push the proposals through, he did not push for closure, but adjourned until the following day³¹¹. At the reconvened meeting, Castle noted that Crossman continued to push for 'green edges' and Wilson

³⁰⁹Although, as noted above, they were not as opposed as Castle thought they would or should be

³¹⁰NA, PRO, CAB134/2937, IR(69) 1st Meeting, Tuesday, 7 January 1969

³¹¹Castle (1984) pp.585-586, entry for 8 January 1969

summed up by asking for further work by the ministerial committee, with a final discussion by the full Cabinet on 14 January³¹². She also noted that Wilson agreed to make Crossman a member of the committee, blaming an oversight for his original exclusion. Crossman, who noted that the meeting went 'fairly well' for the opposition, supports Castle's account. He listed the opponents as Hart, Marsh, Crosland, Mason, Greenwood, Callaghan and himself which tallies with Wilson's count as given by Castle³¹³. It is notable that the opponents came from across the political spectrum, hinting at the breadth of opposition that was to emerge in the later PLP debates. The main focus of the discussion was Crossman's attempt to make the proposals as 'green' as possible' and that of Callaghan and the others to avoid the proposals being rushed through³¹⁴.

The Cabinet conclusions confirm the emergence of two distinct views. Castle's opponents were grouped into two broad groups; those like Callaghan who were opposed fundamentally to the white paper and wanted a return to Donovan; and those like Crossman who supported some form of action, but questioned the efficacy of Castle's proposals. For the second group, the conciliation pause was not only 'unworkable and ineffective', but of such limited application that, 'even its presentational advantages would be lost when the public realised it could not be invoked in the majority of cases'. Consequently, they argued, the government would be better off not committing themselves to a particular method of dealing with unofficial strikes, but rather should draft the white paper in such a way as to leave the way forward for the TUC to come forward with alternative proposals, which 'the Government could undertake to consider seriously before introducing legislation'³¹⁵.

By contrast, Castle and her supporters argued that the pause was an essential part of the package of proposals. Whilst acknowledging that the proposal was 'only a

³¹² The demand for 'green edges' reflected Crossman and Hart's belief that the section on the conciliation pause should be left open ended, in effect taking the form of a green, consultative paper, that could be omitted or amended if the TUC came up with a credible alternative.

³¹³ Lee seems to have dropped off the list of opponents at this point which is odd given his consistent opposition prior to this. Perhaps it reflects an oversight on Crossman's part.

³¹⁴ Crossman (1977) pp.312-313, entry for 8 January 1969

³¹⁵ NA, PRO, CAB128/44, Conclusions of a meeting of the Cabinet held on Wednesday, 8 January 1969, resuming on Thursday, 9th January 1969

reserve power which could be made effective quickly in appropriate cases', and Girling was quoted as just such an example, 'the psychological effect of its existence and the threat of its use were, however, expected to be even more important'. As for opposition, as with the collection of fines where the industrial relations committee had concluded that it was unlikely that, 'unofficial strikers would go to great lengths to avoid payment'³¹⁶, Castle concluded that, 'If the proposal became law, the TUC could be expected to co-operate'.

Castle's response is important. In the months that followed, and after the eventual settlement, both Castle and Wilson were to argue that the measures had been designed to get the TUC to make proposals of their own, and that, as this had been achieved, the government's proposals could be withdrawn. It is clear from this early Cabinet exchange that, at this stage, there was no question of withdrawing the proposals: reserve powers were seen as essential not just for practical implementation, but also because they were felt to be psychologically important. Whilst it was implicit that such powers could remain in reserve if the unions took their own action, there was no intention to withdraw them. It was also significant that Castle and many of her colleagues believed that, once the proposals became law, the trade unions and their members would co-operate. As will become clear, one of the most important turning points in the ensuing negotiations was Castle and Wilson's realisation that at least some of the unions were prepared to break the law rather than comply with the conciliation pause. However, at this stage, despite having the votes in his pocket, Wilson decided that further discussions were needed and instructed the industrial relations committee to meet once more to consider the points raised. Furthermore, he gave instructions for Crossman to be included on the committee.

According to Castle, the third meeting was the most contentious of all. The meeting lasted all day and Crossman 'haggled over verbal point after verbal point', after which it was agreed that they would meet again to consider a final draft on 13 January³¹⁷. At the fourth meeting the debate continued, but the minutes

³¹⁶ NA, PRO, CAB134/2937, Cabinet Ministerial Committee on Industrial Relations, Minutes of a meeting held on Tuesday, 7th January, 1969

³¹⁷Castle (1984) pp.586-7, entry for 10 January 1969

recorded that the majority agreed that the reserve power to order the pause was necessary and that it would encourage the unions to 'intensify their efforts to ensure that procedures were observed by their members'³¹⁸. Furthermore, inclusion in the white paper would be more effective than a passage indicating that it might be withdrawn if the unions came forward with alternative proposals, the so-called 'green-edges' option. At this point it was agreed that the draft white paper, with the conciliation pause as drafted by Castle's officials, should be referred back for a final decision to the Cabinet that was due to meet on the following day.

That third and final meeting of the Cabinet focused on two issues; the exact nature of the conciliation pause; and the timing of subsequent legislation. In a note to Wilson, Castle commented that 'there now seems to be unanimous agreement within IR that the proposal for a conciliation pause should be included in the White Paper and that there should be at least some hint to the TUC that satisfactory alternative proposals will be considered'³¹⁹. However, she also noted that Crossman and Hart considered that the relevant paragraph should 'emphasise more strongly the Government's willingness to consider alternatives' and that Crossman was circulating his proposed draft to the Cabinet³²⁰.

The meeting opened with Crossman's arguments for presenting the pause as an outline scheme that could be withdrawn if the TUC came forward with an acceptable alternative. Castle countered that the ministerial committee had rejected all of the known alternatives and that nothing new had been proposed by either Crossman or the TUC. In her view, the real choice was between presenting the existing proposals as a 'workable and credible contribution to dealing with what all agreed was a serious problem'³²¹, or abandoning them and doing less than

³¹⁸NA, PRO, CAB134/2939, Ministerial Committee on Industrial Relations, minutes of a meeting held on Monday, 13 January 1969

³¹⁹NA, PRO, PREM13/2724 Note from Barbara Castle to Harold Wilson, 13 January 1969

³²⁰ Subsequently, the relevant section of the white paper read, 'To the extent, of course, that unions succeed in securing the observance of dispute procedures, the use of the Government's reserve powers will not be necessary.' *In Place of Strife, A Policy for Industrial Relations* (Cmnd. 3888 January 1969) paragraph 96, page 29

³²¹NA, PRO, CAB128/44, Conclusions of a meeting of the Cabinet held on Tuesday 14 January 1969

Donovan had proposed³²². In the ensuing debate the arguments about the purpose of the pause crystallised. Castle's opponents argued since the majority of unofficial strikes were resolved within the two weeks that it would take to initiate the pause, its main purpose therefore was presumably to 'spur the trade union movement to produce their own effective measures to deal with unconstitutional strikes'³²³. However, given that the pause was sure to embitter both the trade union and the Labour movement, it was arguable as to how effective this approach would be.

By contrast, Castle's supporters countered that there were no other workable alternatives and whilst accepting that it would only be effective in a small number of cases, success in such cases would mean that 'its influence would begin to bear more widely on the whole problem'³²⁴. Furthermore, if the TUC were able to come forward with effective alternative proposals it would be made clear that the reserve powers would not be evoked. Crossman and Hart maintained opposition to the pause with support from Callaghan, Marsh and Mason³²⁵. However, as at the previous meeting, the majority supported Castle and Wilson finally summed up in favour of publication with the publication date fixed for 17 January³²⁶.

Once the overall shape of the bill had been agreed, the discussion turned to the issue of timing. Crossman and Jenkins had argued from the earliest meetings that the legislation should be taken 'at a run', with initial legislation introduced before the summer recess³²⁷. The reasoning was twofold; the longer the gap between publication of the white paper and the introduction of legislation, the greater the

³²²Presumably less because Donovan's proposed amendment to the 1906 Act was considered politically unacceptable

³²³NA, PRO, CAB128/44, Conclusions of a meeting of the Cabinet held on Tuesday 14 January 1969

³²⁴ibid

³²⁵See Castle (1984) p.589, entry for 14 January 1969

³²⁶ ibid. 'It was soon clear that Dick had more supporters than I hoped: Judith, Jim, Dick Marsh and Roy Mason, of course. But even Willie Ross had doubts about being too firm on it, while Peter, back from his illness looking fit, surprised Harold and me with some rather equivocal remarks, considering he was one of the authors of the idea at Sunningdale. However, I was backed strongly by Fred Peart, Gerald, Jack Diamond, Roy J., Wedgie, Michael, Ted Short and the two Georges, Thomas and Thomson, while Eddie Shackleton and A.J. Irvine said they had become enthusiastic as a result of the discussions in I/R. Denis Healey and the two Tonys were absent but with Harold we were home and dry, Harold making it a clear majority'

³²⁷ See Roy Jenkins (1994), p.287 'Trade union reform, particularly for a Labour Government, was so sensitive that it could be carried through only on the run'.

opportunity for opposition to develop, especially as both the TUC and the Labour Party would have had their autumn conferences and potentially come out against the proposals; and, secondly, Jenkins was due to seek a renewal of prices and incomes policy in the autumn, and it was questionable whether there would be either the time, or the political will, to get both onto the statute book³²⁸.

In response to the Crossman and Jenkins concerns, Wilson had asked the Lord President, Fred Peart, to meet Jenkins and Castle to discuss the practicalities of early legislation. The meeting subsequently took place with Roy Hattersley standing in for Castle³²⁹. Peart reported back to the Cabinet that advice from the DEP suggested that such a bill could not be presented to the House of Commons before July and that even this would require the sacrifice of other legislation. In the Cabinet discussion, Jenkins argued that the failure to pass such a bill in the current session might close the option of further prices and incomes legislation in the autumn. Castle countered that it was essential for the proposals to be included in their entirety so that the unions would accept that they were 'directed to strengthening the trade unions and not weakening them'³³⁰. Wilson concluded that a majority agreed that pre-summer bill was not practical, but that further consideration should be given to the proposal in the light of the reactions of the parliamentary Labour party (PLP). As will become clear, public, press and PLP opinion were all to play a part when Wilson and Castle bowed to the pressure from Crossman and Jenkins and agreed to an interim bill.

2.9 Summary

It is now clear that *In Place of Strife* was first and foremost Castle's policy both intellectually and emotionally and this goes a long way to explaining her attachment to it long after defeat became inevitable. Contrary to the belief of those who saw the white paper as little more than a knee-jerk reaction to *Fair Deal at Work*, it is evident that the policy was an attempt to kick-start a debate about the roles and responsibilities of the trade unions based on a genuine belief

³²⁸ See Castle (1984) p.589, entry for 14 January 1969 on Jenkins' motivation, 'Apart from anything else he [Jenkins] is worried about having my Bill and a new P and I Bill before Parliament at the same time next autumn'.

³²⁹ NA, PRO, PREM 13/2724, Note of a meeting held on 13 January 1969

³³⁰ NA, PRO, CAB128/44, Conclusions of a meeting of the Cabinet held on Tuesday 14 January 1969

that it offered a strengthening of the both unions and their members. However, it is equally evident that neither the trade unions nor a sizeable minority of the Cabinet were ready for such a debate and that, for the majority of Castle's opponents all that mattered was defeating the penal clauses. It is also clear that, rather than being a passive bystander, Wilson was heavily involved in the tactical presentation of the policy from the outset, and that he must take an equal share of the blame for the decisions to involve the TUC ahead of the Cabinet and to avoid formal Cabinet committees, decisions that only served to antagonise his opponents and seemingly confirmed that he had something to hide.

However, perhaps the most striking fact to emerge was Castle's acknowledgement at such an early stage that the reserve powers would not be needed if the trade unions could produce their own measures. As will become clear, it was the extent to which the TUC's proposals were considered an acceptable alternative to the white paper on which the final negotiations were to hinge. At this stage it is enough to note that, under pressure from her colleagues and perhaps inadvertently, Castle had provided herself and Wilson with what would become a vital escape route.

The period between the production of the first draft and publication of *In Place of Strife* established the majority of the issues that were to dominate the following five months. The response of the TUC was marked by both ambivalence about the objectives of Woodcock, and intransigent opposition from the General Council to the penal clauses. Woodcock's enthusiasm when Castle outlined her proposals can best be understood in the context of his own objective of internal trade union reform. However, as has been indicated, he had little enthusiasm for the detail of Castle's proposals and whilst able to prevent an outright rejection of the white paper by the General Council, the TUC's formal response indicated the depth of opposition to the proposals themselves. Whilst Woodcock left his post shortly after publication, to take up the chairmanship of the CIR, his successor Vic Feather was no less ambiguous. As will become evident, Feather played an invaluable role as 'go-between' in the ensuing negotiations and it is arguable that the eventual outcome was a victory, at least in part, for the original Woodcock objectives of internal reform. Similarly, the Cabinet debates were characterised

by the opposition of a small number of ministers to both the general philosophy and the specific proposals, with serious doubts being expressed as to the practical effectiveness of the measures proposed, and consequently whether they were worth the conflict that would inevitably ensue. It was against this backdrop that Castle opened her discussions with the PLP.

CHAPTER THREE: 'THE GATHERING STORM': FEBRUARY – MARCH 1969

3.1 Introduction

This chapter covers the period between the publication of *In Place of Strife* on 17 January 1969, and the passing of a resolution by the national executive committee (NEC) of the Labour Party condemning the white paper on 26 March 1969. Opening with an analysis of press and Conservative reaction to the white paper, the chapter explores the crucial events that took place during February and March 1969. It examines the composition of the parliamentary labour party (PLP), drawing on the minutes of the PLP debates, and examining the voting record of those opposing the government, and the relationship between MPs and the trade unions, to demonstrate both the nature and the breadth of opposition that was emerging and which culminated in 55 Labour MPs voting against the government and a further 40 abstaining in the parliamentary debate on the white paper.

The chapter then examines the growing climate of industrial unrest, particularly in the motor industry and most notably a major strike at the Ford motor plant that led Castle to conclude that the 'psychologically' the time was right for an interim bill. Rumours of Castle's change of mind reached trade unionists, and consideration is given to the pressure that was growing on the TUC general council to call a special congress and examines in detail the responses of two of the biggest unions, the Transport and General Workers Union (TGWU), and the Amalgamated Union of Engineering and Foundry Workers (AEF)³³¹. Finally, it considers the growing parliamentary and trade union opposition in the context of the NEC vote to oppose the white paper, and Callaghan's decision to vote in favour of the NEC resolution and against the government that in turn crystallised Castle's decision to introduce the interim bill.

3.2 External Responses

Press responses to the white paper were mixed. The *Guardian* and the *The Times* provided the most extensive coverage, and this was to remain the case throughout the period. Consequently, they are the most frequently quoted press sources used

³³¹ The AEF was formed in 1968 from an amalgamation of the Amalgamated Engineering Union (AEU) and the Foundry Workers. AEF is used throughout this chapter, although newspapers and others at the time were still inclined to refer to the AEU

in this study and it is worth reflecting on their broader attitudes to the government since they inevitably impacted on the tone of the coverage. The *Guardian* was a supporter of the government, and the reporting of their two principal political correspondents, Peter Jenkins and Ian Aitken, indicated close links to both the Cabinet and the wider PLP. In its coverage of *In Place of Strife* the paper tended to reflect concerns about the damage being done to the Labour Party by the dispute, as well as being well informed about the internal conflicts and debates.

However, despite being a government supporter, the *Guardian* opposed the introduction of penal clauses, preferring instead to support the Donovan analysis. Its position remained consistent throughout and reflected largely the views of John Cole, its chief editorial writer. Cole has since written that his experience of the ‘cooling off’ period in America during the mid 1960’s coloured his view of such penal clauses, and he reflected this in his editorials³³². Thus, commenting on *In Place of Strife*, the paper raised a mixture of practical and philosophical problems. Practically, in an argument that echoed Cabinet debates, it argued that the conciliation pause would be rarely used and difficult to enforce, and whilst the strike ballot was ‘more plausible’, there was little evidence of unions dragging unwilling members out on official strikes. Philosophically, however, the paper accepted that the public instinct, ‘that something ought to be done about industrial anarchy’, was sound. However Donovan acknowledged the complexity of the issue, hence proposing such ‘elaborate machinery’ for inquiry and persuasion, and concluding, rightly in the *Guardian*’s view, that ‘the legislative stick, though speciously attractive, was likely to break in the wielder’s hand’³³³.

By contrast *The Times* was not a supporter of the government, but its senior industrial relations correspondent, Eric Wigham, had not only been a member of the Donovan Commission, but also enjoyed close relationships with many senior figures on the TUC, thus giving the paper strong insights, not only into the day to day dealings of the unions, but also into the wider issues of reform. Its approach to the white paper, therefore, had a more subtle intent. On first examination the paper proved more favourable. Unlike the *Guardian*, it saw limited merit in strike

³³² John Cole, *As it Seemed to Me* (Weidenfeld & Nicolson, London 1995) pp.66-67

³³³ *Guardian*, 18 January, 1969

ballots, arguing that it was a relatively small problem and that a ballot could result in a delayed settlement. The issue with the conciliation pause, however, was not one of, 'desirability', but whether it was practical to enforce it. Whilst the paper found it difficult to envisage it working against 'thousands of dockers', it could work against small groups in the motor industry. In the circumstances, it concluded, the unions would be foolish to try and work up opposition to the proposals, since the compulsory measures were 'the least that any Government could put forward in the present climate of public opinion'³³⁴. As the dispute between government and unions worsened, the paper continued to back Wilson. However, as will become clear, its support was designed increasingly to push Wilson into a corner from which any concessions were clearly seen as a major defeat.

The *Financial Times*, echoed *The Times*, concluding that whilst some of the proposals did not go far enough, enactment of the proposals would give 'a better chance of escaping from the present industrial jungle'. The penal clauses were considered a 'very moderate limitation on the right of trade unions to take action', and, in a variation from both *The Times* and the *Guardian*, the paper suggested that the biggest weakness was an avoidance of legally binding collective agreements. Unlike the government, the paper rejected the idea that employers were not inclined to take unions to court, finding it 'difficult to believe that a change in the clear intentions of the law would be totally without effect on industrial practice'³³⁵.

The only paper to give unequivocal support to the government was the *Daily Mirror*, whose view was summed up with an opening comment, 'Bloody Good Sense!'³³⁶, arguing that the white paper represented a 'revolutionary new deal for trade unionists and employers'. However, even the *Mirror* was concerned that the proposals did not go far enough, commenting that whilst they could have worked in cases such as *Girlings*, they would not cover very brief 'wildcat' strikes; it was here that the white paper was weak and legal contracts could be useful. The paper

³³⁴ *The Times*, 18 January, 1969

³³⁵ *Financial Times*, 18 January 1969

³³⁶ *Daily Mirror*, 18 January 1969

concluded that the proposals were 'a good beginning to a job that ought to have been tackled years ago'.

In many respects, the press reflected the differing views expressed by the Cabinet. What was clear, however, was that even amongst those supporting the government there was only a limited belief in the effectiveness of the penal clauses; even the *Daily Mirror* did not think they went far enough, whilst *The Times* and *Financial Times* supported them on the basis that something had to be done and that they might prompt unions and management into mutual reform. The danger for Castle was evident in the response of the Conservatives and summed up by Iain Macleod³³⁷, who said that Wilson's New Year resolution 'was to see how much Conservatism the Labour Party would stand for'. He continued that Castle's conversion to Heath's view that drastic changes in trade union law were vital to the structural reform of the economy was welcome 'as a small flag of surrender'. However, because 'she dare not capitulate completely to common sense', her proposals were 'the worst of both worlds'³³⁸.

As we have seen, Castle was acutely aware of the difficulties inherent in trying to occupy the middle ground between voluntarist and legalistic positions, and the press and Conservative reaction only served to highlight these difficulties. For, as Castle prepared to discuss her proposals with the PLP, it was clear that she could expect vitriolic opposition from the left. In the *Guardian*, Ian Aitken reported that bitter criticism was expected from the left, with many left wing backbenchers reacting 'with something close to horror' and making it clear that 'the Government [could] expect a massive revolt at Westminster if it [went] ahead with them unaltered'. The key question posed by Aitken was whether the 'relatively moderate' membership of the TU group would unite with left-wingers concluding that, 'It is a matter of experience that whenever the two groups have combined in outright opposition to the Government over particular issues, the Cabinet has eventually been forced to offer concessions'³³⁹. It was a worrying sign of things to

³³⁷ Conservative spokesman on economic affairs

³³⁸ *Guardian*, 6 January 1969

³³⁹ *Guardian*, 1 January 1969

come, that opposition within the Cabinet had straddled both wings of the party³⁴⁰. Castle's proposals were relatively modest, but it soon became clear that were a step too far for a significant majority of the PLP.

3.3 The Parliamentary Labour Party (PLP) response

On 3 March 1969, the Commons debated the government motion, 'That this House approves the White Paper, "In Place of Strife", Command Paper No. 3888 as a basis for legislation; and invites Her Majesty's Government to continue consultation with a view to preparing legislation.'³⁴¹ When the House divided at the end of the debate, 62 MPs voted against the motion, of these, 55 of them were Labour MPs. In addition, over 40 Labour MPs abstained, including the chairman of the Parliamentary Labour Party, Douglas Houghton. According to Peter Jenkins, the revolt was more serious than party managers had expected³⁴², a view confirmed by Castle, for in her diary she noted that 'the votes against and the abstentions were more than we had anticipated'³⁴³. However, in a dismissive comment, she went on to claim that 'a lot of people took a holiday from responsibility in the knowledge that the Tories were going to abstain'³⁴⁴.

The element of surprise is significant. Peter Jenkins argues that it reinforced a growing sense of dissatisfaction with John Silkin, the chief whip³⁴⁵. Silkin's critics felt that he owed his position entirely to Wilson and that, as such, one of the chief complaints made against him was that he tended to tell Wilson what he wanted to hear. However, an examination of the voting record of those who voted against the government gives an indication of why any sense of surprise may have been justified. Of the 55 rebels, nineteen had voted against the government on more than four occasions since December 1967, but 25 had not previously opposed the government. In the context of getting legislation through the House of Commons, it was these 25 who would prove significant³⁴⁶.

³⁴⁰ See chapter two

³⁴¹ *House of Commons Debates*, fifth series (hereafter *H. of C. Debs.*), 3 March 1969 cols 40-41

³⁴² Jenkins (1970) p.68

³⁴³ Castle (1984) p.611, entry for Monday, 3 March 1969

³⁴⁴ *ibid*

³⁴⁵ See Jenkins (1970) pp.66-67

³⁴⁶ Derived from *Dissension in the House of Commons, Intra Party Dissent in the House of Commons' Division Lobbies 1945-1974* Philip Norton (Macmillan, Basingstoke 1975)

In order to understand the significance of the rebellion, it is necessary to examine the political composition of the PLP. At this time Labour backbenchers could be divided into three broad groups; the left wing, consisting of between 20 and 40 MPs and loosely grouped around the Tribune Group. Leading figures in this group included Stan Orme, Ian Mikardo, and Michael Foot, the self styled 'radical right'³⁴⁷, a smaller grouping than that of the left, drawn mainly from the 1966 intake and including figures such as David Marquand and Brian Walden; and the largest group which consisted of around 190 MPs who were not identified with either wing of the party, but rather sat in the centre and whom Peter Jenkins' has rather unkindly described as 'stable lobby fodder'.

The left opposed the majority of the government's post-devaluation policy, consistently voting against public expenditure cuts and the prices and incomes policy; in the parliamentary vote against *In Place of Strife*, nineteen rebels were drawn from this group. As Peter Jenkins has noted, they represented 'the party of protest'³⁴⁸, and as such their behaviour would not have surprised the government. By contrast, the smaller 'radical right' were generally loyal to the government although, as supporters of Roy Jenkins, they had become disillusioned with Wilson and would emerge as the leading conspirators in moves to unseat him during April and May. This left the majority of MPs in the centre, those whose support was essential for government to deliver its legislative programme. It was therefore of enormous significance that the majority of those voting against the white paper were drawn from this group, and it was this that surprised the government.

At one level, therefore, the surprise was justified. However, there were three significant signals of discontent that Castle and the government ought not have missed, and which lead to the conclusion that they were either naïve or unnecessarily optimistic in their assessment of the likely vote. There was a growing sense of lawlessness within the PLP that had culminated in opposition to the proposals for reform of the House of Lords; Castle's meetings with the PLP

³⁴⁷ Jenkins (1970) pp.66-67

³⁴⁸ Jenkins (1970) p.62

Trade Union Group in January 1969 that should have alerted her to the potential for a rebellion that went considerably beyond the usual suspects on the left; and the tone and content of the internal debates within the PLP prior to the parliamentary debate.

On 19 November 1968, the government introduced its proposals for reform of the House of Lords. During the debate, an amendment was moved rejecting the proposals and in the subsequent division it was supported by 159 MPs, including 47 Labour MPs. The 47 included Michael Foot from the left and David Marquand from the right. The bill received a second reading on 3 February 1969 and proceeded to the committee stage. The committee stage was held on the floor of the House of Commons, and during February opponents of reform voted against specific clauses, or moved amendments on fifteen separate occasions to block the progress of the bill³⁴⁹. It was eventually dropped in early April when Silkin informed Wilson that he could no longer guarantee it majority support within the PLP. Ironically, the public justification for dropping the bill was the need to make legislative space for *In Place of Strife*.

Thus, by February 1969, the PLP was simmering with rebellion. The left continued to agitate over post-devaluation expenditure cuts, many at the centre were unhappy with the liberal regime of the whips, and all sides were combining in opposition to reform of the Lords. Seeking to introduce trade union reform in such an atmosphere was always going to be difficult, but when the largest group within the PLP was made up of trade union sponsored MPs, opposition was likely to be taken to another level.

3.4 The PLP Trade Union Group

The PLP trade union group has been in existence as long as the PLP itself. It was not a sub-committee of the PLP and has a strong sense of its own independence³⁵⁰. To be a member of the trade union group, an MP has to be sponsored by a trade union. When Labour was re-elected in 1966, 132 MPs were members, although

³⁴⁹ Norton (1975) pp.312-332

³⁵⁰ Telephone conversation with Alan Howarth (not the MP), current PLP secretary, 6 February 2003

the number had dropped to 127 by 1969³⁵¹. The largest trade union sponsor was the TGWU with 27 MPs, followed by the NUM with 24 and the AEF with seventeen. These three accounted for one-sixth of all Labour MPs. Trade union sponsorship, which included part payment of election expenses and the salaries of election agents, did not bring automatic and unthinking loyalty from the MPs concerned, as shown by the number of trade union sponsored MPs voting for prices and incomes policies. However it did bring an expectation of influence and a more general sense of loyalty towards the trade union movement, than might have been so with non-sponsored MPs. Consequently, both the AEF and the TGWU were to meet with their sponsored MPs during February to discuss attitudes towards the white paper, and AEF members were to make the most significant contribution to the parliamentary debate.

Castle met the trade union group twice before the PLP debates. The first meeting was on Friday 17 January. Parliament was still in recess and only 25 MPs turned up³⁵². Castle recorded that, having spoken for fifty minutes, the worst she got was Stan Orme's comment that 'Barbara's philosophy is so right that her three proposals for legal action just don't form part of it'. Orme was a leading member of the left and Castle didn't expect the left to vote for her proposals. She noted, 'What matters is middle-of-the road opinion', and quoted Charles Pannell³⁵³ as saying 'Very good, my love. We all love you'. Castle met the group again on Monday 20 January. On that occasion 80 members were present and, according to Castle, of the twelve who spoke only one gave her unqualified support. Whilst she dismissed a number of the speeches as those of 'chaps who ~~don't~~^{certainly didn't} speak for the shop floor'³⁵⁴, she concluded gloomily 'it was clear that most MPs were going to follow the line of the unions that sponsor them' and 'we shall have the automatic opposition of miners, AEF and TGWU MPs'.

More importantly, perhaps, than Castle meeting the trade union group, were the communications between individual unions and their sponsored MPs. The unions

³⁵¹ Quoted in 'The hands that feed Labour' by Keith Harper, *Guardian*, Tuesday April 22 1969

p.10

³⁵² Castle (1984) pp.591-2 entry for Friday, 17 January 1969

³⁵³ Minister for Public Works 1964-1966

³⁵⁴ *ibid* entry for Monday, 20 January 1969 pp.592-3

used their own publications to put across an uncompromising message. Thus, in the February edition of the AEF newsletter, *The Journal*, Jim Conway, General Secretary, published an editorial arguing that ‘the proposals for so-called reform of the Trade Unions are unworkable and ill-judged’. According to Conway, the proposals ‘sound the death toll of British Trade Unionism’. Stan Orme MP, who was sponsored by the AEF, reinforced Conway’s comments. Writing in the same edition, Orme concluded that the penal clauses were flying ‘directly in the face of Donovan and opposing everything that a free Trade Union movement in Britain has stood for’³⁵⁵. Such was the vehemence of Conway’s comments that they were picked up by the national press³⁵⁶.

Similarly, both Frank Cousins and Jack Jones signed articles in the March edition of the TGWU monthly journal condemning the penal clauses. Cousins’ article had appeared in the *Sunday Mirror* on 19 January, and Jones’ had appeared in *Tribune* at the same time. Cousins’ ‘On the road to disaster’ opened, ‘There has been a growing belief in the ranks of even reasonably middle-of-the-road trade union members that the Labour Government has lost touch with them’. Similarly, Jones’ article, ‘Britain’s Unions are too weak – not too strong!’ argued that ‘the idea of legally enforced “conciliation pauses” and official ballots on strikes provides further opportunities for delay and frustration within a system of bureaucratic state intervention’³⁵⁷.

As well as contributions from union officials, the AEF journal included articles by a number of its sponsored MPs that reflected the debate going on within the PLP. As was noted above, Stan Orme reflected the stance of the left in his February article. In contrast, writing in the March edition, Charles Pannell reflected the middle ground, noting that legislation was not due until the next session and arguing that this gave the opportunity to ‘sort out all of these difficulties together in mutual respect’³⁵⁸.

³⁵⁵ AEU *Journal*, January-December 1969, February 1969, Vol 36 No. 2 (MSS259/ASE/4/14/83 – MRC)

³⁵⁶ *The Times*, 3 February 1969

³⁵⁷ *T&G Record*, March 1969 pp.35-37

³⁵⁸ *ibid.* March 1969 Vol. 36 No.3

This debate was not confined to the pages of the trade union journals. At its meeting on 3 February the AEF Executive agreed to hold a meeting of AEF MPs on Monday 24 February³⁵⁹. The exact nature and outcome of the meeting were recorded³⁶⁰. However the message emerging from the union executive was unequivocal in its opposition to the penal clauses and this would have been made clear to the sponsored MPs. In the parliamentary debate one week later five of the six Labour speakers were members of the AEF³⁶¹, a fact brought to the attention of the Speaker during the course of the debate³⁶². Similarly the TGWU group of MPs held a meeting on 20 February at which they unanimously agreed to support their union's opposition to the penal clauses³⁶³. Against this backdrop the PLP held its meetings to discuss the white paper, and it was hardly surprising they were dominated by opposition.

3.5 The PLP debates: February – March 1969

PLP minutes do not identify the individual contribution of each speaker. Rather, a summary of the debate is preceded by a list of the speakers, the only exception to this being when a minister makes a statement, or opens the debate. As such, it is not possible to attribute statements to individual members directly. However, if the list of speakers is compared to their voting record in the parliamentary debate, it provides a good indication of their likely stance on the white paper and provides a useful starting point for consideration of the nature and impact of the debates.

The PLP discussion took place over four meetings on, 29 January, 5 February, 19 February, and 27 February, when 26 members. Of these twelve were subsequently to vote against the government³⁶⁴, seven³⁶⁵ support and five³⁶⁶

³⁵⁹ MRC, MSS259/1/2/194, Executive Committee Minutes January-March 1969, Minutes of meeting held on 3 February 1969.

³⁶⁰ The outcome does not appear in subsequent Executive Committee minutes, and there is no evidence of a separate note having been taken.

³⁶¹ Tony Gardner, Ben Ford, Stan Orme, Dan Jones, Charles Pannell

³⁶² *H. of C. Debs.*, 3 March 1969 Col. 122 Mr Alex Eadie (Midlothian) 'Are you aware, Mr Speaker, that during this debate three members of the A.E.F. have been called? There are other Members on this side of the House who have a point of view on industrial relations as well as members of the A.E.F.'

³⁶³ Leo Panitch, *Social Democracy and Industrial Militancy – The Labour Party, Trade Unions and Incomes Policy 1945 – 1974* (Cambridge University Press, Cambridge 1976) p.182. Panitch does not identify the source of his information.

³⁶⁴ N. Atkinson, S. Bidwell, A. Eadie, J. Hamilton, E. Heffer, J. Horner, R. Hughes, Mrs M. McKay, J.J. Mendelson, S. Newens, S. Orme and T. Park,

³⁶⁵ J. Ashley, J. Barnett, D. Jones, K. Lomas, A. McDonald, M. Maguire and C. Pannell,

abstained. Of the remaining two, one was a peer, Lord Blyton, and the other, Ian Mikardo, was absent from the parliamentary debate. On the basis of this analysis, seventeen of the PLP speakers were likely to have expressed outright opposition or doubts about the white paper. In addition, Mikardo is likely to have opposed the white paper, given his position as a leading member of the Tribune group, and one of the speakers who was to vote for the government, Charles Pannell, expressed serious concerns over the penal clauses in his speech during the parliamentary debate. Finally, while not guaranteeing his opposition, Lord Blyton had represented a Durham mining constituency from 1945-64 and had served on the Durham miners' executive committee during the 1930s. Consequently, it would seem likely that at least nineteen of the speakers expressed reservations, doubt or outright opposition to Castle's proposals. Of these nineteen, however, ten had voted against the government on at least four occasions during the passage of the post-devaluation public expenditure cuts and the prices and incomes legislation³⁶⁷. As such, it was easy for Castle to dismiss them as coming from the 'usual suspects'. However it was difficult to dismiss the remaining nine as easily. None of them had opposed the government before, each was drawn from the centre of the party, and the majority had a strong trade union background and were members of the PLP trade union group.

The first meeting took place on 29 January and opened with an announcement from the chairman, Douglas Houghton, that, in view of the pending strike of Post Office workers, the whip would be sent out early, the irony of which seemed to be lost on all present. Castle's account of the first meeting, recorded on 5 February, is contradictory in its tone. She opened by complaining that 'only' 100 people were there and commented, 'So much for the PLP's constantly reiterated demand for "participation"'. She concluded by noting that so many people still wanted to speak at the end of the meeting, that Houghton agreed to hold another meeting. Similarly, whilst commenting that 'the mood was far from bitter' and that there were a lot of compliments for the bulk of the white paper, Castle noted that 'there were almost non-stop objections' to the strike ballot, conciliation pause and

³⁶⁶ H. Brown, R. Fletcher, E. Milne, J. Tinn, and E. Wainwright

³⁶⁷ N. Atkinson, S. Bidwell, E. Heffer, J. Horner, R. Hughes, J.J. Mendelson, I. Mikardo, S. Newens, S. Orme and T. Park,

especially to the attachment of earnings. In relation to the latter, she concluded 'It is astonishing how much furore that has created!' ³⁶⁸.

The official record supports Castle's account. In her opening speech, Castle sought to emphasise the positive. The white paper, she argued, 'spelt out the biggest Charter of Trade Union rights for 60 years'³⁶⁹, a reference presumably to the Trade Disputes Act, 1906 that had reversed the Taff Vale ruling. However, whilst she argued that the white paper had been accepted because it would strengthen the unions, 'the Government was entitled to ask for safeguards for the Community at large'. It was in this context that the government was proposing the strike ballot and conciliation pause. However, in each case, Castle stressed that these were 'merely' reserve powers that did not alter the fundamental right to strike. Finally, she stressed that there was no question of imprisonment under the sanctions.

Ten people spoke in response to Castle. The minutes recorded tributes to Castle's work and 'many aspects of the White Paper', but 'very strong opposition' was expressed to the attachment of salary, 'the extension of legal interference' and the proposed reserve powers, thus confirming Castle's record. However, the arguments had a familiar ring to them; many strikes were only 'unofficial' because the unions did not have the funds to support an 'official' strike; ballots were of limited use; and unions already had mechanisms for dealing with inter-union disputes. As such they are unlikely to have convinced Castle that they represented valid reasons for rejecting her proposals. Similarly, it was noted that 'Members expressed their anxieties as to the White Paper's effect on the Party as a whole and its supporters in the country', and that the introduction of a bill based on the white paper would 'inevitably split the Party in the House and in the country'. Again, this appeal, based as it was on narrow party interests, is likely to have done little to convince Castle that her proposals should be dropped. Similarly, five of the speakers were drawn from the coterie of left-wingers who

³⁶⁸ Castle (1984) p.601 entry for 5 February 1969

³⁶⁹ Labour Party Archives, National Museum of Labour History, Manchester [hereafter LPA], Minutes of a Party Meeting held on Wednesday, 29 January, 1969

had opposed the majority of post-devaluation economic policy³⁷⁰. As such, it would have been easy for Castle to reject much of the opposition as coming from a predictable source.

In the circumstances, it was possible for a minister who was already frustrated by the lack of positive proposals from the TUC and CBI, to dismiss much of the party opposition as lacking in creative alternatives, originating from the oppositional left, and focused almost entirely on party political considerations. In such circumstances, it is easy to see how Castle was able to convince herself that, once her proposals were fully understood by the majority of the PLP they would become more widely accepted. However, as the ensuing debates were to demonstrate, the majority of the PLP were to prove as intransigent as the minority on the left.

The second PLP meeting took place on Wednesday, 5 February and followed a similar pattern to the first. Nine members spoke, and of these four voted against the government, three supported, one abstained and the other, Ian Mikardo, wasn't present. The minutes were very short and simply recorded that 'although a view was expressed on one side that the White Paper was acceptable as a whole', the majority of members expressed the view that the desirability of the majority of the white paper was 'entirely vitiated' by the proposals for strike ballots, the conciliation pause and the attachment of earnings³⁷¹.

The final debate took place on Wednesday, 19th February and was truncated by a series of divisions on the Parliament Bill. Castle recorded that it was a 'mixture of farce and triumph', making her now familiar complaint about the small number of PLP members present: 'one would never have thought my WP was a major issue on which the Party was violently split'. Regardless of these concerns, Castle concluded that her winding up speech was 'one of the best speeches I have ever made' and noted that Wilson kept saying 'Superb, Superb!' ³⁷².

³⁷⁰ N. Atkinson, S. Bidwell, J. Horner, J.J. Mendelson, and T. Park,

³⁷¹ LPA, Minutes of a Party Meeting held on Wednesday, 5th February 1969

³⁷² Castle (1984) p.603 entry for 19 February 1969

The official minutes record that a further seven members spoke. Of these, only one voted against the government, although four abstained and only two voted for the proposals. This was the first meeting of the PLP at which known rebels did not make up the majority of those speaking, and as such the background of the speakers was significant. All four who went on to abstain in the parliamentary debate had a strong trade union background; Edward Milne had been area organiser for the Union of Shop Distributors and Allied Workers; James Tinn was a former lodge secretary of the National Union of Blast furnace Men; Hugh Brown was a former section secretary of the Union of Postal Workers; and Raymond Fletcher was a member of the TGWU. As such, this was the first significant showing of the silent majority that occupied the centre-ground of the PLP and as such, should have rung warning bells with Castle.

Perhaps because of the different background of the speakers, the debate was more wide ranging than at the previous meetings. Whilst the familiar arguments were made against the three penal clauses, doubts were expressed about the ‘general tenor’ of the white paper. It was argued that, under the Conservatives, the proposals could be used as ‘a weapon to bring Trade Unions too much under the influence of the State’³⁷³. In the circumstances, it was argued that it would be more desirable to treat the document as a ‘Green Paper’ for discussion, echoing Crossman’s arguments in Cabinet. Against this, it was acknowledged that a decision was needed now on industrial relations policy, but that ‘there must be no division between the Unions and the Party. Further, it was argued that state influence in the unions was ‘no bad thing’ and that it was regrettable that the press had only highlighted that negative aspects of the white paper. However, regardless of these elements of support, the debate was once again brought back to the conclusion that the government ‘was asked to consider removing the three offending clauses’.

In her winding up, Castle expressed gratitude for the ‘many kind tributes’ that had been made to her and her department and said that she had been pleased by the tone of the discussions. Whilst she acknowledged the criticisms that had been

³⁷³ LPA, Minutes of a Party Meeting held on Wednesday, 19th February 1969

made, she also noted that ‘no alternative solutions had been put forward’. Similarly, she argued that the proposals for the attachment of wages had caused a ‘good deal of unnecessary alarm’, and that she was open to suggestions as to other forms of sanctions apart from attachment. However, she felt that there was now a much better understanding of the subordinate role played by legal sanctions and re-emphasised that the main focus of the white paper lay in the elimination of the causes of strikes. Since the publication of the white paper, there had been more forward thinking by the trade union movement, which had been the ‘whole aim’ of the government, who wanted to ‘help the Trade Unions to help themselves’. Finally, she ‘denied categorically that the scheme was hitting at the workers’ and ended by re-emphasising her belief that the white paper ‘represented a totally viable philosophy which would enable Trade Unions to reassert their own authority and be true Socialists’³⁷⁴.

Castle’s speech indicates how little either side had moved over the course of the debate. From her perspective, whilst many criticisms had been made, no one had emerged with viable alternatives, and the majority of the speakers came from the dissenting left. For her opponents, the penal clauses remained at best unacceptable and undermined the positive proposals in the rest of the white paper, whilst at worst they represented the beginnings of state control of the trade union movement. However, as has been demonstrated, there were clear indications that concern and opposition had spread beyond the left, and that Castle had failed to pick this up. Subsequently, when a call to amend the government motion from ‘this House approves of the White Paper’ to ‘this House takes note’ was rejected at a PLP meeting prior to the parliamentary debate³⁷⁵, it was inevitable that the parliamentary debate would become a focal point for opposition. It was perhaps equally inevitable that Castle would be surprised by the size of the revolt.

3.6 The Parliamentary Debate – Monday 3 March 1969

The white paper was debated on Monday, 3 March and, as has been noted, 55 members of the PLP voted against the government, with more than 40 further

³⁷⁴ *ibid.*

³⁷⁵ LPA, Minutes of a Party Meeting held on Thursday, 27th February 1969

members abstaining. Castle reacted with a mixture of surprise and disdain. However, having analysed the make-up of the PLP and the substance of the debate, it is clear that what happened was consistent with the PLP debates and should not have come as a surprise to anyone.

The debate opened with the speaker rejecting a number of amendments, two of which echoed the main themes that had emerged in the PLP debates. The first, moved by Tony Gardner, welcomed the positive aspects of the white paper, but rejected strike ballots, the conciliation pause and attachment of earnings. The second, moved by Stan Orme was more extreme and rejected the entire white paper on the grounds that it contained proposals that would ‘destroy certain fundamental rights of a free trade union movement’³⁷⁶.

Castle opened the debate with a detailed defence of the philosophy of the white paper, putting the penal clauses into the wider context of an extension of trade union rights. She concluded by noting that the parliamentary debate was the start of a discussion that would go on for many months, and finished with her now familiar, to the PLP at least, coda;

We intend to make these discussions meaningful. We do not say that we have a monopoly of wisdom in this field. What we do say is that the philosophy of the White Paper is wholly consistent with the extension and the defence of trade union rights. What we say, too, is that there are problems here which have to be faced. So far, no one has produced any alternatives. If the trade union movement in its anxiety about certain proposals, were to come to us with alternatives whose effectiveness could be guaranteed, we should happily consider them.³⁷⁷

Following Castle, six Labour MPs were called. Of these only one, Stan Orme, voted against the government. Reflecting his rejected amendment, Orme stated that he rejected the philosophy of the white paper because ‘it is a philosophy of Government intervention’³⁷⁸. Of the remaining five; Tony Gardner justified his proposed amendment, noting that he opposed the penal clauses, ‘not so much because they are anti-trade union...but because we believe they will not work’³⁷⁹;

³⁷⁶ *H. of C. Debs.*, 3 March 1969 Col.36

³⁷⁷ *H. of C. Debs.*, 3 March 1969 Col. 59

³⁷⁸ *ibid.*Col. 104

³⁷⁹ *ibid* Col 78

Ben Ford supported the majority of the white paper, but expressed reservations on the use of strike ballots, hoping that an alternative could be found; and Charles Pannell noted that his support was based on the government's commitment to continued consultation which meant 'not just listening', but acknowledging that 'if the Minister is to get her legislation in due course she will have to give way on some points'³⁸⁰. In this context, he rejected the proposal for attachment of earnings and questioned the validity of the other penal clauses.

Two speakers offered unconditional support; Dan Jones, who argued that the white paper was, 'an imaginative and fraternal step in the direction in which the country should have moved 20 years ago'³⁸¹; and Michael McGuire, who quoted examples of the strike ballot and conciliation pause working in the mining industry. In closing the debate for the government, Harold Walker³⁸² acknowledged the reservations and doubts that had been expressed and stressed that Castle had asked him to repeat 'with all the emphasis at my command' her commitment to further discussion and consultation. He concluded with the plea that, 'the words of the Motion, insisting that the Government continue consultations, are clear in purpose and sincere in intent'³⁸³.

The parliamentary debate followed the lines of the February PLP discussions. Whilst there were moves to reject the white paper in its entirety these were in a minority. The views of Gardner and Parnell reflected those of many in the PLP, as not naturally opposed to the government, and at this stage they were prepared to support it, but they questioned the effectiveness of the penal clauses and called for further discussion and consultation before final decisions were made. Thus, within six weeks of publication, it was clear that a significant minority within the PLP opposed three of the main planks of Castle's proposals. Whilst 40 MPs voted against the white paper and a further 60 abstained, it is evident that a number of those who voted for the government were not prepared to support the penal clauses. Faced with the breadth of opposition within the PLP, Castle's response was to emphasise her commitment to continued consultation and her willingness

³⁸⁰ *ibid.* Col 143

³⁸¹ *ibid.* Col 126

³⁸² Joint Parliamentary Secretary, Department of Employment and Productivity

³⁸³ *H. of C. Debs.*, 3 March 1969 Col. 164

to consider any alternative proposals. However, as her diary indicates, she was sceptical as to the likelihood of this and remained committed to continuing with the white paper in the absence of any alternatives. Furthermore, a steady stream of industrial disputes was starting to loosen her resolve not to introduce an interim bill.

3.7 Strikes

On 12 March 1969, Castle made a statement to the House of Commons on the lack of progress in resolving the current strike at Fords. Afterwards her junior minister Roy Hattersley commented that ‘we could get the penal clauses of the White Paper through at this moment’. Castle replied that the same idea had occurred to her and that she ‘had already given instructions for an interim Bill to be prepared urgently’³⁸⁴. It is impossible to overestimate the extent and importance of Castle’s volte-face. Less than two months previously she had rejected completely the arguments of Crossman and Jenkins that an interim bill was essential: *In Place of Strife* was to be regarded as a philosophic whole or not at all. What then had caused this dramatic u-turn? The answer was straightforward, ever increasing unrest in the motor industry and the Fords dispute in particular.

Throughout February and March 1969, the business pages were full of industrial disputes. A typical report in *The Times* on 1 March highlighted; a ten man unofficial strike at Vauxhall’s Ellesmere Port component plant which was likely to cause a complete closure of plants in Luton and Dunstable affecting 3000 staff; an ongoing strike at a Rover factory in Cardiff that had already led to 400 workers being laid off at a pressed steel plant in Oxford; a new set of protests in the ongoing steel recognition strike; and a speech by Roy Mason, Minister of Power, in which he argued that the TUC were powerless to stop the wrecking action of unofficial disputes and should therefore support the proposals in *In Place of Strife* because they offered, ‘a twentieth-century package of reform, most of which is designed to enhance their leadership’³⁸⁵. Against this backdrop, the well respected industrial correspondent, and member of the Donovan Commission,

³⁸⁴ Castle (1984) p.618 entry for 12 March 1969

³⁸⁵ *The Times*, 1 March 1969

Eric Wigham, concluded, 'In a period when the Labour Government are proposing legal restrictions, and the Conservatives want to go much further, the unions seem almost as if they were trying to demonstrate that they are not able to run themselves properly or to play a constructive or even honourable part in collective bargaining on a wholly voluntary basis'³⁸⁶.

However, whilst most of the disputes were confined to the business pages, it was the dispute at Fords that spilled over onto the front page and had much wider political implications. The dispute centred on an agreement that had been negotiated between Fords and the National Joint Negotiating Committee (NJNC), made up of the representatives of the eighteen unions that had members working at Fords. Significantly, each union had a single vote, regardless of membership, meaning that the TGWU and the AEF, who had in the region of 17,500 and 15,000 members respectively and whose members constituted over 45% of all union membership, had the same number of votes as the Amalgamated Society of Builders and Decorators who had a membership of less than 100³⁸⁷.

On 11 February, the NJNC agreed to a new pay deal that offered; a pay increase of between 7 and 10%; equal pay for equal shifts; a guarantee of two thirds of basic rates for up to ten days to employees laid off because of strikes at supply factories or trade recession; and raised the annual holiday allowances from £5 to £25 on top of basic rates. However, as part of the agreement, any worker who undertook unofficial strike action would forfeit the increased holiday allowance and two third payment in the event of lay off. These conditions, which soon became known as the Fords penal clauses, were agreed by the NJNC, but crucially the AEF representative opposed them, whilst the TGWU representative abstained. Subsequently unofficial strikes broke out amongst members of both the AEF and the TGWU. By 24 February, 3500 workers at the Halewood transmission plant, making 3000 gearboxes a day for the entire Ford range and probably the key plant within the Ford set-up, were on strike at an estimated cost of £2 million per day. On the following day, the AEF national executive met and decided to make the strike official, followed by the TGWU executive, which on 27 February also

³⁸⁶ *The Times*, 28 February 1969

³⁸⁷ *The Sunday Times*, 2 March 1969

agreed to make the strike official³⁸⁸. In response Fords sought an injunction, claiming that the strikes were in breach of a legally binding procedural agreement, and were successful in gaining a temporary injunction to that effect, with a full hearing scheduled for 3 March, the same day as the House of Commons debate on *In Place of Strife*.

The injunction hinged on an interpretation of the Trade Union Act 1871 under which agreements between a trade union and an employers association could be legally enforced, and which, it will be recalled, Castle had included within the white paper as an option that unions and employers might wish to undertake, and which the Conservatives had sought to make a compulsory element of all procedure agreements. The ruling hinged on whether an agreement with the NJNC could be held to be binding on the individual unions that constituted the NJNC, with both the AEF and the TGWU issuing sworn statements saying that they had never regarded the agreement as such. In the event, the courts ruled that the agreement could not be considered legally binding and both sides were forced back to the negotiating table. Consequently, Fords asked the DEP to intervene and Castle and her officials were involved in a series of meetings before an agreement was eventually reached on 18 March under which the holiday bonus and lay-off benefits would be reduced according to the time lost as a consequence of industrial action, but with no one receiving less than a £15 holiday bonus.

The Fords dispute was a pivotal moment. Peter Jenkins has argued that, ‘the muddle, the bitter recriminations and the double dealing which caused and prolonged the Ford dispute finally disillusioned Barbara Castle of any remaining hope that the unions might put their own house in order’³⁸⁹, whilst Jack Jones has commented that Castle’s support for Ford made it clear to him that she was not on the side of the workers³⁹⁰. Certainly, the dispute confirmed many facets of the contemporary industrial relations debate. The dysfunctional working of the NJNC highlighted the problems associated with multi-union workplaces, lending weight to the argument for industry specific unions, as well as proving a perfect example

³⁸⁸ For detailed discussion of the TGWU reaction and decision see Jones (1986) pp.207-209

³⁸⁹ Jenkins (1970) p.61

³⁹⁰ Interview with Jack Jones, London, 4 March 2000

of Donovan's critique of the division existing between formal and informal negotiating structures. For many, the breakdown of the NJNC reflected a reassertion of local shop steward power over a remote national body³⁹¹. Furthermore, the failure to obtain a permanent injunction seemed to support Castle's view over the impracticality of seeking to make procedure agreement legally binding, whilst the speed with which the AEF and TGWU moved to support unofficial strikes seemed to add grist to the mill of Castle's critics who argued that attempts to outlaw unofficial action would be countered by unions making almost all strikes official. Finally, the strike brought home the vulnerability of the economy to strikes in such major export industries, once again reinforcing the need for safeguards in the national interest³⁹².

In the circumstances it was hardly surprising that both supporters and opponents of *In Place of Strife* made much of the dispute. After the court injunction was lifted, the communist *Morning Star* ran a headline, 'First Round Won – Now for the K.O.', linking the dispute directly to opposition to the government's proposals³⁹³. Similarly, Harold Wilson, in his first major speech on industrial relations since the publication of *In Place of Strife*, chose to focus on industrial unrest in the motor industry. Speaking on Merseyside on 14 March, he stressed how much government subsidy had been given to attract the motor industry to the area, only for it to be met by, 'Strike after strike frustrating the effort of Government, signalling a question mark to those industrialists who are attracted by the inducements the Government provide and who are considering establishing themselves here'. In the circumstances he warned, it was difficult to see why companies such as Fords would continue to invest in Britain, and that, he argued, was why the government's proposals for industrial relations reform were so important, and why, it should be, 'clearly understood that the Government means business about these proposals', because, 'All that had happened in these last three weeks provides powerful support for the measures we shall be introducing in Parliament'³⁹⁴. Thus it was, that when Castle responded to Hattersley she was well on the way to accepting the need for prompt action. The only question that

³⁹¹ *The Times*, 25 February 1969

³⁹² Fords were estimated to contribute £200m per annum to British exports

³⁹³ *Morning Star*, 7 March 1969

³⁹⁴ Quoted in Panitch, (1976) p.181

remained was how far was she prepared to sacrifice the careful balance of rights and responsibilities at the core of *In Place of Strife* for a short bill focusing on the more prescriptive elements of her proposals, a decision that will be considered in detail in the next chapter.

3.8 The trade union response.

On 20 March the TGWU submitted a motion to the TUC calling for the convening of a special congress on the grounds that, ‘there is a serious danger that the Cabinet could arrive at firm decisions well before the September Congress’³⁹⁵. The motion was moved by Jack Jones and discussed at a meeting of the TUC general council on 26 March at which he asked if the committee were satisfied that legislation would not be ready until after the September Congress³⁹⁶. Not for the first time it is possible to wonder at Jones’ prescience; he had raised a similar question over rumours of draconian legislation in December 1968. He was either reacting to newspaper comments over the rash of unofficial strikes, or had an inside track on Castle’s discussions of the introduction of an interim bill: Castle held her first discussions with Wilson and Jenkins on the 25 March, the very day before the general council meeting.

Feather sought to reassure the general council that his information was that legislation was not due until November, although he recognised that, ‘the Government might find themselves under strong pressure to bring their programme forward’³⁹⁷. Jones’ concerns were echoed by Frank Cousins who argued it was imperative to persuade the Cabinet not to reach firm decisions at an early stage, and Danny McGarvey³⁹⁸, who enquired whether further consideration would be given to the suggestion of a special congress if it were found that legislation would be introduced earlier than expected. In the circumstances the general council agreed that they should seek an urgent meeting with Wilson to make clear their opposition to the ‘objectionable features of the White Paper’, and seek reassurance about the timing of legislation. It was further agreed that they

³⁹⁵ MRC, MSS 292B/40.2/6 Trades Union Congress, Industrial Relations Bill Special Congress 1969

³⁹⁶ MRC, MSS 292B/20/9 Trades Union Congress, Minutes of the eleventh meeting (1968-69) held on Wednesday, March 26, 1969

³⁹⁷ *ibid.*

³⁹⁸ Amalgamated Society of Boilermakers, Shipwrights, Blacksmiths & Structural Workers

consider the case for a special congress situation in the light of the outcome of the meeting with Wilson.

The decision to meet Wilson was the culmination of nearly two months of pressure from individual unions calling for a special congress in response to the government white paper. Motions calling for a special congress started to emerge in early February. The first came from the Watermen, Lightermen, Tugmen and Bargemen's Union on 7 February. This was followed by the Society of Graphical & Allied Trades (SOGAT) on 18 February and the Amalgamated Union of Building Trade Workers on 20 February. On February 22, the AEF executive requested a special meeting of trade union executives on the grounds that the matter was so important that 'it is necessary for the trade unions to have a coherent plan of action if their opinions are to be truly effective'³⁹⁹.

However, following the publication of the white paper, the TUC had published its own response under the title, *Action on Donovan*⁴⁰⁰. Arising from this, they organised a series of industry-specific conferences to discuss the implications of the Donovan report within individual industries and it was envisaged that these would provide the main response to *In Place of Strife*. Working on the basis that legislation was not planned until the autumn, Feather and his officials were content to play the long game in the belief that the more unacceptable elements of the white paper could be, 'finessed out'⁴⁰¹. Consequently, as requests for a special congress reached the general council, Vic Feather, by now acting general secretary, was keen to reject them on the grounds that they distracted from the longer game.

The matter reached the general council on February 26 when George Doughty⁴⁰² asked if the general council was going to make a specific pronouncement on the white paper apart from motions submitted by unions for the Congress agenda. Feather replied that the report to Congress would cover fully all of the general council's discussions with groups of unions as well as their views and conclusions

³⁹⁹MRC, MSS292B/40.2/6 - Industrial Relations Bill Special Congress 1969

⁴⁰⁰ *Action on Donovan* (TUC, 1969)

⁴⁰¹ Interview with Lord Murray of Epping Forest, House of Lords, 11 May 2000

⁴⁰² Draughtsmen's & Allied Technicians' Association (DATA)

about the white paper. Tom Jackson⁴⁰³ queried whether the group conferences were the best place to discuss the problems arising from the white paper, but Feather replied that the views of the groups would be reported to the committees and it would be their conclusions that would be reported to the general council and embodied in the report to Congress. Richard Briginshaw of SOGAT said that his union believed that steps should be taken to drop certain offending paragraphs in the white paper, and once again Feather rejected the proposal, saying that if a special conference were to be called now it would only serve to approve what the general council had decided in January⁴⁰⁴.

In pursuing his gradualist strategy, Feather appears to have underestimated the strength of opposition among individual unions, as evidenced in the extracts from individual union newspapers and journals that were quoted above, and, as rumours became stronger about the prospect of early legislation, it became ever more difficult for him to maintain the TUC line. In the circumstances, a meeting with Wilson, the first since the white paper had been published, seemed the easiest way out. Needless to say, if Wilson were to confirm the prospect of early legislation, it would be almost impossible to deny the calls for a special congress and the meeting was therefore crucial. However, before the meeting could take place, the Labour Party's national executive committee were due to meet to consider a motion proposing that the Party refuse to support legislation based on the penal clauses. This was prove a culmination to the two months of internal discussions and debates, as the two wings of the Labour Party united to reject the white paper.

3.9 NEC Debate – 26 March 1969

The events of the meeting of the NEC on 26 March are well documented. At a meeting on 22 January 1969, Joe Gormley of the National Union of Mineworkers (NUM)⁴⁰⁵, requested that a discussion take place on the government's proposals

⁴⁰³Union of Post Office Workers

⁴⁰⁴MRC, MSS292B/20/9, Trades Union Congress (TUC), Minutes of tenth meeting (1968-69) held on Wednesday, February 26 1969

⁴⁰⁵ At that point Gormley was Secretary of the Lancashire Area of the NUM. He was elected national president of the NUM in 1971

for trade union reform, and it was agreed that a special meeting would take place on 10 February to discuss the proposals. At the special meeting, Castle outlined the main features of the white paper and ‘a full expression of views took place’⁴⁰⁶. Following this discussion, Gormley submitted a motion to the next meeting of the NEC to be held on 26th February, the full text of which was as follows;

In view of the discussion at the special meeting of the National Executive Committee on 10 February, 1969, held to discuss the Government’s White Paper “In Place of Strife”, the National Executive Committee agrees to inform the Minister that they cannot agree to support any legislation being introduced based on all the suggestions contained in that document.

We, therefore, ask the Minister to seriously consider the views expressed, both at that special meeting of the National Executive Committee of the British Labour Party and by the T.U.C., before attempting to involve the Labour Government in the introduction of any proposed legislation.⁴⁰⁷

Following discussion, it was resolved that the motion should be considered at the next meeting of the NEC on 26th March. Subsequently the motion was passed, with a minor amendment, formally setting the Labour Party in opposition to the Labour government. This would have been significant on its own, but the position was compounded by the decision of Jim Callaghan, the Home Secretary, to vote in favour of the motion, seemingly breaking with collective Cabinet responsibility and establishing himself as the leader of the rebels’ cause.

The NEC minutes for 26 March record simply that Gormley introduced the motion and accepted a minor amendment. Subsequently a further, substantial amendment was moved that proposed the deletion of ‘agrees to inform the Minister that they cannot agree to support any legislation being introduced based on all the suggestions contained in that document’, and its replacement with ‘welcomes the Minister’s assurances that there will be the fullest consultation with the Trade Unions before legislation is framed.’ This amendment was defeated by fifteen votes to seven. The NEC then voted on the original motion, including the minor amendment and it was passed by sixteen votes to five. As printed in the

⁴⁰⁶ LPA, Labour Party, National Executive Committee Minutes, 10th February 1969

⁴⁰⁷ *ibid.* 26th February 1969

minutes, the minor amendment had altered ‘cannot agree to support any legislation’, to ‘cannot agree to support legislation’⁴⁰⁸.

In his memoirs, Gormley makes clear the bitterness that he felt over the white paper, quoting his own remarks, ‘For God’s sake will you realise you’re souring the very voters that you’re going to have to rely on’⁴⁰⁹, whilst Castle’s diary provides more detail on the movers of the two amendments. According to her account she rejected Gormley’s opening claim that the resolution was reasonably worded and that he couldn’t see why she would not support it. Castle replied that this was ‘clearly impossible’, as it was obvious what the press would make of the NEC not supporting ‘any legislation based on all the proposals in the WP’⁴¹⁰. According to Castle, Callaghan agreed that I had a point about the word “any” and suggested that if it were dropped there was no reason not to accept the resolution⁴¹¹. Gormley accepted Callaghan’s amendment, at which point Anthony Greenwood⁴¹² passed Castle the amendment regarding continued consultations, which she then moved. In the subsequent vote, Callaghan voted against Castle’s amendment and for the original resolution as amended to remove the word “any”. As Peter Jenkins has noted, ‘It was perfectly clear what this meant. The executive would not accept legislation which included penal clauses and was not even prepared to consult with the Government as far as the penal clauses were concerned’⁴¹³.

Callaghan’s behaviour was enormously significant and widely reported as such. Peter Jenkins, writing in the *Guardian* a week after the event, placed Callaghan’s behaviour in the wider context of Wilson’s leadership, and argued that his actions made public ‘a belief that he [Callaghan] has long been mouthing in semi-private. This is that Labour has no chance of victory under Mr Wilson’s leadership but may have a sporting chance under his own’⁴¹⁴. At a more localised level, Castle recorded a conversation with Tony Benn, in which Benn argued that Wilson

⁴⁰⁸ *ibid.* 26th March 1969

⁴⁰⁹ Joe Gormley, *Battered Cherub* (Hamish Hamilton, London 1982) p.73

⁴¹⁰ Castle (1984) pp.625-6 entry for Wednesday, 26 March 1969

⁴¹¹ *ibid*

⁴¹² Minister for Housing and Local Government

⁴¹³ Jenkins (1970) p.78

⁴¹⁴ Peter Jenkins, ‘End of the Road?’, *Guardian*, Tuesday 1 April 1969

should write to Callaghan saying, 'Dear Jim, As you are no longer prepared to defend Government policy in public, I assume you have resigned'⁴¹⁵.

Callaghan's exact motivation remains unclear. He does not mention the NEC meeting in his autobiography, leaving the way open for others to interpret his actions in line with their own opinions or prejudices. Peter Jenkins, writing after the event in 1970, has suggested that it was an opportunistic moment, quoting the opinion of someone sitting near to Callaghan in the meeting, that he did no more than react spontaneously to the situation as it developed. However, Jenkins notes, having voted for the resolution, Callaghan would have been very clear as to the implications of his actions. Furthermore, whilst Callaghan may not have clarified matters in his autobiography, two separate sources give an indication of what he said during the meeting and subsequently in a letter to Wilson, and these provide not only an indication of his thinking, but also show how far his actions were the logical culmination of the previous two months debates. Tony Benn was present at the NEC, and in his diary quotes Callaghan as saying that 'he thought a division between the Government and the Party would be disastrous'⁴¹⁶. Similarly, Kenneth Morgan quotes from a letter that Callaghan sent to Wilson on 2 April, following discussions over Callaghan's behaviour: 'The Party situation is serious in morale and policy. They are linked and confidence is low....Can we make a fresh start and get PLP, Cabinet, Party and TUs back together?'⁴¹⁷.

Whatever the wider and possibly machiavellian aspects of Callaghan's behaviour, publicly he was arguing that his actions were designed to reunite the party and not to cause division. The debates within the PLP and among individual trade unions had highlighted the breadth and depth of opposition to the government's proposals. Many of the white paper's opponents within the PLP occupied the cautious middle ground that Callaghan himself claimed to represent. Similarly, his close relations with many in the trade union movement would have given him a very strong sense of the extent of the opposition. Against this backdrop, Callaghan would have been confident that he was playing a very strong hand. As

⁴¹⁵ Castle (1984) p.626 entry for 26 March 1969

⁴¹⁶ Benn (1988), pp.156-7, entry for 26 March 1969

⁴¹⁷ Morgan (1997) p.334

Kenneth Morgan has noted, when faced with Callaghan's rebellion Wilson had two options, 'he could drop the bill or sack the minister'. However, as Morgan concludes, such was the relative weakness of Wilson that both strategies were impossible and inevitably, 'the fight was on'⁴¹⁸. Nowhere was Wilson's difficulty more evident than in his failure to give Callaghan a dressing-down at the next Cabinet meeting. According to Castle, Wilson failed to criticise Callaghan in the meeting, but promptly briefed the press that he had done just that, as Castle put it 'Harold has clearly compensated to the lobby for what he failed to do in Cabinet.'⁴¹⁹ Wilson may have been buying time, but the dilemma remained.

However, if Callaghan's actions represented the culmination of the opening skirmishes, they were also to provoke Castle into the next stage, which would pitch the labour movement into full-scale war. On 31 March, Castle recorded a conversation with Crossman;

I took the opportunity of sounding him out about an interim Bill...I said I had always been against it in principle but thought that the Jim incident had highlighted the dangers of allowing the discussion with the unions to drag on for months, particularly as they showed no signs of being ready to negotiate about anything in it.⁴²⁰

Fifteen days later, as part of his budget speech, Roy Jenkins announced the proposal to introduce an interim industrial relations bill during the current parliamentary session, and the scene was set for some of the bitterest in fighting that the Labour movement had seen.

3.10 Summary

Castle's decision to push ahead with an interim bill marked the beginning of a descent into unreality. If the parliamentary and PLP debates indicated nothing else, they showed just how far the arithmetic was stacked against her. The white paper succeeded in uniting left, right and centre in a way that made it virtually impossible to see how any legislation that included the penal clauses could be successful. Castle may have been correct in her assessment of press and public reaction to the Fords' dispute, but the minutes indicate just how hermetically

⁴¹⁸ Morgan (1997) p.334

⁴¹⁹ Castle (1984) pp.631-2, entry for 5 April 1969

⁴²⁰ Castle (1984) p. 628 entry for 31 March 1969

sealed the PLP debates were. The press failed to provide the kind of overwhelming support that might have influenced the centre-ground of the PLP and consequently, from the first meetings between Castle and the trade union group it was evident that opposition went well beyond the normal confines of the left, and was founded on the intrinsic links between the trade unions and the PLP. In the circumstances it would have been pragmatic to at least plan some form of retreat, especially once the NEC had rejected the white paper, however there is nothing in the evidence to suggest that Castle considered this, in fact, as we have seen, she chose to press ahead with the very interim bill that she had rejected less than two months earlier.

CHAPTER FOUR: THE INTERIM BILL: MARCH - APRIL 1969

4.1 Introduction

This chapter is divided into two sections; the first analyses the origins of the bill, and considers the political pressures that led to Castle's decision to draft the bill; the practical problems that came close to derailing it; the crucial role Callaghan's rebellion played in Castle's final decision to go ahead; and the wider considerations that led to Wilson, Jenkins and Crossman arguing for the bill to be linked to the future of prices and incomes policy; and Wilson's decision to use the bill to reassert his own control over the party. The second section examines reactions to the interim bill; focusing on lukewarm press reactions and the failure to capitalise on any sense of public support for reform; the growing anger within the PLP leading to a series of plots to remove Wilson; the TUC decision to convene a special congress; and finally, considers the significance of Wilson's May Day speech in which he appeared to open the way for negotiation and concession.

Section A – Origins

4.2 'A short bill?'

As we have seen, arguments in favour of an interim bill began to emerge almost as soon as *In Place of Strife* was drafted, and, initially at least, the parliamentary timetable allowed for the introduction of a short bill in May 1969. The two principal proponents of such a measure were Richard Crossman and Roy Jenkins, both of whom were concerned that the lengthy period of consultation would play into the hands of the white paper's opponents. They each argued that it was better to take the more controversial proposals 'on the run', and introduce them during May 1969, rather than waiting for the autumn.

Castle opposed their strategy, arguing that the proposals needed to be supported as a philosophical whole. However, whilst she may have opposed the idea, Castle did go as far as commissioning some work on the possible outline of a shorter bill as early as January 1969. On 1 January, Castle met Crossman at his request to discuss the draft white paper. According to her diary, Crossman used the meeting to berate her over the lack of consultation before agreeing to shore up support for

the white paper among the Cabinet⁴²¹. However, the official records indicate that Crossman also took the opportunity to argue the case for a short bill, a discussion that is missing from both their published diaries. In a memorandum dated 2nd January, John Burgh, who was present at the meeting, recorded that Castle had asked for a note on the possible contents of an 'advance' bill, the purpose of such a bill being to 'avoid the hiatus between the publication of the White Paper and the enactment of an Industrial Relations Bill incorporating all the proposals in the draft White Paper'⁴²². In the event, Wilson closed the Cabinet debate over interim legislation, commenting that the issue of timing should be reconsidered in the light of the reactions of the PLP and TUC.

However, following the Fords' debacle, Castle was convinced that the atmosphere was such that the House of Commons would agree the penal clauses⁴²³. She made her comments to Roy Hattersley on 12 March, and indicated that she had already instructed her officials to start work on an interim bill. It is not clear when she gave the instructions, and she may have been referring to the Burgh note of 2 January, but on 24 March, Castle met Hattersley and officials to discuss the contents of an interim bill. In her diary, Castle recorded their view that the bill should only include the penal clauses, that a 'package' would look like a gimmick and that it was the penal clauses that were needed urgently.

However, Castle was determined to maintain a balanced approach and insisted that three things were needed immediately; reform of disputes procedure which had been set in train by establishing the CIR; a change in the attitude of management which would flow from giving statutory rights to trade unionism; and a change in the attitudes of the trade unions. Castle's aims, as ever, were both ambitious and impractical. Burgh's note in early January had indicated that, to maintain the balance she required, a 'short bill' would at best be a 'medium measure' and, even if it were possible to produce it for introduction in May, it was 'likely to be at the expense of thorough preparation and consultation'⁴²⁴. However, Castle remained determined to produce balanced proposals and the

⁴²¹ Castle (1984) p.581 entry for 1 January 1969

⁴²² NA, PRO, LAB10/3478 Memorandum from J.C. Burgh to Mr A.W. Brown, 2 January 1969

⁴²³ Castle (1984) p.618 entry for 12 March 1969

⁴²⁴ Ibid. pp.624-625 entry for 24 March 1969

official note recorded her request that work proceed on an interim bill with four main provisions: the conciliation pause; strike ballots; a statutory right to trade union membership; and the power of unilateral arbitration to require employers to recognise trade unions. In addition officials were asked to consider the inclusion of a provision to deal with inter-union disputes.

If the discussion over the contents of the interim bill and Castle's determination to retain a balanced package echoed earlier discussions over the content of *In Place of Strife*, so too did the issues of timing and consultation. Just as Wilson had vetoed discussion of the white paper in the Industrial Relations Committee, the note of Castle's meeting with her officials indicated he had already told Castle 'he would personally give authority for drafting in advance of a Cabinet decision. Furthermore Castle was meeting Wilson and Jenkins on the following day and it was proposed to seek agreement to the putting of her proposals before Cabinet, 'only when the Bill was drafted and only shortly before its introduction', although it was acknowledged that consultation with the law officers would be necessary and that as a consequence, 'she might have to seek the agreement of her colleagues collectively somewhat earlier than she might otherwise wish'. Finally, the note recorded that Castle was, 'strongly adverse to giving more than the minimum notice possible of intentions to either body'⁴²⁵.

The official note indicates just how closely Castle was working with Wilson at this point. As was noted in the previous chapter, Wilson's first major speech on industrial relations after the publication of *In Place of Strife* came two days after Castle's discussion with Hattersley. It seems highly probable she would have discussed her change of mind with him, and that this was reflected in his comment that, 'All that had happened in these last three weeks provides powerful support for the measures we shall be introducing in Parliament'⁴²⁶. Similarly the desire to avoid lengthy discussions with the Cabinet or TUC seems indicative of a belief that there was sufficient external support to risk further accusations of bouncing through another set of proposals at short notice and with the minimum of

⁴²⁵ NA, PRO, LAB43/536 D.B. Smith to Mr Burgh, 'An Interim Industrial Relations Bill', 24 March 1969

⁴²⁶ Quoted in Panitch (1976) p.181

consultation, and that evidence of external support would be enough to quell the doubters in both the PLP and the TUC. Events, of course, were to prove the opposite to be the case. In the meantime, there remained the practical problems with the short bill.

Following the meeting with Castle on 24 March, Frank Lawton, the departmental solicitor discussed her proposals with the parliamentary draftsman. In a briefing note for Castle, Lawton reported that the draftsman saw problems with both the interim and the full bill⁴²⁷. According to Lawton, the draftsman expressed the ‘confident opinion’ that the scope of the main bill would be so wide as to allow the subjects debated in the interim bill to be debated again. Furthermore, unless the interim bill dealt with no more than two topics, ‘its scope would be wide enough to allow debate and amendment of the Interim Bill to cover other subjects of proposed legislation for the time being retained for next Session’s Bill’⁴²⁸. In the circumstances, Lawton suggested, it might be useful to present parliamentary officials with a copy of the completed interim bill as soon as possible in order to try and gain a ruling on the possibility of it being re-opened. However, he felt that there was no guarantee that they would be able to offer such a ruling.

Thus the bill looked vulnerable on two fronts. Castle and Wilson’s determination to follow the same pattern of consultation as with the original white paper was likely to inflame Cabinet, TUC, and PLP. As Callaghan commented later, “‘In Place of Strife’” was suddenly to be turned into instant government’⁴²⁹. In addition, even assuming that a majority in the PLP supported the interim bill, there would be plenty of scope for the battles to be re-fought by its opponents when the main bill was introduced in the autumn. Against this backdrop that Castle met Wilson and Jenkins on the following day, Tuesday 25 March.

The meeting is not recorded in Castle’s published diaries nor does it appear in the original transcript. However the official note records that Castle opened by echoing her views as expressed to Hattersley earlier in the month, saying that

⁴²⁷ NA, PRO, LAB43/536 ‘An Interim Industrial Relations Bill, Supplementary Brief by the Solicitor’, 24 March 1969

⁴²⁸ Ibid

⁴²⁹ Callaghan (1987) p.274

following the Ford's dispute, 'the psychological atmosphere was right for a short bill'⁴³⁰, but once again stressing that it was imperative that this didn't leak before she was ready to discuss the bill with the TUC and CBI. Having outlined the main proposals, Castle highlighted the problems that had been raised in Lawton's briefing and noted that these could create a 'serious difficulty'. Furthermore, she noted the problems relating to the attachment of earnings for the collection of fines. It had been hoped that this could be achieved via the 'pay as you earn' (PAYE) scheme but this had not proved possible, leaving no alternative but to make attachment optional, which left the way open for the seizure of an individual's property, 'distrainment' in the absence of an agreement to pay the fine. The meeting closed with Castle agreeing to keep them both informed of developments.

To this end, on Friday 28 March, Castle sent a note to Wilson updating him on her discussions with the Attorney-General and the Parliamentary Counsel on the problems of the interim bill being re-opened in the autumn, in which she informed him that both she and the Attorney-General had concluded that the problems were, 'insuperable'. Thus, given that the longer bill would inevitably contain the same general subject matter as the interim bill, 'the second bill would inevitably provide the opportunity for new clauses to be put forward in amendments to replace clauses in the interim bill' and consequently, 'the whole debate on the contents of the interim bill would thereby be re-opened'. In the circumstances, Castle concluded that:

Although I remain convinced of the political and tactical advantages which could have been gained by the introduction of an interim bill this Session if its subject matter could not be re-opened later during the passage of the second bill, I have had to reluctantly conclude that this is not now possible.

⁴³¹

The interim bill looked dead in the water. Wilson, who had flown out to Lagos on the 27 March, confirmed that he received a telegram from Castle whilst flying back home, a telegram that contained her final judgement on the interim bill⁴³².

⁴³⁰ NA, PRO, LAB43/536 Note from Derek Andrews to Douglas Smith, 25 March 1969

⁴³¹ NA, PRO, LAB43/536 Note from Barbara Castle to Harold Wilson, 28 March 1969

⁴³² Wilson, (1971) pp.804-5.

According to Wilson's memoirs Castle confirmed that the interim bill could not be got ready in time to be announced in Jenkins' April budget. Wilson's account is significantly different to the official record; as is clear from Castle's note, her reasoning was nothing to do with timing, although, given the decision subsequently to go ahead with the bill it is perhaps not surprising that Wilson failed to highlight its most significant weakness. However, later on the same day Wilson met with Jenkins and Castle only to be told by Castle that, 'the Bill could be got ready' and it was agreed that the proposal be put to the Cabinet.

4.3 Callaghan intervenes

Castle's volte-face was driven entirely by the NEC vote on 26 March and specifically by Callaghan's decision to support the anti-white paper resolution. The NEC meeting took place on the day after Castle's meeting with Wilson and Jenkins, and Wilson flew out to Lagos early on the 27 March. In his memoirs he indicated that he was aware of Callaghan's behaviour, but decided to deal with it on this return⁴³³. Castle's bitterness was all too clear, 'I've merely registered another reason why I should despise him'⁴³⁴. Castle reflected over the weekend, and, by the following Monday she was telling Crossman that one of the major reasons for the interim bill was to put Callaghan on the spot. 'I said that I had always been against it (the interim bill) in principle but thought that the Jim incident had highlighted the dangers of allowing the discussion with the unions to drag on for months, particularly as they showed no signs of being ready to negotiate about anything in it'⁴³⁵.

Castle's reflections were undoubtedly assisted by newspaper reports such as that in *The Times* that reported both Conservatives and Liberals calling for Callaghan to resign if he was conducting a public campaign against the industrial relations proposals, with the support of the Labour party general secretary, Harry Nicholas, quoted as saying that, 'He [Callaghan] has said what a great many people have said up and down the country: there are certain parts of it which I believe ought to be modified'⁴³⁶. Similarly, the *Sunday Times*, ran a headline, 'Callaghan v Castle:

⁴³³ Ibid. p.789

⁴³⁴ Castle (1984) p.626 entry for 27 March 1969

⁴³⁵ Ibid p.628 entry for 31 March 1969

⁴³⁶ *The Times*, 29 March 1969

must one go?', which suggested that one or the other could be forced to resign over the approach to trade union reform, and reported that Callaghan's action had, 'struck a responsive chord' among Labour back-benchers⁴³⁷.

Unsurprisingly, given his previous advocacy of the short bill, Crossman supported her, commenting that an interim bill would put Callaghan on 'the spot' and that they may have to be prepared for his resignation. The following morning Castle met with her officials and confirmed that she wanted to go ahead with five items; the right to join a trade union; unilateral arbitration to force employers to recognise a union; the conciliation pause; strike ballots; and the setting up of the Industrial Board⁴³⁸. Once the decision had been made to continue with the interim bill it was necessary to inform Wilson and Jenkins and, as Wilson recorded, Castle arranged to see them both on Wednesday, 2 April following Wilson's return from Lagos.

4.4 Wider considerations

Wilson flew home to be confronted by a leading article in *The Times* stating, starkly that; 'The Labour Party is in worse shape than at any time in the buffetings of the past couple of years'; that, 'There is despondency if not despair about the coming general election'; and concluding, 'The Prime Minister and most of his colleagues are in conflict with the organisations of the mass party'⁴³⁹. In the circumstances, whilst he may have been surprised by her decision, Castle's announcement that she wanted to go ahead with the interim bill seemed to provide a way to reassert his control over the party.

The fateful meeting opened with Castle, Jenkins and Wilson and, having explained why she now thought the bill 'practicable and desirable', Castle was 'horrified' when Jenkins proposed to make the announcement as part of the budget speech, linking it explicitly to the decision not to renew prices and incomes legislation. Playing for time, Castle argued that they should bring in Crossman to discuss the political implications of this new strategy. In the reconvened meeting

⁴³⁷ *Sunday Times*, 30 March 1969

⁴³⁸ Castle (1984) p.629 entry for 1 April 1969

⁴³⁹ *The Times*, 2 April 1969

with Crossman present, Wilson argued that the time had come to reassert control of the party⁴⁴⁰. Jenkins' joint announcement of the interim bill and the non-renewal of prices and incomes legislation, coupled with the dropping of the Parliamentary Bill (on the grounds that the time was required for the interim industrial relations bill) would provide the foundation for just such a reassertion.

According to Castle, Crossman agreed with Wilson's analysis, but warned that Callaghan might resign over the interim bill and form an overt alliance with the TUC to defeat it. In the circumstances, Crossman asked, was Wilson prepared to face him down. According to Castle, Wilson waived this aside, 'the Party must realise that, unless they accepted the package, they would be faced with an Election and a large number of them would lose their seats'⁴⁴¹. Crucially, therefore, it was at this point that Wilson seems to have made the decision not only to back the interim bill, but also to explicitly link it with the future of the government and his own future as prime minister. As will become evident, Wilson's meetings with both the TUC and PLP were littered from this point on with references to the wider political implications of not supporting the government's proposals. As *The Times* noted, industrial relations reform had now, 'become invested with a symbolic and therefore a political importance of an altogether higher order'⁴⁴².

Castle however remained reluctant to link her policy explicitly with the demise of prices and incomes policy, arguing that it would be fatal for the PLP to think that the interim bill was dictated by the need to pacify the International Monetary Fund (IMF)⁴⁴³. Finally, on 10th April Castle agreed, albeit very reluctantly, to the joint announcement. In her diary, she recorded that she had 'now resigned' herself to accepting the strategy, whilst Crossman reported that she remained reluctant throughout to link the two proposals and only agreed when opposed by Crossman, Jenkins and Wilson⁴⁴⁴. For Castle this was a major defeat. In the two months since *In Place of Strife* had been published, she had been forced to concede on two

⁴⁴⁰ Castle (1984) p.629-30 entry for 2 April 1969

⁴⁴¹ Ibid

⁴⁴² *The Times*, 2 April 1969

⁴⁴³ Castle (1984) pp.632-633 entry for 8 April 1969

⁴⁴⁴ Crossman (1977) p.434, entry for 10 April, 1969

fundamental points; the introduction of the interim bill; and the explicit linking of industrial relations reform with prices and incomes policy. It is not surprising that, when asked over thirty years later why she had agreed to these concessions, she replied, wearily, that, 'there are some battles you lose'⁴⁴⁵. For Wilson, however, the decision to align himself so clearly with the interim bill and to place it at the centre of his strategy to regain control of the party was one that was nearly to defeat him.

4.5 What to tell the unions?

Before the Cabinet could discuss the interim proposals, however, Wilson faced his first meeting with the TUC general council, which was scheduled for 11 April. As was noted in the previous chapter, the TUC had become increasingly concerned over rumours of an interim bill, and the meeting with Wilson was requested, in part, as an attempt to allay these fears. In order to prepare, the finance and general purposes committee held a special meeting on 9 April at which it was agreed to provide Wilson with a note of the work that the TUC was doing as part of its response to Donovan, and to stress that, 'the alternative to the penal clauses was a programme of voluntary action based on the Donovan report which could only be carried out on the basis of tripartite co-operation'. The committee agreed that it provided an opportunity for Wilson to 'free the Government from the difficult situation which it had created'⁴⁴⁶.

The note was sent to Wilson ahead of the meeting and copied to Castle who was broadly dismissive. In her diary, she noted that she had received 'a curious document' from Vic Feather⁴⁴⁷. She recorded that the document showed, 'how much the TUC is already doing through trade union conferences etc.' to implement Donovan, whilst only 'vaguely hinting' at possible tripartite action between TUC, CBI and government for dealing with unofficial strikes. The TUC's high hopes for their proposals, and Castle's reaction to it epitomised the state of relations between TUC and government. The TUC remained constant in their determination to pursue the Donovan analysis and solutions, whilst

⁴⁴⁵ Interview with Baroness Castle of Blackburn, Buckinghamshire, 3 March 2000

⁴⁴⁶ MRC, MSS292B/24.1/8 – TUC Finance and General Purposes Committee. Minutes of the tenth (special) meeting held on Wednesday, 9 April 1969

⁴⁴⁷ Castle (1984) pp.633-4 entry for 10 April 1969

remaining equally determined to ignore the calls for a more rapid response that had emanated from Castle. For Castle, however, the TUC's obduracy simply confirmed her own decision to push ahead with the interim proposals as means of provoking change.

Later that day, Castle and Crossman met Wilson to prepare for the meeting with the TUC and discussed press reports that the unions were going to ask for an assurance that the government was not planning an interim bill⁴⁴⁸. Castle, no doubt with the 'curious document' in mind, argued that Wilson should not 'run away' from the issue and that his aim should be 'to leave them with the impression that we are contemplating interim legislation'⁴⁴⁹. In the event, Wilson. The TUC minutes record that when asked specifically by Vic Feather about changes to the timetable, Wilson replied that, 'there had been no decision by the Government with regard to the timing of the legislation', but, 'obviously the right of the Cabinet with regard to the timing of the legislation had to be reserved' and consequently, he could 'give no forecast on this'⁴⁵⁰. Feather reiterated that they had been given to understand that November was the target for the first reading, to which Wilson responded that 'the timetable had always been an open question'. Wilson's ambivalence angered Castle who passed him a note commenting that he had left the TUC with the 'impression that there is a lot of time for consulting them on an "alternative"', and wondering if he was going to reply to the TUC point that they are opposed to 'acceleration of legislation?'⁴⁵¹. Wilson replied that he was "holding that back"⁴⁵².

Wilson's decision to equivocate was a poor one. He may have had in mind Castle's decision to consult the TUC in advance of the Cabinet over the original white paper, or the fact that the interim bill was now linked to the budget strategy and hence should be governed by pre-budget confidentiality. However, all he

⁴⁴⁸ 'The Trades Union Congress will warn the Prime Minister tomorrow that any attempt to rush industrial reform through this session of Parliament will mean an all out clash with the unions', *Guardian*, 10 April 1969

⁴⁴⁹ *Ibid.*

⁴⁵⁰ MRC, MSS292B/24.1/8 – TUC Finance and General Purposes Committee. Minutes of the twelfth meeting, Monday 12 April 1969

⁴⁵¹ Quoted in Perkins (2003) p.295

⁴⁵² *ibid.*

succeeded in doing was angering the TUCGC at a time when it was trying to hold its own members back from demanding a special congress and pursuing outright opposition to the government's proposals. As Feather said at the end of the meeting, they had been given no assurances of any kind on the matters that they had raised and, 'if the Government took the road they were proposing, and introduced such laws, and then found that they were not effective, the country would be in serious trouble indeed'⁴⁵³.

However, if Wilson equivocated on the issue of the interim bill, he was much more forthcoming in his general views. Responding to Feather's introductory comments on the work already being undertaken by the unions to implement the Donovan proposals, Wilson was unequivocal: 'in the public mind, Donovan represented three years consumed...and we are no further on'⁴⁵⁴. Moving on to the wider political picture, the TUC minutes record Wilson responding to the comment that it was not for a Labour government to introduce such powers with the prophetic remark that, 'if we don't deal with strikes we will get the Tories anyway'⁴⁵⁵. Finally, he reminded them of his quote to the 1968 party conference that nothing could destroy the Labour movement but the movement itself, but concluded that the movement 'could be destroyed economically and politically if it did not do something about unofficial strikes'.

Significantly, in the two newspapers that covered the meeting in detail, it was these general remarks that gained the most coverage; the *Guardian* quoted Wilson talking, 'angrily' of, 'the state of anarchy' in industrial relations⁴⁵⁶, whilst *The Times* report opened with Wilson's, 'We can be destroyed economically and politically if we have no answer to unofficial strikes'⁴⁵⁷. However, *The Times* did think it detected a hint of a compromise, in that Wilson appeared to have made one concession, in that he left it open for the TUC to come back with some equally effective alternative 'but it had to be equally effective not only in terms of

⁴⁵³ MRC, MSS292B/24.1/8 – TUC Finance and General Purposes Committee. Minutes of the twelfth meeting, Monday 12 April 1969

⁴⁵⁴ MRC, MSS292B/24.1/8, Notes of a meeting held between TUC Finance and General Purposes Committee, held on Friday, 11 April 1969

⁴⁵⁵ Ibid.

⁴⁵⁶ *Guardian*, 12 April 1969

⁴⁵⁷ *The Times*, 12 April 1969

significance but in terms of time'. Wilson's phrase was significant and he was to return to it throughout the negotiations, claiming that the eventual settlement was acceptable because it met his initial requirements regarding effectiveness and speed of impact, and thereby implying that a negotiated settlement had been his aim from the outset. At this stage, however, it is sufficient to note that the rhetorical emphasis was on strong government, not on concession, and, as will become clear, the emphasis was to shift only as his own position became weaker.

4.6 Cabinet Approval

The final hurdle that interim bill faced was a full meeting of the pre-budget Cabinet on Monday, 14 April, and prior to that a meeting of the industrial relations committee earlier on the same day. In her opening remarks to the industrial relations committee, Castle stressed the likely level of TUC opposition and the need to legislate for the controversial penal clauses in advance of the autumn conferences. She also raised the practical concern that had caused her to reject the interim bill at the end of March, noting that 'she was advised that the titles could not be drawn as to exclude amendments covering the whole field of industrial relations; nor, when the main bill followed next session, would it be possible to prevent discussion of amendments re-opening subjects already dealt with'. Nevertheless, 'the advantages of dealing urgently with the more controversial provisions outweighed the difficulties'. In the ensuing discussion it was claimed that there was 'general agreement' that the bill should be introduced as quickly as possible, but it would be difficult to proceed with the proposal for strike ballots that was both 'highly unpopular and technically complex'. Consequently, it was suggested that the proposal be dropped and replaced with that for dealing with inter-union disputes. It was argued that the decision could be justified on technical grounds rather than as a 'surrender to pressure'⁴⁵⁸. According to Castle, Anthony Crosland suggested dropping the strike ballot, and this was accepted on the grounds that the proposals for inter-union disputes were 'more valid and more urgent'⁴⁵⁹. From the onset Castle had been unenthusiastic about the strike ballot, stressing that it was Wilson who had wanted them included

⁴⁵⁸ NA, PRO, CAB134/2937 Ministerial Committee on Industrial Relations, Minutes of a meeting held on Monday, 14 April at 12.00 noon.

⁴⁵⁹ Castle (1984) p.635 entry for 14 April 1969

in the original proposals, and the ease with which they were dropped was a testament to her lack of enthusiasm. However, tactically the decision was a poor one, as became evident when the interim bill was put before the full Cabinet.

Wilson opened the Cabinet with an update from his 11 April meeting with the TUC. He stressed the TUC's outright opposition to the penal clauses and proposed financial penalties, but concluded that there was no indication that they were able to suggest any effective alternatives. In the circumstances, he concluded, 'it would be wrong to delay the introduction of legislation until the next session'. Castle then outlined the features of the proposed bill, stressing that the bill would 'categorically rule out imprisonment for failure to pay financial penalties'. Finally, Jenkins' set out the Treasury view. Having argued that it would be 'virtually impossible' to replace the Prices and Incomes Act, 1968, when it expired at the end of the year, he stressed the need to announce the decision in the budget, in parallel with the announcement of the interim bill. In his view a failure to legislate at this stage would open the government to ever increasing pressure, 'both from the great weight of public opinion which was concerned about the damage being done to our economy by industrial disputes and from opponents of such legislation within the trade union movement and amongst the Government's supporters'.

The Cabinet's reaction was predictable. The Cabinet conclusions record that a number of members questioned the haste of the decision and argued that what was needed was continued working with the TUC to arrive at an acceptable package. This confirms Castle and Crossman's accounts both of which identified Callaghan, Hart, Marsh and Mason as the main advocates of this line. There was however, a consensus on the need to devise a means of collecting financial penalties that avoided the attachment of earnings, and a general acceptance of the decision to drop the proposal for strike ballots. There was some discussion as to whether it would be better to drop the conciliation pause and keep the strike ballot, but the overall conclusion was that the pause should be retained, 'because of its relevance to the problem of unofficial strikes, which was of great public

concern'⁴⁶⁰. However, whilst some opposition was expressed to the general principle of the bill, overall there was an acknowledgement that, if penal clauses were required, it was better to get them out of the way as quickly as possible, and on this basis the Cabinet agreed that the bill should go ahead.

It was noted above that the decision to drop the provision for strike ballots was a tactical mistake, and there were two reasons why this proved to be the case. Firstly, one of the stated objectives of Castle and Crossman in introducing the interim proposals was to 'force' Callaghan's hand. However, while he voiced his concerns during the Cabinet discussions, no resignation was forthcoming. As Crossman recorded,

His [Callaghan's] whole attitude at Cabinet was that his presence was essential to retain the unity of the unions and if he thought he saw, as I thought I saw, that we had dropped the idea of a compulsory strike ballot and were going to modify the clauses on attachment of wages he clearly felt that this justified him in staying and in adopting the line he was going to take. So he made a long speech about how we must now work together and how pleased he was at the decision⁴⁶¹.

By dropping the strike ballot, Castle had played directly into Callaghan's hands. He was able to present it as a key concession and continue to promote his own role as a unifier. Rather than forcing his hand, the interim bill appeared to have strengthened it, a point made by a number of commentators when the proposals were made public.

Whilst Callaghan was happy to see the decision as a key concession, Peter Shore regarded it as a capitulation. The Cabinet conclusions record that a view was expressed that the ballot should not be dropped as it was damaging to retreat from any proposals at this stage. Whilst not mentioned by name in either Castle or Crossman's account, Shore had been a keen advocate of the strike ballot since the initial discussions at Sunningdale. As was discussed in an earlier chapter his main concern was with the economic effects of industrial action, and he regarded the strike ballot as creating an opportunity for the government to spell out to potential

⁴⁶⁰ PRO/CAB128/44, Conclusions of a meeting of the Cabinet held on Monday, 14th April, 1969 at 4p.m.

⁴⁶¹ Crossman (1977) p.439, entry for 14 April 1969

strikers the economic implications of their action. As he has since confirmed⁴⁶², once strike ballots were removed from the bill, he ceased to see its effectiveness. Consequently, he was to speak out with great effect against the interim bill in the final Cabinet discussion sealed its fate.

Section B - Reactions

4.7 Losing Momentum

If the interim bill was to have any chance of gaining parliamentary support, a sense of momentum was required in which MPs would be carried along on a tide of popular support for Castle's proposals, and the starting point was her speech to the House of Commons introducing the interim bill. Jenkins had announced the intention to introduce interim legislation in his budget speech on 15 April, and Castle was required to provide the detail on the following day. Anne Perkins has recorded the pressure Castle was under, noting that, not only did she record sections of the speech and play them back, but she also had Wilson offering advice and remarking that it was 'the most important speech ever made in parliament by a woman'⁴⁶³. In the circumstances, it was not perhaps surprising that the speech was a flop.

The *Daily Telegraph*, albeit not a supporter of the government, reported that Castle spent the first thirty-five minutes of her fifty-five minute speech, 'in a dreary attempt to demolish Tory economics', when it was her plans for the unions that the majority wanted to hear. More worryingly for Castle, the paper was quick to highlight the strength of Callaghan's position, noting that he would be able to claim that his 'rearguard action' against the white paper had been partly successful. 'It could be said that he has lost one game – the conciliation pause – but won another, the pre-strike ballot, and drawn a third, by getting his colleagues to moderate their instincts on attachment of earnings'⁴⁶⁴. The paper concluded that that it was now clear why he had not resigned from the Cabinet, 'if indeed he ever contemplated doing so'.

⁴⁶² Interview with Lord Shore of Stepney, House of Lords, 11 November 2000

⁴⁶³ Perkins (2003) p.296

⁴⁶⁴ *Daily Telegraph*, 17 April 1969

Similarly, the *Guardian* was scornful of her attempts to avoid any hint of imprisonment, noting that many MPs were ‘so unmannerly as to laugh out loud’ at her suggestion that any fines could be paid into a fund for the benefit of workers as a whole⁴⁶⁵, and *The Times* concluded that, ‘All the details of how the fines will have to be paid is blurred in a Micawberish hope than something will turn up that the T.U.C and its constituent unions will be able to swallow more easily than the attachment of wages through employers’⁴⁶⁶.

If Castle’s speech had failed to create a groundswell of support among her colleagues, what of the press reaction to the detail of her proposals? Press reports focused on two aspects, the detailed proposals themselves, and the likelihood of them being supported by the PLP. *The Times* commented that the measures looked ‘overpriced’, and that any credit the government would get for tackling the problem was ‘dimmed by the weakness of the diluted proposals’⁴⁶⁷. Similarly, the *Daily Telegraph* queried the absence of the strike ballot and concluded that Castle’s courage must have failed. While, ‘she [might] in consequence get less trouble from her own party. She will get and deserve more trouble from the country.’⁴⁶⁸

The *Guardian* argued that action on union reform might have been the right priority but that Castle’s proposals would not ‘achieve their object’⁴⁶⁹. In a second editorial, the paper considered the options open to the average Labour backbencher, ‘the evils of the Bill and its consequences, or the evils of opposing the Bill at the risk of bringing the Government down’, and concluded that, ‘the Bill is not so harmful as to be unacceptable’. The best option in the circumstances, therefore, was to support the bill, whilst seeking to amend the less palatable elements⁴⁷⁰. Finally, the *Daily Mirror*, from the outset the government’s strongest supporter, concluded that the bill would go through because whilst there was considerable opposition, it did not believe the majority thought the issue of

⁴⁶⁵ *Guardian*, 17 April 1969

⁴⁶⁶ *The Times*, 17 April 1969

⁴⁶⁷ *ibid.*

⁴⁶⁸ *Daily Telegraph*, 17 April 1969

⁴⁶⁹ *Guardian*, 17 April 1969

⁴⁷⁰ *Guardian*, 21 April 1969

such fundamental importance that ‘the Labour Government must be destroyed to prevent it being passed’⁴⁷¹.

Castle’s speech had hardly had the impact that either she or Wilson had hoped either among Labour MPs, or within the press. In the circumstances, were there any other sources of support? Wilson’s determination to find indications of popular support was reflected in a series of memoranda from his office to Castle requesting information on sales of the original white paper, and progress on the production of a ‘popular’ version⁴⁷². On 15 April, the day Jenkins announced the interim bill, he was informed that 46,500 copies of the white paper had been sold and that, whilst this was ‘above the average for normal White Papers’, it was below that of reports of the Prices and Incomes Board⁴⁷³. On 18 April, a note confirmed that 220,000 copies of a popular version were planned but that progress was slow⁴⁷⁴. The popular version had been discussed in January, and both Castle and Wilson had favoured it as a means of getting the key messages across to the public. However, production was delayed and, by 29 April, Wilson was informed by the minister chairing the Home Publicity Committee, Judith Hart, that the popular version should be dropped, on the grounds that ‘the Government would be open to the charge that public money was being spent in popularising controversial measures that were being discussed in Parliament’⁴⁷⁵. Instead, the committee proposed publication of a ‘mini’ white paper, written in popular language, at the same time as the interim bill was published. This was rejected in turn by Castle on the grounds of avoiding ‘apparent gimmickry’⁴⁷⁶. Joe Haines has since confirmed that this failure to get the message of *In Place of Strife* across was a major problem that reflected the general antagonism of the majority of the press towards Wilson and the government, and it was this that drove the desire for a popular version of the white paper⁴⁷⁷.

⁴⁷¹ *Daily Mirror*, 18 April 1969

⁴⁷² NA, PRO, PREM13/2725, 15 and 18 April 1969

⁴⁷³ NA, PRO, PREM13/2725, 15 April 1969

⁴⁷⁴ NA, PRO, PREM13/2725, 18 April 1969

⁴⁷⁵ NA, PRO, PREM13/2725, 29 April 1969

⁴⁷⁶ *Ibid.* Memorandum from Roy Hattersley to Paymaster General, ‘In Place of Strife’, 30 April 1969

⁴⁷⁷ Interview with Joe Haines, 29 September 2004.

If sales of the white paper indicated less than overwhelming interest, what of those writing to Wilson on the subject? On 29 April, his private office responded to a request from Wilson for a breakdown of letters received on the subject of the white paper, with a table indicating that eighty four letters had been received with forty two in favour of the proposals and forty two against, hardly the groundswell of public support that he was hoping for⁴⁷⁸. The only crumb of comfort was to be found in a briefing on overseas reaction to the interim bill, which concluded that, ‘the political difficulties and a possible clash with the British TUC are also widely reported but the general view is that the Government has been right to grasp the nettle’⁴⁷⁹, although, in the battle for the hearts and minds of the PLP, the opinion of the overseas press was unlikely to figure large.

Finally, whilst the attitude of the PLP was well known, what of the constituency Labour parties (CLPs)? Support for Wilson here would have provided valuable ammunition for claims of grassroots support. Once again, however, there was little comfort to be found. NEC papers reveal that between 7 February and 5 May 1969, the Home Policy sub-committee received 25 resolutions from CLPs and other affiliated organisation relating to the white paper and the interim bill, and of these only three supported the government⁴⁸⁰. In the circumstances, there was little to give a sense of momentum, the Labour party appeared from top to bottom to oppose the proposals, the press were at best lukewarm, and, to make matters worse, the decision to drop the strike ballot was taken as a victory by opponents of the bill and a sign of weakness by its supporters. It was against this backdrop that Wilson and Castle prepared to face both the PLP and the TUC.

4.8 A growing sense of crisis

Once the Cabinet had decided to proceed with the interim bill, Wilson arranged to see Feather informally on the evening of Monday 14 April with Castle present. According to Castle, Feather ‘didn’t bridle or declaim’ when told the latest proposals, rather ‘he even entered into a discussion as to what kind of fund we

⁴⁷⁸ NA, PRO, PREM13/2725, 29 April 1969

⁴⁷⁹ *ibid.* 24 April 1969

⁴⁸⁰ LPA, Labour Party Home Policy Sub-Committee, resolutions received 7 February – 5 May 1969

might set up to absorb the penalties', but she acknowledged that she could not tell how far he was genuinely unalarmed at the proposals⁴⁸¹.

On budget day, Wilson sent a letter to the TUC setting out the main proposals in the interim bill and asked to meet them on the following day. Immediately before the meeting there was a special meeting of the TUC Finance and General Purposes Committee. Wilson's letter reiterated his willingness to consider other proposals if they were 'as effective in their operation for preventing irresponsible and damaging strikes' as the government's own proposals, but the committee agreed there was nothing in the letter to change their view of the government's proposals and that inviting them to propose an alternative to the use of fines or the attachment of earnings was of minor importance when compared to their opposition to the penal clauses. However, it was significant that the committee also reaffirmed that it was not enough to express negative opposition, and 'it was urged that the General Council should seek from the unions authority for the TUC to play a more active part in the avoidance and settlement of disputes'⁴⁸².

At the meeting Wilson sought to stress three issues: that strike ballots had not been included because official strikes were considered to be less damaging than unofficial ones; that there was no question of the legislation imposing any form of criminality; and finally that, whilst the government 'could not negotiate on the principle of the subjects to be covered by its proposed legislation', they intended to consult fully on 'methods of operating under the powers to be provided'⁴⁸³. In their response the unions focused almost entirely on the issue of financial penalties. Feather made it clear that the use of fines as penalties for striking would meet with 'absolute opposition', whilst Sidney Greene argued the method of collecting fines was 'not material'. In his view, the fact that financial penalties existed would, 'exacerbate industrial relations and prolong strikes which the procedure aimed at shortening'. John Newton, the TUC chairman, stressed that the white paper would have been accepted without the penal clauses, but would be

⁴⁸¹Castle (1984) p.636 Entry for Monday, 14 April 1969

⁴⁸²MRC, MSS292B/24.1/8 - TUC Finance and General Purposes Committee, Minutes of the eleventh (special) meeting held on Wednesday, April 16, 1969

⁴⁸³NA, PRO, PREM13/2725 Note of a meeting with representatives of the Trades Union Congress held at 5.30pm on 16 April 1969

rejected as long as they were included. He argued further that, whilst the Conservative proposals appeared even more draconian, he doubted they would be prepared to carry them out, 'since this would provoke a similar situation to the 1926 General Strike'. In the circumstances, Newton argued, the government should have confidence in the TUC to put its own house in order.

Wilson replied that whilst he welcomed the TUC's efforts, 'these could not be effective quickly enough to meet the country's economic needs', and Castle stressed that the TUC had a standing invitation to discuss any aspect of industrial relations, but since the publication of the white paper, 'there had been no indication of any willingness by trade unions to consider the Government's proposals on some of the more serious and difficult issues'⁴⁸⁴. The meeting closed with Wilson's assurance that the government would be open to representations up until the 'last possible moment', and the committee confirmed that the General Council would discuss the proposals on the following Wednesday, 23 April.

The frustration of Wilson and Castle at the intransigence of the General Council was evident in these exchanges, and in her diary Castle noted her concern at 'the intransigence of people like Sid Greene' who she considered to be a reasonable moderate, and her worry at 'the quietly stubborn hostility of the TUC'. However, it was clear that Wilson was determined to leave the door open for TUC proposals, for as Castle noted, 'Harold thinks we might get over our difficulties by having a provision in the Bill to suspend the appointed day for the introduction of the penal clauses in order to give the TUC the chance to show what it can do'⁴⁸⁵. It was this determination that he returned to at the meeting with PLP on the following evening, Thursday, 17 April.

With Castle away at the Scottish TUC Conference, it fell to Wilson to explain the reasoning behind the bill to the PLP. In advance, the signs did not look good. Three days previously, sixteen members of the Tribune Group had signed a letter to the PLP chairman, Douglas Houghton calling for a joint meeting of the PLP

⁴⁸⁴ NA, PRO, PREM13/2725 Note of a meeting with representatives of the Trades Union Congress held at 5.30pm on 16 April 1969

⁴⁸⁵ Castle (1984) pp.636-7, entry for 16 April 1969

and the NEC, at which Wilson should be called on to ‘state the intentions of the Government about trade union legislation’⁴⁸⁶. To make matters worse, one of the signatories James Dickens said that there were precedents for such a meeting, including one that took place in 1931 after the fall of the Labour Government. On the same day, Ray Gunter, Castle’s predecessor, declared that Labour had no hope of winning the next election under the present leadership, although he declined to say whether he was referring to Wilson or the government as a whole⁴⁸⁷. Finally, on the day of the PLP meeting, *Tribune* published a front-page editorial by Michael Foot, entitled ‘The maddest scene in modern history’, in which he condemned, in apocalyptic terms, the interim bill and those who supported it as ‘a wanton, menacing decision [that] could threaten to break the Government and tear it to shreds’, and called on the whole Labour movement to show that ‘anti-trade union legislation will not be tolerated’⁴⁸⁸.

Despite Foot’s warning, Wilson decided to come out fighting. In a lengthy opening statement, he concentrated on three key messages; that the government were prepared to consider any proposals from the TUC, as long as they were ‘equally effective’ and ‘equally urgent in time’ to the government’s own proposals; that the government acknowledged concerns over the ‘taint of criminality’ and the use of attachment of earnings, but reiterated the message that the criminal courts were not involved and that the attachment of earnings was a last resort; and, finally, that reform of the House of Lords had been dropped because this bill was essential to the ‘economic success of the government’...It is on that economic success that the recovery of this nation, led by this Labour Government, depends’. As such, he concluded, ‘the passage of this Bill is essential to its continuance in office. There is no going back on that.’⁴⁸⁹

It was a powerful statement. Whilst many of those present would have doubted his justification for dropping reform of the Lords, especially as a significant number had been instrumental in making reform unworkable, Wilson left them in no doubt that, as the *Guardian* was to comment, he had ‘nailed his own reputation

⁴⁸⁶ *Daily Telegraph*, 15 April 1969

⁴⁸⁷ *Guardian*, 15 April 1969

⁴⁸⁸ *Tribune*, 18 April 1969

⁴⁸⁹ LPA, Minutes of a Party meeting held on Thursday, 17 April 1969

and his Government's to the interim Industrial Relations Bill'⁴⁹⁰. However he was careful to leave the door open. Using the same phrase that he used with the TUC, he stated his willingness to consider any proposals that could match those of the government in both speed and effectiveness. For Wilson this was as important as the confidence issue, and, when the 'solemn and binding' agreement was agreed, he was to quote these words back to the PLP as proof of his willingness from the outset to accept a TUC solution if it matched his criteria. In his memoir of the period he was to refer angrily to subsequent press reports that he focused only on the confidence issue and not on his plea to the TUC to come forward with an alternative⁴⁹¹. However, in their reports, the *Daily Telegraph*, *Daily Mirror* and *Guardian* covered both statements, although they all focused on the fact that Wilson had now made passage of the bill an issue of confidence⁴⁹².

How did the PLP react to Wilson's statement? The official minutes record almost universal opposition. There were complaints over the lack of prior consultation with the trade union group, the conciliation pause was condemned as 'unworkable', and there was a warning that, if the policy were pushed through on the back of ministers' votes, the government 'would still have to face the Party "in industry"' and trade unionists would 'solve the problem outside, and the Government would not survive the coming struggle'⁴⁹³. Richard Crossman reflected this sense of bitterness in his own account of the meeting where he focused on Wilson's perceived failure to articulate its wider aims: 'Harold was a complete flop...there was no attempt whatsoever to give people a vision of our policy or to indicate our new line in terms of broad strategy'. He subsequently discussed MPs' reaction to the interim bill and Wilson's speech with his PPS, Tam Dalyell. Dalyell reported that all sides of the party felt it had been a disastrous evening, for 'they all feel that a gratuitous blow has been imposed on them and that we have picked a quarrel in order to push a gimmick'⁴⁹⁴.

⁴⁹⁰ *Guardian*, Monday April 21 1969

⁴⁹¹ Wilson (1974) pp. 808-809

⁴⁹² *Daily Telegraph*, 18 April 1969, concluded 'if ever a Government went out of its way to make a Bill an inescapable issue of confidence, this Government has done it with its Industrial Relations Bill'.

⁴⁹³ LPA, Minutes of a Party meeting held on Thursday, 17th April 1969

⁴⁹⁴ Crossman (1977) p.444-446, entry for 17 April 1969

The growing seriousness of the situation was evident in a *Guardian* report of a meeting that had taken place on Friday 18 April, the day after the PLP meeting, between sponsored MPs and trade union leaders. At the meeting it was believed that trade unionists from the AEF argued that if their conference, due to be held that weekend, rejected the White Paper, sponsored MPs should also vote against it in parliament⁴⁹⁵. In the same article, it was reported that right wing MPs were looking to the Tribune Group to support them in getting rid of Wilson, and in an article on the following day, 'Wilson and the Left wing: the end of the affair'⁴⁹⁶, Peter Jenkins quoted Michael Foot's *Tribune* editorial as evidence that the left no longer supported Wilson, and commented that Eric Heffer, who he considered to act as a bridge between the organised left and other dissident elements within the PLP, had 'as good as called for Wilson's replacement at Thursday's unhappy party meeting'⁴⁹⁷.

Similarly, whilst the TUC may have agreed to reflect on the government's proposals, it was clear that others within the union movement had already made up their minds. As was noted, Castle missed the first discussion with the PLP because of the Scottish TUC conference. However, as the *Guardian* reported on Friday 18 April, Castle's presence did not stop the conference from voting in favour of two resolutions opposing the white paper. A composite resolution that indicated support for a number of aspects of the white paper but recommended outright rejection of it as a 'package deal', was carried on a card vote by 1,133 to 613, whilst a more radical resolution condemning the government for 'undemocratic measures' was passed by a smaller majority of 979 to 630⁴⁹⁸.

4.9 The leadership challenge

Castle and Wilson may have believed that, 'psychologically' the time was right for legislation, but this was insufficient to counter the extreme hostility being generated within both the PLP and the trade unions. In the circumstances, Wilson's decision to make the passage of the bill an issue of confidence laid him open to the leadership challenge that almost inevitably followed.

⁴⁹⁵ *Guardian*, 21 April, 1969, 'Left-Wing talk of new leader as unions met'

⁴⁹⁶ *Guardian*, 22 April, 1969

⁴⁹⁷ *Ibid.*

⁴⁹⁸ *Guardian*, 18 April 1969, 'Scottish TUC rejects Mrs Castle's plan on two votes'

The leadership crisis of April 1969 has been well documented, but what is of interest here is the impact that it had on the progress of the interim bill and the negotiations with the TUC and, from this perspective, it seems clear that the challenge to his authority was instrumental in getting Wilson to the negotiating table⁴⁹⁹. What follows, therefore, is a brief summary of events, followed by a more detailed consideration of Wilson's response.

As we have seen, Wilson's attempts to reassert his leadership with the announcement on the interim bill rapidly backfired, and it soon became clear that he faced opposition to both the interim bill and his continuing leadership. Peter Jenkins has argued that Labour backbenchers 'embarked on two overlapping, sometimes complementary and sometimes conflicting enterprises'⁵⁰⁰, one to defeat the industrial relations bill, the other to overthrow the Prime Minister. Furthermore, according to Jenkins, each had a synergistic effect on each other. Whilst those organising against the bill were not interested in challenging Wilson's leadership, it was Wilson's continuing commitment to the bill and the opposition that it generated that enabled those anxious to get rid of him to consider the possibility of a coup. Similarly, the activity of the plotters provided opponents of the bill with an active threat to use against Wilson; drop the legislation or face a leadership challenge. Jenkins' analysis continues to ring true. In using such an unpopular measure to try to reassert control over the party Wilson not only antagonised those opposed to industrial relations legislation, but the very act of choosing the interim bill for this purpose was taken as proof by those disillusioned with his leadership of just how out of touch he was.

This double challenge led to an intense period of manoeuvring within the PLP during late April and early May, as those opposed to the bill counted prospective votes, and differing factions sought to promote their prospective leadership candidates. These quickly coalesced around Callaghan and Jenkins as the two principal contenders. During the course of their intense manoeuvrings, opponents of the bill had identified fifty MPs prepared to vote against the government, and a

⁴⁹⁹ One of the best accounts is found in Pimlott (1992) pp.533-539

⁵⁰⁰ Jenkins (1970) p.106

further thirteen prepared to abstain. These were sufficient numbers, if combined with Conservative opposition, to prevent the bill being sent to committee and force the committee stage of the debate to be held on the floor of the House, exactly as had happened with the ill-fated Parliament Bill. Similarly, those wishing to remove Wilson and replace him with Jenkins had identified sixty MPs prepared to sign a motion of no confidence⁵⁰¹.

As the manoeuvring continued, Wilson sought to further reassert his leadership when, on 29 April, he replaced John Silkin with Bob Mellish as Chief Whip, and bowed to the demands of Castle, Jenkins and Crossman by creating a small Cabinet committee, to be known as the Management Committee, charged with providing a greater sense of co-ordination and focus to government policy. Mellish had a reputation as a right-wing political bruiser and his appointment only served to antagonise those, particularly on the left and including Castle, who considered his appointment to be little more than a direct threat to those opposing the interim bill: ‘Mellish! How the hell could I get my Bill through if the Healeyites had won their battle for a Chief Whip who would dragoon the Party and who would have no subtlety?’⁵⁰² Mellish did little to disavow them of this view when, at his first PLP meeting as chief whip, he was quoted as saying, ‘If members of the PLP divide against the Industrial Relations Bill the Government must go to the country’. As David Wood, political editor of *The Times* said, ‘*Must?* It widened the gap between Government and backbenchers that Mr Mellish thought he was bridging.’⁵⁰³

Inevitably, news of the plotting leaked out, and Ben Pimlott cites a report in *The Times* on 2 May stating that thirty MPs wanted to force a vote in the PLP with the aim of replacing Wilson with Callaghan. Pimlott notes that these stories alerted Wilson to the extent of the plot, and quotes an unnamed Wilson aide as saying that they had heard from the whips that ‘there was a round robin, and that Jim and Douglas Houghton were probably behind it, and that they had 80 MPs’⁵⁰⁴. Finally, as the leadership manoeuvring intensified, Houghton made a public

⁵⁰¹ Quoted in Jenkins (1970) p.106

⁵⁰² Castle (1984) p.641, entry for 29 April 1969

⁵⁰³ *The Times*, 5 May 1969

⁵⁰⁴ Quoted in Pimlott (1992) p.537

statement in which he called for an end to divisions over industrial relations reform, the cause of which he placed firmly at the government's door: 'Ministers must not fall into the error that their determination and their resolve to force things through the party and through Parliament is either desirable or possible. It can only be done with us, it cannot be done without us.'⁵⁰⁵

However, as quickly as the leadership challenge blew up, so it was over. On 9 May, the Cabinet held a joint meeting with the NEC at which Callaghan, once again, sided with the NEC over the Cabinet Castle records him saying that the Government's job was to build up the popularity of the trade union movement not describe it as 'ante-diluvian'⁵⁰⁶, and Wilson was left with little choice but to sack him from the management committee. Similarly, two days later, Roy Hattersley abandoned the Rugby League Cup Final visit Jenkins with a plea that he allow his name to go forward and actively oppose *In Place of Strife*. According to Hattersley, Jenkins refused on both accounts, 'He had told Barbara Castle that he would support her to the end and he was not prepared to risk the accusation of betrayal.'⁵⁰⁷ The leadership challenge was effectively over.

4.10 Signs of compromise?

On 4 May, Wilson was scheduled to make a speech to the Labour party May Day Rally at the Festival Hall. Coming as it did, in the middle of all this activity, and only two days after the report in *The Times*, he took the opportunity to address the plotters head on with his famous, "I know what's going on, I'm going on"⁵⁰⁸. Commentators both then and since have focused on this aspect of the speech to virtual exclusion of all else. Pimlott, for example, refers to 'an audible intake of breath from the audience', as the listeners waited for 'some embarrassingly paranoid accusation'⁵⁰⁹. However, much of the substance of the speech was devoted to the industrial relations bill, and it is here that the first signs of compromise began to emerge.

⁵⁰⁵ Quoted in Jenkins (1970) p.199

⁵⁰⁶ Castle (1984) p.649, entry for 9 May 1969

⁵⁰⁷ *Guardian*, 6 January, 2003. Hattersley's memories of Jenkins

⁵⁰⁸ Quoted in *The Times*, 5 May 1969

⁵⁰⁹ Pimlott (1992) p.538

We have seen how Wilson referred to his willingness to consider any proposals from the TUC that were as urgent and as effective as those of the government, and how this phrase was used with both the TUC and the PLP. However, in his May day speech, he only referred to the trade unions providing an 'effective alternative'. Furthermore, the door was 'wide open' for the unions to provide such an alternative and not just until the legislation was introduced, for, even when the legislation was on the statute book, he was prepared 'to give the trade union movement their head in showing that they can do better before the legislation is invoked'⁵¹⁰. The change was a subtle one, but on such subtle changes were the negotiations of the next few weeks to hinge.

Wilson was not the only one looking for a compromise. On 21 April, the TUC finance and general purposes committee met to consider their response to the interim bill. It was noted that fourteen requests had been received calling for a special congress. As we have seen, the general council previously had rejected such calls on the grounds that legislation was not expected until the autumn. However, it was now agreed that the prospect of early legislation created a new situation and that, on balance, a special conference was more appropriate than a conference of executives, and that it should be recommended to the general council that a special congress be convened on Thursday, 5 June. Significantly, it was agreed that the conference would only be useful if it were based on a 'constructive statement' from the general council which not only set out the 'fundamental objections' to the legal penalties but also put forward proposals to deal with some of the more 'pressing problems', including inter-union disputes and unconstitutional strikes.

Two days later, the general council met to consider the recommendation to hold a special congress, and the production of a, 'constructive statement'. The majority were in favour of the congress, and a significant number supported the need for a constructive statement. Les Cannon, for example, argued that there was a danger that the congress would simply 'provide a platform for those who wished to defeat whatever attempts the Government made to bring order into industrial relations',

⁵¹⁰ Quoted in *The Times*, 5 May 1969

unless the GC could put forward 'realistic and effective' proposals of its own. Similarly, Walter Anderson was in favour of the congress as long as it was positive and 'not just the banging of big drums against government policy'⁵¹¹. Furthermore, he argued, if the general council felt that it needed certain additional powers, it should put them before the congress and take the consequences of its decision.

Supporting the arguments in favour of a positive statement of trade union reforms, Jack Jones argued that the structure of the statement should reflect the need to both express opposition to the penal clauses, and support the general council's own proposals. As such, he argued, 'he would favour radical reform within the TUC structures for dealing with some of the unions' problems, including demarcation disputes, but he did not think it should be mixed up with concrete opposition to the penal provisions of legislation'⁵¹². He was supported in this by Alan Fisher, who proposed that the statement should be structured to enable three separate votes on three issues; the penal provisions; the positive and acceptable proposals in the white paper; and the general council's own proposals for reform. The meeting ended with Feather noting that all of the points that had been raised would be considered in the drafting of the statement.

On the following day, Eric Wigham noted that 'speaker after speaker urged that [the general council statement] should be devoted mainly to the consideration of positive proposals and not just made an opportunity for lambasting the Government'. However, he stressed, this new found moderation should not be exaggerated; the general council had not tempered its opposition to the penal clauses, but was 'a good deal calmer about it'⁵¹³. In the circumstances, given Wilson's new found determination to negotiate, 'beyond the eleventh hour', this new found calmness could pave the way for a negotiated solution, and, when Wilson invited the general council to a meeting to discuss their proposals, it looked like the beginning of the end.

⁵¹¹ MRC, MSS 292B/20/9 - TUC General Council Minutes. Minutes of the twelfth meeting held on Wednesday, April 23, 1969

⁵¹² MRC, MSS 292B/20/9 - TUC General Council Minutes. Minutes of the twelfth meeting held on Wednesday, April 23, 1969

⁵¹³ *The Times*, 24 April 1969

4.11 Summary

If *In Place of Strife* was an attempt to develop a coherent philosophy, Callaghan was surely right to say that the interim bill was ‘instant government’. Driven by a combination of union intransigence, damaging industrial disputes, political rebellion and the need to reassert control over the PLP, Castle and Wilson decided to push ahead with the most controversial proposals in the white paper: the strike ballot and the conciliation pause. In doing so they finally forced the unions to the negotiating table, but the cost, both in terms of Wilson’s leadership and Castle’s political standing was immense.

Perhaps the most striking fact to emerge was the legal advice that the bill could be legitimately unpicked if further legislation was introduced in the autumn. Castle’s decision to press ahead despite this advice was founded entirely on the desire to force Callaghan’s hand. In this and in the attempt to take advantage of a perceived public momentum to carry the legislation through, the interim bill was a failure. Callaghan did not resign, and any sense of momentum foundered on poor performances by Castle and Wilson, and the intransigence of the PLP. However, having been relatively quiet during February and March, the interim bill did bring Wilson back to the forefront of events, a position he was to remain in until agreement was eventually reached. Studying Wilson’s rhetoric during these early meetings it is now clear that, whilst remaining outwardly firm, he was preparing the way for a compromise from the outset. He had clearly heard Castle telling the rest of the Cabinet that the penal clauses would not be needed if the TUC could produce their own proposals and, in continually stressing that any such proposals would need to be as ‘equally effective’ and ‘equally urgent’ as the those in the interim bill Wilson was not only inviting the TUC to produce their own proposals, he was carefully establishing himself both as the arbiter of what was to be considered ‘equally effective’, and the judge of whether his criteria had been met. The flexibility that this gave him was almost immediately obvious when he responded to the leadership challenge by loosening his definitions, referring only to an ‘effective alternative, and he was quickly rewarded with the reassertion of the moderate voices within the TUC and the general council’s decision to produce

a 'constructive statement' of its own. Wilson's flexibility did, of course, have its limits and, in the weeks that followed, it would be tested to utmost.

CHAPTER FIVE: OPENING NEGOTIATIONS: MAY – JUNE 1969

5.1 Introduction

This chapter covers the period from the production of the TUC general council's statement for the special congress at the beginning of May, to the immediate aftermath of the special congress in early June. After a review of the respective positions of the government and the TUC, consideration is given to the development of the general council statement, 'A Programme for Action', in terms of content, the tensions it revealed within the general council, and the reactions of press, government and civil service. Following publication of the TUC programme, focus is placed on the detailed pattern of negotiations between the government and the general council, identifying the shifting balance of advantage as it played out in both the public and the private spheres, and the emergence of areas of agreement and compromise. Detailed attention is given to the emergence of Wilson's 'missing link', the crucial measure of effectiveness he felt was lacking in the TUC proposals, and Castle's notion of 'cold-storage', the proposal that the penal clauses be suspended pending assessment of the effectiveness of the TUC proposals. Finally, consideration is given to two crucial meetings held at the beginning of June. The first was a secret meeting held at Chequers, famous subsequently for Wilson's supposed riposte to Hugh Scanlon to 'get your tanks off my lawn, Hughie', at which the intransigence of both Scanlon and Jack Jones did much to harden Wilson's attitude. The second was the TUC special congress held on 5 June, at which an overwhelming majority voted in favour of 'A Programme for Action', putting the general council in a seemingly unassailable position for the remainder of the negotiations.

5.2 'The Sun Climbs Slow, How Slowly'⁵¹⁴

In many respects, May 1969 represented the beginning of an improvement in the government's fortunes. The economy began to show the first signs of a post-devaluation recovery as Roy Jenkins was able to announce a visible trade deficit of only £13 million. This was followed by a deficit of no more than £20 million in June and the announcement that the overall balance of trade was showing a £67 million surplus⁵¹⁵. In addition, opinion polls began to show the beginnings of an

⁵¹⁴ Jenkins (1994) p.273, Chapter fifteen

⁵¹⁵ Jenkins (1984) p.279

improvement. A Gallup Poll carried out for the *Daily Telegraph* between 13 – 16 June 1969 indicated that Labour had cut the Conservative lead by over five percentage points from the position a month previously⁵¹⁶. When coupled with the fizzling out of the Jenkins/Callaghan leadership challenges and the decision to lance the boil of House of Lords reform, it was evident that the sun was beginning to rise for Wilson at least. However, his determination to pursue trade union reform risked reopening the leadership challenge, splitting the party from top to bottom, and losing those vital points in the opinion polls. It was hardly surprising, therefore, that increasing numbers within the PLP began asking if it was worth it. After all, Wilson had argued that trade union reform was essential to economic recovery and yet the economic recovery appeared to have started without the reform. Similarly, there were strong hints that the TUC were preparing to launch their own proposals, a clear indication to many in the party that they had responded to government pressure, so why not give them a chance to work? Against this backdrop, Wilson's behaviour appeared quixotic to many within both the PLP and Cabinet and much would hinge on his ability to convince them that there was an important principle at stake. In the meantime, there were the detailed negotiations to consider.

5.3 The state of the parties: May 1969

What were the relative strengths of each side as they prepared to open negotiations. At first glance Wilson and Castle were in the weaker position. Both the NEC and a significant proportion of the PLP had been opposed to the original proposals, and there was nothing in their reaction to the interim bill to suggest that they had shifted from this position. On the contrary, reactions within the PLP highlighted the difficulties the government would face in trying to get the bill through parliament. Similarly, resolutions from the constituency parties suggested that the majority were opposed to the penal clauses. Furthermore, regardless of opinion polls indicating a majority of the public in favour of the penal clauses, lukewarm responses in the press had failed to provide the level of external support that Wilson and Castle needed if they were to win over internal opposition. In the

⁵¹⁶ *Daily Telegraph*, 18 June 1969

face of these weaknesses, Wilson had accepted the need to negotiate, as evidenced by his 'I'm going on' speech on 4 May⁵¹⁷.

However, in spite of these obvious weaknesses, Castle and Wilson did retain some important cards. Most importantly, as Wilson had hinted, and Bob Mellish made explicit⁵¹⁸, Wilson remained Prime Minister and as such retained the ultimate sanction in his authority to dissolve parliament and call a general election. Wilson had deliberately raised the stakes by declaring that the proposals were essential to the country's economic recovery. However, as with any such deterrent, it had to be used carefully, but the knowledge that the government could well lose, heralding a much more draconian Conservative approach to industrial relations, was a very powerful tool, which Wilson was to use to maximum effect as the negotiations progressed. For Wilson to dissolve parliament in these circumstances, as well as pre-echoing Heath's 1974 question of 'who governs?' would make the trade unions the obvious target of any new administration's legislation, regardless of political colour. At a more visceral level Wilson was also aware that the fizzling out of the leadership challenge proved once again that the party could not agree on anyone to replace him, and that as such a threat to resign was also a powerful card that could be played as necessary. Finally, at this stage Wilson could still command a majority in the Cabinet. Whilst opponents within the Cabinet were well known and vociferous, they had not been able to block the interim proposals. Once again this gave Wilson a formal position of strength that he reinforced with the establishment of the management committee. This meant that for the first time since the publication of the white paper, Wilson and Castle could call on the support and advice of a wider group of Cabinet colleagues.

There was also evidence that opinion, both within and the outside the labour movement, was shifting in favour of negotiation, with resultant pressure on the TUC to come forward with proposals of their own. Externally, both the *Guardian*

⁵¹⁷ For detailed discussion of Wilson's changing approach to negotiations, see chapter four

⁵¹⁸ Attending his first meeting as Chief Whip, Mellish had told the PLP that a failure to support legislation would be treated as a vote of no confidence. *The Times*, 5 May 1969

and *The Times*⁵¹⁹ published editorials that were critical of the tardiness of the TUC's response, and *The Times* reported on what it perceived to be a cooling off of anti-government rhetoric on the part of the trade union leadership in the face of growing rank and file support for a negotiated settlement. Internally, the PLP welcomed the onset of negotiations and gave support to Wilson and Castle for an effective outcome, though this was not by any means an endorsement of their proposals. At the same time there was a subtle change in the tone of CLP resolutions; whilst the majority submitted during May remained opposed to the penal clauses, a significant number called for a negotiated settlement rather than just expressing outright opposition⁵²⁰.

Tactically, therefore, Wilson's negotiating stance was a complex one. Whilst he had no wish to make a threat of dissolution explicit for fear of the TUC calling his bluff; he wanted it understood that it remained the ultimate sanction. As such he chose to focus on the emerging pressure for a compromise, making it very clear that he was prepared to consider any and all proposals coming from the TUC. This attitude of reasonableness would achieve several objectives; it would allow the TUC to come forward with genuine proposals; it would encourage the press to support the government in its search for solutions; and, in the event of talks breaking down, it would enable him to seek both Cabinet and PLP support on the grounds that he had tried all other solutions. Furthermore, by setting his own criteria for agreement, that any proposals be as effective and as fast acting as those of the government he was seeking to retain control of the negotiating process and its definition of success. Finally, by drawing out the negotiations, he was allowing for the prospect of splits to emerge within the TUC.

For the TUC on the other hand, the government's weaknesses became their strengths. Formal and informal links into the NEC, PLP and the Cabinet meant that they were fully aware of the lack of support for the government's proposals and this intelligence proved vital, enabling the TUC negotiators to determine the

⁵¹⁹ For example see *Guardian*, 22 April 1969. *The Times* and the *Guardian* are quoted extensively throughout this section as they provided the most detailed coverage of both day-to-day events, and commentary. Other newspapers tended to focus less on the day-to-day events and confined themselves to commentaries at significant points, which are quoted as they appear.

⁵²⁰ LPA, Labour Party Home Policy Sub-Committee, resolutions received 5 May – 3 June 1969

real strength of Wilson's position. However, Wilson's strengths were also the TUC's weaknesses. The pressure to negotiate required concrete and effective proposals and these in turn required unanimity among the TUC leadership. It was already clear that the effectiveness of TUC proposals would hinge on their ability to manage individual unions, something that they had failed to do in the past, and this in turn centred on the willingness of the unions to cede authority to the TUC. Whilst there was a core of moderate trade union leaders prepared to consider a wider role for the TUC, opposition to the penal clauses within many unions, but most notably the TGWU and the AEF, meant that the general council would have its work cut out in convincing both the government and wider public opinion of its ability to keep its own house in order, whilst managing trade union opinion in such a way as to keep the likes of the AEF on board. Tactically, therefore, the TUC had to be careful. They were all too aware of their strength, but a refusal to negotiate would lead to charges of inflexibility and unwillingness to compromise. However, if they were drawn into negotiations, they would need to be confident both of carrying individual unions with them, and of producing proposals that met Wilson's effectiveness criteria.

5.4 The general council's response: 'A Programme for Action'

As we have seen, the TUC general council agreed on 23 April that a statement should be produced for the special congress⁵²¹. The decision marked a significant shift in attitude, as a series of moderate voices, led by Les Cannon, argued that the congress would provide little more than 'a platform for those who wished to defeat whatever attempts the Government made to bring order into industrial relations', unless the general council could put forward 'realistic and effective'⁵²² proposals of its own. Cannon was supported by fellow moderate Walter Anderson⁵²³ who was in favour of the congress as long as it was positive and 'not just the banging of big drums against government policy'⁵²⁴.

⁵²¹ See chapter four

⁵²² MRC, MSS292B/20/9 – TUC General Council Minutes. Minutes of the twelfth meeting held on Wednesday, April 23, 1969.

⁵²³ Anderson had a consistent history of calling for greater action from within the trade union movement. In January 1969, he was quoted by Eric Wigham of *The Times* referring to the Girlings' dispute. According to Wigham, Anderson thought it 'pretty silly' that a handful of strikers at Girlings had been able to throw thousands out of work without the TUC doing anything about it. 'Unless and until we do something ourselves we must expect to be up against the threat

The subsequent draft statement, 'Industrial Relations – A Programme for Action', reflected, in both its structure and content, the tensions that had emerged within the general council. Part one of the statement reiterated the general council's opposition to the penal clauses, but sought to balance this by an acknowledgement that a number of proposals in the white paper could help to strengthen collective bargaining. Thus a statement that the government had 'greatly exaggerated' the effects of industrial action when it led 'at most' to the loss of a tenth of one per cent of production, was balanced by an acceptance that, however limited the impact, 'every effort should be made to reduce the number of stoppages'⁵²⁵. However, whilst attempting to provide a balanced set of arguments, the first section could not disguise the fundamental differences between the TUC and the government. Overall, it concluded, 'the improvement of collective bargaining arrangements and industrial relations generally, can only be secured by patient discussion leading to an agreement between trade unions and employers'⁵²⁶. Furthermore, trade union experience, in 'the practical world of industrial relations', had convinced them that 'the Government is profoundly mistaken if it believes that the threat of punishment will accelerate the introduction of necessary changes'⁵²⁷. The patronising and superior tone of that final statement reflected the widely held view within the movement that neither Castle nor Wilson understood either trade unions or industrial relations. It conveniently forgot that many of the officials within Castle's department were as experienced in industrial negotiations as their colleagues within the TUC and did little to foster the constructive atmosphere that the likes of Cannon and Anderson had called for.

When the draft was considered by the general council, and perhaps as a consequence of this heightened rhetoric, concerns were again expressed that setting out opposition to the penal clauses in the opening paragraph would simply

of legal restrictions by the Government and even more serious restrictions by a Tory administration'. *The Times*, January 11, 1969

⁵²⁴ MRC, MSS292B/20/9, TUC General Council Minutes. Minutes of the twelfth meeting held on Wednesday, April 23, 1969

⁵²⁵ NA, PRO, LAB43/534, 'Draft Report to Special Congress, Industrial Relations – A Programme for Action', 7 May 1969

⁵²⁶ *Ibid.* paragraph 9

⁵²⁷ *Ibid.*

result in too much time being spent on negative opposition, rather than in constructive debate. However, Feather was adamant that the general council had been clear throughout that outright opposition to the penal clauses was an accurate reflection of the mood of the trade union movement. Perhaps more importantly, with an eye to the forthcoming negotiations, he stressed the importance of the congress being given the opportunity to express a 'clear view' on the penal clauses in the light of government claims that the general council did not speak for the rank and file. Thus, the opening section sought to fulfil two perhaps contradictory functions. For the moderates it was important in setting a constructive tone for the negotiations, whilst for the more pragmatic Feather it provided a means of strengthening the TUC's opening position..

If the first section was important in setting the tone, the second section provided the 'meat' of the TUC proposals and as such was central to the moderates' call for a constructive approach. The section dealt with three areas; relations between unions and employers; relations between unions themselves; and relations within unions. It was the first two areas that were of interest to the government. The first dealt with the TUC's proposed response to unofficial strikes, whilst the second dealt with mechanisms for dealing with inter-union disputes.

On examination, it was immediately obvious that the TUC was prepared to go much further in trying to resolve inter-union disputes than they were in trying to resolve unofficial action. In many ways this was inevitable given that managing inter-union relations was central to the TUC's original 'raison d'etre'. However, the point had been reinforced in the TUC's response to *In Place of Strife* published in January 1969, and which indicated a willingness on the part of individual unions to cede autonomy to the TUC in cases of inter-union disputes. The draft statement proposed substantial amendments to rule 12 of Congress that, in its existing form, placed an obligation on the general council, 'to use their influence to promote a settlement where a dispute arises between affiliated organisations'⁵²⁸. The proposed amendments would place an obligation on all affiliated organisations to notify the general council when a stoppage was

⁵²⁸ NA, PRO, LAB43/534, 'Draft report to Special Congress, Industrial Relations – A Programme for Action', 7 May 1969, see paragraph 71.

proposed, and prevent organisations from calling a stoppage until the general council had investigated and made a ruling. In the event of an individual organisation failing to implement the ruling, the amended rule 12 gave the general council authority to report the matter to the next annual congress, or deal with it itself under the provisions of rule 13, which gave the general council the authority to suspend a union from congress. These proposals represented a substantial step forward. In a briefing for Castle and Wilson, Castle's chief negotiator, Conrad Heron⁵²⁹, confirmed that the proposals went considerably further than those contained in the interim bill. The government's proposals were confined to inter-union recognition disputes, whereas the general council envisaged TUC intervention in disputes over job demarcation, union membership, wages and terms and conditions. Furthermore the proposal that affiliated unions would have an 'obligation' to inform the general council of a potential dispute was a substantial change from the existing arrangements under which the general council could only intervene, 'on application' from an affiliated union, an arrangement which, according to Heron, both the TUC and its affiliates, 'particularly the AEF', had 'often hidden behind it in the past'.

Heron's assessment was crucial to the impact the proposals would have with Castle and Wilson. He was an old Ministry of Labour hand and, as the head of the industrial relations side of the department was a seasoned negotiator who could not be dismissed as having limited knowledge of industrial relations or the trade union movement. If Heron thought the proposals were a 'big step forward', there was a good chance that both Castle and Wilson would agree. He was not so enthusiastic, however, about the proposals relating to unofficial disputes⁵³⁰.

Whilst the draft statement acknowledged a growing concern over the 'question of unofficial strikes'⁵³¹, it questioned the use of the term. According to the statement, the majority of so-called unofficial strikes arose in instances where existing procedure agreements were too tightly defined and where management

⁵²⁹ Deputy Secretary, Department of Employment and Productivity

⁵³⁰ NA, PRO, LAB43/534, Note from C.F. Heron to D.B. Smith, 'T.U.C. proposals for industrial relations reform', 9 May 2003

⁵³¹ *A Programme for Action*, paragraph 16

insisted on ‘their prerogative to make decisions unilaterally’⁵³². In such instances workers were left with little alternative but strike action. The solution, therefore, was for both sides to adopt mutually agreed procedure agreements, with the status quo applying until such agreements were in place. In such circumstances, a strike could only be declared unofficial if action was taken in breach of mutually agreed procedures. In the absence of such procedures it would be ‘misleading’ to term any such disputes unofficial. As such, it was argued, the answer to most unofficial disputes was to be found in the work of the post-Donovan industry specific conferences and worked through at a local level. This analysis, whilst perfectly consistent with the general council’s support for Donovan, had more than a touch of sophistry about it. Redefining the rash of unofficial strikes that were plaguing the motor industry, for example, would do little in itself to either prevent them from happening or bring strikers back to work. It was precisely in this area that the government was looking for TUC intervention.

The general council statement noted that individual unions already had an obligation under rule 11 of congress, to keep the general council informed about official disputes, and the general council was ‘empowered on certain conditions to use their influence to effect a just settlement of a difference between a union and an employer’⁵³³. Whilst the general council had always used its power to intervene with discretion, they ‘were bound to interest themselves actively in disputes which significantly affect the wages or employment of large groups of workers who are not parties to the dispute’⁵³⁴. Therefore, it was proposed that rule 11 be amended to include ‘unauthorised and unconstitutional stoppages which are likely to have serious repercussions’⁵³⁵. Such an approach was hardly the kind of effective and fast-acting intervention that Wilson and Castle had in mind. Whilst the problems of inadequate procedure agreements were undoubtedly valid, and accepted as such by the government, there was nothing in these proposals for intervention in unofficial disputes to indicate how the general council would effect a resolution in such cases and, more importantly, how it would impose it on the relevant union(s) and ensure that it was adhered to.

⁵³² *ibid.* Paragraph 17

⁵³³ *ibid.* Paragraph 32

⁵³⁴ *ibid.*

⁵³⁵ *ibid.* paragraph 34

Heron was suitably succinct: not only were the proposals ‘unimpressive’, the suggestion that the responsibility for increased unofficial action lay entirely at the door of faulty procedures and unilateral employer action was ‘to say the least one sided’⁵³⁶. Whilst the proposed amendment to rule 11 was a ‘positive action’, the proposals did little more than ‘regularise the present position under which the TUC, usually on the suggestion of the Department, attempts to exercise moral persuasion to get officials of the union concerned to bestir themselves to secure a return to work’⁵³⁷. Finally Heron questioned the willingness of the general council to tackle the bigger unions such as the AEF and TGWU. His experience showed that the general council had tended to be ‘noticeably cautious’ in approaching either of them, and he thought it unlikely that these proposals would bring about any change.

What is striking about the initial draft is how clearly the issues emerged that would dominate the negotiations. The proposals for dealing with inter-union disputes, with the explicit rules for intervention, enforcement and sanctions were in such a marked contrast to those relating to unofficial strikes that it was inevitable that all attention would be focused on the latter. As has already been noted, there was a longstanding willingness to cede authority to the TUC in the case of inter-union disputes, going back at least as far as the ‘Bridlington Regulations’ of 1939⁵³⁸. However, the reluctance to intervene in unofficial strikes can only be explained by the historical antipathy of individual unions to any interference in their workers’ right to strike. Whilst inter-union disputes involved the management of issues between unions, intervening in an unofficial dispute could lead to the charge of interfering with internal management arrangements and with the rights of an individual worker to take strike action. Indeed, not only was there a reluctance to brook any interference to an individual’s right to strike, it was clear that opposition extended to any restrictions on the right of an individual to strike regardless of whether or not the action was sanctioned by their

⁵³⁶ NA, PRO, LAB43/534, Note from C.F. Heron to D.B. Smith, ‘T.U.C. proposals for industrial relations reform’, 9 May 1969

⁵³⁷ *ibid.*

⁵³⁸ The ‘Bridlington Regulations’ were drawn up by the TUC in 1939 to provide a framework for the governing of inter-union relationships and to prohibit poaching between unions. Though not formally a rule of Congress, they had been strictly observed.

union. It was the acknowledgement of this that led Wilson and Castle to focus on the need for individual unions both to adopt rules enabling them to take action against unofficial strikers and to use them.

Furthermore, as Heron highlighted, not only was there historical antipathy to TUC intervention, there was a well-established tendency for the TUC to avoid confrontation with the larger unions that suggested not just a reluctance to intervene but an acknowledgement that any attempts to do so were likely to be rebuffed. For Wilson and Castle, therefore, the issues were straightforward: if the TUC wanted the government to drop its own proposals they would have to overcome union antipathy to external intervention, and their own reluctance to confront the larger unions: the battle lines were clearly drawn.

5.5 The first meeting: 12 May 1969

Such was the tightness of timescales, that the general council endorsed the draft 'Programme for Action' in the morning of 12 May and sent it immediately to Wilson in order that he have sight of it prior to their meeting in the afternoon. The short notice meant that Castle and Wilson could delay a formal response on the grounds of needing time to consider the document. However, at a private meeting with Castle and Wilson on 5 May⁵³⁹, Feather had promised to send them a draft as soon as it was ready. He was as good as his word, and a copy was sent to Castle on 7 May. These private meetings were an important part of Feather's negotiating strategy, as he sought to play the role of honest broker between government and TUC. According to his biographer, Feather was careful to keep the TUC chairman, John Newton, informed of these discussions⁵⁴⁰, but his tactics did lead to disquiet among members of the general council. Jack Jones, for example, has remarked of the private meetings that they led Castle and Wilson to believe that Feather was on their side, and that the TUC might have made more progress 'had he presented our case strongly, as if it was his own'⁵⁴¹. Government officials were certainly aware of the potential difficulties of Feather's position. In a covering note, sent with a copy of the draft to Wilson's office, Douglas Smith, Castle's private secretary, stressed the need for confidentiality, commenting that it would

⁵³⁹ Castle (1984) pp.644-45, entry for 5 May 1969

⁵⁴⁰ Silver (1973) p.137

⁵⁴¹ Jones (1986) p.205

‘of course gravely embarrass Victor Feather if it was in any way made obvious that Ministers knew the contents of the general council memorandum or had obtained copies’⁵⁴². Feather’s action meant that Castle and Wilson were much better prepared for the meeting with the TUC than they let on.

As well as sending a copy to the government, it was clear that someone had leaked details to the press. On 8 May, the *Daily Mail* ran a short article under the heading, ‘TUC throws Wilson a lifeline’, noting that the TUC had produced a report which Wilson could ‘grasp at’, although it did not provide any details. In the following days, *The Times*, *Guardian*, *Daily Telegraph*, *Sunday Times* and *Observer* all carried articles on the substance of the proposals in advance of the meeting, and, importantly for the government, the majority were lukewarm. According to *The Times*, the TUC scheme was ‘very far from an equivalent’ to the government’s proposals and ‘nobody could rely on this working’⁵⁴³, whilst the *Daily Telegraph* took the view that the proposals, ‘measure up to no conceivable measure of effectiveness’⁵⁴⁴. Similarly, the *Observer* commented that, ‘the deathbed conversion of the trade unions to the idea that they should play a larger part in regulating disputes comes too late to carry much conviction’⁵⁴⁵, and the *Sunday Times* agreed that the document ‘proposed little more than an extension of the TUC’s existing powers’⁵⁴⁶. The only paper to appear more positive was the *Guardian*. In its leading article, the paper commented that the proposals ‘appear stronger than expected’⁵⁴⁷, and in a front page report suggested that they could form the basis for a compromise under which the government proposals were put on ice while the TUC plans were given a chance to work. However, even the *Guardian*’s support was qualified. Whilst the proposals were welcomed, proof was needed of their practical effectiveness and the TUC would need to avoid them being watered down by the special congress before they could be accepted as an alternative to the government’s own proposals.

⁵⁴² NA, PRO, PREM13/2726 Note from D.B.Smith to R.J. Dawe, 7 May 1969

⁵⁴³ *The Times*, 9 May 1969

⁵⁴⁴ *Daily Telegraph*, 12 May 1969

⁵⁴⁵ *Observer*, 11 May 1969

⁵⁴⁶ *Sunday Times*, 11 May 1969

⁵⁴⁷ *Guardian*, 9 May 1969

How did these comments affect the negotiations? On one level they strengthened Wilson's line regarding the ineffectiveness of the TUC proposals. With the majority of the press supporting Heron with regard to effectiveness, and even the *Guardian* calling for practical evidence, Wilson's negotiating position was clear: to push for evidence of the effectiveness of the proposals, with press support. However, this in itself did nothing to guarantee the outcome, and on this point the press were again united. *The Times* agreed that, following Douglas Houghton's speech⁵⁴⁸, it was clear that the industrial relations bill could not be carried and that consequently, whatever the failings of the TUC proposals, they were under no pressure to improve their offer. The paper concluded that the government had 'lost control' of the trade unions, who had shown that they could 'dictate to the Government on a matter of vital interest to both sides'. Similarly, the *Daily Telegraph*, whilst feeling that Wilson was 'all ears for any conceivable compromise', concluded that he would be forced to abandon any legislation and with it what was left of his credibility. The *Sunday Telegraph* went considerably further and called for the formation of a national government on the grounds that it would be the only form of administration to 'carry the authority to bring the trade union movement within the law'⁵⁴⁹, an argument with which even the *Daily Mirror* agreed, and neither Wilson, Heath, 'nor the trade unions' could afford to ignore⁵⁵⁰. This sense of the trade unions being beyond control was again picked up *The Times* on the day of the meeting. It accepted that both sides were too entrenched to reach an agreement, but argued that they could arrive at a 'modus vivendi'⁵⁵¹ to reduce political and industrial tension. Furthermore, there was a great incentive for both sides to do so, as it was not in the interests of either the labour movement or the country as a whole to see a major political party torn apart. To this end, it proposed that the government agree not to activate the anti-strike clauses for an agreed period of time in order to see if the TUC alternative worked. Similarly, the *Guardian* whilst wanting to see the proposals in detail, felt that they had the potential to be more effective than the government's, but reiterated the need to see their effectiveness in action before the government's legislation was put on ice.

⁵⁴⁸ See chapter four

⁵⁴⁹ *Sunday Telegraph*, 11 May 1969

⁵⁵⁰ *Daily Mirror*, 12 May 1969

⁵⁵¹ *The Times*, 12 May 1969

The call for a national government, and the general sense of the trade unions being beyond political control heightened the atmosphere surrounding the talks, and once again it is arguable that they shifted the balance towards Wilson and the government. In considering the strength of Wilson's position we noted that his ultimate sanction was dissolution and, with much of the press suggesting that he had little option, it was for the unions to consider how far they were willing to push him. An indication of their willingness or otherwise to compromise came on the day before the meeting at a conference of the Union of Post Office Workers where, ironically, both Wilson and Feather were speaking. Wilson made his now familiar plea, 'The Government, even at the eleventh hour, are prepared to give the fullest consideration to their proposals. Even beyond the eleventh hour the door is wide open to the trade union movement to work out a procedure which provides an effective alternative to our proposals'. However, he continued, in the event of a failure to arrive at such an alternative, 'I must repeat that few will deny to the Government the right, indeed the duty, to introduce legislation'⁵⁵². By now Wilson's words were being pored over for every linguistic nuance, and much was made of the reduction of 'equally effective', as used in his 4 May speech, to 'effective'. However, his stance remained clear, effective alternatives, or the government continued with its legislation. By way of a riposte, Feather took to the platform, and confirmed outright opposition to fines, which were wrong and 'the movement cannot accept it'⁵⁵³. Furthermore, whilst acknowledging that the areas of difference covered a very small area, Feather stressed that they were 'fundamental' and centred on the penal clauses, 'relating to fines on working people'. In a radio interview, he was asked about the prospects for the meeting and said that the thought it would be a long, argumentative session', during which neither side would convince the other. Thus, the lines were drawn, for all the dire warnings of national governments and irrevocable splits, the TUC would not accept the penal clauses and Wilson would only accept an effective alternative. The prospects were hardly promising.

⁵⁵² *The Times*, 12 May 1969

⁵⁵³ *ibid.*

After these dire warnings, the meeting proved to be an anticlimax. The TUC proposals were endorsed formally with only one dissident, Les Cannon of the Electrical and Plumbing Union who felt that the scheme was ineffective⁵⁵⁴. However, concerns were once again expressed at the negative tone of the opening section, bringing a swift rebuttal from Feather who made it clear that they 'were an accurate reflection of the mood of the trade union movement'⁵⁵⁵. Wilson and Castle were limited by the fact that they had only 'officially' received the proposals an hour or so before the meeting and as such had to be careful in making any detailed comments so as not to give away the fact that they had seen the report several days earlier. Instead, they focused on three points of clarification, all relating to unofficial strikes; would the amended rule 11 enable the TUC to intervene in all unofficial strikes and make binding awards? How would the general council deal with situations in which unions were unable to get members back to work? and how quickly could they act?. In response Feather stressed that the general council would be empowered to make binding awards, and that union executives wielded considerable power over members, including fines and expulsion. However, he was undermined by Cousins who suggested it would be 'unwise' for the TUC document to propose that affiliated organisations use all of their powers to comply with a general council ruling for, in his view, such a ceding of authority would not be acceptable to congress. Wilson, summing up, commended the TUC on the 'real progress' the proposals represented. However, he was not convinced that they satisfied his criteria of equal effectiveness and he returned to the need for clarification on the practical operation of the plans. To this end, it was agreed that the government would send the TUC a list of detailed questions, and that the meeting should be adjourned pending their response⁵⁵⁶.

Press reports of the meeting noted that Wilson's only concession had been the announcement that the bill would not now be introduced until after the special congress, giving both sides more time to arrive at some form of compromise.

⁵⁵⁴ See *The Times*, 13 May 1969

⁵⁵⁵ MRC, MSS 292B/20/9 – TUC General Council Minutes. Minutes of the thirteenth (special) meeting held on Monday, 12 May, 1969

⁵⁵⁶ See NA, PRO, PREM13/2727 Notes of a meeting with representatives of the TUC held at 10 Downing Street on 12 May 1969

However, on the substance of the proposals, both *The Times* and the *Guardian* were alert to the potential for compromise. *The Times* noted that, ‘in trade union negotiations, when heels are dug in, no one gives until the last possible moment’⁵⁵⁷, and suggested that the most likely form of agreement would be a decision to put the penal clauses on the statute book but put into cold storage while the TUC was given the opportunity to prove that its own proposals could work. In a similar vein, the *Guardian* considered that Wilson had done enough to leave his options open. ‘He (Wilson) can still say at some stage in the game either that the TUC plan is effective enough for him to put the penal sanction in cold storage or that it is not’⁵⁵⁸.

As if to confirm this point, Castle, delivering her fifth speech at the seventh full meeting of the PLP on the white paper, spoke of her hope of a ‘copper bottomed compromise’⁵⁵⁹ and emphasised the spirit of co-operation and goodwill shown by the TUC. However, as Castle spoke of her hopes for a compromise, she and Wilson were faced with a reminder of the weakness of their position, for the Labour ‘action committee’ formed to fight the bill, indicated that it had the support of 61 Labour members in its intention to oppose the bill at second reading, and to vote with the Conservatives in opposing a procedural motion to take it in committee upstairs⁵⁶⁰ rather than on the floor of the House, a move that could condemn the bill to same fate as the reform of the House of Lords⁵⁶¹.

5.6 Searching for the ‘missing link’ – The government’s response.

In this new climate of compromise and co-operation everything rested on the TUC’s ability to convince Wilson and Castle of the effectiveness of their proposals, and it was here that things began to unravel. In its letter to the general council, the government sought the answer to six questions relating to the amended rule 11;

⁵⁵⁷ *The Times*, 13 May, 1969

⁵⁵⁸ *Guardian*, 13 May 1969

⁵⁵⁹ *The Times*, 15 May 1969

⁵⁶⁰ See *The Times*, 13 May 1969

⁵⁶¹ See chapter four

1. How speedily would the TUC intervene?
2. Would the general council issue binding 'recommendations' and if so would they have the same binding force as those made under the revised rule 12?
3. If issuing 'advice' what steps would they take to ensure 'advice' was taken?
4. If the general council took action under rule 11, would there be an obligation on affiliated unions to use all of their available powers to get people back to work?
5. Would the general council require to be satisfied that this has been done and would it be able to require more effective measures where existing rules were inadequate to secure the necessary powers?
6. What powers would the general council ask for from Congress to ensure that (a) affiliated unions had rules adequate to discipline unconstitutional strikers where necessary and (b) that affiliated unions would exercise them in appropriate cases?⁵⁶²

Feather received the questions on 14 May, and moved quickly to produce a response for the general council, meeting on the following day. The response took the form of six additional paragraphs that, Feather was at pains to point out, were aimed at making explicit what was already implicit in paragraph 34 of the first draft, which simply referred to the scope of rule 11 being extended to unconstitutional and unauthorised stoppages⁵⁶³, and as such should be regarded as an 'addendum' rather than an amendment⁵⁶⁴.

The six paragraphs, which are reproduced in full at appendix 2, sought to flesh out the procedure that the general council would follow in the event of an unofficial dispute. As has been seen, the crucial issue for Wilson was the ability of the TUC

⁵⁶² NA, PRO, LAB43/534 Memorandum on the T.U.C General Council document, 'Industrial Relations – A Programme for Action', 14 May 1969

⁵⁶³ 'Nevertheless, the General Council do not believe that development of the TUC's own role in dealing with particular disputes need depend in the future, any more than it has in the past, on the active participation of the CBI. The General Council propose that the scope of Rule 11 should be extended to include unauthorised and unconstitutional stoppages, which are likely to have serious repercussions. They ask the Special Congress to endorse this course of action, and will submit the consequential changes in Rule 11 formally for the approval of the September Congress. In the meantime the General Council will operate on this new basis.' Paragraph 34 'Draft Report to Special Congress, Industrial Relations, A Programme for Action' PRO/PREM/LAB43/534, 7 May 1969

⁵⁶⁴ MRC, MSS292B/20/10, TUC General Council Minutes 1968-69(2) Minutes of the fourteenth (special) meeting (1968-69) held on Thursday May 15 1969

to achieve compliance with its recommendations, short of the threat of sanctions. The new paragraphs sought to offer reassurance on two fronts. Paragraph 38 pointed out that, over the years, individual unions had done, 'their utmost to implement recommendations by the TUC for the settlement of disputes', and that as such the general council was confident that individual unions would both impress on members the advantage of accepting TUC assistance, and 'accept responsibility for doing everything within their power' to ensure that members accepted the recommendations. Paragraph 39 stated that the general council would 'expect' unions to 'satisfy them that they had done all that they could reasonably be expected to do to secure compliance with a recommendation', and this would include taking action within their own rules if necessary. This was subsequently tightened further to say that the general council would 'require' unions to satisfy them that they had done all they could to ensure compliance. Furthermore, the paragraph continued, 'They recognise that a few unions may need to review their own rules to ensure that they are in a position to comply with recommendations or awards by the TUC'⁵⁶⁵. Finally, the paragraph confirmed that, as with the proposed action on inter-union disputes, a failure to comply with a recommendation made under rule 11 could lead to disciplinary action under rule 13, that is suspension or expulsion from Congress.

Regardless of Feather's insistence that the new paragraphs did not represent a policy change, Heron felt that they added 'some precision and toughness which was noticeably absent in the original document'. Similarly, he accepted that there was 'a hint of a "slipper"' in paragraph 39, in the requirement for unions to take action to secure compliance. However, regardless of these elements of compulsion, he concluded that the proposals left an element of 'permissiveness' in the exercise of the general council's powers and returned to the theme of his previous briefing, asking whether they would be prepared to take a 'tough and impartial line with the big and difficult unions like the AEF, the boilermakers and the T&GWU'. He concluded that an element of flexibility was essential to the working of the proposals, and that as such it was difficult to see what 'further explicitness' the government could expect to see written into the proposals. The

⁵⁶⁵ NA, PRO, LAB 43/534 Report to Special Congress, proposed additions May 14 1969

key question remained the same, 'whether the General Council will have the will to operate effectively under the ground rules they have laid down where the big unions are involved'. His own answer was straightforward, 'They have been reluctant to do so in the past', and as such he doubted they would do so in the future unless, crucially, 'an effective threat of further measures by the Government if the T.U.C fail is kept in being'⁵⁶⁶.

The general council meeting, whilst agreeing the new paragraphs, was very hostile to the approach it perceived the government to be taking. 'The Government, it was said, seemed to have an obsession that the cure for certain industrial relations problems was to impose a fine and that they wanted to extract from the general council a guarantee that everything which the general council proposed would so happen, inevitably and precisely.' Furthermore, as had often been the case previously, Feather implicitly questioned Castle and Wilson's understanding of the trade union movement; some of the questions were 'irrelevant and envisaged situations which were not likely to arise'; whilst others asked for guarantees when the general council could 'equally well ask the Government what guarantees they could provide in respect of the effectiveness of their proposed legislation'⁵⁶⁷.

Specifically, however, the general council were angry at the fact that the government memorandum sought to introduce an element of "crime and punishment" into their proposals. It was pointed out that the general council's proposals had arisen because they were convinced that fines would not work, and if the government persisted in introducing the penal clauses, the proposals would not be given a fair chance. Similarly, talk of government 'reserve powers' was dismissed because 'every penalty was in a sense a reserve power in the last analysis'⁵⁶⁸. Therefore, it was agreed that, whilst the general council's proposals would come into operation immediately, assuming they were accepted on June 5, should the government then go ahead with legislation, they 'would halt the operation of their own proposals and would report the decision to the September

⁵⁶⁶ NA, PRO, LAB 43/534 'General Council Report to Special Congress: additional paragraphs', note from C.F. Heron to D.B. Smith 16 May 1969

⁵⁶⁷ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2) Minutes of the fourteenth (special) meeting held on Thursday May 15, 1969.

⁵⁶⁸ *ibid.*

Congress for their decision'⁵⁶⁹. This was a key decision and a dangerous one. As has been seen, Heron questioned the general council's willingness to intervene unless the government maintained the threat of 'further measures'. The absence of such measures, under the terms of his analysis, weakened seriously the general council's proposals for it removed their incentive to intervene. Furthermore, it gave the impression of intransigence at a time when the government were being seen to be flexible, a position likely to harm their support among the general public.

The general council decided to publish its proposals, albeit with the additional paragraphs indicated the limitations of its willingness to compromise. In his covering letter to Castle with a copy of the report, Feather made it clear that whilst many of the points she had raised were covered in the additional paragraphs, she would understand, 'that it is impossible for the general council to attempt to say how they would deal with every hypothetical situation'⁵⁷⁰. However, he was clear on two crucial points; that the general council did not think it appropriate for 'the TUC to impose fines on affiliated unions'⁵⁷¹; or that the protection of Section 3 of the 1906 Act should be withdrawn from officers or members of trade unions failing to accept a TUC ruling. Feather's letter effectively scuppered Castle's much vaunted 'copper-bottomed agreement'. It was clear that the general council were not prepared to go beyond the actions set out in their proposals and whilst they might contain the 'hint of the slipper', question marks remained over their willingness to use it on the more powerful unions. However, as Heron had pointed out, it was difficult to see how the TUC could go any further without losing the flexibility that was an inherent element in all industrial relations negotiations.

This sense of an emerging stalemate was picked up in the two newspapers that reported the general council meeting. The *Guardian* reported that the TUC had launched a 'two-pronged attack'; on the one hand approval of their own scheme; and on the other, instructing Feather to make it clear that the scheme would be

⁵⁶⁹ *ibid.*

⁵⁷⁰ NA, PRO, LAB 43/534 Letter from Vic Feather to Barbara Castle, 'TUC Report to Special Congress', 16 May 1969

⁵⁷¹ *ibid.*

abandoned if the government proceeded with its own legislation. Commenting on Wilson's position, John Torode, the labour correspondent, noted that the TUC stance represented a 'real problem'⁵⁷² for Wilson who now had to decide if he could 'take the screws off', by which he meant had the TUC done enough for him to feel confident that dropping the penal clauses would not merely be a climb down? Similarly, *The Times* led with the TUC 'ultimatum' over the dropping of the penal clauses, and highlighted the fact that the general council had been 'exasperated' by the government questions', which unnamed members said were 'silly or to show a lack of understanding of the way the trade union movement works'⁵⁷³.

Both papers followed up with a commentary on the proposals themselves. *The Times* commented that the proposals gave the general council 'far more central authority than they have ever had before'⁵⁷⁴, and argued that the government would have to consider very carefully before introducing legislation that could lead to 'this notable advance' being lost. However, whilst acknowledging that these were grounds for abandoning the penal clauses, the leader reminded readers that it was the threat of legislation that had taken the TUC this far, and if removed, 'is there not a danger that the union leaders will fall back into their accustomed vague and leisurely habits?'⁵⁷⁵. In the circumstances, it was important to retain the gains that had been made, without abandoning the possibility of legislation should it be needed. This pointed towards the 'reserve powers' options that the *The Times* had raised previously and which had been rejected so clearly by the general council. However, applying a criteria of rationality, the paper argued that, from a union perspective, 'there was a lot to be said of settling for the kind of legislation this Government would introduce instead of waiting for what the next government will do'. As has been seen, however, the general council, who had little regard for any legislation regardless of political colour, did not share this rational view.

⁵⁷² *Guardian*, 16 May 1969

⁵⁷³ *The Times*, 16 May 1969

⁵⁷⁴ *The Times*, 19 May 1969

⁵⁷⁵ *ibid.*

The *Guardian* shared with *The Times* the view that it was government pressure that had brought the TUC this far, and that both sides had a ‘tremendous interest’ in averting a collision. Therefore, if the special congress backed ‘wholeheartedly’, the general council’s programme, the government should revise the draft bill to remove the penal clauses, acknowledging that they could be reinstated later if necessary. The paper acknowledged that such a change would be difficult for Wilson, and that the TUC would need to very quickly demonstrate the effectiveness of its proposals. However, ultimately, ‘TUC action is better than Government action and will carry a more genuine promise of improved industrial relations’⁵⁷⁶.

Following the discussion of the new paragraphs at the general council, Feather had a private meeting with Wilson. The Prime Minister was cautiously positive, telling Feather that the new paragraphs represented a ‘further advance’⁵⁷⁷, but crucially also that, ‘although the “missing link” was smaller it was still “missing”’. For Wilson, the missing link was the coercive powers he required as part of his ‘equally effective’ formula. Feather countered with reference to the new paragraph 39 that ‘required’ unions to take action to ensure compliance with general council recommendations. Wilson replied that paragraph 39 referred only to the fact that unions ‘may’ have to revise their rules to enable them to take action to enforce general council recommendations, but that there was still ‘no requirement to use the rule book’, a point he regarded as crucial.

Whilst Wilson remained to be convinced, he confided to Castle his fear that, ‘whilst not still fully effective’, the TUC proposals would ‘look so good that the Government might be criticised by many of its own supporters for turning them down’⁵⁷⁸. In the circumstances he concluded, the government might have to feel its way towards a “double barrelled system”. The official note does not make it clear what Wilson meant by such a system, however, it seems likely that this marked the emergence of the so-called ‘cold storage’ proposal that had been referred to by both the *Guardian* and *The Times*; the proposal to legislate for the

⁵⁷⁶ *Guardian*, 19 May 1969

⁵⁷⁷ NA, PRO, PREM 13/2726 Secret note for the record, 16 May 1969

⁵⁷⁸ *ibid.*

penal clauses, but delay implementation until an agreed later date, thus giving the TUC the chance to prove the effectiveness of its own proposals. What he did not know at this stage, however, was that the general council had already ruled out a compromise involving reserve powers, and more importantly, that they would withdraw their own proposals if the government continued with legislation.

The government's response to the general council proposals undoubtedly hardened the union position. As far as many within the general council were concerned, the points of clarification simply served as further evidence of Castle and Wilson's lack of understanding of the way in which unions worked. However, they could well have over-played their hand. The growing popularity of relegating the penal clauses to the status of reserve powers was already a victory of sorts. In the circumstances, the general council's refusal to countenance reserve powers, and the decision to rescind their own proposals if the government decided to go ahead smacked of the kind of unreasonableness that Wilson could well cite as a reason for continuing with the legislation.

For Castle and Wilson however, there was still a worrying lack of firmness about the proposals, the so-called 'missing-link', and the reaction of the TUC to their points of clarification indicated just how far they remained apart. However, it was also generally accepted that the government lacked the votes to get the legislation through parliament. In the circumstances, the scope for compromise was limited and outside observers were left wondering who would blink first. Surprisingly, perhaps, it was Castle.

5.7 'Cold Storage'

On Monday, 19 May, Castle had a meeting with her officials to discuss the contents of the bill. Several days earlier, she had had a private talk with Kenneth Lomas MP. According to her diary, he was one of the few Labour MPs to support the interim bill and as such was speaking as a friend. Lomas told her that he thought she could not get the financial penalties through parliament, and that as such she should drop them from the bill in return for a guarantee from the TUC that they would do the disciplining in the case of unofficial strikes and on the understanding that, if they failed, the penalties would be reintroduced at a later

stage. Castle revised this proposal and presented it to her officials as a two-stage idea:

- a) get into the Bill the penal powers on inter-union disputes, which would enable us to set up the Industrial Board and establish the principle, and b) legislate for TUC intervention in unconstitutional strikes, backed by a statutory *status quo* at my discretion, but postponing any powers against strikers until the next Bill⁵⁷⁹.

The main advantage, as Castle saw it, was to put the TUC under such ‘fierce limelight’ that they would not be able to ‘run away from their responsibilities’. Castle had obviously discussed her proposals with a journalist, because on the same day that she met her officials, a front page report appeared in *The Times*. According to this, the government was considering giving the TUC the legal right to try and settle unofficial strikes before the government imposed the conciliation pause, a move made possible by the strengthening of the TUC’s powers in the revised proposals. Castle was indulging in some kite flying, and indicating the scope for a potential compromise. However, at this stage Castle was crucially not aware of the TUC decision to suspend its own proposals if the government decided to go ahead with legislation. She found this out from David Basnett⁵⁸⁰ on the evening of the 19th, and its impact was evident at the meeting of the management committee on the following day⁵⁸¹.

The management committee met to discuss the forthcoming meeting with the general council, and Castle lost no time in setting out the options that she felt were available to the committee in the light of her conversation with Basnett. According to Castle’s account, she set out three options; to postpone the bill, which, she commented with some understatement, would be ‘a great let down’; to legislate on the basis she had set out to officials on the previous day; or to legislate as set out to officials but with the added inclusion of the conciliation pause, with its introduction deferred⁵⁸². The official minutes, however, indicate that five options were considered, which are worth listing in full⁵⁸³;

⁵⁷⁹ See Castle (1984) p.655 entry for 19 May 1969

⁵⁸⁰ Executive member of General and Municipal Workers Union and TUC General Council. See Castle (1984) pp.655-6 entry for 20 May 1969

⁵⁸¹ For origins of the management committee see chapter four.

⁵⁸² Castle (1984) pp.655-6 entry for 20 May 1969

⁵⁸³ Author’s comments in italics

1. They could abandon their intention to legislate in the current Session and could defer all action until they introduced the more comprehensive Bill which was in any case envisaged in the following session. (*Castle's option 1*)
2. They could introduce in the current Session a Bill containing the 'penal' clauses in relation to inter-union disputes (the principle that such provisions in this context having already been accepted by trade union opinion) but omitting any similar financial sanction against individuals participating in unofficial strikes. This would imply that they had abandoned their intention to take statutory powers to enforce the conciliation pause which it was proposed to seek to institute in strikes of this kind. (*Castle's option 2*)
3. They could introduce in the current Session a Bill containing 'penal' clauses in relation to both inter-union disputes and unofficial strikes, with provision that in the latter case the implementation of those clauses would be deferred for a specified minimum period and could be further deferred indefinitely thereafter, provided that the TUC demonstrated that their alternative proposals for dealing with the unofficial strikes could be effective. (*Castle's option 3*)
4. They could introduce in the current Session a Bill which would incorporate 'penal' clauses in relation to unofficial strikes but would provide no specific deferment of their implementation, which would then depend simply on its becoming apparent whether the TUC's own proposals were adequate when an attempt was made to put them into effect within a reasonable period.
5. They could introduce in the present Session a Bill which, in relation to unofficial strikes, would empower the Government to prescribe a conciliation pause in appropriate cases but would make it the responsibility of the TUC to enforce this pause by sanctions of their own.⁵⁸⁴

According to Castle's account the first option was dismissed out of hand and attention focused on options two and three. Opinions were divided, with option three supported by Wilson, Stewart, Healey and Peart, whilst Mellish backed option two. This is supported by the official minutes, which record the decision to reject option one as damaging government credibility 'beyond repair', and options four and five because they would be unacceptable to the TUC.

Neither Castle's account nor the minutes, indicate a clear resolution. Castle noted that it became clear to her that 'we must at least have a shot at getting TUC connivance, if nothing else, on 3'⁵⁸⁵, and that Wilson said there must be another

⁵⁸⁴ NA, PRO, CAB134/3188, Management Committee, Minutes of a meeting held on Tuesday, 20 May 1969

⁵⁸⁵ *ibid.*

meeting with the TUC after the special congress and before the introduction of the bill. The minutes, however, whilst recording the preference for option three, concluded with a reminder of the weakness of the Castle/Wilson position and served as an ominous portent of things to come: the final decision would, 'depend to some extent on the degree to which dissident elements in the PLP were satisfied that the TUC would acquiesce in the Bill in whatever form it was finally introduced'⁵⁸⁶.

Thus, in the space of the eight days between the first meeting on 12 May and the management committee on 20 May, attitudes had changed considerably. The general council position had hardened to the point almost of no return and whilst the government was still looking for a 'copper-bottomed' compromise it was difficult to see a constructive resolution. However, in the constantly shifting battle for hearts and minds, the unions were about to hand the government a powerful card.

At the general council meeting on May 15, John Boyd (an engineering representative of the AEF) had voted against the proposals on the grounds that it was the policy of the AEF executive to oppose the penal clauses, everything in the white paper, and increased powers for TUC intervention. This decision was endorsed by a meeting of the engineering executive of the AEF on May 20, at which members voted 4 to 3 to reject the TUC plan⁵⁸⁷. Significantly, Hugh Scanlon, AEF president, although without a vote, supported the 3 members voting to support the TUC proposals⁵⁸⁸. The press was quick to pick up on its significance. The *Guardian* noted that such was the size of the AEF block vote, that unless the union changed its mind before the special congress, an overall vote

⁵⁸⁶ *ibid.*

⁵⁸⁷ The Amalgamated Union of Engineering and Foundry Workers (AEF) was formed in 1968 from the merger of the Amalgamated Engineering Union (AEU) and the Foundry Workers. The engineering workers continued to be represented by a separate executive and policy committee, and it was the engineering executive that voted against the general council proposals.

⁵⁸⁸ Ironically, the vote had more to do with internal power struggles within the AEF than a principled stand against the TUC proposals. Boyd had unsuccessfully challenged Scanlon for the presidency a year earlier, and was a well known 'right winger' within the executive. His actions were widely felt to have more to do with seeking to damage Scanlon's authority than any serious opposition to the proposals.

of support for the general council proposals would be ‘meaningless’⁵⁸⁹. The leader column was vitriolic; the union’s action weakened the TUC position ahead of the meeting with the government to the point where, ‘everyone present will know that the TUC document has become less credible’; it raised crucial questions about the ability of the TUC to deliver without the AEF; and, ‘just when the Government seems to be preparing itself to postpone or drop some of its proposals the AEF gives those who want to legislate further encouragement for doing so’⁵⁹⁰. Similarly, the *Daily Telegraph* noted that the vote represented a ‘savage rebuff’ to the general council and concluded that it must ‘strengthen the Government’s hand’ for introducing legislation.

It was not only the press that recognised the significance of the decision. Castle recorded being confronted by Stan Orme⁵⁹¹ on the evening of 20 May; “What about your friend Johnnie Boyd now?” he almost raved. I was interested to see how appalled the Left are at the decision of the AEF Executive to turn down the TUC proposals’⁵⁹². They were only too aware of the political capital it gave the government, and, as if to acknowledge this, Wilson was quick to take the opportunity to raise the issue of the vote during an interview with the BBC on the same evening. When asked about the AEF decision Wilson reiterated the line that the TUC had been given every opportunity to produce a ‘satisfactory alternative’, but added that the AEF vote ‘makes me wonder’ about their ability to do so. He went on to develop this theme, arguing that, if he was told that the ‘whole future of our economy is going to depend on the vote of seven men’, then he required something more definite from the TUC than they had offered up until now. Wilson was seeking deliberately to raise the temperature. Not only did the AEF decision confirm all of the doubts expressed by Heron about the ability of the TUC to deliver the larger unions, it also enabled him to appeal over the heads of entrenched interests to the wider public, arguing for the right of the government to act. As Wilson put it, ‘If we have a situation where, by one man’s vote, you fail to

⁵⁸⁹ *Guardian*, 21 May 1969

⁵⁹⁰ *ibid.*

⁵⁹¹ MP for Salford West, sponsored by the AEF and strong opponent of the bill

⁵⁹² Castle (1984) p.657 entry for 20 May 1969

get the machinery to deal with a devastating crisis – if that is the situation, then I think everybody would agree the Government have got to act’⁵⁹³.

5.8 The second meeting: May 21 1969

The signs for the second meeting did not look good. Wilson and Castle were buoyed up by the AEF decision, although they decided not to refer to it during the meeting⁵⁹⁴. Equally, the general council could take heart from press reports that over 60 members of the PLP had signed a letter to Douglas Houghton calling on the government to withdraw the penal clauses on the grounds that the TUC ‘Programme for Action’ provided a better solution⁵⁹⁵. On the face of it the meeting did not make any significant progress. Wilson acknowledged that ‘Programme for Action’ was a major achievement and advance, but lacked the ‘missing link’, which would give necessary assurances that ‘the unions involved (in strike action) would use their full powers to bring back to work members on an unconstitutional strike which the general council had ruled against’⁵⁹⁶. Feather replied that the proposals gave ‘every reasonable assurance’⁵⁹⁷ and that whilst he could not guarantee 100% success, nor could the government. He was supported by Frank Cousins, who reiterated the general council’s unanimous opposition to legal intervention, and Sir Harold Collison⁵⁹⁸ who made it clear that ‘legal penalties and voluntary action of the kind now proposed by the general council could not in practice exist side by side’⁵⁹⁹. In the face of this deadlock, Wilson was forced to acknowledge that they could not get any further and should meet again after the special congress. However, in an attempt to raise the stakes, he introduced a wider political judgement that, ‘the passage of an Industrial Relations Bill on the lines which had been indicated was essential to the continuation in office of the present Government or indeed of any Labour Government’.

⁵⁹³ *The Times*, 21 May 1969

⁵⁹⁴ See Castle (1984) p.657 entry for 21 May 1969. ‘Got an urgent note from John Horner [AEF sponsored MP] urging that Harold and I should not make too much of the AEF vote as “moves” were already underway’.

⁵⁹⁵ See *The Times & Guardian*, 21 May 1969

⁵⁹⁶ NA, PRO, PREM13/2726, ‘Note of a meeting with representatives of the Trades Union Congress’ 21 May 1969

⁵⁹⁷ *ibid.*

⁵⁹⁸ Agricultural Workers Union, knighted in 1964

⁵⁹⁹ NA, PRO, PREM13/2726

Whilst the deadlock was predictable and Wilson's final comments dominated the ensuing press coverage, they obscured the fact that Wilson had sought to define the 'missing link' and in doing so opened the way to the eventual compromise. Wilson's proposal hinged on the wording of a specific paragraph of the TUC report. Paragraph 42⁶⁰⁰ dealt with the action to be taken by individual unions in response to a TUC ruling and requires quoting in full;

The General Council would also require unions to satisfy them that they had done all that they could reasonably be expected to do to secure compliance with a recommendation (or an award where this has been made), including taking action within their own rules if necessary. They recognise that a few unions may need to review their own rules to ensure that they are in a position to comply with recommendations or awards by the T.U.C. The General Council also consider that it should be made clear in Rule 11 (as is already implicit in that Rule, and is explicit in Rule 12) that in the unlikely event of a union refusing to abide by a decision of the T.U.C. the General Council can take action under Rule 13⁶⁰¹

As we have seen, the general council had already tightened the wording changing 'expect' to 'require' in the opening sentence. Wilson went further and said that the report needed to make it clear that where the general council ruled against an unconstitutional stoppage, 'they would give a ruling that the men must go back to work; and that the union concerned must then do everything within its power – amending the rules if need be – to get them back to work...The unions concerned should enter into a binding commitment with the General Council that they would use their best endeavours in this way.' If the document could be amended along these lines, he believed that they would be 'very close to agreement'⁶⁰².

Immediate reaction was muted, but Wilson's proposal was discussed at a meeting of the general council that was held immediately afterwards and dismissed out of hand. The TUC chairman, John Newton, summed up Wilson's proposal as requiring the replacement of, 'may need to review their own rules', with 'must review their own rules'⁶⁰³, and with the insistence that those who fail to return to work, 'should automatically be penalised by rule'. Collison said that Wilson was

⁶⁰⁰ Previously paragraph 39, and one of the six additional paragraphs included in Feather's second draft and reproduced as appendix 2

⁶⁰¹ Quoted in TUC Report 1969, Report of 101st Annual Trades Union Congress

⁶⁰² NA, PRO, PREM13/2726

⁶⁰³ MRC, MSS292B/20/9 TUC General council, Minutes of fifteenth meeting (1968-69) held on 21 May 1969

in effect asking the general council to write into paragraph 42 the requirement that unions should expel by specific rule members who failed to work when instructed, and he thought it would be, 'impossible and unwise' to write in such a requirement. Cousins, Scanlon and McGarvey all spoke out against any such amendment. Feather concluded that there was no desire on the part of the general council to change rule 42, and it was agreed that the report should go unamended to the special congress. However, as will become clear, Wilson's proposal that the rules be tightened along these lines became the single focus of negotiation after the special congress.

At this stage, however, a settlement looked as far away as ever. The general council concluded that things had reached the 'end of the road'. As Cousins put it, the stage had been reached of, 'either the General Council or the Government backing down'⁶⁰⁴. As for Wilson, he had two cards left to play, exploiting the splits emerging in the TUC position, and following through with his earlier threats to dissolve parliament and/or resign. On the former, his position was strengthened considerably by a leader in *The Times* that used the AEF decision as a demonstration of the correctness of Wilson's position in doubting the capacity of the TUC to deliver, concluding that, 'it is that doubt about the capacity of the T.U.C. to deliver what it undertakes which makes the plan that it published last weekend an inadequate substitute for the measures proposed by Mrs Castle'⁶⁰⁵. Furthermore, in seeking to link his ability to govern with the passage of the legislation, Wilson had no choice but to carry on, for 'He has now worked himself into a position in which the passage of legislation answers to the description of governing and its abandonment answers to the description of abdication'⁶⁰⁶. *The Times* was to make this latter point consistently throughout the final stages of negotiations, and whilst it could be seen as a compliment to Wilson's determination it was distinctly double-edged, the implicit message was that any compromise at this stage would amount to an abdication of responsibility on Wilson's part which, given the paper's overall lack of support to Wilson, was very probably a deliberate strategy on its part.

⁶⁰⁴ *ibid*

⁶⁰⁵ *The Times*, 22 May 1969

⁶⁰⁶ *ibid.*

The *Guardian* also highlighted the growing likelihood of splits within the TUC leadership. In an article entitled, 'The TUC: together to the barricades?', John Torode reported that the TUC's 'astonishing degree of unity' was close to the point at which, 'unity begins to crack and the leadership ends up divided, embittered, and full of mutual recriminations'⁶⁰⁷. Wilson was surely right, against this backdrop to continue the negotiations beyond the special congress. The possibility of splits within the TUC weakened the general council's position and gave him good grounds for seeking the endorsement of the PLP for his own proposals.

The second, and final, card was his ongoing ability to govern. Mellish had already indicated to the PLP that the failure to enact the bill could lead to a general election. Now Wilson seemed ready to play this card himself. Once again, it was *The Times* that picked up the significance of Wilson's closing comments to the general council, choosing to lead its coverage with his words, 'The question is whether this government can continue'⁶⁰⁸, and noting that his comments had been calculated to increase the pressure on trade union leaders in the lead up to the special congress. Similarly, Castle recorded a conversation with Wilson that took place immediately after the meeting with the general council at which he 'astonished' her with his admission that, 'he didn't see how we could get a settlement with the TUC, but he and I were now too committed to back down'⁶⁰⁹. Consequently, 'he intended to make this an issue of confidence in *him* and, if we were defeated, he would stand down from the leadership'⁶¹⁰. Castle noted that he had moved away from dissolving the government and was prepared to make it an issue of his own personal survival. For a man who had just faced down several would-be leadership challenges this was a dangerous ploy⁶¹¹ although, as was noted at the outset, it remained unclear as to what extent this was a credible threat. However, the manner in which the threats had petered out indicated the cleverness

⁶⁰⁷ *Guardian*, 22 May 1969

⁶⁰⁸ *The Times*, 22 May 1969

⁶⁰⁹ Castle (1984) p658 entry for 21 May 1969

⁶¹⁰ *ibid*

⁶¹¹ See chapter four

of Wilson's move; as Castle indicated, 'He clearly visualized that it wouldn't be long before he staged a comeback'⁶¹².

5.9 The state of the parties revisited: June 1969

After a month of negotiations even Feather had been forced to acknowledge that the TUC would not have moved as far if it had not been for the sustained pressure from Castle and Wilson. There was a similar acknowledgement among the majority of the press such that even those pushing for a compromise argued for 'reserve powers' in order to keep the TUC focused on its own good intentions. However, the extent of support for the TUC proposals within the PLP underlined the weakness of the Castle/Wilson position, as evidenced by the reluctance of the management committee to endorse any single course of action, while most newspapers considered the legislation to be dead in the water. In the circumstances, it was difficult not to agree with the *Daily Telegraph's* conclusion that Wilson, 'is isolated to an extent to which there are few, if any parallels in the history of his office'⁶¹³.

As stressed at the outset, the government's weakness was the general council's strength. However, the AEF decision exposed the fragility of the unified front to an extent that it threatened the credibility of the TUC programme. Similarly, the intransigence shown in rejecting the reserve powers and in threatening to withdraw its own proposals if the government went ahead was further evidence of the limits the general council placed on its own flexibility. Crucially, though, the weakness of the Castle/Wilson position was well known and provided little incentive to offer a further compromise. In the circumstances, the overwhelming endorsement of the special congress was vital; a failure to gain support would weaken their negotiating position, perhaps to the point that they would have to give way on reserve powers, whilst a substantial majority in favour would make it very difficult for Castle and Wilson to pursue further concessions. Before the congress met, however, Wilson hosted a meeting at Chequers, at which Jack Jones and Hugh Scanlon laid bare the true depth of antagonism and opposition to the government's proposals.

⁶¹² *ibid*

⁶¹³ *Daily Telegraph*, 22 May 1969

5.10 The Chequers weekend: June 1 – June 2 1969

In the folklore that has grown up since *In Place of Strife*, nothing has captured the imagination more than the secret meeting between Wilson, Castle, Feather, Jones and Scanlon. Castle, Wilson and Jones have all provided published accounts of the weekend, but the official records offer an extensive, blow-by blow account of the meeting written by Wilson immediately afterwards, a contemporary in-depth account of the meeting and its aftermath. At this point it is worth noting just how unusual this was. Generally meetings were minuted by civil servants. The fact that Wilson produced his own account suggests that civil servants were not present but that Wilson still wanted a written record of the meeting. His account, therefore, needs to be treated with an element of caution, although it is largely confirmed by Castle's account and that of Jones, and the fact that it was only circulated to Castle suggests that he did not seek to embellish for the benefit of those who were not there.

The meeting had been proposed by Wilson several weeks earlier as a means of getting the most powerful members of the general council together to discuss general attitudes and establish a way forward. Castle was due to be on holiday, cruising the Mediterranean with the Crossman family on Charles Forte's yacht, and complicated arrangements were put in place to bring her back⁶¹⁴. Initially it looked as if Roy Jenkins might have to substitute for Castle, as Wilson was anxious not to hold the meeting on his own⁶¹⁵. However, Jenkins' reluctance⁶¹⁶, coupled with Castle's determination to attend, ensured her presence, much to the horror of Jack Jones, who had been assured of her absence by Feather⁶¹⁷. Jones' view was coloured by his belief that Castle was the more dogmatic of the two and that there was more chance of a compromise if she was not present⁶¹⁸. Wilson was only too aware of this. As Castle recorded, 'he wasn't going to let them try

⁶¹⁴ See Perkins (2003) pp.309-314 for details

⁶¹⁵ See Castle (1984) p.656 entry for 20 May 1969

⁶¹⁶ Interview with Lord Jenkins of Hillhead, London, 20 September, 2001

⁶¹⁷ See Jones (1986) pp.203-4, "'Will the queer one be present?'" making it clear that I thought it should be a meeting with Wilson alone'

⁶¹⁸ *ibid.* Jones acknowledges that the publication of Castle's diaries demonstrated that she had a much more flexible approach to the negotiations than he had given her credit for at the time.

and drive a wedge between him and me on the false assumption that he was a dove and I was a hawk'⁶¹⁹.

Following the now well-established pattern, Heron supplied the briefing. His advice was straightforward; Wilson and Castle should continue to push for the tightening of paragraph 42; seek views on the options agreed by the management committee⁶²⁰; and clarify the true extent of support for Feather's statement that the general council would abandon its own proposals if the government continued with its legislation⁶²¹. In addition, he provided a note of a conversation that had taken place between Feather, Denis Barnes and himself⁶²². During the conversation Feather had confirmed that the general council were not prepared to amend paragraph 42 any further. Significantly, he had gone further and added that opposition to the penalty clauses extended to the inter-union dispute provisions, and that many unions were likely to use these alone as grounds for not proceeding with the general council proposals. If this were the case, options 2 and 3 became irrelevant: the TUC were effectively rejecting any legislation, regardless of whether it related to unofficial strikes or inter-union disputes. Feather also hinted that whilst the TGWU were likely to back the general council's proposals, it would be with the proviso that they should only be implemented if the government abandoned all of the 'penalty clauses'. It was clear, as Heron noted, that Feather's preference, 'would be for dropping the interim bill as a whole (i.e. the "sugar" as well as the "pill") while the T.U.C. proposals were put to the test'. Feather was playing his usual game of presenting himself as the reasonable man in the midst of rival extremists. However, the mask appeared to slip when he acknowledged that 'the general council's proposals could not be completely effective', and 'in practice the general council would be forced to rely very heavily on the qualifications limiting the types of disputes in which the general council could intervene'. Whilst he was quick to point out that he 'did not see any better chance of success for the Government's proposals'⁶²³, and that the only way

⁶¹⁹ Castle (1986) p.656 entry for 20 May, 1969

⁶²⁰ Options 2 & 3, see above

⁶²¹ NA, PRO, LAB43/534 'Note for meeting between Prime Minister, the First Secretary, Mr. Newton, Mr Victor Feather, Mr Jack Jones and Mr Hugh Scanlon on the 1st June 1969', C.F. Heron, 30th May 1969

⁶²² NA, PRO, LAB43/534 Note for the Record, C.F. Heron, 30th May 1969

⁶²³ *ibid.*

out of the 'impasse' was to drop the bill and give the union proposals a chance to work, it was a damaging admission.

How should we read Feather's comments? Was it yet another negotiating ploy or something more significant? The news that the government proposals for inter-union disputes were now also unacceptable was clearly designed to increase the pressure to drop the bill, but he must have known that an admission of a weakness on his own proposals would be grist to the mill for Wilson and Castle in their search for the 'missing link'. Perhaps it was simply a genuine, weary admission, from a negotiator who had reached the end of the road. Certainly the attitudes of Jones and Scanlon did little to lift the gloom.

As Heron had suggested, Wilson pressed Scanlon and Jones on paragraph 42, but it was clear that neither was prepared to countenance any greater transfers of sovereignty, with Scanlon stressing that he 'was personally opposed even to the transfer of sovereignty which had been agreed'⁶²⁴. Furthermore, he made it clear that whilst he was confident of gaining the support of his national executive for the TUC proposals, this was 'conditional on there being no Government legislation which included penal clauses'⁶²⁵, and that included the so-called 'cold storage' option.

As the depth of this intransigence became clear, Castle pushed them on the real reasons behind their opposition, and it became clear that neither was motivated by the problem of strikes. Scanlon confirmed 'that he was in effect manoeuvring in order to defeat the legislation, that his motivation in supporting the T.U.C. had nothing to do with seeking to deal with the problem of strikes, and that it was legislation he was against not strikes'⁶²⁶. Jones agreed, arguing that 'the question of legislation raised a fundamental principle about unions, and about the whole system of collective bargaining'. Similarly, whilst concerned about Conservative legislation, both were 'totally confident on their ability to make Tory-type

⁶²⁴ NA, PRO, LAB/43/534, 'Note of a discussion at dinner', Chequers, Sunday, 1 June 1969

⁶²⁵ *ibid*

⁶²⁶ *ibid*.

legislation unworkable', and had no time for the argument that a failure to deal with problems now would make such legislation more likely.

It was at this point that things began to get heated. Wilson fell back on the constitutional question; if the TUC sought to 'crack their whip' over the trade union group they would clearly be acting as a 'state within a state' and 'putting itself above the Government in deciding what the Government could and could not do'. Once again, according to Wilson's account, they made no attempt to deny it, because 'a fundamental principle was at stake', to which Wilson replied that an even more fundamental principle was at stake, 'namely the right and possibility of a Labour Government to govern, and the very essence of democracy in this country'. Scanlon parried Wilson's threats of constitutional breakdown with the ghost of 1931, at which point Wilson cracked. 'I reminded him sharply that in that context I was not a Ramsay MacDonald, but in the context of his previous comment I wasn't Dubcek'⁶²⁷, and, according to Castle's account, told him, 'I'm not going to surrender to your tanks, Hughie'⁶²⁸. Feather made an attempt to calm things down, and yet again the union leaders proposed the dropping of legislation to give the TUC proposals a chance to work. Wilson failed to see how this differed from the 'cold storage' option, other than in delaying legislation to the point where it was too close to a general election to risk its introduction. At this point Feather called time, it was agreed that 'we couldn't take it any further', and the meeting broke up.

In many respects the Chequers meeting was the most remarkable of all. Four years later, the Scottish miner, Mick McGahey, was to cause outrage when he appeared to threaten to bring down Heath's government with extra-parliamentary action⁶²⁹, but here were the leaders of Britain's two largest unions threatening to make any trade union legislation unworkable in direct defiance of the Labour

⁶²⁷ Alexander Dubcek, First Secretary of the Communist Party of Czechoslovakia. In April 1968, Dubcek began a process of reform that became known as the 'Prague Spring'. In August 1968 the reform was crushed by an invasion of Warsaw pact forces and Soviet tanks were seen on the streets of Prague. Dubcek spent the next twenty years working for the Slovak forestry service.

⁶²⁸ See Castle (1984) p.662 entry for 1 June 1969. Getting the tanks off the lawn has passed in folklore, although the exact words are unclear, Jones for example denies hearing the words used at all (Interview with Jack Jones, London, 2 June 2000)

⁶²⁹ See, John Campbell, *Edward Heath, a biography* (Pimlico, London 1993) pp.566-7 for a detailed account of the event.

government of the day. Wilson was right to see this as a direct threat not only to his government, but also to the principle of a democratic state, and this goes a long way to explaining what happened next.

Castle and Wilson met privately on the following morning to reflect on the meeting. There are two accounts of their discussions, Wilson's memorandum, and Castle's diary. According to Castle, the initial meeting took place whilst Wilson was eating breakfast in bed. He acknowledged that, "It's about as black as it can be"⁶³⁰, but saw no alternative but to go on with option 3, although with suspension of both sets of powers. Castle responded that the time had come to restore the initiative by sending the general council a letter setting out their requirements for the amendment of paragraph 42, with the intention that it be debated at the special congress. If congress rejected the amendments, she argued, 'they would be on the defensive when the crunch came, not ourselves'⁶³¹.

Secondly, she pointed out that option 2 had been wrongly recorded in the management committee minutes. As recorded, option 2 proposed legislating for financial penalties in relation to inter-union disputes, but omitting any such sanction in relation to unofficial strikes. According to Castle, It should have included legislating for the conciliation pause, but not the financial penalties that accompanied non-compliance. These could be left out until it was seen what joint action by the TUC and CBI could do. Such was the antipathy to fines, that she proposed an alternative solution to be included in the second bill that was due to follow in the autumn. 'If necessary we might legislate for model union rules, including discipline against unofficial strikers, in the following Bill'⁶³². Wilson's account suggests she went further in spelling out the implications: 'Failure to adopt them (the model rules) would lead to the Union losing its registration, and therefore the protection and privileges which it enjoyed under the law'⁶³³, and it was a measure of just how far they had come, that this proposal was virtually identical to one contained in *Fair Deal at Work*.

⁶³⁰ Castle (1984) pp.662-3 entry for 2 June 1969

⁶³¹ *ibid.*

⁶³² Castle (1984) p.663 entry for 2 June 1969

⁶³³ NA, PRO, LAB43/534, 'Postscript', 5 June 1969

Following this initial discussion Castle left Wilson to meet her officials. When the meeting resumed, she was surprised to find that Wilson had become an enthusiast for Castle's revised option 2, 'with the proviso that we legislate on model rules now'⁶³⁴. According to Wilson's account, the inclusion of model rules could be presented as a direct response to the attitudes of Scanlon and Jones;

Jones & Scanlon had made it pretty clear that they would find a means of wrecking the penal clauses, and that in any case they would not co-operate in a situation where the penal clauses co-existed with the T.U.C. proposals. It was essential that this power to lay down model rules should be taken in this year's legislation. We could say that after all these consultations we welcomed what the T.U.C. had done, but felt it lacked teeth and provided no guarantees that Unions would be dealt with who themselves failed to deal with their recalcitrant members [sic]. In default of the T.U.C. coming through with this we would provide the necessary sanctions to make Paragraph 42 effective.⁶³⁵

Castle made it clear that this had, 'far-reaching Draconian implications'⁶³⁶, to which Wilson replied that the TUC was in no position to complain, for the government could say, "'You refused our 10s fine so we're going to hang you'"⁶³⁷. The discussion ended at this point, with agreement that Heron prepare a paper setting out the pros and cons for the next management committee, and that a draft letter be prepared to send to the general council setting out amendments Castle proposed to paragraph 42.

The Chequers meeting was, after the final Cabinet meeting on 17 June, the most significant event in the course of the negotiations. Finally, for Wilson and Castle, the real nature of the opposition was revealed. It may be argued that this illustrated once and for all their naiveté in trade union matters. To their critics, the lack of any emotional understanding was their biggest failing, and perhaps it needed Jones and Scanlon to spell it out in such blunt terms. However, it does need to be remembered that, as was highlighted in the introduction, Jones and Scanlon were a new breed of trade unionist leaders totally unlike those Wilson would have encountered as minister in the 1940s and early 1950s. Consequently, there were genuine reasons for both Wilson and Castle to be taken unawares by

⁶³⁴ Castle (1984) p.663 entry for 2 June 1969

⁶³⁵ NA, PRO, LAB43/534, 'Postscript', 5 June 1969

⁶³⁶ Castle (1984) p.663 entry for 2 June 1969

⁶³⁷ *ibid.*

the uncompromising nature of their attitude. Nevertheless, in taking such a line, Scanlon and Jones appeared to set the trade union movement not just outside, but above the law. Scanlon, in particular, appeared to be challenging directly the right of a democratically elected government to govern. In this context, the decision to pursue model rules and de-registration can be read as both a knee-jerk reaction to intransigence, and evidence of a much more significant shift. Here were Labour politicians actively considering the withdrawal of rights enshrined in the 1906 Trade Disputes Act, something Castle had rejected from the outset as being completely unacceptable. For her to say that this at least had the benefit of being in line with the majority Donovan recommendation that protection under the 1906 Act be withdrawn from unregistered unions⁶³⁸, and that it was closer to the CBI proposals, was a measure of the distance travelled. However, before the management committee could digest this latest proposal, the special congress met at Croydon. If the general council succeeded in presenting a united front, then surely the negotiations were at an end, whereas if not, all bets were off.

5.11 The TUC Special Congress – 5 June 1969

The two most significant events to take place prior to the congress were the sending of Castle's letter, and the decision of the AEF to revise its opposition to the general council's proposals. Castle's letter has been the subject of some confusion. Her intention was for it to be debated by the special congress where its undoubted rejection would highlight once again the unreasonableness of the TUC, putting them on the back foot. In fact, Feather did not disclose the letter to the general council until after the special congress, on the grounds that it would inflame an already delicate situation. The letter was drafted by Heron, who then flew out to Italy on 3 June to clear it with Castle prior to sending it to the TUC. The meeting took place in Herculaneum and, over 'omelette and *vino bianco secco*'⁶³⁹ a few minor changes were made to what Castle's husband, Ted, dubbed 'the Treaty of Herculaneum'. Feather received the letter that evening and 'hit the

⁶³⁸ See Wilson's account, NA, PRO, LAB43/534. Perhaps significant that it is not mentioned in Castle's diary

⁶³⁹ See Castle (1984) p.663 entry for 3 June 1969

roof', demanding to speak to Wilson. When he did so, he told him that the letter was a 'catastrophe'⁶⁴⁰.

What was in the letter to cause such anger? In her biography of Castle, Anne Perkins implies that it included, not only amendments to paragraph 42, but also the proposal for legislating for model rules⁶⁴¹. If this had been the case, Feather's reaction would have been understandable. However the letter indicates otherwise. It was simply a restatement of Wilson and Castle's attitude towards paragraph 42 and a follow up from the meeting held on 21 May; no mention was made of the model rules. Rather, the letter sought to 'put on record before the Special Congress on 5th June the Government's views'. Specifically, the letter drew attention to the fact that;

The discussion on 21st May showed that the General Council do not regard paragraph 42 as a commitment to ensure that where the TUC have recommended a return to work and persuasion by the union fails to secure this, the union will take action within its rules, including the exercise of disciplinary powers against members who remain on strike.

Subsequently, the letter called for the amendment of paragraph 42 to place 'an obligation' on affiliated unions to revise their rules to ensure that they had the necessary powers to take such action as was required to ensure a return to work⁶⁴².

In itself the letter did little more than reiterate the arguments of 21 May. However, in setting them down in black and white with an expectation that they be discussed at the special congress, Castle was making the government's position explicit not just to the general council but to the whole trade union movement and the press. Feather was obviously concerned that such an overt display of government intransigence would spark a similar response among the trade unions, leading to a vote of outright opposition, rather than one of support for his own carefully crafted proposals. Such a vote would of course play directly into Castle's hand, since she could then claim that trade union intransigence left her with little alternative but to go ahead with her own proposals. In masterly fashion, however, Feather turned the situation to his own advantage. Not only did

⁶⁴⁰ Quoted in Perkins (2003) p.314

⁶⁴¹ See Perkins (2003) p.314

⁶⁴² NA, PRO, CAB 134/3118 . Copy of a letter from Barbara Castle to Vic Feather, 4 June 1969

he persuade Wilson not to publish the letter⁶⁴³, but he also presented it to the general council immediately after the special congress. Thus he was able to claim that he was ‘puzzled’ by the letter. After all, the government had been sent a copy of ‘Programme for Action’ immediately after it was published and, ‘he did not see that there could be any further discussion with the Government on various points in the document after the Special Congress had given their mandate’⁶⁴⁴.

He neglected to mention that the entire purpose of the letter had been to put the government’s case before the special congress gave its mandate. As Frank Cousins pitched in that the letter was, ‘another indication of the Government’s lack of understanding of the situation’, it was clear that Castle and Wilson had been outmanoeuvred once again.

In many respects, however, Castle was entirely to blame for the situation. Whilst she may have been clear in her intention to get the congress to debate the government’s proposals, and Feather may well have know that this is what she meant, the letter was not explicit. The opening paragraph simply said, ‘I think we should put on record before the Special Congress on 5th June the Government’s views we expressed at that meeting’, and the closing paragraph concluded that it would ‘be useful then to discuss further the points sent out above in the light of the Special Congress’⁶⁴⁵. There was nothing requesting that either the general council or the special congress considered the letter and given that Castle had an opportunity to comment on the draft before it was sent to Feather, it was clearly an oversight on her part not to make the request explicit.

Part of the reason for Feather’s violent reaction to Castle’s letter was undoubtedly his concern over the continuing opposition of the AEF. However, on 3 June, as Castle was drafting her infamous letter, the decision was overturned. In the convoluted structures of the newly merged union, 52 members of the policy committee of the engineering section of the AEF met to consider the proposals, and voted by 30 votes to 22 to overturn the executive and support, ‘A Programme for Action’. The *Guardian* noted that the AEF decision meant that Croydon

⁶⁴³ See Castle (1984) p.664 entry for 6 June 1969

⁶⁴⁴ MRC, MSS 292B/20/9 TUC General Council Minutes, Minutes of sixteenth (special) meeting (1968-69) held at the Fairfield Hall, Croydon on Thursday June 5, 1969 at 3.30pm

⁶⁴⁵ NA, PRO, CAB134/3118, Management Committee, Industrial Relations, 4th June 1969

would be a ‘massive demonstration’ of union willingness to put their own house in order⁶⁴⁶. However, both the *Guardian* and *The Times* also noted Scanlon’s comment that he had given delegates a ‘specific assurance’ that the TUC would not proceed unless the government dropped the penal clauses⁶⁴⁷.

Following the decision of the AEF, the special congress became a predictable affair. The congress voted overwhelmingly in favour of three separate motions. The first, carried by 8,252,000 to 359,000 condemned the government’s proposed financial penalties; the second, carried by 8,608,000 to 144,000 confirmed that some of the government’s proposals could improve industrial relations; and finally, and most importantly, congress voted by 7,908,000 to 846,000 to endorse the amendments to rules 11 and 12 of congress, empowering the general council to intervene in unofficial and inter-union disputes. Clearly the size of the vote indicates that the ‘Programme for Action’ would have been carried even without the backing of the AEF, but this ignores the potential impact of AEF opposition both in terms of the size of its vote and the psychological impact on the other unions. Of equal significance to the size of the three votes was Feather’s confirmation of Scanlon’s line that “‘a necessary prerequisite of the operation of ‘Programme for Action’ is that the Government do not proceed with their proposed penal clauses””⁶⁴⁸. He was echoed by Briginshaw, Cousins, McGarvey and Scanlon himself, who, reprising his threats to Wilson and Castle, warned the government that persisting with the interim bill in the face of, ‘this now united trade union movement’, would lead to more than resolutions, a clear hint of future industrial action.

For Feather and the general council the outcome could not have been better. Congress had spoken and, with an overwhelming display of unity, made it very clear that the government could either accept the TUC proposals or persist with the interim bill and risk tearing the labour movement apart. From a trade union perspective the negotiations were effectively over for, as Feather noted in the

⁶⁴⁶ *Guardian*, 4 June, 1969

⁶⁴⁷ For example see *The Times*, 4 June 1969

⁶⁴⁸ Quoted in *Guardian*, 6 June 1969

post-congress general council, congress had given its mandate. Crucially, however, Wilson did not see it like this.

Issued under the name of the First Secretary, but effectively the work of Wilson, the government's formal response was clear. It acknowledged that the TUC proposals were a 'major advance'⁶⁴⁹ and that those for dealing with inter-union disputes seemed, 'broadly' satisfactory', but retained, 'considerable reservations' about the proposals for dealing with unconstitutional strikes, especially the arrangements for ensuring that TUC recommendations were implemented. The press were quick to pick up the implications. The *Guardian's* front-page report on Croydon was headed, 'Government is unmoved by big TUC vote'⁶⁵⁰, whilst the *Daily Telegraph* reported that, 'Mrs Castle, speaking for the Government last night rebuffed the T.U.C.'⁶⁵¹, and *The Times* reported that the government 'reacted coolly'⁶⁵² to the special congress. Castle was furious that the government response had been released without her involvement and yet over her name, and felt that it reduced their room for manoeuvre. Arriving back in England on 6 June she immediately phoned Wilson, who was 'very relaxed', and justified his actions on the grounds that it was necessary to, 'do something to check the post-Croydon euphoria'⁶⁵³. In case the country had not got his message, Wilson followed up the statement with a speech to a rally of Yorkshire Labour women in Barnsley in which he condemned unofficial strikes, 'This problem must be solved. It will not be solved by any abdication by the Government of its responsibilities. Nor will it be solved by any threatened abdication by the TUC of theirs'.⁶⁵⁴ He re-stated the government's view that there was not enough assertion of authority in the TUC proposals to, 'give reasonable hope that what the TUC propose can alone solve this problem.'⁶⁵⁵

⁶⁴⁹ NA, PRO, CAB134/3188, Statement issued by the Department of Employment and Productivity on 5th June 1969

⁶⁵⁰ *Guardian*, 6 June 1969

⁶⁵¹ *Daily Telegraph*, 6 June 1969. Clearly it wasn't 'Mrs Castle', and much of her anger stemmed from this assumption.

⁶⁵² *The Times*, 6 June 1969

⁶⁵³ Castle (1984) p. 664, entry for 6 June 1969

⁶⁵⁴ Quoted in the *Observer*, 8 June 1969

⁶⁵⁵ *ibid*

In the aftermath of the negotiations, several commentators remarked that this was the point at which Wilson could have surrendered with honour. Anthony Howard cited Wilson's failure to grasp the opportunity as the final nail in his political credibility, commenting that his admission to having drafted the statement, 'may have not done any harm to his reputation for courage: it did little to alter anyone's mind about his loss of judgement'⁶⁵⁶. Similarly, Peter Jenkins remarked that 'hopes that a stirring display of trade union determination and responsibility at Croydon would give the Prime Minister the opportunity to begin lifting himself off the hook were now dashed. The message was clear: Harold Wilson intended to press on regardless'⁶⁵⁷. However, neither Jenkins nor Howard had been at Chequers and there seems little doubt that Wilson's response to the special congress was influenced considerably by the attitudes of Scanlon and Jones. What price a TUC resolution when he felt that his right to govern was being questioned?

In the days following Croydon, therefore, Wilson deliberately sought to raise the stakes and in doing so removed any last lingering doubts that he was as committed to the bill as Castle. But what was his motivation, given that it would have been possible to withdraw the bill at this point? At the most straightforward level, the basic objections to the TUC proposals, the so-called 'missing link' had not altered with the votes at Croydon. The objections spelt out in Castle's letter remained, and Wilson could find support among the majority of the press for his concerns. For despite positive coverage on the front pages, the majority of editorials raised doubts as to the efficacy of the TUC proposals. Only the *Guardian*, which had never been a supporter of legislation, called on Wilson to withdraw the interim bill, saying the time had come for the government to 'take its courage in its hands, avoid the temptation to take political short cuts and give the TUC a chance to show what it can do'⁶⁵⁸. However, *The Times* was more measured. It noted that Wilson had three options; to drop the penal clauses; carry on with the bill as it

⁶⁵⁶ 'To many Labour MPs hardest of all to forgive is the grudging, patronising statement that came out of the Department of Employment and Productivity within an hour of the TUC emergency meeting ending', *Observer*, 22 June 1969

⁶⁵⁷ Jenkins (1970) pp.139-140

⁶⁵⁸ *Guardian*, 6 June 1969

stood; or amend the legislation to enable some form of compromise⁶⁵⁹. To drop the penal clauses would convince the public that the government had ‘sacrificed the nation to pressure from a vested interest’, whilst to continue would lead to renewed infighting. In the circumstances a compromise was most likely, but ultimately Wilson was too committed to back down and would have to try and push some form of legislation through. The *Daily Mirror*, always a strong supporter of *In Place of Strife*, doubted the effectiveness of the TUC proposals; if Wilson was to accept them in place of legislation the public would need a lot of convincing that they would work. Finally, the *Financial Times*, whilst acknowledging that considerable progress had been made in ‘a remarkably short time by TUC standards’⁶⁶⁰, highlighted the need for assurances that the TUC would use their new powers to maximum effect and to this end argued for the tightening of rule 11 along the lines previously called for by Wilson and Castle. In many respects the press confirmed Wilson in his determination to continue for, as *The Times* noted, why should the government have changed their objections, ‘just because there was a big vote yesterday’⁶⁶¹.

However, there was also a more fundamental rationale at work that had its origins in the Chequers confrontation with Scanlon and Jones. Peter Jenkins was aware of the confrontation when writing *The Battle of Downing Street*. According to Jenkins, Feather had made a ‘major miscalculation’ in bringing Scanlon, Jones and Wilson together, because instead of persuading Wilson to drop the penal clauses their intransigence led him conclude that the TUC proposals were not worth the paper they were written on, unless ‘Scanlon and Jones could be pinned down’⁶⁶². Jenkins did not have access to the official papers, but the release of Wilson’s account confirms his view. As we have seen, according to Wilson, Scanlon barely stopped short of threatening to bring down the government. There is little doubt that, following Chequers, Wilson was convinced that the dispute went beyond industrial relations and turned on the fundamental right to govern. In the circumstances he saw little alternative but to carry on regardless.

⁶⁵⁹ *The Times*, 6 June 1969

⁶⁶⁰ *Financial Times*, 6 June 1969

⁶⁶¹ *The Times*, 6 June 1969

⁶⁶² Jenkins (1970) p.140

5.12 Summary

Post Croydon, the TUC was in a very strong position. Its 'Programme for Action' was generally accepted as representing a significant step forward in trade union governance, as well as a victory for the pressure exerted by Castle and Wilson. Whilst many doubted the ultimate effectiveness of the proposals, Wilson and Castle could hardly promise that their legislation would offer a greater chance of success. Similarly, whilst the AEF had threatened to expose the fragility of the general council's position, its decision to rally to the cause ensured the overwhelming mandate that made Croydon difficult to ignore. However, the refusal to countenance any form of legislation, including reserve powers or 'cold storage', was a worrying sign of the intransigence that had been demonstrated in such a spectacular fashion at Chequers. From this perspective, Feather was surely right to react to Castle's letter as he did, for anything that provoked outright opposition with little by way of alternative proposals could still leave the unions in weak position.

For Wilson, alongside his genuine doubts as to the effectiveness of the TUC's proposals, it was this growing awareness of intransigence and the threat that it posed not just to the legislation but also to wider notions of a 'right to govern' that began to dominate, and it was here that his influence began to increase. As we have seen, the trade unionists, at least initially, were convinced that Wilson was the dove to Castle's hawk but, particularly after Chequers, they were left in little doubt that this was not the case. Whilst still vulnerable to Feather at their one to one meetings, his reaction to Croydon demonstrated his view that the issue had gone beyond the acceptability of a pragmatic compromise. As Peter Jenkins noted, writing in the *Guardian* after Wilson's Barnsley speech, 'No one should again accuse the Prime Minister of lacking the courage of conviction', and furthermore, 'it is important to understand the extent to which reform of industrial relations is a matter of principle and personal conviction with the Prime Minister'⁶⁶³. If this were the case, observers were left wondering where Wilson could go next. He had used almost every trick in the book to get this far, the only weapons left being his personal position and the continuance of the government,

⁶⁶³ *Guardian*, 9 June 1969

and he had already indicated to Castle that he was prepared to use the former if necessary.

As for Castle, she had continued to focus on attempts to provide rational solutions to the problem of fines and the penal clauses but inevitably took more of a back seat as Wilson's involvement increased. Nevertheless, her decision to continue with her holiday after Chequers was tactically naïve. Whilst her frustration at the behaviour of Scanlon and Jones was justified, and her decision to send the letter to Feather no doubt appeared tactically astute, her absence, coupled with slack drafting, allowed Feather to run rings round both her and Wilson, with the result that, once again, she was perceived to lack the sensitivity to nuances of trade union behaviour expected of one in her position.

However, running alongside the detailed negotiations were constant reminders of the weakness of the Wilson/Castle position. The majority of the press now considered the legislation dead in the water, a sizeable minority of the PLP was prepared to vote against any legislation, the management committee was too mindful of PLP views to offer support with any great conviction, and the Cabinet was yet to be tested on moves to disregard the TUC proposals, let alone endorse the tearing up of the 1906 Trade Disputes Act. Wilson's options were running out. He could continue to seek a meaningful compromise or put his own position, and that of Castle, on the line and make the legislation an issue of personal confidence. The following two weeks would see both positions tested to the utmost before a solution eventually emerged.

CHAPTER SIX: THE FINAL STAGE: JUNE 6 – JUNE 19 1969

6.1 Introduction

This chapter covers the final stage of negotiations. It opens with the first post-Croydon management committee on Sunday, 8 June and finishes with the signing of the ‘solemn and binding’ agreement on Wednesday, 18 June. The resulting ten days were marked by a series of intense negotiations, initially between Wilson, Castle and the general council, and then between Wilson, Castle and a smaller negotiating committee drawn from the general council. Events fall into four distinct phases; the immediate post-Croydon phase during which Wilson and Castle assessed reaction to the special congress and fleshed out their negotiating strategy; the detailed negotiations, during which they pressed for an amendment to rule 11, and which culminated in the amendment being rejected by the general council; a period of stalemate, during which Castle and Wilson sought alternative solutions, including the proposal to restrict immunities offered under the Trade Disputes Act, 1906; and the final resolution, that opened with the Cabinet revolt of 17 June and ended with agreement being reached on the following day. Such was the frequency of meetings during this period that a detailed chronology is included as appendix 4.

Taking the temperature

6.2 Management Committee – 8 June

Judging by the newspaper headlines, Wilson’s attempts to burst the post-Croydon bubble were effective. The *Observer* headlined, ‘It’s not good enough, Wilson warns TUC’⁶⁶⁴; the *Sunday Times*, ‘Wilson: We’ll not abdicate on Castle bill’⁶⁶⁵; and the *Guardian*, ‘Mr Wilson rejects TUC alternatives’⁶⁶⁶. However, for every action there was an equal and opposite reaction, and there were similar levels of coverage for the remarks by the Labour Party general secretary, Harry Nicholas, who indicated that there had been no relaxation in the opposition of the party’s national executive committee to the interim bill. Nicholas was quoted as saying, that ‘I agree wholeheartedly, after 32 years as a trade union official, that you

⁶⁶⁴ *Observer*, 8 June 1969

⁶⁶⁵ *Sunday Times*, 8 June 1969

⁶⁶⁶ *Guardian*, 9 June 1969

won't overcome this by legislation. You have to find the causes'.⁶⁶⁷ Whilst Feather reiterated the TUC refusal to tighten further the 'Programme for Action',⁶⁶⁸ and the uncompromising Scanlon for whom, "the TUC has gone as far as it can or as it will go"⁶⁶⁹.

Of perhaps greater concern to Wilson, however, than all of these predictable responses, were two reports in the *Guardian*. The first, by Francis Boyd, highlighted the emergence of a new mood among backbenchers previously inclined to support the government. According to the report, the size of the Croydon majorities, 'somewhat cowed'⁶⁷⁰ the government's backbench supporters, who were worried that the level of endorsement for the TUC proposals made them very difficult to ignore. This report was then followed with another by Ian Aitken on Monday, 9 June entitled, 'Uneasy men in the Cabinet'⁶⁷¹, suggesting that Wilson was to face demands for a settlement from a growing group of ministers concerned at the uncompromising tone struck in his response to the special congress, and his subsequent speech in Barnsley. The report listed the usual malcontents, Callaghan, Mason, Hart and Marsh, but then added Crossman, Greenwood and Hughes who were said to be in two minds on the issue. The report concluded that whilst this group was not powerful enough to defeat the triumvirate of Wilson, Castle and Jenkins, it could, 'precipitate an argument' that would be very damaging to Wilson at such a key stage in the negotiations.

It was against this backdrop that the management committee met to review the situation post-Croydon and determine the way forward with both the general council and the Cabinet at the meetings scheduled for the following day. According to Castle, it was also the point at which the committee members revealed themselves to be rattled both by the special congress and Wilson's reaction. Castle recorded Healey's admiration for Feather's brilliant manoeuvring, and Jenkins' concern that public opinion had been, 'favourably

⁶⁶⁷ *Guardian*, 7 June 1969

⁶⁶⁸ *Daily Telegraph*, 9 June 1969. In a BBC interview, Feather said, 'He wants "must" instead of "may"...But we are not prepared to make a commitment which we know at some point or other we may not be able to fulfil.'

⁶⁶⁹ *Guardian*, 9 June 1969.

⁶⁷⁰ *Guardian*, 7 June 1969

⁶⁷¹ *Guardian*, 9 June 1969

impressed' by the TUC's efforts⁶⁷². This led her to 'lose patience' and remind them that, 'the history of the Government in the past few months has been one of capitulation'. Eventually Wilson, 'rallied' them and it was agreed that the line should be to 'give the TUC a try and take penal powers only on a suspended appointed day'⁶⁷³. In the event that the general council refused to negotiate on this basis further discussion would be needed on the way forward.

Castle's account conveys the underlying uneasiness of the management committee and emphasises how little support they were able to provide to Castle and Wilson as the negotiations continued. However, in confining her comments to the decision to, 'give the TUC a go', she does little to convey the detailed position that was emerging. The minutes recorded the key facts that had emerged during the Whitsun recess. The committee was informed that the TUC remained opposed to any legislation, would withdraw its own proposals if the government went ahead, and would adopt this course even if the penal clauses were put into 'cold storage'. Furthermore, whilst the Chequers meeting was not mentioned, the minutes recorded what were presumably Wilson's comments reflecting the response of Scanlon and Jones at Chequers, that the more intransigent unions were likely to, 'deliberately', try and frustrate the introduction of the penal clauses through strike action or by arranging for unions to pay any fines imposed on individual strikers. Against this, it was reported that there were, 'some private indications' that the, 'TUC themselves, who were naturally concerned to consolidate their position in relation to individual unions and were adverse from appearing to be subject to their dictation', were prepared to continue negotiations in the hope that, should the penal clauses be introduced, 'some acceptable alternative could be devised before it became effective'.

The minutes also confirmed Castle's account of the emerging concern over the likely attitude of the Cabinet, noting that some ministers were, 'questioning afresh the wisdom of pursuing to its logical conclusion the course to which the

⁶⁷² Castle (1984) pp.665-6, entry for 8 June 1969

⁶⁷³ *ibid.*

Government were still publicly committed'⁶⁷⁴. However, the minutes stressed that the Cabinet needed to be reminded that, 'no Government could afford to accept dictation by one section of the community in pursuit of its own interests', a clear echo once again of Wilson's reaction to Jones and Scanlon at Chequers, concluding that the negotiating strategy should, 'concentrate on seeking to devise some means of maintaining a firm posture in public while continuing confidential negotiations with the trade unions in the hope of finding some alternative solution'⁶⁷⁵, a tactical stance that only served to magnify the later humiliation. Moreover, Wilson and Castle suggested that the 'alternative solution' should involve the introduction of model rules along the lines that they had discussed in the immediate aftermath of the Chequers debacle⁶⁷⁶. As we have seen, Wilson had become very attracted to this idea, both in itself and as a negotiating tactic⁶⁷⁷. According to Castle, Wilson told her that he had raised the idea with Feather at a private meeting on 6 June and Feather had become, 'almost lyrical', saying that 'this could be a historic week which brought a settlement'⁶⁷⁸. Castle does not make it clear whether Feather was responding to the prospect of introducing model rules, but recorded her own scepticism, 'Frankly I can't see it if Vic really knows what is involved in de-registration'⁶⁷⁹.

In line with Wilson and Castle's post-Chequers discussions, it was proposed that unions be required to adopt model rules directed specifically at the disciplining of members engaged in unconstitutional action. This would be coupled with an amendment to the 1906 Trades Disputes Act to confine legal protection under the Act to registered trade unions, with the adoption of the model rules as a condition of registration. The aim of the model rules solution, and the minutes refer to it

⁶⁷⁴ PRO, CAB134/3118, Management Committee, Minutes of a meeting held on Sunday, 8th June 1969

⁶⁷⁵ *ibid.*

⁶⁷⁶ Castle records that Conrad Heron was tasked with preparing a briefing paper for Sunday's management committee (see Castle (1984) p.663, entry for 2 June 1969). An undated draft of the paper, heavily annotated by Castle, exists in the DEP files (NA, PRO, LAB43/534, Secret, Industrial Relations Bill: Possible Courses of Action) but it does not appear in the official records of the management committee and as such it is assumed that the committee's discussion was based on Castle's verbal commentary rather than a written paper. Given that no mention of the proposals was made in the press during this period, it is reasonable to assume that a decision was made to avoid paper briefings for fear of just such a leak.

⁶⁷⁷ See, chapter five, pp.37-38

⁶⁷⁸ Castle (1984) pp.664-665, entry for 7 June 1969

⁶⁷⁹ *ibid.*

explicitly as a ‘tactic’, was to offer legislation along these lines as an alternative to the ‘cold storage’ proposal. Tactically, this proposal was seen to be attractive for a number of reasons;

If the TUC rejected this approach, they would be seen to have refused to co-operate with the Government not merely in the implementation of the Government’s own proposals in the White Paper “In Place of Strife” but also in the voluntary strengthening of their own proposals (in their document “Programme for Action”) which the Government considered to be essential if that document was to be effective and in the statutory enforcement of model rules which would be designed to have the same result.⁶⁸⁰

Furthermore, it was suggested that many in the TUC would find model rules, ‘even more repugnant’ than the existing penal clauses and as such might bring ‘reluctant acquiescence’ to the bill as it stood. As a negotiating ploy it had something to recommend it, but even the official record noted that the model rules proposal was at odds with all of the government’s previous comments on the Donovan report. It seems incredible that the committee was contemplating it seriously. Castle had, on numerous occasions, upheld the sanctity of the 1906 Act and, judging from her diary, remained doubtful of Feather’s real intentions. Yet Wilson obviously gave weight to Feather’s reaction and was prepared to follow it through. The committee agreed to update the full Cabinet on progress and ask it to consider the ‘desirability of adopting the tactic of pursuing negotiations with the TUC (in which the concept of model rules might play an important part) while interim legislation, based on penal clauses with a deferred operation, was introduced’⁶⁸¹. However, in a return to the theme that dominated Wilson’s post-Chequers thinking, it was also noted that, should the TUC refuse to contemplate further negotiations if the ‘cold storage’ option went ahead, the Cabinet would need to consider, ‘whether they could accept a position in which they would in effect be required to abdicate in favour of the TUC’. It is a measure of how serious the situation had become that this was being discussed openly in private meetings, and not just being used as a rhetorical device to scare the party into line.

⁶⁸⁰ NA, PRO,CAB134/3118, Management Committee, Minutes of a meeting held on Sunday, 8th June, 1969.

⁶⁸¹ *ibid.*

It was clear that the overwhelming endorsement of the special congress had strengthened significantly the hand of the trade unions. Press reports, coupled with the reaction of the management committee indicated the fragility of the Wilson position. Post-Croydon, his tactics revolved around keeping the general council at the negotiating table and in this he was heavily reliant on Feather who, as the management committee minutes indicate, was as keen to keep the negotiations going as Wilson. If, as was likely, the general council refused to strengthen its own proposals, it is clear that Wilson was prepared to carry on with the interim bill despite the TUC threat to withdraw its own proposals. Whether the Cabinet would back him remained to be seen. Prior to the Cabinet meeting, however, Wilson and Castle were scheduled to meet the general council. The management committee agreed that the meeting should be confined to seeking an agreement for continuing negotiations, the scope and nature of which were to remain undefined, giving the government, 'the maximum of flexibility and room for manoeuvre'⁶⁸². The outcome could then be reported to the Cabinet meeting in the afternoon.

6.3 General Council, 9 June

The meeting with the general council was, as Castle termed it, 'shadow boxing'⁶⁸³. The general council minutes indicate that, at their preliminary meeting, the members agreed that the main purpose of the meeting was to inform ministers of the result of the special congress. In the event that Wilson should put forward a new set of proposals it was agreed that they should, 'reserve their position until they had a chance of discussing them between themselves'⁶⁸⁴. As it was, both sides stuck to their pre-determined positions; Feather stressing that their proposals, whilst not claiming to solve all industrial relations problems, 'had the best chance of succeeding'⁶⁸⁵, and that the general council would withdraw its proposals if the government continued with the legislation; whilst Wilson returned to the lack of rigour in paragraph 42 and rule 11, 'the key question in his view was

⁶⁸² *ibid.*

⁶⁸³ See Castle (1984) pp.666-667, entry for 9 June 1969

⁶⁸⁴ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2), Minutes of the seventeenth meeting held on 25 June 1969, Minutes of a meeting between the Prime Minister, First Secretary of State and the General Council on Monday June 9, 1969

⁶⁸⁵ *ibid.*

whether paragraph 42 could be strengthened, and in what way'⁶⁸⁶. Wilson also reiterated that the government would be prepared to drop the penal clauses if paragraph 42 could be amended, 'to make it as effective as the Government thought necessary', stressing that, 'that had been the basis of discussions all along'⁶⁸⁷. He also gave a very broad hint at the strategy agreed by the management committee when he speculated on the means by which paragraph 42 could be strengthened, 'It could be worth looking again at the Donovan Report to see if there was anything in that which would help'⁶⁸⁸. He also indicated that if they could come to an agreed position, 'then penal clauses might be provided in legislation but never be applied.

However, if Feather picked up the hint he did not respond to it. The meeting closed with Wilson confirming that the Cabinet would not reach a final agreement on the contents of the bill at the afternoon's meeting and were likely to re-convene on Thursday to come to a conclusion. It was agreed that that they should hold two further meetings, one on Wednesday 11 June after the first Cabinet and the second on either the evening of Thursday 12 June or morning of Friday 13 June, after the second Cabinet meeting. The general council minutes indicate that they then held their own discussion, at which they confirmed the central planks of their own negotiating position; that if the government introduced penal sanctions, even in the form of reserve powers, they would withdraw 'Programme for Action'; that they were prepared to consider any further proposals arising from the Cabinet discussions, although any proposals involving penal sanctions remained 'completely unacceptable'; and that the only way to amend 'Programme for Action' would be through the calling of another special congress.

6.4 Management Committee, 9 June

Prior to the full Cabinet, Wilson and Castle met with the management committee to update them on the discussion held with the general council. Castle recorded that the atmosphere was, 'much steadier' than at Sunday's meeting, with Mellish,

⁶⁸⁶ *ibid.*

⁶⁸⁷ *ibid.*

⁶⁸⁸ *ibid.* It was Donovan that had raised the possibility of removing protection under the 1906 Act from those involved in unofficial strikes.

in particular, praising her and Wilson for keeping the negotiations open⁶⁸⁹. Once again, according to the official minutes, Wilson reported on a private meeting with Feather he had held immediately after the general council meeting, to discuss the 'model rules' option, to which, once again, Feather had reacted, 'not unfavourably'. The central uncertainty, however remained: would the more 'intransigent unions' be prepared to consider any alternatives if the government remained determined to introduce a bill incorporating the penal clauses? This in turn led to the conclusion that it was more important to 'bring the negotiations with the TUC to as advanced a stage as possible' before the bill was introduced, even if this meant that the bill was delayed for a further week or two. The crucial consideration was the impact on the PLP, if they could be reassured that the negotiations were making progress and that the penal clauses would be revoked in favour of an alternative arrangement agreed with the TUC then, the committee concluded, 'it should be possible to maintain control'⁶⁹⁰. The weakness of the verb 'should', however, suggests that they were not too confident of success.

Once again, Wilson was placing considerable weight on the discussions with Feather when there is no evidence from the general council minutes to suggest that Feather had even discussed the possibility of model rules with his colleagues. Similarly, the view that the PLP could be managed if they could only see the prospect of an agreed alternative was shot out of the water by a statement released by the self-styled 'action committee'. It will be recalled that the committee had produced previously a list of 61 MPs prepared to vote against the penal clauses. Following the special congress, it released a statement noting with 'deep regret' the government's failure to respond positively to the decisions of the congress. In the event that the government failed to support the TUC proposals, the committee announced its intention to conduct a survey of all Labour MPs on the question of support for the penal clauses in the light of growing anger over the government's failure 'to meet the TUC statement halfway', and to follow this with a 'report

⁶⁸⁹ Castle (1984) pp.666-7, entry for 9 June 1969

⁶⁹⁰ NA, PRO, CAB134/3118, 'Management Committee', Minutes of a meeting held on Monday, 9th June 1969

back' meeting of all those participating in the survey to 'determine tactics for the long haul and debate into August'⁶⁹¹.

6.5 Cabinet, 9 June

Wilson, and his opponents, would have been fully aware of these threats as they entered the Cabinet and Wilson very sensibly avoided asking the Cabinet to make a decision on the future of the legislation. Rather, he confined himself to an outline of the morning's discussion with the general council and made it clear that there remained considerable differences over the TUC proposals for unofficial strikes. The crucial question, he told the Cabinet, was whether the TUC was prepared to strengthen its procedures for dealing with unofficial strikes as set out in paragraph 42 of 'Programme for Action'. Alluding to the 'model rules' proposal, he suggested that it might be possible to, 'provide statutory backing' to the TUC proposals, and repeated his post-Mayday mantra that, 'If they could reach agreement with the TUC on acceptable alternatives, then the "penal clauses" could be dropped'⁶⁹². He also outlined his negotiating strategy, 'further intense consultations to see whether by strengthening their proposals or in some other way the TUC could satisfy the Government that they would be able to deal effectively with the problem of unconstitutional stoppages'⁶⁹³, and his willingness to continue discussions, 'up to and beyond the introduction of the interim Bill'⁶⁹⁴.

In the absence of any need to make a decision, discussion was limited. Concerns were raised about the relative effectiveness of the TUC and government proposals, but Castle recorded that it was, 'a not unencouraging Cabinet'⁶⁹⁵. The tone of the press reports on the following day varied. The *Daily Telegraph* reported that the Cabinet was 'shirking'⁶⁹⁶ a final decision, and provided an accurate account of Wilson's desire to keep the discussions open for as long as possible. *The Times* noted that the, 'most hopeful sign'⁶⁹⁷ was that neither side had broken off talks.

⁶⁹¹ *Daily Telegraph*, 10 June 1969

⁶⁹² NA, PRO, CAB128/44, CC(69)26th Conclusions, Meeting of the Cabinet held on Monday, 9 June, 1969

⁶⁹³ *ibid.*

⁶⁹⁴ *ibid.*

⁶⁹⁵ Castle (1984) pp.666-7, entry for 9 June, 1969

⁶⁹⁶ *Daily Telegraph*, 10 June 1969

⁶⁹⁷ *The Times*, 10 June 1969

However, in a leader article, it raised concerns over the, ‘disproportion between the practical usefulness of the measure and its political consequences’⁶⁹⁸, concluding that Wilson and Castle had invested their proposals with such significance, that they could not back down and had no choice, ‘in public reputation’ but to ‘proceed or quit’⁶⁹⁹. The *Guardian*, clearly reflecting a briefing from Cabinet opponents of the bill, reported that several members of the Cabinet had, ‘spoken out strongly’⁷⁰⁰ for the withdrawal of the government’s proposals in favour of the TUC’s, and that there was an increased readiness to seek a compromise. Significantly, the paper reported that the ‘outstanding’ factor in this mood shift was a belief that Roy Jenkins was beginning to entertain doubts as to the future of the bill⁷⁰¹. As the report concluded, if Jenkins were to join the opposition, ‘it is difficult to see how Mrs Castle could continue to hold the Government on what appears to be its present collision course with the trade unions’⁷⁰².

Wilson’s success in this initial period was to keep the negotiations open, and in this he was aided by Feather’s desire to avoid outright confrontation. However, as the negotiations narrowed down to the specifics of paragraph 42 and rule 11 there was a considerable danger that few outside the negotiations would grasp the significance of its wording, a fact already evidenced by the statement of the ‘action committee’ and opponents within the Cabinet that they saw little in the government’s proposals to better those of the TUC. When this was coupled with the unwillingness of the general council to countenance further amendments and the sense that supporters of such importance as Roy Jenkins were beginning to express doubts, it was difficult to see how Wilson was going to avoid an outright confrontation. However, he did have the Cabinet’s backing for continued discussions, and he had yet to bring the model rules into play. It was here perhaps that his last hope lay.

⁶⁹⁸ *ibid.*

⁶⁹⁹ *ibid.*

⁷⁰⁰ *Guardian*, 10 June 1969

⁷⁰¹ ‘There were hints yesterday, and at the weekend, that Mr Jenkins’ was at last becoming seriously alarmed about the danger of a confrontation between the Government and the TUC over industrial relations’, *Guardian*, 10 June 1969.

⁷⁰² *Ibid.*

Intense Negotiations

6.6 General Council, 11 June

We are fortunate in that both the government and the TUC kept a record of the final sequence of meetings⁷⁰³. As appendix 4 indicates, the negotiations from June 11 onwards were conducted initially by the general council and then by smaller sub-committee that reported back to the full general council at regular intervals⁷⁰⁴.

The initial meeting involved the full general council, and Wilson wasted no time in setting out the three alternative lines of approach; the strengthening of paragraph 42 and with it rule 11; the dropping of the penal clauses to be replaced by other forms of legislation; and, legislating for the penal clauses but with an effective date some time into the future to give the TUC proposals time to work, the so-called, 'cold-storage' option. In his talk of strengthening paragraph 42 and rule 11, Wilson did not explicitly refer to the model rules, but rather to following, 'some alternative suggestions made by the Royal Commission'⁷⁰⁵. It was a measure of Wilson's enthusiasm for the model rules proposal that the original transcript of Castle's diary for 11 June records her warning him 'desperately' not to make any mention of revising the Trade Disputes Act 1906 on the grounds that it would inevitably leak⁷⁰⁶. Similarly, on the following day, the transcript records that she was still 'trying to warn him off spelling out his alternative proposals for

⁷⁰³ In the case of the TUC, this included the general council pre-meetings and the discussions that took place during adjournments, and as such these provide an invaluable account, both of the meetings and of the general council's tactics. Furthermore, the TUC records tend to be less guarded than the government records and are more inclined to include the overtly political discussions. Unfortunately, the government records are confined to the meetings themselves, and consequently, we are reliant on Castle's diaries for accounts of her adjournment discussions with Wilson and officials. However, the government records do have the advantage of identifying individual speakers. Therefore, the accounts that follow are taken largely from the TUC records, with identification of speakers taken from the government records, with support from Castle's account where necessary.

⁷⁰⁴ Feather and Wilson had discussed the practicality of the general council delegating the detailed negotiations to a sub-committee at a number of their private meetings, and the general council agreed to set up a six-man committee consisting of Sir Frederick Hayday (chairman), Alfred Allen, Sidney Greene, Jack Jones, Hugh Scanlon and Vic Feather to undertake the detailed negotiations.

⁷⁰⁵ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2), Minutes of the seventeenth meeting held on 25 June 1969, Minutes of a meeting between the Prime Minister, First Secretary of State and the General Council on Wednesday June 11, 1969

⁷⁰⁶ BCC, entry for 11 June 1969

removing the immunity of the 1906 Act', but that 'he was determined to keep it in play',⁷⁰⁷

After some points of clarification the meeting adjourned to allow the general council to discuss Wilson's proposals and agree on the membership of the sub-committee. Their discussion shows that the general council had picked up the significance of Wilson's reference to 'other forms of legislation' and views were expressed that this represented, 'an implied and unidentified threat'. Whilst no mention had been made of what the other legislation involved, it was enough for the general council to agree they should continue the discussions but, 'provided it was made clear' that these would be confined to the first of Wilson's options, the strengthening of rule 11. At this point the sub-committee was convened to discuss a way forward. Wilson had played his hand wonderfully, by holding back on the detail of the 'model rules' option he had avoided the inevitable outrage, but he had done enough to focus attention on the need to clarify rule 11. Castle recorded the admiration of her officials, "'He's like an eel'", said Frank Lawton approvingly. "He's handling Vic marvellously", added Denis Barnes.'⁷⁰⁸

Consequently the sub-committee agreed to draft a note of clarification on the procedure that would operate under rule 11(c) that could be included in a circular to all unions explaining how the general council intended to implement their new powers⁷⁰⁹. The draft read as follows;

Having ascertained all the facts relating to the difference, the General Council shall tender to the organisation or organisations concerned their considered opinion and advice, which may take the form of an award or recommendation: in cases where they find that the negotiations should proceed on the basis of a return to work, they will place an obligation on the organisation or organisations to take immediate and energetic steps to obtain a resumption of work⁷¹⁰

Whilst not an amendment to the rule, this did represent a significant tightening of its intended usage. The final phrase, 'they place an obligation on the organisation

⁷⁰⁷ *ibid.*, entry for 12 June 1969

⁷⁰⁸ Castle (1984) pp.668-9, entry for 11 June 1969

⁷⁰⁹ Rule 11, clause (c) as endorsed by TUC special congress is included as appendix 5

⁷¹⁰ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2), Minutes of the seventeenth meeting held on 25 June 1969, Minutes of a meeting between the Prime Minister, First Secretary of State and the General Council on Wednesday June 11, 1969

or organisations to take immediate and energetic steps to obtain a resumption of work', was identical to that used in the revised rule 12 that dealt with inter-union disputes and which had been accepted by both Castle and Wilson⁷¹¹. Furthermore, Castle and Wilson referred throughout to the general council placing unions under an, 'obligation' to obtain a return to work. However, there was no mention of the use, or amendment, of the rule book, so it remained unclear what action a union would take to get strikers back to work.

During the adjournment, Castle had also been at work, this time on a revised version of rule 11, which proposed the addition of two new clauses;

d) Where a dispute has led to an unconstitutional stoppage of work which involves directly or indirectly large bodies of workers or which if protracted may have serious consequences, the General Council shall ascertain all the relevant facts and shall tender to the organization or organizations concerned their considered opinion and advice, which may take the form of an award or recommendation; in cases where, having regard to the principles set out in Paragraphs 20 to 27 of 'Programme for Action', they find that the workers are constitutionally in the wrong, they will place an obligation on the organization or organizations concerned to take immediate and energetic steps to obtain a resumption of work, so that negotiations can proceed.

e) Should the organization or organizations concerned refuse the assistance or advice of the Council under Clause (c) above, or not comply with an obligation under Clause (d), the General Council shall duly report to Congress or deal with the organization under Clauses (b), (c), (d) and (h) of Rule 13⁷¹²

There were three significant differences between the drafts; Castle proposed an addition to the rules, whereas the sub-committee text was intended as a clarification of the existing rule; Castle's clause (d) made explicit the general council's involvement in unconstitutional disputes, whereas the sub-committee text did not; and finally, Castle's clause appeared to include the universal requirement of a return to work in all cases where workers were found to be acting unconstitutionally, regardless of the merits of the dispute, whilst the sub-committee guidance referred to a selective return to work based on the findings of the general council in individual cases.

⁷¹¹ Relevant clauses of rule 12 attached as appendix 5

⁷¹² See Castle (1984) p.669 footnote

In the reconvened meeting, the sub-committee was concerned immediately that Castle's amendment was, 'only concerned to secure a return to work when a dispute arose, irrespective of its merits'⁷¹³, and reiterated that rule 11, as agreed by the special congress, would give the general council all the powers the government were asking of them. Similarly, whilst Wilson was prepared to concede that the sub-committee's note was, 'another big step forward'⁷¹⁴, he was concerned that there remained a 'substantial' difference between the two sides: Castle was emphasising the need for legislation to deal with unconstitutional stoppages whilst the general council did not seem to be prepared even to condemn unconstitutional stoppages.

It was at this point, according to Castle, and much to her annoyance, that Wilson suggested amending the sub-committee draft, a point confirmed by the minutes⁷¹⁵. For the first time he referred to the draft as a binding, 'statement of intent' and asked why they referred to 'difference' when they meant, 'dispute', and failed to mention paragraphs 20-27 of 'Programme for Action', when these contained the general council's definition of an unconstitutional dispute and the circumstances in which they would expect a return to work. He then proposed the following amendment;

In cases where, having regard to the principles contained in paragraphs 20-27 of 'Programme for Action', they find that there has been an unconstitutional stoppage and therefore that negotiations should proceed on the basis of a return to work, they will place an obligation on the organisation or organisations concerned to take immediate and energetic steps to obtain a resumption of work⁷¹⁶

At this, Castle's frustration boiled over and she passed Wilson a note, 'I think it is impossible to settle on any other basis than an amendment to rule 11'⁷¹⁷.

⁷¹³ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2), Minutes of the seventeenth meeting held on 25 June 1969, Minutes of a meeting between the Prime Minister, First Secretary of State and the General Council on Wednesday June 11

⁷¹⁴ *ibid*

⁷¹⁵ Castle (1984) pp.668-69, entry for 11 June 1969, 'Then to my horror Harold suggested that we should look at their paragraph first'

⁷¹⁶ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2), Minutes of the seventeenth meeting held on 25 June 1969, Minutes of a meeting between the Prime Minister, First Secretary of State and the General Council on Wednesday June 11

⁷¹⁷ Castle (1984) pp.668-69, entry for 11 June 1969

Eventually, getting the message, Wilson adjourned the meeting to give the sub-committee an opportunity to consider their position.

Meeting in private, the sub-committee agreed to replace 'difference' with 'dispute' and include reference to the relevant paragraphs of 'Programme for Action'. However, in their view, including reference to the 'Programme for Action' made it unnecessary to refer to unconstitutional disputes as they were covered implicitly in the statement. Consequently, the draft note now read;

Having ascertained all the facts relating to the *dispute*, the General Council shall tender to the organisation or organisations concerned their considered opinion and advice, which may take the form of an award or recommendation: *having regard to the principles set out in paragraphs 20-27 of 'Programme for Action'*, in cases where they find that the negotiations should proceed on the basis of a return to work, they will place an obligation on the organisation or organisations to take immediate and energetic steps to obtain a resumption of work⁷¹⁸
(amendments in italics)

However, the sub-committee was unanimous in its rejection of the re-drafted rule 11 and made this clear to Wilson and Castle when the meeting re-convened. In response Wilson agreed that their revised draft was stronger than the original, but weaker than he had suggested. The meeting then closed with an agreement that Wilson would send a draft to the TUC on the following morning setting out the form the government would expect rule 11 to take if the government was to agree to drop the penal clauses from the legislation, and that Wilson and Castle would meet the general council on the following evening to hear their response.

How significant was the distance between the government and the general council at this point? On the face of it the difference came down to an unwillingness to insert an explicit reference to 'unconstitutional strikes', and much of the post-settlement commentary focused on how minimal the differences were. However, it is clear from the reaction of both sides that it reflected more than a difference over a form of words. The general council was not prepared to insert what it considered to be a blanket condemnation of unconstitutional strikes because, as set out on a number of occasions, including paragraphs 20 to 27 of 'Programme for

⁷¹⁸ *ibid.*

Action, there were a range of circumstances in which unconstitutional action was the only available action, most notably in industries or factories that lacked appropriate disputes procedures. Similarly they were not prepared to adopt a 'one size fits all' approach to industrial disputes, something they consistently accused the government of trying to do, but crucially it remained unclear how individual unions were to coerce strikers back to work without an explicit reference to action under their own rules.

By contrast Wilson and Castle had identified the political and economic damage inflicted by unconstitutional or unofficial disputes as the central issue to be resolved through legislation. The 'conciliation pause' had been drafted in such a way as to ensure a return to work in cases of unconstitutional or unofficial action, with the status quo ante being employed to ensure that whatever had triggered the dispute was nullified for the duration of the pause. Therefore, if the penal clauses were to be dropped, it seemed reasonable to expect the TUC to be explicit about the measures proposed to ensure a return to work in the case of an unconstitutional strike, and for a clear distinction to be made between constitutional strikes and those in breach of procedures. As Castle, in deep frustration, told the sub-committee, 'If the TUC did not like the penal clauses they should say how they intended to get people back to work, because Rule 11 in its present form was permissive'⁷¹⁹. In the circumstances it remained difficult to see how the two sides could be reconciled.

6.7 Management Committee and Cabinet, 12 June

Despite the rigours of the previous day, and newspaper headlines suggesting deadlock⁷²⁰, Castle's diary was surprisingly upbeat, 'Management Committee was easy; everyone was so confident that, having promised to drop the penal clauses if we got a change of Rule 11, a settlement must be in sight'⁷²¹. Similarly, she records, 'Cabinet was easy-going, too'⁷²², with even Callaghan seeming positive. Once again, however, the Cabinet was not asked to make a decision, rather Wilson

⁷¹⁹ *ibid.*

⁷²⁰ *Daily Telegraph*, 'Deadlock in TUC Talks at No 10', *Guardian*, 'Midnight talks falter on penal clauses', *The Times*, 'Formula sought in deadlock over penal clauses'

⁷²¹ Castle (1984) pp.669-670, entry for 12 June 1969

⁷²² *ibid.*

had agreed with the management committee that all that was required of the Cabinet at this stage was its authority to offer to abandon the legislation on penal clauses if the general council accepted the proposed changes to rule 11. He acknowledged that, if the general council rejected the revised rule, it would be necessary for the Cabinet to meet again to consider its policy but, 'there was no need for the Cabinet to concern itself with this hypothetical possibility at this present stage'⁷²³. Consequently, the Cabinet was not asked to address the possibility of a general council refusal. Wilson suggested in the vaguest of language that it would 'presumably' entail the introduction of a bill incorporating the penal clauses, 'but in such a way that they could not be invoked for a stated period after Royal Assent'⁷²⁴, or the alternative legislation that did not involve the imposition of fines, a veiled reference to the model rules proposal, but he was careful to avoid a detailed discussion. The general council, however, was in no mood to accept the amendment.

6.8 General Council, 12 June

As on previous occasions, the general council met in advance of the negotiations to discuss their approach and the minutes record an unequivocal rejection of the revised rule 11. The arguments had a familiar ring: 'what the First Secretary wanted to do was to transfer in some form the penal clauses from her legislation into the TUC Rules'⁷²⁵, and, referring to the requirement to order a return to work in the case of unconstitutional strikes, the government seemed to expect the general council to 'become a disciplinary body without any discretion in dealing with unconstitutional strikes which had been provoked by the employer'⁷²⁶. When they met Wilson and Castle they were uncompromising, for 'there was no hope of proceeding on the basis of the Government's proposed amendment to Rule 11'⁷²⁷. In reply, Wilson was equally forthright, 'there was no possibility of an understanding between the Government and the TUC on the basis of dealing with

⁷²³ NA, PRO, CAB134/3118, Management Committee, Minutes of a meeting held on 12th June, 1969

⁷²⁴ NA, PRO, CAB128/44, 27th Conclusions, Conclusions of a meeting of the Cabinet held on 12th June 1969

⁷²⁵ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2), Minutes of the seventeenth meeting held on 25 June 1969, Minutes of a meeting between the Prime Minister, First Secretary of State and the General Council on Thursday June 12.

⁷²⁶ *ibid.*

⁷²⁷ *ibid.*

such vital problems as unconstitutional strikes without a commitment to a stronger change to Rule 11,⁷²⁸. In the circumstances, there was little more to say. Wilson suggested that each side report back to their colleagues and that they reconvene on 18 June at which point he would indicate, ‘what the Government had in mind’,⁷²⁹, after a meeting of the Cabinet on 17 June. Castle and Wilson remained upbeat although, with ominous significance, Castle recorded that, ‘I myself believed that Cabinet and the PLP must be prepared to back us now that what everyone believed was a generous offer had been turned down’,⁷³⁰. The next six days would be crucial.

6.9 Stalemate

The decision to reconvene on 18 June left six days for intense lobbying by both sides and the press coverage focused on two developments, the growing opposition to Wilson and Castle from within both the Cabinet and the PLP, and the possibility that Wilson was considering proposals to withdraw the penal clauses and replace them with the ‘model rules’ proposal. The *Daily Telegraph* reported that Wilson faced opposition from Callaghan, Marsh, Mason and Crosland⁷³¹, and whilst there was little new in this, the *Sunday Telegraph* went further and reported that Crossman was, ‘now known to question whether the struggle with the unions is worthwhile’,⁷³². Whilst the press went out of its way to report that sources close to Jenkins had denied the earlier reports that he too was wavering, there were clear indications that support was shifting and that it was not just Cabinet members who were having doubts.

Alongside reports of changing allegiances, hints began to emerge over the likely form of government legislation. Reporting on the 12 June meeting, both the *Guardian* and *The Times* alerted readers to the prospect of fines against individual strikers being dropped. Whilst *The Times* was not specific about a replacement, it suggested that both Wilson and Castle had ‘strong faith’ that the removal of fines gave their legislation a chance, ‘even if they can scarcely hope to win enthusiastic

⁷²⁸ *ibid.*

⁷²⁹ *ibid.*

⁷³⁰ Castle (1984) p. 671, entry for 12 June 1969

⁷³¹ *Daily Telegraph*, 14 June 1969

⁷³² *Sunday Telegraph*, 15 June 1969

support'⁷³³. The *Guardian* went further and raised the prospect of fines being replaced with Donovan's proposal to enable employers to seek damages from unofficial strikers⁷³⁴. By the weekend, however, the stories were becoming much more specific.

The *Observer* ran a front-page report that Wilson was suggesting changing the law which 'now protects wildcat strikers from court action'⁷³⁵, whilst the *Sunday Telegraph* reported that the government was considering two options, removing the immunity granted under the 1906 Trades Disputes Act from unofficial strikers, and modifying the Contracts of Employment Act and the Redundancy Payments Act so that unofficial strikers would forfeit accumulated rights to periods of notice and redundancy benefits based on length of service⁷³⁶. Similarly, the *Sunday Times*, under the heading, '110 words which split Wilson and Feather', printed the full text of the general council's suggested note of clarification, and suggested that the government was proposing to partially remove immunity under the 1906 Act, to give the TUC a 'cold-turkey cure' to shock it out of opposition to the government's own proposals⁷³⁷.

Whilst the press speculated, Castle and Wilson were working feverishly on alternative proposals, and nothing more clearly indicates the totality of Wilson's involvement in the final stages of negotiations, than the extent of his involvement in the development of the model rules proposal as it emerged over the weekend of 14 – 15 June. Wilson's official papers indicate that Castle's private secretary, Douglas Smith, sent Wilson's office a draft paper entitled, 'Alternative Forms of Sanctions against Unconstitutional Strikers' on Friday, 13 June⁷³⁸. The paper was intended for discussion at the Cabinet meeting scheduled for Tuesday, 17 June, and was placed in Wilson's weekend box with a covering note that indicated the sense of urgency, 'The attached arrived late in the evening and has not been

⁷³³ *The Times*, 13 June 1969

⁷³⁴ *Guardian*, 13 June 1969

⁷³⁵ *Observer*, 15 June 1969

⁷³⁶ *Sunday Telegraph*, 15 June 1969

⁷³⁷ *Sunday Times*, 15 June, 1969

⁷³⁸ NA, PRO, PREM13/2758, Note from Douglas Smith to Roger Dawe, 'Alternative Forms of Sanctions Against Unconstitutional Strikers', undated but sent to Wilson's office on Friday 13 June 1969

examined by a Private Secretary. You may wish to see over the weekend however.’⁷³⁹ Castle’s diary indicates that Wilson had requested the paper and it was indicative that the paper was sent to him at the same time as it went to Castle and that Wilson read the paper before she did⁷⁴⁰. Once he had read it he telephoned Castle on Saturday, 14 June to discuss the finer points and followed this with a note of suggested amendments⁷⁴¹. These were incorporated into a revised version of the paper that was then sent back to Wilson on the evening of Monday, 16 June⁷⁴².

The paper certainly offered ‘cold-turkey’. There were two proposals; use of the conciliation pause backed by the withdrawal of protection offered under the Trades Disputes Act, 1906; or action by the Registrar backed by the withdrawal of the protection of the 1906 Act. The former assumed the use of the conciliation pause as previously, but backed by withdrawal from the strike leaders and the trade unions concerned of the protection given under the 1906 Act. Under the proposals, the secretary of state would order a conciliation pause with a clear responsibility on union(s) to use their ‘best endeavours’ to ensure a return to work during the period of pause. However, during the period of the pause protection afforded under the 1906 Act would be in abeyance in relation to strike action by the employees covered by the order. If the strike continued during the pause it would be open to the employer to sue the strike leaders or the union or both for damages. A tribunal, which could be the Industrial Board or an ordinary court of law would consider the case and be required to satisfy itself that appropriate disciplinary steps had been taken or threatened by the union (the absence of adequate rules to enable union to discipline members would not be considered a defence). Financial penalties against employees, strike leaders or unions could be limited to a specified maximum sum or left to the discretion of the tribunal.

⁷³⁹ *ibid.* Note from Dawe to Wilson, 13 June 1969

⁷⁴⁰ See Castle (1984) p. 672, entry for 16 June 1969, ‘When I walked into the office this morning my little group of officials were waiting with the paper on the 1906 Act for which Harold had asked’, and NA, PRO, PREM13/2727 Memorandum from Harold Wilson to Barbara Castle, 14 June 1969. In his note to Castle suggesting amendments to the paper Wilson acknowledged that, ‘up to the moment of our telephoning’ she had not seen it.

⁷⁴¹ *ibid.* Note from Wilson to Castle, 14 June 1969

⁷⁴² *ibid.* Note from Douglas Smith to Roger Dawe, 16 June 1969

The main limitation of this approach, according to the paper, was that it relied on a decision by the secretary of state as to when and where to order a pause, meaning in effect that government was in the position of having to decide whether it was prepared to 'license' an employer to take action against a union, especially when 'an action which could well lead to crippling damages'. In these situations, the minister might be inclined not to order the conciliation pause, 'rather than run the risk of financially crippling a trade union'. It concluded that employers were as likely as at present not to sue individual strikers and, 'In any event, if an employer were awarded the kind of damages awarded to the Taff Vale Company in 1902, the pressure to change the law would probably prove irresistible'.

The second option would also bring pressure on trade unions to amend their rules but avoided, 'ministerial intervention of any kind in relation to penalties on trade unions or individuals'. Under this option registration with the Registrar of Trade Unions would be a necessary prerequisite for a body to be a trade union in law. In line with the Donovan recommendations, a union would have to satisfy the registrar that it had adequate rules to ensure the proper conduct of its business, including 'the existence of rules, or the incorporation of model rules, which specifically enable disciplinary action to be taken against those of its members who engage in unconstitutional strikes'. Registered trade unions would be then under an obligation to use their best endeavours to secure compliance by their members with the rules relating to unconstitutional action. In the event that an employer felt that this had not taken place, it would be for the employer to take the union to court and for the court to determine whether it had used its best endeavours and what level of damages should be awarded. Alternatively, to avoid employers' action, all registered unions would remain under the supervision of the registrar.

If the registrar was satisfied that the registered union had not used its best endeavours to secure compliance with its rules he would be empowered to withdraw registration from the union. Non-registration or deregistration might then have the legal result of withdrawing protection under the 1906 Act with the practical consequence that damages could be awarded against anyone who induced an employee to break his contract of employment.

As we have noted, Wilson read the paper and telephoned Castle with his comments that were subsequently turned into a short note. In the note, Wilson dealt with the concerns raised by officials, both over the issue of ministerial discretion and the potential size of damages. He rejected the registrar option on the grounds that 'I think we were all less excited about a resolution which involved action by the registrar particularly if the registrar had to take the initiative, rather than leaving this to ministerial discretion. I could suggest possible improvements for the second scheme, but I presume it is the first scheme in which we are more interested.' Turning to the first option, he suggested two amendments; under the proposals it was suggested that unions would lose immunity immediately the pause was ordered. Instead, Wilson proposed that the conciliation order would be given a day or two to see if real efforts were being made to get the men back to work. As soon as it was concluded that this was not being done then 'hike the union before the Industrial Board to show cause why immunity under the 1906 Act should not be withdrawn'. If union were unable to show that they had used their best endeavours it would be at this point that they would be open to action, 'the damages being limited to the harm done in the period from the promulgation of the Pause onwards'. The advantage of this approach, according to Wilson, was that it preserved 'ministerial discretion',⁷⁴³.

The revised paper retained the two options, with an amendment to the first to reflect Wilson's comments; in the case of a strike continuing during the period of the pause, the secretary of state 'might require the union(s) concerned to appear before the Industrial Board to give evidence that it (they) had done what it (they) could to stop the strike'. In addition a further line was added outlining the advantages of this approach, in that it would limit 'the liability of unions to actions for damages to certain grave unconstitutional strikes; an employer would not be able to sue the union whenever it chose to do so',⁷⁴⁴.

⁷⁴³ NA, PRO, PREM13/2728, Memorandum from Harold Wilson to Barbara Castle, 14 June 1969

⁷⁴⁴ NA, PRO, PREM13/2728, Revised paper, 'Alternative Forms of Sanctions Against Unconstitutional Strikers', 16 June 1969

The revised paper was prepared on Monday, 16 June and sent over to Wilson in order that Castle might discuss it with him first thing on the following morning. However, Castle was no longer prepared to support Wilson's approach;

When I walked into the office this morning my little group of officials were waiting with the paper on the 1906 Act for which Harold had asked, but I brushed this aside. ('This is nonsense', they had written over the submission⁷⁴⁵.) We agreed unanimously that I should refuse to be associated with the paper if Harold insisted on putting it to Cabinet. Instead I told them of my new idea to go ahead with the conciliation pause on a different basis. My chaps got quite excited about it.⁷⁴⁶

What was to follow was policy-making on the hoof. Over the weekend Castle had attended a social event in Lincoln and during a tour of a 'gaily crowded Labour club' had been confronted by an AEF shop steward who said, 'What you should do is to make us discipline unofficial strikers under our own rules'. Castle asked what she should do if a union refused to which he replied, 'You should fine the union'⁷⁴⁷. Reflecting on this on the way home she realised that the concept of making individual unions responsible for the behaviour of their members, 'fitted in with the whole of the argument we have been having with the TUC', and it was this that she sought to incorporate into a new version of the penal clause.

Consequently, a second Cabinet paper was drafted. In the event that the general council refused to modify rule 11, the Cabinet could proceed with one of two options; the 'cold storage' proposal, ensuring that the penal clauses would not be activated until at least 6 months after the Bill received Royal Assent; or Castle's revised conciliation pause under which a union would have a responsibility to use its best endeavours to ensure members returned to work. If the strike continued and the secretary of state considered that the union was not serious in its attempts to achieve a return to work then, 'she would be empowered to take proceedings before the Industrial Board on the grounds that they had not used their "best endeavours" to secure a return to work. If the Industrial Board found against the union(s), they would be subject to a substantial maximum financial penalty'⁷⁴⁸.

⁷⁴⁵ Sadly this version has not survived in the official records.

⁷⁴⁶ Castle (1984) p.672, entry for 16 June, 1969

⁷⁴⁷ *ibid.* p.671, entry for 15 June, 1969

⁷⁴⁸ NA, PRO, PREM13/2728, 'Industrial Relations, Memorandum by the First Secretary for Employment and Productivity', 16 June, 1969

Castle's paper was duly sent to Wilson, along with the paper on the 1906 Act and a letter in which she rejected the removal of protection under the 1906 Act and requested a meeting in the morning before the meeting of the management committee at 9.30am. Castle made it clear that she had concluded that the, 'seeming advantages' of removing protection would be 'greatly outweighed' by the disadvantages'. She doubted if the ideas could be presented credibly and they would be, 'the worst possible grounds on which to face a break with the T.U.C.' By contrast, she was confident that the revised version of the conciliation pause was defensible, 'not only publicly but also within the P.L.P.'⁷⁴⁹

Thus, by the morning of 17 June, both Castle and Wilson were ready with their revised plans. Wilson had phoned Castle the previous midnight to ask her to spell out the implications of her new proposal, and when they met fifteen minutes before the management committee he was 'now ready to drop the 1906 Act formula and go nap on [Castle's] new proposal instead'. Indeed, 'he was full of it, walking up and down and spelling out its advantages'. Subsequently he told the management committee that deadlock had been reached and the time had come to consider alternative proposals for legislation. With this he asked Castle to 'outline my new scheme'⁷⁵⁰.

Wilson's determination to achieve a credible solution was clearly evidenced in his pursuit of the model rules option and there seems little doubt that, until Castle came up with her alternative, he was prepared to recommend it to the Cabinet as a workable alternative to the TUC proposals. How far was he serious in his pursuit and how far was it a negotiating ploy? We have seen that the general council picked up the threat at the meeting on 11 June, and that it prompted the negotiating committee to draft their statement clarifying the workings of rule 11. It also seems likely that Wilson was behind the spate of reports in the weekend press over amendments to the 1906 Act. The only other likely source was Castle and, as we have seen, she had little enthusiasm for the proposals.

⁷⁴⁹ *ibid.* Letter from Barbara Castle to Harold Wilson, 16 June 1969

⁷⁵⁰ Castle (1984) p.672, entry for 17 June 1969

Wilson was equally aware, however, of just how unacceptable the proposal would be, both to the general council and to large sections of the PLP. His argument rested on his ability to convince both the Cabinet and wider public opinion that it was the obduracy of the general council that had forced him into this position. As the *Observer* commented, the Castle/Wilson strategy was, 'to enlist as much public support as possible by showing how small is the gap between the two sides'⁷⁵¹, as evidenced by Castle's weekend speech in Nottingham during which she made it clear that, 'All we are asking is that the trade union movement should accept clearly and unequivocally that, where the TUC itself recognises that strikers are in the wrong, unions should discipline them.' Furthermore, she found it 'incredible' that the union movement was prepared to 'set us on a collision course' by rejecting the government's minor amendments to 'A Programme for Action'⁷⁵². The main weakness in this approach, of course, was that it was equally open to the counter-challenge that, if the differences between the sides were so small, why was the government not prepared to accept the TUC proposals rather than risk outright collision? As will become clear, it was this argument that was to swing a significant number of the Cabinet behind the TUC position.

What then of Wilson's rapid adoption of Castle's proposal? Pursuit of the model rules option was contrary to all of the government's post-Donovan statements and Wilson should have been only too aware of the enormous significance of a Labour prime minister amending the 1906 Act and the likely consequences. This coupled with Castle's refusal to endorse the proposals and the credibility of her own option would have been enough to convince him of the need to drop his own proposals. However, whether it was enough to justify Castle's optimism that, 'Cabinet and the PLP must be prepared to back us now that what everyone believed was a generous offer had been turned down'⁷⁵³, remained to be seen.

In all of these manoeuvrings, however, the significance of both Wilson and Castle's proposals should not be lost. To varying degrees both papers reintroduced the law into industrial relations and accepted much of the framework

⁷⁵¹ *Observer*, 15 June 1969

⁷⁵² *ibid.*

⁷⁵³ Castle (1984) p.671, entry for 12 June, 1969

set out in *Fair Deal at Work*. Whilst both proposals sought to maintain a degree of political discretion, the ultimate sanction was a referral to some form of legal body for an interpretation of union behaviour and the issuing of penalties, aligning both much more closely with the Conservative proposals than had previously been the case.

Castle and Wilson's optimism, however, was about to receive a rude awakening. On June 17, both the *Daily Telegraph* and the *Guardian* reported that Wilson had received a letter from Douglas Houghton as chairman of the Labour Party Liaison Committee warning him that there was 'no chance' of the government carrying the penal clauses through the Commons, and that he would also not be able to carry a motion to commit the bill to a committee upstairs as opposed to being forced to debate it on the floor of the House⁷⁵⁴. The mood within the PLP and Cabinet was neatly captured in a *Guardian* article by Keith Harper, 'The farce over penal clauses', with one paragraph in particular summing up the prevailing mood;

The whole point about both sides' proposals is that neither of them would be very effective in practice, although at least the TUC's have a sense of realism running through them. Seen against this background it is extremely foolish of the Government to stretch the nerves and patience of the Labour Party to breaking point on such trite and ill conceived proposals⁷⁵⁵

Locked into the negotiations, however, this was not how Castle and Wilson saw it, and from Wilson's perspective, Houghton's letter was little short of outright treachery. Wilson's papers indicate that Houghton sent him the letter on Monday, 16 June immediately following the meeting of the liaison committee. As the press suggested, the letter made it clear that, since Croydon, 'opinion in the Parliamentary Party has hardened against proceeding with any Bill containing the so-called "penal clauses"', and that consequently 'the Government could not count upon enough support within the Parliamentary Party to get this Bill through the House'. In the circumstances, therefore, the committee urged Wilson to reach

⁷⁵⁴ *Daily Telegraph*, 17 June 1969

⁷⁵⁵ *Guardian*, 14 June 1969

a settlement and take the TUC, 'at their word' in order to avoid a 'grave split' within the PLP⁷⁵⁶.

The letter, both in its contents and timing, was a clear shot across Wilson's bows, especially as it came from Houghton whose previous intervention had proved so significant⁷⁵⁷. However, it was the leak to the press that especially angered Wilson, as he made clear in his reply. Writing on 19 June, after the settlement had been reached, Wilson's anger was evident, 'What concerns me, however, is the fact that even before I had myself seen the letter, being as you know at the Socialist International all day, the Press had been informed of its drift and tenor. It was clear it had been presented to the Press as a warning to the Government not to proceed with the Bill'. Furthermore, he concluded, whoever had leaked the letter must have realised that it would only 'make the Government's position much more difficult in what all recognised to have been one of the most vitally important meetings for very many years'⁷⁵⁸. As we have seen, throughout the negotiations Wilson's strategy was to a considerable extent reliant on the impression that ultimately he could carry the PLP with him. Whilst, as we have also seen, sections of the PLP sought to undermine him at regular intervals, the timing of this intervention was particularly bad and undermined his position ahead of both the Cabinet meeting and the final meeting with the TUC.

Resolution

6.10 Management Committee, 17 June

The day that Castle described as, 'the most traumatic day of my political life'⁷⁵⁹ began with her meeting with Wilson and the decision to put her alternative proposal to the management committee that was meeting at 9.30am. As we have seen, the management committee had not proved to be the source of strategic advice and support that Wilson had hoped for. Rather, it had shown itself as susceptible to political pressure as the rest of the Cabinet. If Wilson was to carry

⁷⁵⁶ NA, PRO, PREM13/2728, 'From the Chairman of the Parliamentary Labour Party', 16 June, 1969

⁷⁵⁷ See Chapter Four

⁷⁵⁸ NA, PRO, PREM13/2727, Letter from Harold Wilson to Douglas Houghton, 19 June, 1969

⁷⁵⁹ *ibid.* p.672, entry for 17 June, 1969

the Cabinet it was essential that he received the backing of the committee, so it was his failure to gain their support that marked the beginning of the end.

Both Castle and Crossman have provided contemporary accounts of the meeting. Castle recorded Crossman's unwillingness to commit himself to her latest proposal ahead of soundings with the TUC and Mellish's view that 'you won't get it through the House, or a guillotine, if the TUC rejects it' and Castle concluded that they had no choice but to go into Cabinet 'divided and unprepared'⁷⁶⁰. In his account, Crossman confirmed that he thought it 'unwise' to try and get the Cabinet committed to the new proposals ahead of the meeting with the TUC although, he felt, this was clearly Castle and Wilson's intention⁷⁶¹. Both accounts are supported by the official minutes. Normally government minutes identify the prime minister and any minister introducing a specific subject, but beyond that are confined to an anonymous summary of views. This approach leaves the reader attempting to identify individual contributions by comparing the official record with the contemporary accounts of those such as Castle and Crossman. The management committee minutes conform to this approach but, on this occasion, a copy of the first draft was sent to Wilson, and survives in his official papers. This provides a much more extensive account and identifies each of the speakers, providing an invaluable official record of the meeting.

A number of significant strands emerge. Wilson explained that he had rejected the removal of immunity granted under the 1906 Act because it was 'going too far', and the TUC could accuse the government of 'lashing out madly' and returning to Taff Vale. He did acknowledge that it would be more effective than the conciliation pause, but 'hanging was more effective than fining'. He also explained the reasoning behind his support of Castle's latest proposal; it followed the general approach of the white paper and left the discretion to act with the Secretary of State; it did not involve penal clauses on individual workers or attachment of wages, 'on which most of the hostility of the P.L.P. had focused'; and finally, the bill could be short and simple.

⁷⁶⁰ Castle(1984)p.672, entry for 17 June, 1969

⁷⁶¹ Crossman (1977) pp.520-521, entry for 17 June, 1969

The depth of Wilson and Castle's anger at Houghton was explicit. In his account of the subsequent Cabinet meeting, Crossman expressed surprise that Wilson made no mention of the Houghton letter, even though its contents had been leaked to the press. However, there was no such reticence with the management committee. Castle said that she thought the TUC had been 'immensely influenced' by the attitude of the PLP and by Houghton's 'one-man campaign'. Wilson responded that Houghton 'seemed to be working hand in glove with a Member of the Cabinet', a clear reference to Callaghan, and that he and Castle were 'in the position of union negotiators a half of whose side were saying to the other side that they need not listen to them'.

The central roles played in the discussion by Crossman and Mellish, along with Wilson's reaction are laid out with great clarity and point both to the weakness of Wilson's position, and the abiding importance to Wilson of the right to govern that had dominated his thinking since Chequers. Thus, Wilson acknowledged that the new proposal would not be easy to get through the PLP, 'but it was not right that a Labour Government should be dictated to by those Labour Members who took their orders from the Trade Union Movement'. When Mellish argued that rejection of the proposal by the TUC would mean that the government would not get the bill through parliament, Wilson countered that Mellish was essentially saying that the government should always give in to pressure from the PLP and the unions and that this 'was in effect saying that the T.U.C should govern which would totally destroy the credibility of the government'.

By contrast to Wilson's appeal to the right to govern, Mellish reported that the 'protracted negotiations' had led many in the PLP to assume that a compromise was in the offing and they had been 'very disappointed' by the speed with which the government reacted against Croydon. This was reinforced by Crossman who argued that Wilson and Castle had dragged the TUC forward, 'to an astonishing degree', and that as such he was 'desperately disappointed' by the government's reaction to Croydon. Whilst he thought that the government still had the goodwill of the party, 'they would be bewildered if the Government now decided to pick a quarrel with the T.U.C. and not to take the credit for what had already been achieved'. In the circumstances they should do all they could to reach agreement.

Finally, and with wonderful prescience, Crossman asked if would 'not be sufficient' for the government to 'get its own words into the circular the T.U.C. were proposing to issue', and whether such an outcome would really be the 'total surrender' that Wilson and Castle had painted. Castle responded that the TUC were not prepared to accept any tougher wording, and that a willingness on the government's part to consider the circular would be interpreted as a sign of weakness. She was supported by Wilson who said it was clear that the TUC were not prepared to go beyond the issue of an interpretative circular and at this point the meeting broke up to allow the full Cabinet to assemble.

The management committee discussions gave invaluable pointers to the likely mood of the Cabinet. Crossman and Mellish's line that the TUC had moved so far that it was not worth splitting the party over the remaining, minor, differences was both powerful and widely held, and was evidence of the gulf that had emerged between the two negotiators and the rest of the government. However, Wilson was probably correct in his assessment that a significant number within the PLP were prepared to support the TUC regardless of the merits of their case and that this, when coupled with Houghton's leaked letter, put him in a considerably weakened position. Nonetheless, this did not prevent him from pursuing his own line that the issue was now as much about the right to govern as it was about a particular solution. However, as we have seen, at no stage had he given the Cabinet any clear indication of the nature of the discussion with Scanlon and Jones and consequently they were not in a position to judge the merits of his claim. In the circumstances the likelihood of gaining Cabinet approval for Castle's latest proposal were very slim.

6.11 Cabinet, 17 June

The full Cabinet meeting is one of the most thoroughly documented of all the meetings that took place during this period. Castle, Crossman and Benn all provide contemporary accounts, whilst both Wilson and Jenkins have written of the events in their memoirs⁷⁶². Consequently, the general facts are well known. The Cabinet met immediately after the management committee. The discussion

⁷⁶² See Castle (1984), Crossman (1977) & Benn (1989)

continued all morning, with Mellish confirming his view that the PLP would not support the government if the general council rejected the latest proposals, and Peter Shore, one of the architects of the penal clauses, coming out strongly against Castle's latest proposals. Cabinet was adjourned at 12.30 and during the adjournment Jenkins met Castle to tell her that he could no longer support the legislation. The meeting reconvened at 4.30pm and continued for another three hours. At the end, with significant numbers refusing to support him, Wilson closed the meeting with an agreement both that he and Castle would have a free hand with the general council on the following day, and that the Cabinet would be free to endorse or reject anything that had been agreed. Wilson then attended a meeting of the PLP trade union group at which he was forced to remain bland and non-committal in the face of Cabinet indecision⁷⁶³.

According to all of the published accounts, the tone of the Cabinet became increasingly bitter as it progressed. Crossman described the re-convened meeting as, 'the most devastating Cabinet meeting I have attended', with Wilson becoming increasingly bitter at what he saw as outright betrayal, 'a terrible exhibition in which the P.M. was rasped, irritated and thoroughly demoralised, really shouting I won't, I can't, you can't do this to me, terribly painful because he expressed a loathing, a spite and a resentment which is quite outside his usual character'⁷⁶⁴. Similarly, Benn noted that, 'Harold and Barbara then became extremely bitter', with Wilson threatening to resign several times⁷⁶⁵. How serious was the resignation threat? Castle commented that 'He [Wilson] is clearly determined to resign on this if necessary'⁷⁶⁶, whilst Joe Haines is more equivocal. In Haines' view, there was always a danger of Wilson's bluff being called and if it had been he would have had to resign. However, he is also clear that Wilson would 'never ever' be painted into a corner and that he was banking on the Cabinet running scared from such a threat⁷⁶⁷. Wilson's emotional commitment to the proposals is

⁷⁶³ The *Daily Telegraph* reported that MPs acknowledged having to make allowances for the fact that Wilson was inhibited from disclosing the Cabinet discussions whilst still in negotiation with the TUC, but noted that several expressed their disappointment at, 'not having been given cause for a successful outcome'. *Daily Telegraph*, 18 June, 1969

⁷⁶⁴ Crossman (1979) pp.523-524, entry for 17 June, 1969

⁷⁶⁵ Benn (1989) pp.186-7, entry for 17 June, 1969

⁷⁶⁶ Castle (1984) p.674, entry for 17 June 1969

⁷⁶⁷ Joe Haines, *Glimmers of Twilight*, (Politico's Publishing, London 2003) p.16 and interview with the author, 29 September 2004

clear, and the impact of the exchanges with Scanlon at Chequers cannot be underestimated. However, his determination to achieve a settlement had seen him reach for every tool in the negotiators box and, angry though he was, the Cabinet's attitude was hardly a surprise. Therefore, it seems likely that Haines got it right, and it was a final negotiating ploy. Its effectiveness, however, was questionable. Benn's comment offers a hint of crying wolf and it was perhaps a weakness of Wilson and Castle's case that they failed to convince the Cabinet of the seriousness of the issue as they saw it. Whatever the authenticity of Wilson's threats, it remains clear that the meeting was emotionally charged and became increasingly bitter as Wilson and Castle failed to gain support for their proposals, especially in the light of Jenkins' decision to withdraw his support and Shore's apostasy⁷⁶⁸. In the circumstances, it is helpful to turn to the official calm of the Cabinet conclusions to determine what was formally agreed⁷⁶⁹.

The meeting opened with Wilson's summary of the last meeting with the general council on 12 June and their rejection of any amendment of rule 11. He confirmed that he and Castle had considered amendments to the 1906 Act and that they had rejected these as unacceptable for the reasons given in *In Place of Strife*. Castle then outlined her latest proposals relating to the revised conciliation pause and the meeting proceeded to a general discussion. Opponents of the Castle line argued that the gap between the government and TUC positions was now so narrow that negotiations should continue. Specifically it was noted that, 'It would be unreasonable – and would seem so to public opinion – to allow the negotiations to break down on the single and not easily comprehensible issue of whether the TUC's own sanction against unconstitutional strikes should take the form of an amendment to Rule 11 or an interpretative document.' Furthermore, the government had already secured a very 'substantial' advance by the TUC with the potential for a more significant reform of industrial relations than had been achieved in 'many years'. In the circumstances, it was considered 'foolish' to put

⁷⁶⁸ Wilson is alleged to have told Shore, 'I knew you were green, but I didn't know you were yellow'. Professor John Ramsden, April 2004, from a Nuffield College seminar, autumn 1969. According to Joe Haines, Wilson commented of the whole Cabinet, 'I don't mind leading a green Cabinet...but I'm buggered if I'm going to run a yellow one.' Haines (2003) p.16

⁷⁶⁹ NA, PRO, CAB128/44, CC(69) 28th Conclusions of a meeting of the Cabinet held on 17 June, 1969

this at risk for the sake of ‘a difference of presentation which would, in any event, be of little practical importance’.

When the meeting re-convened, opposition was broadened, and it was argued that it was unrealistic to threaten the TUC with the prospect of legislation when the TUC would be fully aware of that it could not be enacted, ‘except at the cost of grave and lasting damage to Party unity’. In the circumstances, the Cabinet should continue to suspend judgement on the courses of action to be taken if it proved impossible to reach agreement, and focus on reaching an agreement, ‘probably on the basis of a further strengthening of the proposed interpretative circular’.

In his summing up, Wilson acknowledged that Cabinet was not yet ready to reach a decision either on the form the sanctions might take, or to make a choice between the original proposals and Castle’s latest suggestion. Furthermore, it was clear that there remained a ‘division of opinion’ over whether, in default of an agreement, legislation should be introduced at all. However, Wilson stressed that he and Castle could not resume negotiations on this basis alone and neither could a positive result be expected if the TUC were allowed to believe that the government would not introduce sanctions. Therefore, whilst he and Castle would not commit the government to any precise form of sanctions, ‘it would not be possible for them, in exploring whether the TUC were prepared to strengthen their own proposals, to avoid indicating the advice which they themselves would feel compelled to give their Cabinet colleagues if the negotiations reached a final deadlock’. Crucially, however, ‘it would then be for individual Ministers to consider their respective positions in reaching the final decision’.

The Cabinet conclusions give an indication of the extent and nature of the opposition to anything other than a negotiated settlement. The overwhelming impression is of a desire to reach a negotiated settlement in the face of what appeared to many to be minor differences between government and TUC. The fact that neither Wilson nor Castle could convince them of the gulf that they perceived to still exist reflected the insular nature of the negotiations and Wilson’s negotiating tactics. As Jenkins said to Castle, the long drawn out nature of the

negotiations meant that a break was now, ‘unrealistic’⁷⁷⁰, echoing Crossman’s early comments that, such had been the length of the negotiations that many in the PLP assumed a settlement was imminent. However, it also reflected the grim political reality that perhaps the price was no longer worth paying. Certainly this was the view of both Jenkins and Shore. Jenkins told Castle as much when he met her prior to the reconvened Cabinet, that ‘he no longer thought that the fight was worth the cost’, and confirmed this in his autobiography and again in a recent interview⁷⁷¹. As for Shore, whose intervention in the Cabinet meeting was described by Crossman as the most effective he ever made⁷⁷², he thought they should concentrate on what they had already achieved rather than on prolonging the fight with the TUC⁷⁷³.

By the end of the meeting there was no question that both Wilson and Castle felt betrayed by their Cabinet colleagues, ‘the cowards and capitulators’ as Castle called them⁷⁷⁴. What then should we make of Wilson’s apparent jubilation at the end of the meeting when he told Castle that he had enough votes to carry the Cabinet? In terms of simple arithmetic he may well have had the votes, but it would have been the height of folly to assume that his opponents would rally behind him and help to carry the PLP. Giving the impression that he could carry the Cabinet was, however, one of the few remaining cards he had left to play, as indicated in his own account of a meeting held with Feather later that evening. According to Wilson he told Feather that, ‘lest he or others should receive messages that I could not carry the Cabinet, I told him that I held the proxies’⁷⁷⁵. Feather’s biographer, however, suggests that this was a hollow threat, ‘Feather was tempted to laugh in the Prime Minister’s face. He had talked again to Douglas Houghton and knew the position in the Parliamentary Labour Party. Regardless of the Cabinet, Feather could feel the trout on the end of the line.’⁷⁷⁶

⁷⁷⁰ Castle (1984) p.675, entry for 17 June 1969

⁷⁷¹ *ibid.* Plus see Jenkins (1994) and interview with the author, 20/09/02

⁷⁷² Quoted in Castle (1984) p.674, entry for 17 June 1969

⁷⁷³ When interviewed, Shore stated that he had begun to lose faith in the interim bill when the strike ballot proposals were dropped. As an economic minister, he had been attracted to levers that could be used to avert the large official strikes, rather than the smaller, unofficial ones. Interview with Lord Shore of Stepney, House of Lords, 11 November 2000

⁷⁷⁴ Castle (1984) p.676, entry for 17 June 1969

⁷⁷⁵ Wilson (1974) p.827

⁷⁷⁶ Silver (1973) p.158

Once again, Wilson seemed to have forgotten the essential interconnectedness of his own party.

Therefore, on the eve of what was to prove to be the final meeting with the general council, Wilson had next to nothing left. The Cabinet was divided and any attempt to push it into a decision was likely to lead to a very public division, while Houghton's letter coupled with Mellish's assessment indicated the strength of opposition within the PLP. In the circumstances it was difficult to see what Wilson could achieve short of capitulation. However, Wilson was in it for the long haul, and at the meeting of the trade union group that followed immediately after the Cabinet, he made it clear that, 'the gap may look small but the bridge must be formed by the TUC as well as the Government',⁷⁷⁷

6.12 General Council, 18 June

If Wilson's aim was to portray a united Cabinet front, the press soon disabused him. The *Daily Telegraph* reported that Callaghan's position was now 'said' to be shared by at least five other members of the Cabinet⁷⁷⁸, whilst the *Daily Mail*, under the title 'Wilson wobbles on the brink' reported that the Cabinet was 'divided' and had failed to reach agreement⁷⁷⁹. In a more sober assessment, the *Guardian* noted that the government seemed to be moving towards a new attempt to reach a compromise, but also reported that 'something like' one-third of the Cabinet were known to oppose a breach with the TUC⁷⁸⁰. Finally, *The Times* summed up accurately Wilson's best hope, 'that the general council will have a change of mind and agree to tighten up Rule 11', whilst being brutally realistic about his chances, 'the general council firmly rejected that solution a week ago. Now that they can see they command an overwhelming majority in the PLP it seems futile to imagine that they will suddenly go into reverse.'⁷⁸¹ However, as so often in the past, Feather had seemed to offer a glimmer of hope.

⁷⁷⁷ *Daily Telegraph*, 18 June, 1969

⁷⁷⁸ *ibid*, 18 June, 1969

⁷⁷⁹ *Daily Mail*, 18 June, 1969

⁷⁸⁰ *Guardian*, 18 June, 1969

⁷⁸¹ *The Times*, 18 June, 1969

Late on the evening of the 17 June, Wilson and Castle met Feather. Castle recorded Wilson asking, yet again, “Is an amendment to rule ruled out on principle”, to which Feather responded, “No, I wouldn’t say that” before going on to outline the general council concern that, as worded, Castle’s amendment ruled out all freedom of action. Wilson replied that this had not been the intention and agreed that he and Castle would have another look at the amendment prior to the meeting, to which Feather responded that, “It would help”, leaving Castle to return home in a state of euphoria, ‘Wouldn’t it be heaven if we could get an amendment to rule after all and show our colleagues up for the cowards and capitulators they are?’⁷⁸². Once again, Feather hinted at more than he could perhaps deliver, and once again Wilson and Castle appeared to take him at his word.

What then were Wilson and Castle’s tactics on entering the meeting with the general council? It is clear that the Cabinet were divided, and that through both personal contacts and press reports the general council would have been fully aware of the extent of the division. In the circumstances, Wilson had little option but to confirm to Feather that the Cabinet had yet to work out an alternative and to focus his attention on an amended rule 11⁷⁸³. Feather’s response seemed to indicate a slight opening of the door, but if it were to be slammed shut by the rest of the general council, Wilson would have little option but to recommend some form of legislation to his Cabinet colleagues. As *The Times* continued to stress, Wilson had upped the ante on industrial relations reform to such an extent that he could not back down without immediate accusations of surrender. In the circumstances, he needed a settlement, however difficult that would be.

The general council held its usual pre-meeting at 10am at which Feather updated them. He claimed that he had ‘no idea’ what the government would propose as alternative legislation, but referred to Wilson’s earlier reference to the 1906 Act and the weekend press reports. It was agreed that, in the event of Wilson proposing amendments to the 1906 Act, the general council should seek an

⁷⁸² Castle (1984) p.676, entry for 17 June, 1969. Wilson confirms the detail of Castle’s account. See, Wilson (1974) p.827

⁷⁸³ See Castle above

adjournment in order to discuss the proposals. Feather also raised the proposed amendment to rule 11 and the two reasons why it was not acceptable; it would present 'most serious difficulties' in regard to the mandate from the special congress; and the terms of the government's amendment included an automatic 'go back to work' regardless of circumstance, which the general council had already rejected as impractical. As is now clear, Feather was much more aware of the Wilson's proposals than he was letting on, for Wilson had sounded him out about amending the 1906 Act on a number of occasions. More seriously, Wilson had undertaken to revise the amendment to rule 11 to modify the automatic 'back to work' clause, on the basis of Feather's comments that this might make the rule change more acceptable to the general council. Judging by Feather's comments in the pre-meeting, it was clear that whilst this would help, it would do nothing to address the procedural refusal to accept government amendments to rule changes that had already been agreed by the special congress and, as became clear very quickly, this was to prove the major sticking point.

The meeting was opened by Wilson, stressing immediately the seriousness of the position that had been reached at the end of the last meeting 'If that situation was the end of the road, it would mean a deep split in the Movement, not only at top level between Ministers and the General Council but right down through the Trade Union and Labour Movements'. In the circumstances, he said, he would rather focus on amending rule 11 than discussing the legislative options left open to the government. This was clearly an attempt to draw attention away from the inability of the Cabinet to agree on a solution, and, with this in mind, Wilson focused on the wording of rule 11. Castle and her officials had worked quickly to produce a further amendment to the return to work clause, so that it now read:

In cases where they the General Council consider it unreasonable to order an unconditional return to work, they will tender the organisation or organisations concerned their considered opinion and advice with a view to a settlement⁷⁸⁴.

⁷⁸⁴ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2), Minutes of the seventeenth meeting held on 25 June 1969, Minutes of a meeting between the Prime Minister, First Secretary of State and the General Council on Wednesday, June 18.

If the general council were prepared to accept this amendment, he was, 'prepared to shake hands that morning on an agreement that there would be no legislation of the kind to which the General Council were opposed.'

In response, Feather asked whether a rule change was considered to be 'sacrosanct' or whether the government would accept an explanatory circular relating to interpretation of the rules. Wilson replied that he was only prepared to drop the penal clauses if the rule were changed, to which Feather responded that it was congress policy that was important, making explicit reference to the Bridlington Principles, that whilst not rules of congress, were treated to all intents and purposes as if they were. This was a theme he had raised immediately following the abortive meeting on 12 June and again in a speech over the weekend⁷⁸⁵. At this point the meeting adjourned for the general council to consider the revised draft.

It its discussion, the general council was clear, that the issue was no longer about wording, for 'there was no great difficulty with the Government's form of words'. The outstanding issue remained Wilson's determination to gain an amendment to the rule book, and it was on this that 'there was a sharp division between the General Council and the Government'. For the general council the issue turned on the charge that they would be asking the September TUC congress to approve an amendment to the rule change agreed by the special congress, 'virtually on the instruction of the Government', and, in order to honour the agreement, be forced to oppose any amendments to the rule that were submitted by individual unions. In the circumstances, it was agreed that the negotiating sub-committee should meet Castle and Wilson, and that they would stick to the position that the government's amendment to rule 11 was unacceptable.

Before moving on, it is worth considering the significance of the general council's almost casual agreement to Castle's amendment. In her diary, Castle comments that, on hearing that the wording didn't present any difficulties, 'We could hardly

⁷⁸⁵ See the *Guardian*, 13 June 1969. Feather was reported as saying that, 'Programme for Action' was a policy document and, 'with the trade union movement policy is just as strong as rules'.

believe our ears: a *volte-face!*'⁷⁸⁶, a perception that was critical to her subsequent acceptance of the 'solemn and binding' agreement. How far, however, did it represent a 'volte-face'? As we have seen, there were three crucial differences between Castle's original amendment to rule 11 and the general council's note of clarification; Castle required an amendment to rule, which remained unforthcoming; her original proposals implied an automatic return to work from all unofficial strikes, something that had been dealt with by her subsequent amendment; and her original proposal made explicit the extent of the general council's involvement in unconstitutional or unofficial strikes, and the obligation they placed on affiliates to return to work. It was on this latter point that the extent of the general council's volte-face hinged. The general council argued throughout that rule 11, as published in a 'Programme for Action', gave the TUC all the authority it needed in dealing with both official and unofficial strikes. Indeed, the rule referred to affiliated organisations keeping the general council informed of stoppages involving large bodies of workers, including 'unauthorised and unconstitutional stoppages of work', and therefore, by implication, when clause (c) referred to the general council tendering their, 'considered opinion', it related equally to unauthorised and unconstitutional stoppages. However, as has been seen, it was the failure to place affiliated organisations under any form of obligation to return to work that made it unacceptable to Castle and Wilson.

In many respects, therefore, the note of clarification offered on 11 June represented a much more significant concession. It undoubtedly strengthened the working of rule 11 and its reference to situations in which organisations, should 'take immediate and energetic steps to obtain a resumption of work' was fully in line with Castle and Wilson's requirements. Similarly, the note made it clear that there were circumstances in which unofficial strikes could not be supported. The question therefore, was how far the acceptance of Castle's wording marked a shift of substance and how far one of presentation. In referring to a 'volte-face' Castle clearly considered this to mark a shift of substance, and yet, on paper, the shift was marginal. Castle's amended rule 11 referred to disputes which led to 'an unconstitutional stoppage', and circumstances in which workers could be found to

⁷⁸⁶ Castle (1984) pp.676-7, entry for 18 June, 1969

be 'constitutionally in the wrong', but the outcome, that 'they [would] place an obligation on the organisation or organisations to take immediate and energetic steps to obtain a resumption of work', and the ultimate sanction, a referral to congress under rule 13, was exactly the same as that set out in the general council's note of clarification on 11 June. Consequently, given the concessions already made in the original note of clarification, it is arguable that the change was largely one of presentation, a view supported by the casual manner in which Castle's words were accepted by the general council. The outstanding point of substance centred on the unwillingness of the general council to accept Castle's text as an amendment to rule, and this had not changed.

Hence, whilst Castle was pleasantly surprised by the ease with which her revised wording had been accepted, the remaining differences had, if anything, crystallised. The committee reiterated what they saw as the 'constitutional' problems that could arise from an amendment to rule 11; 'it would cut across the procedure whereby affiliated unions could suggest amendments to the draft rule'. Wilson responded that he saw no problems with amendments as long as they did not directly contradict the main intention of rule change. He then went considerably further than before and confirmed that, if they could reach an agreement, not only would the existing penal clauses be rejected, so too would the interim bill and there would be no attempt to introduce any alternative forms of penal clauses during the lifetime of the government. However, to reach an agreement he needed something to indicate the TUC's commitment, and 'a piece of paper was not sufficient'.

It was at this point that, according to Castle's account, and confirmed by the government record, both Jones and Scanlon attempted to help out. Jones re-introduced the Bridlington agreement, arguing that, whilst it did not appear in the TUC rule book, 'In substance and in public presentation, the undertaking which they were offering was as binding and important as an amendment to the rules'⁷⁸⁷. He was followed by Scanlon who, according to Castle, 'leaned forward with one of those pieces of frankly taking us into his confidence which are rather touching,

⁷⁸⁷ NA, PRO, PREM13/2728, Notes of a meeting with representatives of the Trades Union Congress held on 18 June 1969

and I think impressive'⁷⁸⁸, and made the point that his national committee had agreed to back the TUC programme by the narrowest of margins. If the government insisted on an amendment to rule 11 he would have to recall the committee and, 'could not predict the outcome'. It would not be necessary, however, to recall the committee to authorise an agreement between the general council and the government, and he thought this would be the case in many of the other unions. Wilson responded by making it clear, once again, that the government was prepared to drop the legislation not only now but for the rest of the parliament, in return for 'clear and binding' procedures by the TUC for dealing with unconstitutional strikes but, 'So far as he could see, the latter could not be achieved except by a change of Rule 11'⁷⁸⁹. At this, the meeting adjourned once more. As Castle put it to Wilson, 'Let us give them food and drink – no one to leave the building. We *must* settle something today.'⁷⁹⁰

Were they any closer to an agreement? Castle clearly regarded the general council's acceptance of her revised wording as a significant concession. Whilst this is questionable, Wilson's agreement to abandon the interim bill and any threat of penal clauses for the remainder of the lifetime of the government was a substantial shift. Until this point, the prospect of penal clauses in the future was held as surety against the TUC being unable to deliver. Even if Castle's amended rule 11 was accepted as a rule change, there remained no guarantees as to its effectiveness. Wilson's concession was then an acknowledgement that it was as good as he was going to get. However, despite these concessions, there still seemed to be no way out of the impasse created by Wilson's desire for a rule change, and, in their discussion during the adjournment, the general council did little more than confirm their opposition to the rule change, although they remained willing to discuss a joint statement. If there was to be any further movement, it was going to have to come from the government.

It is at this point that we are reliant on Castle's account of her discussion, during the adjournment, with Wilson and her officials. According to her diary, she and

⁷⁸⁸ Castle (1984) p.677, entry for 18 June, 1969

⁷⁸⁹ NA, PRO, PREM13/2728

⁷⁹⁰ Castle (1984) p.677, entry for 18 June, 1969

her officials agreed that Scanlon's intervention had been 'a telling one', and that they should consider something along the lines of the Bridlington formula: 'After all, said Conrad, that really had worked'⁷⁹¹. When interviewed Castle recalled Heron's intervention in more detail. Heron told her that he didn't see how she could turn down this offer, because 'no union has ever breached the Bridlington agreement, and it is the equivalent of a rule change'. In the circumstances, he told her, 'he did not think the party would forgive me if I were to resign on such a narrow point'⁷⁹². Heron's intervention was crucial, as throughout the negotiations his advice was tempered by many years of industrial relations experience, and if he thought a Bridlington-type agreement was the equivalent of a rule change it was good enough for Castle.

On the back of this, she went to see Wilson and recommended that they have one final attempt to achieve the rule change and, if the general council was not prepared to back down, they should propose a 'binding undertaking', providing that '*our words are approved*' (Castle's italics). As she recorded, 'After all, I had drafted them in the form of a rule so that they were as precise as we wanted them to be about unconstitutional strikes', and, in an echo of Heron, 'Harold and I both agreed that to break now, when the TUC was accepting our wording and the concept of a binding undertaking, would put us in an impossible position with the PLP and even our own friends'⁷⁹³.

This then was the point at which political pressure, pragmatism and practical considerations came together. As Heron had pointed out, the differences were now so small that the chances of convincing the Cabinet, never mind the PLP, of the continuing need for legislation were almost non-existent. The Bridlington formula not only offered a way out, but also appeared to offer a credible alternative to an amendment to rule. Ultimately, Heron's recommendation, coupled with the endorsement of Scanlon and Jones, was a powerful argument for acceptance.

⁷⁹¹ Castle (1984) p.677, entry for 18 June, 1969

⁷⁹² Interview with Baroness Castle of Blackburn, Buckinghamshire, 3 March 2000

⁷⁹³ Castle (1984) p.677, entry for 18 June, 1969

So it was that Wilson and Castle broached the proposal with Feather and the TUC chairman, John Newton, before putting the detail to the full meeting of the general council. Wilson made it clear that the intended, ‘solemn and binding’ undertaking must have the same standing as the Bridlington declaration, and it was agreed that the proposal should be considered by the negotiating sub-committee, who would then be responsible for finalising the draft with Wilson and Castle. This was the first time that ‘solemn and binding’ was used. Reference had been made to a ‘binding undertaking’ but, according to Joe Haines who was present during the final meeting, someone else offered a ‘solemn’ agreement, and the two were then combined to make ‘solemn and binding’⁷⁹⁴. Castle and her officials had reworked her amendment to rule 11 to take the form of a declaration;

The General Council have agreed unanimously to a solemn and binding undertaking the text of which is set out in the annex to this statement. The General Council have further agreed that this undertaking will forthwith govern the operation by the General Council of Congress Rule 11 as recommended by the General Council to the Special Congress on June 5. This undertaking unanimously given by the General Council will have the same binding force as *a rule of Congress*. (the TUC Bridlington Principles and Regulations)

- (a) Where a dispute has led to an unconstitutional stoppage of work which involves directly or indirectly large bodies of workers or which if protracted may have serious consequences, the General Council shall ascertain and assess all the relevant facts, having regard to the principles set out in Paragraphs 20 to 27 of ‘Programme for Action’.
- (b) In cases where they consider it unreasonable to order an unconditional return to work, they will tender the organization or organizations concerned their considered opinion and advice with a view to promoting a settlement.
- (c) Where, however, they find that there should be no stoppage of work before procedure is exhausted they will place an obligation on the organization or organizations concerned to take energetic steps to obtain an immediate resumption of work, including action within their rules (if necessary), so that negotiations can proceed.
- (d) Should the affiliated organization not comply with an obligation placed on it under (c) above, the General Council shall duly report to Congress or deal with the organization under Clauses (b), (c), (d) and (h) of Rule 13.⁷⁹⁵

⁷⁹⁴ Haines (2003) p.17

⁷⁹⁵ Sections in italics were rejected by the general council negotiating committee. Subsequent replacements are shown in brackets

Castle was determined that the declaration be as binding as a rule, and to this end had asked the Attorney-General, Sir Elwyn Jones, to attend the final meeting⁷⁹⁶, and included the words, ‘as binding as a rule of Congress’ in the explanatory statement. However, even at this stage the general council were not prepared to have any explicit reference to rules, and Jack Jones argued there was no such thing as a rule of congress and that it should be replaced by ‘same binding force as the TUC Bridlington Principles’⁷⁹⁷. Castle agreed, with the addition of ‘regulations’ so that it read, ‘same binding force as the TUC Bridlington Principles and Regulations’⁷⁹⁸. Similarly, the negotiating committee, while accepting the reference to unions taking action within their rules, asked for the qualifying ‘if necessary’ to be added at the end of the sentence. Thus, right up until the end, both sides were pressing their own agenda, Castle to make the declaration as close to a rule change as possible, and the general council to avoid any explicit reference to the rule book. In doing so, the general council made another important concession on the requirement for individual unions to discipline unofficial strikers via their existing rules. However, as was the case throughout this final stage, the words had much less importance than avoiding a rule change, and in this context, the general council could be happy at what they had achieved and, having seen the final draft they, ‘made no demur’. As Castle recorded, ‘the deal was on’, and both sides agreed that no one should claim a victory. However, in her original transcript, Castle recorded an ironic tableau that served to disabuse anyone who thought that this was really the case:

Jo[sic] Haines had passed Harold a note saying some members of the G.C. had been calling out of the windows to the industrial correspondents, “Another half hour and we’ve won”. Vic [Feather] was shocked at the very idea.⁷⁹⁹

6.13 Overwhelming relief

Once Wilson and Feather had shaken hands, the Cabinet was called to ratify the deal and, at a meeting of the PLP that followed, Wilson explained the terms of the

⁷⁹⁶ See Castle (1984) p.678, entry for 18 June, 1969, ‘brought in to emphasize that they were committing themselves to the equivalent of a rule’.

⁷⁹⁷ MRC, MSS 292B/20/10 – TUC General Council Minutes 1968-69(2), Minutes of the seventeenth meeting held on 25 June 1969, Minutes of a meeting between the Prime Minister, First Secretary of State and the General Council on Wednesday, June 18.

⁷⁹⁸ Castle (1984) p.802

⁷⁹⁹ BCC, entry for 18 June, 1969

with which Castle and Wilson had conducted the negotiations, and the unanimous endorsement of the outcome, whilst Castle recorded, with some bitterness, that a ‘ragged cheer’ went up as Wilson made the announcement. Despite this, Castle could not resist a barbed comment: ‘Considering the background of press reports against which we had to negotiate, it is surprising we achieved anything at all.’⁷⁹⁹

The overwhelming sense of relief spilled over into the PLP meeting. Wilson made a lengthy statement, in which he painted a picture of unrelenting government pressure leading to historical and unprecedented movement by the TUC, telling the meeting that, ‘it was the White Paper and the negotiations that followed its publication which more than anything else was responsible for “Programme for Action”’. Similarly, and with a clever piece of rhetoric, he sought both to align himself with the trade unionists amongst the PLP, and to evoke trade union history;

A very large number of colleagues here with trade union experience will understand what I mean when I say that the representatives of the Trades Union Congress have confirmed to me today – and this is in the public statement – that the undertaking they have now given is as binding as the Bridlington Declaration and Regulations of 30 years ago – and all of us know the central and sustaining role which the Bridlington Declaration has played in T.U.C. history⁸⁰⁰.

Finally, he reminded those present of his statement, made at the outset of the negotiations, that he was willing to consider any proposals from the TUC that were, ‘equally effective, equally urgent in time’, and concluded that, ‘our requirements have been met today’. Wilson’s rhetoric was superb, for not only did he suggest that the outcome was the one he had sought all along, but by evoking trade union history he was placing himself back firmly in the trade union roots of the party at a time when many, not least in the PLP, were accusing him of tearing the party apart.

However, whilst Wilson’s speech may have proved the necessary emotional balm within the PLP, the outside world was less susceptible to his rhetoric. For, despite Wilson’s plea to the Cabinet that, ‘neither side should claim that its views had

⁷⁹⁹ NA, PRO, CAB128/44, CC(69) 29th Conclusions, 18 June, 1969 and Castle (1984) pp.678-9, entry for 18 June 1969

⁸⁰⁰ LPA, Minutes of a Party Meeting held on 18 June, 1969

prevailed over those of the other', he could not stop the press, or the opposition, from picking winners and losers. The *Daily Mail* declared, albeit predictably 'This is the greatest surrender in modern British politics..a "solemn declaration" which is hardly worth the paper it is written on'⁸⁰¹, while the *Daily Telegraph* commented that any audience would try to, 'suppress its ribald laughter at the idea of the TUC being "solemn" about anything except its determination to put trade unions still further above the law'⁸⁰². The *Daily Mirror*, probably the strongest supporter of the white paper, concluded that it had been neither climb down or triumph, but that Wilson had, 'as a Labour Prime Minister', no alternative but to settle with the terms that he had been given. Even for this paper, however, there was one outstanding fact; 'There exists in Britain, rightly or wrongly, a power outside the precincts of parliament as great as that which exists within'⁸⁰³.

Among the less partisan publications the *Financial Times* thought both sides could claim some sort of victory, but that the TUC claim was more credible. Ministers would not find it easy to rebut the charge that they were 'over-confident and then over-yielding', and ended up striking a bargain which is 'bound to be widely regarded as humiliating'⁸⁰⁴. However, the paper acknowledged that the threat of legislation had forced the TUC to move 'further and faster than most people expected earlier in the year', and if they were willing to exercise their new powers it would go a long way to making real progress. Similarly, the *Guardian*, which had not supported either the white paper or the interim bill, thought the terms looked 'good and workable', and represented a 'near-historic change of attitude and purpose' by the TUC. However, it was now up to the TUC to make the proposals work⁸⁰⁵. *The Times*, at best a sceptical enthusiast for the government's proposals, acknowledged that, if the proposals worked, both sides would deserve, 'credit and support'. If not, then Wilson stood convicted for 'having abandoned a measure he considered essential in return for mere assurances'. Ultimately the testing point would come when unofficial strikers refused a union order to go back to work and whilst in these circumstances, the paper concluded, 'It is not

⁸⁰¹ *Daily Mail*, 19 June, 1969

⁸⁰² *Daily Telegraph*, 19 June, 1969

⁸⁰³ *Daily Mirror*, 19 June, 1969

⁸⁰⁴ *Financial Times*, 19 June, 1969

⁸⁰⁵ *Guardian*, 19 June, 1969

absolutely clear that the new system will not work', it is clear that,' the Prime Minister has not got what he wanted'.

If the press response ranged from sceptical to derisory, the opposition parties made no attempt to hide their contempt when Wilson next faced the Commons. According to the *Guardian*, he was met with a 'merry chorus of laughs and jeers' from the Conservative benches and a single question from the leader of the opposition, 'What will happen when unofficial strikers ignore the advice of their union leaders and go on striking?' Wilson's reply, that the TUC would 'place an obligation on the union concerned to get them back to work', was in turn met with a 'torrent of derisive laughter'⁸⁰⁶. Conservative contempt was backed by a hard-edged determination to exploit the situation in the months remaining before the general election. The Conservative's campaign guide devoted 21 pages to industrial relations policy, including a section on 'The Industrial Relations Bill Fiasco'⁸⁰⁷. Similarly, an analysis of election addresses revealed that 72% of Conservative candidates included a reference to trade union reform whilst the 10% of Labour candidates mentioning the subject opposed existing party policy, although it is not indicated whether they were in favour of less or more reform. During the general election Harold Wilson made seventeen speeches amounting to 17,714 words and failed to mention proposals for trade union reform in any of them. By contrast Edward Heath made 15 speeches amounting to 8,860 words of which two percent dealt with Labour's record on industrial relations and two percent with his own proposals⁸⁰⁸.

So ended one of the most divisive episodes in Labour Party history. For those within the party the relief at the outcome was palpable, for as Douglas Houghton, summing up the PLP meeting, put it, 'this was the most significant and moving day in the history of the Movement since the General Strike on 1926'⁸⁰⁹. However, for those outside the movement, the ending was considerably more inauspicious. *The Times* concluded, 'A Labour Government is seen to be

⁸⁰⁶ *Guardian*, 20 June 1969

⁸⁰⁷ *The campaign guide 1970* (Conservative Central Office 1970)

⁸⁰⁸ David Butler and Michael Pinto-Duschinsky, *The British General Election of 1970* (Macmillan, London 1971)

⁸⁰⁹ LPA, Minutes of a party meeting held on 18 June, 1969

incapable of challenging the most powerful interest in its party's political combination'⁸¹⁰. For those who sought to invoke 'history' at every turn, it would be for 'history' to decide whether it was Houghton or *The Times* that was proved right.

6.14 Summary

The final negotiations opened with Wilson's dismissal of the 'Programme for Action' and ended with his proclamation of the 'solemn and binding agreement' as a historic achievement. In the midst of the final week he was consistently calling for, at the very least, a rule change; was seriously considering amendments to the 1906 Trade Disputes Act, the nearest thing to an act of God in trade union mythology; and had become convinced that a credible solution was intrinsically linked to his ability to govern. Yet at the end, he was welcomed back into the party fold with open arms by the PLP, whilst being condemned by much of the press for 'surrendering' to a single, vested interest. How far was the agreement a surrender and, given that politics is largely, 'the art of the possible'⁸¹¹, how far a reasonable, pragmatic solution? Similarly, how far did it satisfy Wilson's own criteria of being as effective and as urgent as the government's own proposals, and how far was Wilson, as he implied at the final PLP meeting, using the interim bill to extract concessions from the TUC?

There is little question that, following Croydon and the Chequers meeting, Wilson was determined to achieve a credible outcome. We have seen how affected he was by the attitudes of Jones and Scanlon and there is no doubt that he regarded their behaviour as a direct challenge to his right to govern in the interests of all. This translated into the minimum requirement for a rule change and a genuine willingness to use proposed amendments to the 1906 Act as both a negotiating tool and, if necessary, an alternative form of legislation. The depth of his involvement in the development of Cabinet papers over the weekend of 14/15 June is a clear indication of how far he was willing to go. However, there was little doubt that, after the Cabinet meeting on 17 June, he had no alternative but to

⁸¹⁰ *The Times*, 20 June, 1969

⁸¹¹ Otto von Bismark in conversation with Meyer von Waldeck, 11 August 1867, *The Oxford Dictionary of Political Quotations* (Oxford University Press, paperback edition 1997 p.46)

try and reach a negotiated settlement. As we have seen, he may have had the votes in his pocket, but the likely divisions were such that a consensus would have been impossible. Pragmatically, therefore, Wilson and Castle had to compromise, the question remained as to the extent of that compromise.

The problem throughout these latter stages was that the agreement hinged on one hundred or so words and the relative status of a rule change against a note of clarification. As we have seen, by the time both sides came to agree the final text, the words had ceased to have as much relevance as the need for a rule change. However, this should not detract from the fact that, in the agreement to a note of clarification and the words used, the TUC did make a series of considerable concessions. Not only did they agree to the same wording being used in rule 11 as was used in rule 12, placing an obligation on individual unions to carry out general council rulings, they also accepted explicit reference to unconstitutional strikes and acknowledged that circumstances existed in which a return to work was required before a settlement could be reached. In this respect the agreement did go considerably further than previously in enshrining the right of the TUC to intervene in unofficial and unconstitutional disputes. However, it did not constitute a rule change

How are we to read the general council's refusal to countenance a rule change? The argument that it would present a constitutional difficulty seems somewhat hollow. As Wilson pointed out, an agreed amendment did not preclude further minor amendments on the part of the September congress, and it did not follow that an agreed amendment would require another special congress. The Croydon agreement already required endorsement in September, the general council would be asking congress simply to endorse a further amendment. Against this, Scanlon's argument, that he could not guarantee the support of his executive did carry weight, but it is difficult not to see the main objection as a more visceral reaction to any government attempting to amend trade union rules, a perception that the Conservatives would have done well to take on board as they prepared for government. Whilst the Bridlington principles were endorsed by both the general council and Castle's officials as having the same authority as a rule change, they undoubtedly represented a convenient way out.

In the circumstances, it is difficult not to conclude that the ‘solemn and binding agreement’ was the best that Castle and Wilson could get. They were to be congratulated for gaining significant concessions, but ultimately they foundered on the inability of significant minorities within both the Cabinet and the PLP to see how one hundred words and a limited debate about rule changes was worth the turmoil it would undoubtedly create. As for its wider significance, the press was undoubtedly correct in seeing the agreement as a surrender to a singularly powerful vested interest and the *Daily Mirror*’s conclusion, that it would be for Mr Heath to decide whether there should exist a ‘power outside the precincts of Parliament as great as that which exists within’ seems ominously prescient⁸¹².

⁸¹² *Daily Mirror*, 19 June, 1969

CONCLUSION

At the outset it was stated that four general propositions have emerged from historiography of *In Place of Strife*: that Barbara Castle was unduly influenced by anti-trade union officials; that the contents of the white paper were an ill thought out, knee jerk reaction to the Conservative proposals contained in *Fair Deal at Work*, and were neither philosophically coherent, nor practically effective; that neither Castle or Wilson were of, or understood the trade union movement, and consequently failed to anticipate the likely impact of any proposals impinging on the right to strike; and that the final, 'solemn and binding' agreement, however much it was dressed up by both sides as an honourable compromise, was a failure for Castle and Wilson that demonstrated the inability of a Labour government to escape from its trade union roots.

What has emerged from this study is that role of the civil service in the creation of *In Place of Strife* was a complex one. The reorganisation of the department clearly introduced a new source of policy advice that operated outside the traditional culture of the Ministry of Labour. All of those interviewed who were present in the DEP during this period attest to the pressure that was building up at senior levels for the development of 'Donovan plus'. Yet the policy documents produced rejected the Donovan plus approach. The reason for this appears to be twofold. Whilst there was a significant influx of new blood, its impact on the formal policy making process was limited. As John Burgh has indicated, his initial ignorance of the detail of industrial relations policy inclined him to be cautious in the first instance. Whilst he was a strong supporter of *In Place of Strife* once conceived, he could not match the detailed knowledge of industrial relations that was held by the long standing Ministry of Labour officials within his department.

Secondly, there were practical problems with the adoption of a more interventionist approach. Donovan had exhaustively examined the application and effectiveness of sanctions, concluding that none of them would deliver improved industrial relations. Similarly, Burgh's department had repeated the exercise and

arrived at the same conclusions. In the circumstances, the decision to press ahead with any of the more coercive measures required a political leap of faith rather than cold intellectual calculation, and, as has been demonstrated, the decision on content, especially the inclusion of the penal clauses, remained with Castle, and this brings us back to the second proposition: that *In Place of Strife* represented a knee-jerk reaction to Conservative proposals rather than a well thought out philosophy of industrial relations.

It is clear that *In Place Of Strife*, sought to balance a number of considerations; it accepted and supported the Royal Commission analysis whilst rejecting the legalistic approach being proposed by the Conservatives; it recognised however, that the Commission's proposed reforms could not take place fast enough to avoid ongoing disputes and therefore measures would be required to control strike action. To this end it proposed two specific measures which were designed carefully to control those strikes which were considered damaging to the national interest without placing blanket restrictions on the basic right to strike. However, it sought to balance this with the proposed extension of trade union rights into a number of important areas.

The white paper was undoubtedly an extremely political document, Castle was all too conscious of the need to out flank the Conservatives, but it was also grounded in a sound philosophy of state intervention in industrial relations going back over a hundred years. Consequently, it can be argued that the white paper contained a well balanced set of proposals which provided a coherent analysis of the current state of industrial relations, and sought to couple enhanced trade union rights with a wider set of responsibilities. However, it can equally be argued that it was naïve of Castle to assume that this carefully balanced set of rights and responsibilities would survive the realities of Cabinet and trade union negotiations, an argument which turns on Castle and Wilson's alleged failure to understand the trade union movement and its history.

As we have seen, the time spent attempting to arrive at a set of sanctions that fell short of imprisonment suggests an awareness of the totemic nature of the law and the courts in trade union history. Similarly, Castle's determination not to adopt

the Donovan recommendation to remove the protection offered under the Trade Disputes Act 1906 demonstrated her understanding of both its practical and historical significance. However, this needed to be set against the wider consideration of a right to govern in the interests of the wider community. As Wilson had told the TUC in 1964, 'we shall say what in our view the national interest demands'⁸¹³. Both Castle and Wilson were clear that, along with enhanced rights came enhanced responsibilities and this meant being prepared to accept restrictions on strike action if, by means of that action, wider community interests were being threatened. It is significant that it was only after the Chequers meeting at which Jones, and particularly Scanlon, made it clear that they had little time for a wider set of community interests if they were to the detriment of the interests of their members, that Castle and Wilson contemplated removing the protections offered under the Act.

Finally, for Wilson and Castle, the real nature of the opposition was revealed. It may be argued that this illustrated once and for all their naivety in trade union matters, and perhaps it needed Jones and Scanlon to spell it out in such blunt terms. However, if they were naïve, it was naivety of a different order to that with which they have usually been charged, in that they were genuinely shocked at two trade union leaders setting the trade union movement not just outside, but also above the law. Hence the importance of Wilson's 'tanks' phrase regardless of the actual words used. Scanlon, in particular, appeared to be challenging directly the right of a democratically elected government to govern. Peter Jenkins, who was aware of the confrontation at Chequers, was surely right in his assessment that Feather made a serious miscalculation in calling for the meeting, because the intransigence of Scanlon and Jones merely served to confirm Wilson's opinion that 'no undertaking by the TUC would be worth the paper it was written on unless Jones and Scanlon could be pinned down'⁸¹⁴.

It is in this context that the question of naivety must be addressed. It is arguable that what both Castle and Wilson were attempting was to widen the traditional debate about trade union rights and responsibilities in order to ask legitimate

⁸¹³ Taylor (1993) p.131

⁸¹⁴ Jenkins (1970) p.140

questions about the limitations of trade union power in an era of full-employment, and that their naivety was in believing that the trade unions were as willing to take part in the debate as they themselves were. However, whilst such a view may go some way to countering the charges, it is difficult to deny that they did demonstrate considerable naivety in failing to anticipate the depth of antagonism shown by trade unions towards any prospect of the introduction of the law into industrial relations, and finally demonstrated a lack of understanding of the emotional ties that existed between the trade unions and the PLP. For Wilson, whose deft handling of the Clause IV debate had appeared to demonstrate an instinctive understanding of such ties⁸¹⁶, this was a damning conclusion.

Castle and Wilson failed ultimately because, at a visceral level, a substantial minority in both the PLP and the Cabinet were not prepared to accept any legislation that sought to restrict the unfettered right of the trade unions to protect the interests of their members. They were undoubtedly naïve in thinking that a majority within the PLP would support their proposals, when the government had a majority of no more than 96 and when over 120 MPs were sponsored by trade unions, and it is a measure of this naivety that Castle was surprised by the size of the revolt that took place during the government debate on *In Place of Strife* in March 1969, and seemingly failed to realise the significance of the fact that of the 55 Labour MPs who voted against the white paper, 25 had not previously opposed the government.

Finally, therefore, there is the issue of failure or defeat. As was said at the outset, with the exception of Wilson, everyone else involved regarded the outcome as a defeat for the government. It seems reasonable, therefore, to consider success or failure in the terms that Wilson set for himself when he met the general council for the first time in April 1969. As he made clear at the meeting, he was prepared to consider any alternatives that could be shown to be both effective and operate as quickly as the government's own proposals and, speaking to the PLP in the aftermath of the settlement, he claimed that this was just what the 'solemn and

⁸¹⁶ When asked about Gaitskell's proposal to remove clause IV, Wilson replied that 'We were being asked to take Genesis out of the Bible... You don't have to be a fundamentalist to say that Genesis is part of the Bible.' Quoted in Pimlott (1992) p.227

binding' agreement offered. Studying Wilson's rhetoric from March onwards, it is clear that he had sought to create the grounds for a possible compromise from the outset, but it is equally evident that his definition of what constituted a reasonable compromise became looser as the negotiations progressed and the size of the opposition became clearer, and that no-where was this clearer than in the middle of the leadership crisis in early May. Furthermore, whilst, in the aftermath of the Chequers meeting, he was prepared to adopt a much tougher line, this too had to be tempered when it became obvious that, in the aftermath of the special congress, public opinion was shifting in favour of the TUC. Finally, faced with likely defeat in Cabinet, he was forced to accept any terms offered by the general council.

However, if in his own terms the final agreement was a defeat, what of the apparent movement of the TUC? After all, Wilson, Castle and Feather all claimed that the rule changes gave the TUC greater powers of intervention than ever before, and, at least from Wilson and Castle's perspective these would not have been achieved without *In Place of Strife* as the catalyst. The effectiveness of the TUC measures requires another study, and there was little time to test them before the 1970 general election changed all of the circumstances anyway. However, Eric Wigham has noted that there was a determination within the DEP to ascribe all successes in the immediate aftermath to the TUC, regardless of the level of intervention⁸¹⁶. From the perspective of this study, it is clear that the rule changes did enshrine a new level of intervention, although this was clearly circumscribed by the degree of co-operation from the larger unions as evidenced by a much greater willingness to agree to intervention of inter-union disputes than on unofficial strikes. Ultimately, however, the question as to what the TUC could do in the event of unofficial strikers refusing to return work remained unanswered.

At another level, Castle and Wilson's failure, however much it reflected their own naivety, was a failure of the wider labour movement. If *In Place of Strife* was undoubtedly the last in a sequence of defeats for a tired and embattled government, whose final negotiations came to resemble arguments over angels

⁸¹⁶ Wigham (1982) p.153-4

and on pinheads, its wider significance as a defining moment in post-war political, labour and economic history cannot be denied. The government's defeat confirmed that the Labour Party could not govern without the consent of the trade unions, which, for a Prime Minister seeking to establish his party as that of the national interest, was a devastating conclusion. The very fact that the proposals united those on both the left and right of the party, leading previously loyal backbenchers to vote against the government, indicated the extent to which loyalty to the union movement extended above and beyond the wider national interest, and laid bare the harsh reality of the balance of power inside the labour movement. Subsequently, considerable emphasis has been placed on the how the two sides had healed the rift by 1974 to produce the 'social contract'. However, the events of 1979 indicated that this was at best a pasting over of the cracks in a distinctly uneven relationship, and the fact that Callaghan's government was brought down was hugely ironic given his role in the events of 1969.

Similarly, whilst the interim bill was little more than a knee-jerk reaction to events, *In Place of Strife* did offer a significant tranche of trade union rights and did offer the opportunity to debate the wider role of the unions within society. However, the prominence of Jones and Scanlon indicated the extent to which power had shifted from the older established figures who had been prepared to enter into agreements over the national plan, to a younger generation who were more interested in representing the interests of the shop floor. This in turn was evidence of the seismic shift in trade union power that had been taking place since the late 1950s, a shift that was to continue into the 1970s with the arrival of the likes of Arthur Scargill, and which echoed the shift to the left within the Labour Party itself. Consequently an important opportunity was lost, with the result that, 'social contract' notwithstanding, the unions were to maintain an essentially antagonistic role to the state until their ultimate marginalisation in the 1980s. Furthermore, Scanlon's willingness to defy the law was indicative of a growing belief that trade unions considered themselves to be above the law, a development that, as Edward Heath was to discover, made trade union reform almost impossible on anything but the most limited or the most radical terms.

Finally, whilst Castle had always been determined to avoid the crudeness of wage restraint versus control over strikes, there was no doubt that something was required to balance full employment, low inflation and maximum productivity. Prices and incomes policy had failed and unofficial strikes, in particular, were destroying key export industries such as motor manufacturing, which in turn placed even more pressure on the fragile pound. Something was needed to escape from this downward spiral, and the penal clauses, whilst likely to be limited in their effectiveness, would have at least begun to address the issue of unofficial strikes and opened a debate about strikes that were considered against the national interest. As it was, the failure to agree opened the way for the legalistic approach of the Conservatives that was in turn to founder on the willingness of trade unionists to break the law.

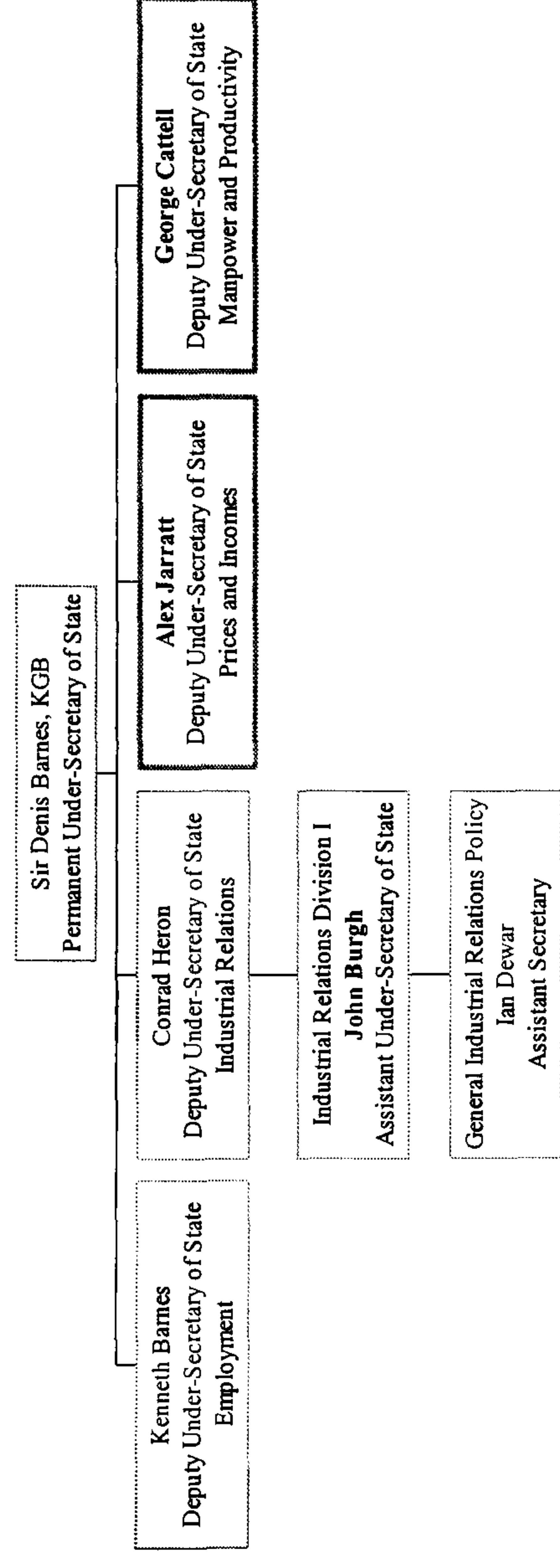
In Place of Strife was a missed opportunity, agreement could have opened a much needed debate on trade union/state relations, broadened the appeal of the Labour Party and laid the foundations for the development of a planned economy in which full employment and low inflation could have been pursued⁸¹⁷. As it was, the massive economic shocks of the early 1970s highlighted the fragility of the existing system and ultimately brought about the downfall of both the Labour Party and the trade unions. Shortly after the failure of *In Place of Strife*, a leading authority on industrial relations asked ‘whether we can cease to be victims of our history’⁸¹⁸. For Barbara Castle, Harold Wilson, and the wider Labour and trade union movement, the answer was clearly no.

⁸¹⁷ For a fascinating counterfactual argument see, Robert Taylor, ‘What if Harold Wilson and the unions had agreed *In Place of Strife*?’ in, *Prime Minister Portillo and other things that never happened*, edited by Duncan Brack and Iain Dale (Politico’s Publishing, London 2003)

⁸¹⁸ Henry Phelps Brown, *The Origins of Trade Union Power* (Oxford University Press, paperback edition 1986) p.190

Appendix 1

DEPARTMENT OF EMPLOYMENT AND PRODUCTIVITY: APRIL 1968



Note: Bold boxes indicate new division, bold names indicate staff new to DEP

Appendix 2

Paragraphs 38 - 43

any more than it has in the past, on the active participation of the C.B.I. The General Council propose that the scope of Rule 11 should be extended specifically to include unauthorised and unconstitutional stoppages which are likely to have serious repercussions.

38. Under the revised Rule 11 (see Appendix 1) where the dispute affects a significant number of workers or where it seems likely to be protracted and have serious repercussions, the General Council propose that it should be an obligation on the union or unions concerned to notify the T.U.C. of the circumstances. Even before notification the T.U.C. itself might take the initiative to investigate the matter: such an initiative might, for example, result from an approach from a union whose members were not in dispute or on strike but had been laid off or otherwise affected as a result of strike action by the members of another union.

39. In either event the first requirement would be for the T.U.C. General Secretary to discuss with the union or unions concerned the possibility of the T.U.C. giving assistance towards the settlement of the dispute. In the light of the situation a decision might then be taken to refer the matter either to the Finance and General Purposes Committee or to a Disputes Committee. The General Council have it in mind that, particularly in the case of a localised dispute, a Disputes Committee might include members drawn from a panel of experienced union officials. Where it was considered that an on-the-spot investigation would be useful, it might be appropriate to include as members of a Disputes Committee trade union officials drawn from a region adjacent to the locality of the dispute; this would help in bringing to bear on the problem the experience of persons who, while not immediately involved, would have knowledge of local circumstances and would also help in speeding the investigation.

40. The General Secretary or the Committee could, after consulting the union concerned, discuss the dispute with local union representatives and also with the management concerned. After investigation of the causes and circumstances of the dispute, recommendations for securing a settlement would normally be made to the parties concerned. Recommendations might also be made for changes in the procedure to avoid similar situations occurring in future. If it was found in a particular case that there was a strong element of inter-union difficulty in the situation, and if the employer indicated that he would be prepared to accept the T.U.C.'s findings, the Committee might make an award. In most cases, however, the Committee would make a recommendation and would seek to establish that all the parties concerned were prepared to act on it without delay. This would call for a positive response from management as well as from the trade union side.

41. Unions have demonstrated over the years that they do their utmost to implement recommendations by the T.U.C. for the settlement of disputes, and very rarely have the General Council had to exercise their ultimate power of suspending a union and reporting it to Congress. The General Council are confident that, in the case of unofficial and unconstitutional strikes, unions will impress on their members the advantages to be gained from accepting T.U.C. assistance in settling the dispute and will accept responsibility for doing everything within their power to ensure that their members accept recommendations by the T.U.C.

42. The General Council would also require unions to satisfy them that they had done all that they could reasonably be expected to do to secure compliance with a recommendation (or an award, where this has been made), including taking action within their own rules if necessary. They recognise that a few unions may need to review their own rules to ensure that they are in a position to comply with recom-

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mendations or awards by the T.U.C. The General Council also consider that it should be made clear in Rule 11 (as is already implicit in that Rule, and as is explicit in Rule 12) that in the unlikely event of a union refusing to abide by a decision of the T.U.C. the General Council can take action under Rule 13 (See appendix 3).

43. If the foregoing proposals are accepted by the Special Congress the General Council will take action forthwith to give effect to them. They will also submit to the September Congress a formal proposal for a change in Rule 11: it will be along the lines set out in Appendix 1, and any observations that unions may wish to submit for the General Council's consideration will be taken into account in finalising the precise proposal to be submitted to Congress.

RELATIONS BETWEEN UNIONS

Appendix 3

Revised Rule 11

Appendix 1

Rule 11: Industrial Disputes

- (a) It shall be an obligation upon the affiliated organisations to keep the General Council informed with regard to matters arising as between them and employers, and/or between one organisation and another, *including unauthorised and unconstitutional stoppages of work*, in particular where such matters may involve directly or indirectly large bodies of workers. The General Council shall, if they deem necessary, disseminate the information as soon as possible to all organisations which are affiliated to the Congress, and which may be either directly or indirectly affected.
- (b) The general policy of the General Council shall be that unless requested to do so by the affiliated organisation or organisations concerned, the Council shall not intervene so long as there is a prospect of whatever difference may exist on the matters in question being amicably settled by means of the machinery of negotiation existing in the trades affected.
- (c) If, however, *a situation has arisen, or is likely to arise*, in which other bodies of workpeople affiliated to Congress might be involved in a stoppage of work or their wages, hours and conditions of employment imperilled the General Council may take the initiative by calling representatives of the organisation into consultation, and use their influence to effect a just settlement of the difference. In this connection the Council, having ascertained all the facts relating to the difference, may tender their considered opinion and advice thereon to the organisation or organisations concerned. Should the organisation or organisations refuse the assistance or advice of the Council, the General Council shall duly report to Congress *or deal with the organisation under Clauses (b), (c), (d) and (h) of Rule 13*.
- (d) Where the Council intervenes, as herein provided, and the organisation or organisations concerned accept the assistance and advice of the Council, and where despite the efforts of the Council, the policy of the employers enforces a stoppage of work by strike or lock-out, the Council shall forthwith take steps to organise on behalf of the organisation or organisations concerned all such moral and material support as the circumstances of the dispute may appear to justify.

Appendix 4

	DATE		MEETING	
Stage 1 Post-Croydon position	Friday, 6 June		Informal meeting between Wilson & Feather	
	Sunday, 8 June		Management Committee	
	Monday, 9 June	1	10.15am, General Council pre-meeting	
		2	10.30am, Wilson, Castle & General Council	
		3	Wilson private meeting with Feather	
		4	2.30pm, Management Committee	
		5	4.00pm, Cabinet	
Tuesday, 10 June		8.30pm, informal meeting between Wilson, Castle & Feather		
Stage 2 Detailed negotiations	Wednesday, 11 June	1	Wilson, Castle & General Council	
		2	General Council	
		3	General Council, negotiating sub-committee	
		4	Wilson, Castle & General Council sub-committee	
		5	General Council, negotiating sub-committee	
		6	Wilson, Castle & General Council sub-committee	
	Thursday, 12 June	1	10.30am, Management Committee	
		2	11.15am, Cabinet	
		3	6.30pm, General Council pre-meeting	
		4	7.00pm, Wilson, Castle and General Council	
	Stage 3 Stalemate	Friday, 13 – Monday, 16 June		Intense work between Castle, Wilson and Castle's officials on alternatives to the penal clauses.
	Stage 4 Resolution	Tuesday, 17 June	1	9.30am, Management Committee
2			10.15am, Cabinet (adjourned)	
3			4.30pm, Cabinet (resumed)	
Wednesday, 18 June		1	General Council pre-meeting	
		2	10.30am, Wilson, Castle & General Council	
		3	General Council	
		4	Wilson, Castle and General Council sub-committee	
		5	Sub-committee report back to General Council	
		6	Resumed meeting Wilson, Castle & sub-committee	
		7	Further discussion by General Council	

		8	Resumed meeting Wilson, Castle & sub-committee
		9	Discussion by sub-committee
		10	Resumed meeting Wilson, Castle and sub-committee
		11	Final sub-committee report back to General Council
		12	Final meeting of Wilson, Castle & General Council
		13	5pm, Cabinet
		14	7.15pm, Parliamentary Labour Party

Appendix 5

Rule 11 (c)

If, however, a situation has arisen, or is likely to arise, in which other bodies of workpeople affiliated to Congress might be involved in a stoppage of work or their wages, hours or conditions of employment imperilled, the General Council may take the initiative by calling representatives of the organisation into consultation and use their influence to effect a just settlement of the difference. In this connection the Council, having ascertained all the facts relating to the difference may tender their considered opinion and advice thereon to the organisation or organisations concerned. Should the organisation or organisations refuse the assistance or advice of the Council, the General Council shall duly report to Congress or deal with the organisation under Clauses (b), (c), (q), and (h) of Rule 13

Rule 12

(b) It shall be an obligation on the affiliated organisation or organisations concerned to notify the General Council when an official stoppage of work is contemplated in any dispute between affiliated organisations whether relating to trade union recognition, trade union membership, demarcation of work, or any other difficulty.

(c) No affiliated organisation shall authorise such a stoppage of work until the dispute has been considered by the General Council as provided by clause (f) of this rule.

(d) Where a dispute between unions has led to an unauthorised stoppage of work, it shall be an obligation on the affiliated organisation or organisations concerned to take immediate and energetic steps to obtain a resumption of work.

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