

Form A.

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PO -CH /GH/0024



PART A

Chancellor's (Howe) Papers:

CIVIL SERVICE PAY AND
CONDITIONS FOLLOWING THE
1981 DISPUTE

/GH/0024

Disposal Directions: 25 Years

I have read the summary but not the report. It seems reasonably sensible, though there is nothing very new. The staff on

"analysis of the problem" (7.3) and "improving formulation of opinion" seems a bit trite in places, but 7.4 (d) is important and was a point

which came in for quite a bit of criticism. The problem should not be so difficult in any future dispute, partly because perceptions about

Ref. A07470 pay and "rights" to particular increments have changed to some extent; and partly because the sense of grievance at "leaving up the

PRIME MINISTER

pay agreement" was very real, & made communication of a reasoned message difficult. You will welcome 7.6(j).

Lessons From The 1981 Civil Service Dispute

(And 7.5 (a).) PSJ 12.2

EXCHEQUER	
SEC.	12 FEB 1982
ACRON	Mr. LE C. G. G. G. G. G.
CCP'S	GT
IO	FST
	EST
	MS (C)
	MS (L)
	Mr D. W. M.
	Mr F. B. S. G. G.
	Mr P. G. G. G.
	Mr G. G. G. G.

Feb/12/82

11/2/82

Mr Rowland / Sir C. Airey / Sir D. W. G. G.

Before Christmas you asked that an inter-departmental group of officials should study the lessons of the 1981 pay dispute in the non-industrial Civil Service. The Official Group on Lessons from the Civil Service Dispute (MISC 65) was set up under Cabinet Office chairmanship and its report is now attached.

2. I annex immediately below this minute Part 7 of the report, which summarises the conclusions and recommendations. The full report consists of a full statement of the arguments supporting the conclusions and recommendations. It would be a sort of bible if we had to face a dispute, but I do not think you need read it all now, though if you have time you may find it interesting to read Parts 1-3, which are all fairly short, since they contain some food for thought about the general nature of the industrial relations problem in the Civil Service and about the ways in which morale and communications might be improved.

3. One point which emerges strongly from the report is how much the Government will depend in any future dispute on retaining the loyalty of middle managers. There has undoubtedly been some sense of alienation from the Government as employer at middle management levels over the past year or so, and this has potentially serious implications. During the 1981 dispute the efforts of some middle managers and some other key staff helped to contain the cost to the Government - for example a small number of key staff in the Revenue Departments prevented the temporary loss of revenue from being £12 billion rather than £6 billion and the extra interest cost to the Government from being £1 billion rather than £1 1/2 billion. We should need to rely on similar cooperation in the future. The efforts of middle managers are crucial to most departmental contingency plans and to the successful application of many of the sanctions against those who take industrial action. Middle managers also have a potentially important role in

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putting across to subordinate staff the reasoned arguments in support of the Government's position in pay negotiations.

4. An important lesson is therefore that in all our dealings with the Civil Service, both in this year's pay negotiations and on non-pay issues, the Government will need to do all it can to improve the morale and strengthen the loyalty of its employees, particularly at middle management levels.

5. By far the largest section of the report is that (Part 5) which deals with management responses to industrial action. It reflects a very full examination and discussion of about a score of possible options which might be open to the Government to deter industrial action before it occurs, to counter it when it is in progress, or to help bring it to an end.

6. It emerges from this analysis that the Government now has in Temporary Relief from Duty (TRD) a weapon well developed and refined in the light of experience in 1981, for use when staff are not working normally or as directed. But it has some limitations. One limitation, the practical difficulty of applying it when local managers are unlikely to cooperate, is to be further studied in the light of the report so that departments can share their experience in overcoming the operational problems. The other limitation is however more fundamental. TRD cannot be used against staff who are prepared to work normally and as directed. It cannot therefore be used to counter the unions' tactic, skilfully exploited in 1981, of imposing considerable costs on the Government at modest cost to themselves by selective strike action confined to a few carefully chosen groups of staff.

7. MISC 65 therefore gave much attention to ways of dealing with this problem. One option, which was considered last year, is to legislate to permit the lay-off without pay of staff who are without work as a result of the industrial action

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of others, and draft legislation was prepared on a contingency basis. The possibility of taking such powers in respect of white collar employees generally was considered in the context of the Employment Bill and may arise again during the Bill's passage through Parliament. MISC 65 considered the possibility of legislation confined solely to the Civil Service. This would however be a very radical and a very provocative (because discriminatory) step, and the advantages and disadvantages would need to be weighed very carefully as the report indicates. An even more radical step would be to take powers confined to the Civil Service to suspend staff without pay even when they were genuinely willing to work normally and their work was not affected by the industrial action of others.

Such measures would undoubtedly provide the Government with the means of going on to the offensive against the Civil Service unions to a much greater extent than is possible at present. But there are dangers as well as possible benefits, and the balance of advantage would need to be assessed carefully at the time.

8. In addition MISC 65 considered a whole range of other possible management responses and made specific recommendations in certain areas, for example union "check-off" facilities, the taxation of strike pay, management ballots, and clarifying the obligations of managers in relation to industrial action.

9. You will probably want to discuss the report with the Ministers mainly concerned with Civil Service pay negotiations. The discussion might be concentrated on the following points:

- i. the need for a strategy based on the twin goals of strengthening morale and loyalty, as well as being resolute and resourceful in withstanding industrial action;
- ii. the implications of this strategy for:
 - a. the handling of issues affecting Civil Service morale in the longer term;
 - b. communications in negotiations and during a dispute;
- iii. the proposals in Part 4 on organisation during a dispute;

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- iv. the specific conclusions and recommendations about management responses to industrial action (a. - q. in 5.77 and 7.6) and particularly the proposals for further action on:
- a. discontinuance of "check-off" facilities;
 - b. taxation of strike pay;
 - c. cost and feasibility of management ballots;
 - d. clarifying the obligations of managers;
- v. the arrangements for reviewing contingency plans in Part 6 of the report.

10. I am sending copies of this minute and of the report to the Chancellor of the Exchequer, Secretary of State for Defence, Secretary of State for Social Services, Chancellor of the Duchy of Lancaster, Secretary of State for Employment, Attorney General, Minister of State, Treasury (Mr Hayhoe) and Mr Ibbs.

ROBERT ARMSTRONG

ROBERT ARMSTRONG

11th February 1982

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PART 7: SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

7.1 The Report's conclusions and recommendations are summarised in the following paragraphs.

Origins, nature and outcome of the dispute

7.2 Part 1 of the report describes briefly the origins, nature and outcome of the dispute. This brings out the following main points -

a. For many staff, particularly in the middle and higher grades, the dispute was less about the level of pay increase in 1981 than about the suspension and termination of the Civil Service Pay Agreements and the fact that the Government did not feel able to offer any specific assurances about Civil Service pay arrangements in the longer term.

b. Although the industrial action lasted for 22 weeks, the financial cost of the dispute to the unions and their members was modest (£24 million); this is because, after the national one-day strike on 9 March 1981, the numbers on strike (or temporarily relieved from duty because they were not working normally or as directed) rarely exceeded 5,000, less than 1 per cent of the non-industrial Civil Service.

c. While the Government largely achieved its pay objectives, which were important both for public expenditure and because of the wider repercussions on the pay round, the financial cost of the dispute to the Government was considerable (notably an additional interest cost of £0.5 billion through delayed tax revenue), and there were many other penalties, both macro-economic (eg the distortion of the monetary aggregates) and managerial (eg the deferment of taxation of unemployment benefit and the delay in computerisation of Schedule D tax).

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d. The cost to the Government would have been much greater (eg an interest cost of £1 billion rather than £0.5 billion) but for the co-operation of a small number of key staff at middle and senior management level who took on duties beyond their normal work; the availability of similar co-operation in the future may be vital.

Analysis of the problem

7.3 Part 2 of the report analyses the nature of the problem and makes the following main points -

- a. If the Government is to prevent and deter industrial action in the future, and if such action occurs, to counter it satisfactorily, it must, like other employers, pursue two goals: one is to secure and retain the loyalty of at least a substantial majority of the staff; the other is to be, and be seen to be, sufficiently resolute and resourceful to withstand industrial action successfully.
- b. The Government, unlike other employers, has to take into account not only its responsibilities and objectives as an employer but also its responsibility for the management of the economy as a whole. This can make it more difficult for staff and management in the Civil Service to see themselves as having the same sort of community of interest as can sometimes arise in the private sector in ensuring that a business remains viable.
- c. If and when a dispute occurs, the Government may have to weigh conflicting considerations: the possibility of bringing the dispute to an earlier conclusion by increasing the cost to the unions against the risk of increasing the financial cost to the Government and worsening the disruption of services; and the short-term objective of bringing a particular dispute to a successful conclusion against the longer-term objective of improving industrial relations and thereby improving efficiency.

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d. For 1982 the unions themselves as yet have no particular plan and may hold their hand with the Megaw Report due in the summer. If there is industrial action, the most likely form is further selective strike action, although the unions' tactics may not be the same as in 1981.

Improving the climate of opinion

7.4 In order to improve the climate of opinion before and during pay negotiations and during a dispute it is recommended in Part 3 of the Report that -

- a. Although the Government should continue to ensure the support of public opinion in future disputes in the Civil Service, strengthening the morale and loyalty of staff, particularly at middle management levels, is important both in avoiding disputes and, if disputes do occur, in ensuring a successful outcome.
- b. On the main issues affecting morale over the next year or two (eg the 1982 pay negotiations, future pay arrangements post-Megaw, pensions, manpower, and new technology) the impression should be avoided that the Civil Service is being singled out for especially rigorous treatment, and the Government should seek to create confidence that it intends to deal fairly with its own employees.
- c. Action should be taken, where possible, to improve morale in the longer term by dealing with matters unconnected with the main pay issues.
- d. If a dispute occurs it is essential to have a reasoned message, supported by arguments and evidence, which can be put across persuasively to staff.
- e. Public statements should also be prepared with an eye to the effect on employee opinion.
- f. More use should be made of the management chain from Ministers through senior management to middle managers, to put across the reasoning behind the Government's position, and this process could also provide valuable feed-back about the development of staff opinion.

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Organisation during a dispute

7.5 On organisation during a dispute it is recommended in Part 4 of the Report that -

- a. A standing group should be set up, with the composition described in paragraph 4.5, to meet not less than once a week with a Treasury Minister as Chairman but with a senior Treasury official as Deputy Chairman under whom the Group would meet except when there was business of particular importance.
- b. The terms of reference of the group should be set out in paragraph 4.6.
- c. The group should also undertake the further work proposed in Part 5 of the Report and the assessment of departmental contingency plans proposed in Part 6 of the Report.

Management responses to industrial action

7.6 On the possible responses by management to industrial action, the group's conclusions and recommendations in Part 5 of the Report are as follows -

- a. Temporary relief from duty (TRD) remains, as in 1981, an important sanction where staff refuse to work normally or as directed. The procedures have been modified and, when applied in certain circumstances simplified, in the light of experience in 1981. In order to overcome the operational difficulties where local managers are themselves withholding co-operation, Departments, particularly those with numerous local offices, should consider carefully how the TRD procedures might be most effectively administered in the future and the outcome of these reviews should be reported to the standing group of officials discussed in Part 4 of this report.
- b. The option of reduced pay should be considered only in limited circumstances where the practical problems could be overcome and the use of TRD could not be justified.

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- c. The use of disciplinary procedures should not be considered as a means of seeking to end widespread industrial action, although these procedures may, as in the past, be appropriately used to deal with some individual cases.
- d. The draft legislation already prepared to permit lay-off without pay should be retained as a contingency measure and its provisions reviewed from time to time in the light of experience, with a view to its speedy introduction, if necessary.
- e. Until the new Employment Bill has been enacted, summary dismissal is unlikely to be a useful sanction to deal with widespread and concerted industrial action; although the new Bill will provide additional flexibility, some practical constraints will remain and the risks would have to be assessed carefully at the time.
- f. Legislation to permit suspension without pay, even in circumstances where staff were genuinely willing to work normally and their work was not affected by the industrial action of others, would be a major step going far beyond the contingency legislation on lay-off at d. above. If however Ministers were to conclude in a future dispute that the circumstances justified such a radical step, the necessary legislation could be prepared quickly.
- g. Although industrial action is taken into account to some extent in judging fitness for promotion, it would be disadvantageous to management to make it a general rule that this factor should be explicitly and systematically considered as a criterion for promotion.
- h. In those Departments where it would be appropriate it should be made clear to staff either immediately before or early on in the course of a period of industrial action in the future that the need to deal with backlogs of work once normal working has resumed would be given priority by management in deciding when annual leave might be taken.

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- i. Union facilities (other than check-off) are already withheld on particular occasions to avoid their being used in industrial action and it would be disadvantageous to go beyond this.
- j. The Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off in the event of industrial action, and the necessary preparatory work on implementation should be put in hand on a contingency basis.
- k. The possibility of making strike pay taxable should be considered in detail by the Inland Revenue.
- l. The unilateral implementation of a pay offer is unlikely to prove an effective tactic, except in special circumstances.
- m. Consideration should be given in the discussions following the Megaw Report to the possibility of introducing an explicit provision in the new Civil Service pay arrangements that pay settlements will not be backdated if agreement has not been reached by the due settlement date.
- n. The tactic of making pay offers conditional on not taking industrial action is worth considering only in certain limited circumstances.
- o. The option of a mangement ballot should be kept in mind in future disputes for use in certain circumstances but there are some practical problems. The Treasury should undertake a study in consultation with other Departments concerned to establish the cost and feasibility of conducting management ballots in the non-industrial Civil Service; in the light of this study Ministers would then need to consider whether plans should be made to carry out such ballots on a contingency basis and if so whether the Government should undertake the task itself or call on a third party.

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p. The approach of "no-strike" legislation or agreements is not worth pursuing unless, contrary to current thinking, the Government were to contemplate, following the Megaw Inquiry, some particularly advantageous and assured method for determining Civil Service pay in return for which the unions might be expected to accept without further inducement some restriction on their rights to take industrial action.

q. It would not be feasible to make major changes affecting the scope for civil servants to take industrial action by dealing with individual contracts. Further study should however be given to the possibility of clarifying the obligations of managers in relation to industrial action.

Departmental contingency planning

7.7. On contingency planning it is recommended in Part 6 of the Report that -

a. The main points in the contingency plans of each Department should be submitted to a Departmental Minister and his attention should be drawn to the limitations of the plans and to the assumptions on which they are based.

b. Once the bilateral discussions on the plans between central and individual departments have been completed an assessment of the overall position should be considered by the standing group of officials proposed in Part 4 of the Report, and should then be submitted to the Chancellor of the Exchequer.

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LESSONS FROM THE 1981 CIVIL SERVICE DISPUTE

Report by the Official Group

INTRODUCTION

The Prime Minister asked that an inter-departmental group of officials should study the lessons of the 1981 pay dispute in the non-industrial Civil Service. The Official Group of Lessons from the Civil Service Dispute (MISC 65) was set up under Cabinet Office chairmanship for this purpose; the membership is listed at Appendix A.

2. The main events in the dispute are listed for information at Appendix B.

3. In the following report -

Part 1 describes briefly the origins, nature and outcome of the 1981 dispute

Part 2 analyses the problems facing the Government in future disputes

Parts 3 to 6 consider the scope for action under various broad headings:

Part 3 - improving the climate of opinion before and during pay negotiations, and during a dispute

Part 4 - organisation during a dispute

Part 5 - the responses available to management in a dispute

Part 6 - departmental contingency planning

Part 7 summarises the Group's conclusions and recommendations.

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PART 1: ORIGINS, NATURE AND OUTCOME OF 1981 DISPUTE

Origins

1.1 Industrial action in the non-industrial Civil Service pay dispute lasted for 22 weeks from March to August 1981. As the summary of main events in Appendix B makes clear, the dispute was only partly about the level of pay increase in 1981. For many staff, particularly in the middle and higher grades, the dispute was about the suspension and termination of the Civil Service Pay Agreements, and the fact that the Government did not feel able to offer any specific assurances about Civil Service pay arrangements in the longer term. There was also a widespread feeling among civil servants, fuelled by Parliamentary and media comment, that the Government did not hold its employees in high regard. The unions therefore found it easier than in 1979 to gain support for industrial action. There is evidence that many of the civil servants who did not take industrial action, including many middle managers, continued working only, as they saw it, from a sense of loyalty to the service they were providing and to the Crown and felt themselves strongly alienated from the Government as their employer. Those considerations are relevant to attempts to avoid industrial action in the future and to the Government's ability to withstand such action at reasonable cost.

Industrial action taken

1.2 Although the dispute was long drawn out, the number of man-days lost (about 1 million) is not large in relation to the number of non-industrial civil servants affected by the dispute (535,000). This is because, after the initial one-day strike on 9 March, and with the exception of half-day protests on 1 April and 14 April, the unions' tactics were to call out on long-term strike a number of workers in key areas, mainly connected with the flow of Government money and with computer operations; and to supplement this by walk-outs, and protest meetings, of short duration in most Departments and other disruptive action (at ports and airports, for example). The numbers on strike

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and TRD* rarely exceeded 5,000 (less than 1 per cent of the non-industrial Civil Service) at any one time. The Departments mainly affected by selective action and TRD were the Inland Revenue (maximum number 2,466), Customs and Excise (834), Defence (1,026), the Scottish Courts Administration (446), the DHSS (474) and Employment (521). The bulk of the action took place outside London, for example in computer centres such as those of the Inland Revenue at Cumbernauld and Shipley, of the DHSS at Reading, Washington and Livingston, of Customs and Excise at Southend and of the Department of Transport at Swansea; and in parts of MOD. Although the total number of man-days involved in the selective action and arising from TRD was only 413,000, more man-days were lost as a result of it because some staff were left with no work (110,000 man-days) or insufficient work (440,000 man-days). The cost to the Government was considerable as paragraph 1.4 below demonstrates. The type and location of industrial action experienced in 1981 needs to be borne in mind in considering the responses open to management in future disputes.

Costs to unions and members

1.3 The cost of the dispute to the unions and members is estimated at £24 million in lost salaries and running costs. Of this £13 million represents the loss of Civil Service salaries by those involved in the one-day strike and subsequent walk-outs, for which there was no re-imburement by way of strike pay. A further £10 million represents strike pay (not taxable)** at 85 per cent of normal salary provided by the unions to those on selective strike; this was financed in part from strike funds and in part by special levies amounting to £6-8 million drawn from those not on selective strike. In practice, nearly all strikers received more than their normal salary. Against this cost the unions achieved only a 0.5 per cent increase in salaries over the 7 per cent originally offered in February (worth £13 million a year), together with access to arbitration (albeit possibly subject to Parliamentary override) in 1982.

* TRD: Temporary Relief from Duty. This is discussed in Part 5 of the Report, paragraphs 5.7-5.15.

** see paragraphs 5.49 and 5.51.

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Cost to the Government

1.4 As the Government has made clear in Parliamentary answers the main effect of the industrial action was to distort the flow of tax revenue. At the time when the strike was settled the outstanding revenue not collected had reached £6 billion; this backlog has now been reduced and it is expected that about £1 billion will remain outstanding by the end of 1981-82. This led to a temporary increase in the central Government's borrowing requirement at an interest cost of $\frac{1}{2}$ billion. The main counterpart of that was, in effect, some interest-free credit to the company sector which may, though the judgement must be highly speculative, have generated a marginal increase in economic activity. The most serious consequence of the revenue shortfall was the distortion in $\text{M}3$ and the monetary aggregates and the problems this created for monetary policy.

1.5 In addition to these main economic and financial effects, Departments have estimated, with varying degrees of confidence, several other costs - for example, irrecoverable tax revenue which might amount to £130 million, the deferment of taxation of unemployment benefit and delay in the computerisation of the collection of Schedule D tax, the cost of the emergency Child Benefit payments system, the loss of Royal Ordnance Factory sales and so on. There was some cost to the economy, which is difficult to quantify, from the air traffic controllers' action. Finally, there has been some effect on Government business, which can only be assessed over the longer term, from the deterioration in staff morale, and in management-staff relations; from the inefficient working which was sometimes necessary during the dispute; and the problems of clearing back-logs, which in some cases may well extend into 1983.

1.6 Against this the Government achieved its objective of keeping the cost of the 1981 settlement very close to that provided for by the cash limit (the annual salary bill for the non-industrial Civil Service is some £5 billion), and the wider objective of reinforcing the pressures towards lower pay settlements generally, and within the public services in particular.

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Role of Middle Management

1.7 In considering the cost to the Government, it should be noted that the cost would have been much greater without the co-operation of a comparatively small number of key staff, at middle and senior management level, who were prepared to take on duties other than their normal work. As a result of their efforts, Government revenue amounting to £4.35 billion in the case of the Inland Revenue and £1.7 billion in the case of Customs and Excise, was banked, thus halving interest payments on increased borrowing. (Inland Revenue resources did not permit the banking of the - much more numerous - small cheques or the updating of records.) The Government's ability to rely on staff in key Departments voluntarily to undertake work not appropriate to their grade will clearly be of great importance in any future disputes.

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PART 2: ANALYSIS OF THE PROBLEM

2.1 In considering lessons for the future we have assumed that the Government has two main purposes -

- a. to prevent and deter future disputes in the non-industrial Civil Service from escalating into industrial action;
- b. in the event of industrial action, to achieve the Government's objectives at the time at minimum cost, both in financial terms and in continuity of important services.

2.2 It seemed to us that, in order to improve the chances of avoiding disputes (and of related industrial action), the Government, like employers generally, should ideally pursue two distinct goals. One goal is to secure and retain the loyalty of at least a substantial majority of the staff; the other goal is to be, and be seen to be, sufficiently resolute and resourceful to withstand industrial action successfully. These two requirements sometimes pull in different directions. As is made clear in the more detailed sections of the report, some of the actions which might be open to the Government to strengthen its position vis-a-vis its employees would have a substantial cost in terms of morale and loyalty. Similarly some of the ways in which the Government might most easily secure the loyalty of its employees are unacceptable for other reasons. In our detailed analysis we have kept both goals in mind, recognising that, in facing any particular choice of options, the Government will want to achieve the best mix of reasonableness and strength in its relations with its employees.

2.3 Furthermore, in formulating a pay offer to its staff the Government, unlike other employers, has to take into account not only its responsibilities and objectives as an employer but also its responsibility for the management of the economy as a whole. In the private sector it is often possible unambiguously to define what the business can afford by way of a pay increase and management and staff have a common interest in ensuring that the business remains viable.

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Neither of these apply in the case of Government; although everyone stands to benefit from a well-managed economy, in practice staff and management are unlikely to see themselves as having the same sort of community of interest as can arise in the private sector. This is a crucial difference which is reflected throughout our report, but particularly in relation to communications.

2.4 It has to be accepted that disputes may occur, despite an employer's best efforts to prevent and deter them. The purpose then, as paragraph 2.1 indicates, is to achieve the Government's objectives at minimum cost, both in financial terms and in continuity of service. Conflicting considerations may then arise. At some point the Government may judge that the best hope of bringing the dispute to an early conclusion is to increase the cost to unions and members of industrial action by escalating the dispute; against this may have to be weighed the risk of increasing the financial cost to the Government and worsening the disruption of services. There may be conflict between the short-term objective of bringing some particular dispute to a successful conclusion and the longer-term objective of improving industrial relations and thereby efficiency. In examining detailed issues later in our report, we have recognised these conflicting considerations. They lead inevitably to the conclusion that there is no "game plan" which can be prepared in advance and which can be guaranteed to work well in a future dispute; choices have to be made at the time.

2.5 We have nevertheless concluded that there are useful lessons to be drawn from the 1981 dispute. The first general lesson is that the Government needs to do more to influence the climate of opinion not just during a dispute but also in the period leading up to a dispute, and not just the climate of public opinion but the climate of opinion among the Government's own employees, and particularly among middle managers whose role may be crucial to the outcome of a dispute. Secondly, the fact that no satisfactory "game plan" can be drawn up in advance underlines the need for the best possible organisation for handling a dispute. Thirdly, even though it may not be possible to say in advance which particular courses of action should be adopted at various stages

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in a dispute, it is nevertheless important to explore fully the range of options available to management in a dispute - to ensure that they are as wide as possible and that their advantages and disadvantages have been assessed well in advance; the range of options covers two different kinds of action - management responses of a general service-wide nature and departmental contingency planning of a more specialised nature, adjusted in the light of experience. Parts 3 to 6 of the Report deal with the lessons of the 1981 dispute under these broad headings.

Relevance to 1982 negotiations

2.6 The report has only limited relevance to the 1982 negotiations - partly because these will follow a special pattern already laid down in advance, and partly because some of the actions considered could not take effect in time to influence the position this year. We nevertheless thought that it was useful to note briefly the special points of difficulty which might arise in 1982.

2.7 The key stages in the 1982 negotiations are likely to be -

- a. the Government's actual offer in response to the CCSU claim (possible timing: mid-February);
- b. assuming, as seems inevitable, that there will be arbitration, any announcement by the Government, following an arbitration award, that it would invite the House of Commons to override the award;
- c. if b. had occurred, a vote by the House of Commons to override the award.

2.8 It seems, on present evidence, that any industrial action at the stage of the initial offer would be unofficial, local and of short duration. Official action is more likely as a protest against override, if that occurs. The likelihood of industrial action during 1982 may also be influenced by the level

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of pay increase awarded to groups such as the Armed Forces and by non-pay issues - for example the announcement of departmental manpower targets for next year, decisions on the Scott Report on pensions, and developments on new technology. It will be of vital importance during 1982 that staff are fully informed about the steps in the negotiations, the Government's position, and, to the maximum possible extent, the rationale behind it. This is dealt with further in Part 3 of the Report.

2.9 We have been conscious throughout our report that it cannot be assumed that the unions would follow the same tactics as in 1981 in a dispute in 1982 or in any future dispute. The unions themselves as yet have no particular plan. It seems unlikely that an all-out strike for an indefinite period would be supported because of the cost to individuals. Selective action, as in 1981, concentrated on revenue flow might again seem attractive but it would depend on another round of voluntary levies; if this option were to be adopted again, the unions might be expected to place a high priority on trying to counter the management actions which in 1981 limited the loss of revenue; pressure on certain managers from their unions and colleagues might be expected to increase. The unions may indeed hold their hand, with the report of the Megaw Committee due later in the year; if there should be industrial action the most likely tactic, on balance, is further selective strike action (supported by a programme of action short of a strike). However, it cannot be assumed that, as in 1981, the unions would deliberately avoid closing down local Social Security offices. Some are known to believe that the Government conceded a small increase in its 1981 offer only after the industrial action began to affect local Unemployment Benefit offices. There is therefore likely to be greater pressure in future for early and widespread action in local offices, which trade union leaders might prove unwilling or unable to resist. Militant members of staff may well argue that public opinion is already sufficiently antipathetic to the Civil Service for this drastic step to carry little risk of further alienating the public.

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2.10 These possibilities are being kept in mind in the review of Departmental contingency plans referred to in Part 6. The probability that selective action will again be the main tactic in 1982 strengthens the need for management sanctions used in 1981 to be as operationally up-to-date as possible; these are covered in Part 5 of the Report.

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PART 3: IMPROVING THE CLIMATE OF OPINION

3.1 The Government's ability to prevent and deter a dispute and, if a dispute occurs, to achieve its objectives at minimum cost, depends in part on how successful it is in influencing the climate of opinion. There are two aspects to this task - the shaping of public opinion generally and the strengthening of the morale, and thus the loyalty of the Government's own employees. There are also two timescales - the need to influence opinion over the longer term, which is relevant to preventing and deterring future disputes, and the need to influence short-term attitudes in the course of a dispute through prompt and effective communications.

Public opinion

3.2 In any industrial dispute it is an important objective of an employer to secure the support of public opinion. This is particularly important for the Government since its position in the dispute will often be based on public interest as well as management considerations - the need to limit the burden of civil service pay on the rest of the economy and the desire to influence the level of pay settlements generally. In the 1981 dispute the Government was reasonably successful in securing and retaining the support of public opinion. Civil servants in general, unlike, for example, the nurses, are not a group of employees for whom there is instinctive public sympathy. At a time of high unemployment and falling wage settlements in the private sector, there was general support in the media for the view that the Government's 7 per cent offer was adequate. Since most of the industrial action did not, with the possible exception of the action by the CAA's air traffic controllers, have a dramatic and noticeable effect on the general public, there was little public pressure on the Government, apart from some media comment towards the end of the dispute, for a settlement. The general climate of public opinion must have been an important factor in influencing the members of the Civil Service unions to settle eventually for an offer which was only marginally better, at least in immediate cash terms, from that which preceded the industrial action. It also no doubt helped to moderate complaints from those who were affected by the disruption in the Government's services, for example within the business community. The Government will similarly wish to have the support of public opinion in future disputes.

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Employee opinion

3.3 There is however the danger that in concentrating attention on public opinion, the Government may pay insufficient regard to the need to influence the opinion of its own employees. As paragraph 1.1 indicates, the degree of support which the unions were able to secure for industrial action in 1981 was affected by the low regard which the Government was perceived as having for its own employees. The hostility of the media to civil servants appeared, in the eyes of many civil servants, to be fostered by the Government. This undermined loyalty at some levels in the service where there would normally be little support for industrial action. But although the support of middle management was very patchy overall, there were some key areas, as paragraph 1.5 indicates, where the efforts of middle managers were crucial in limiting the cost of the dispute. It is impossible to construct workable contingency plans on a large scale in many departments without relying on similar co-operation in the future. Moreover many of the management responses to industrial action discussed in Part 5 of this report are difficult to put into effect quickly without extensive co-operation from managers in local units. As paragraph 1.1 explains, the morale of many staff is still high in the sense that there is a commitment to the service being provided, but the feeling of alienation from the Government as employer is potentially harmful. Any further weakening of loyalty in the service, particularly at middle management levels, could have serious consequences in a future dispute. This suggests that a major priority for the Government is to pursue the longer-term aim of improving morale and strengthening loyalty among its employees and, if a dispute does occur, to take special care with communications not just with the public at large but also with the staff.

Morale

3.4 There are some obvious specific issues affecting Civil Service morale over the next couple of years - the handling of the 1982 pay negotiations, the new pay arrangements following the Megaw Inquiry, the Government's policy relating to index-linked pensions in the Civil Service and elsewhere in the public sector, the continuing effects of manpower reductions and the introduction of new technology. So far as future pay arrangements are

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concerned, there is clearly nothing to be done until after the Megaw Inquiry has reported although the inevitable uncertainty has an unsettling effect on morale. On pensions, the Government will shortly be considering the line which might be taken in a Parliamentary debate on the Scott Report. The tactics to be adopted in the 1982 pay negotiations are already under consideration by Ministers. In relation to all of these issues, and other matters affecting morale, the main need will be to avoid reinforcing the impression which many civil servants have that the Government wants to single out the Civil Service for especially rigorous treatment as an example to other employers in the public sector and elsewhere. It will also be desirable to avoid getting into a position where the Government has to break agreements rather than terminate them after the proper notice. The Government will want to create confidence that it intends to deal fairly with its employees.

3.5 There may also be scope for strengthening morale in ways unconnected with the main pay issues - by acknowledging achievements in improving efficiency, by encouraging (and being seen to encourage) a positive attitude to the Civil Service by the media, by reinforcing the existing efforts of Ministers to express appreciation of work well done and to develop contacts with their staffs, and by improving working conditions in some of the worst local offices. Many of these matters and other matters affecting morale are already being discussed by the Chancellor of the Duchy of Lancaster with colleagues.

Communications

3.6 In the short term the main task is to consider how to improve communications with staff before and during a dispute. It is of course axiomatic that the staff must be provided as quickly as possible with information about the Government's position and important developments in the dispute which is factually correct and not misleading. In addition it is desirable that the substance of the message should be of a kind which, despite the unavoidable difference of view between employer and employee on pay issues, can be presented as reasonable to the employee. As

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paragraph 1.1 makes clear, a major element in the 1981 dispute was the suspension of the Civil Service pay agreement. There was extensive general briefing sent out by the CSD to departments throughout the dispute, and used by departments to explain the Government's position to local offices. From an early stage this briefing, like the Government's public statements, made it clear that there had been increasing public criticism of the pay research system, including the need for changes in the way pay comparisons were made and for more weight to be given to other factors such as job security and the recruitment and retention position. These statements, though frequently repeated, were not reinforced with detailed evidence about the shortcomings of pay research. Most civil servants on the other hand were likely to think, unless persuaded otherwise, that the pay comparability system which had been in use for 25 years was a fair one. In the absence of evidence they were inevitably receptive to the union claim that the Government had abandoned pay research in 1981 simply because it was liable to produce data which would lead to an inconveniently high offer and not because it was in any genuine way defective. The problem was compounded because the Government found itself unable to give specific assurances about the new pay arrangements. As the majority of the staff saw it, the Government merely asserted that a system which had operated for 25 years was unsatisfactory but did not demonstrate how and why it was unsatisfactory or indicate what was likely to be put in its place.

3.7 It may well have been difficult for the Government in the 1981 dispute to act otherwise than it did. For the future however it is essential to have a message which contains more supporting argument. This is relevant not just to the direct impact on the rank and file but also to the ability and willingness of senior staff and managers to explain and justify the Government's position to their subordinates. In the 1981 dispute it was notable that few senior staff felt able to do more than pass on information about the Government's position; appeals to subordinates tended to be based merely on the need to carry on a particular service in the national interest or in the interest of the sections of the community concerned. It should be borne in mind that managers in the Civil Service are less well placed than

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their counterparts in the private sector in trying to secure acceptance by their subordinates of a particular pay settlement. In the private sector it may be possible to demonstrate the effect of higher pay on the competitiveness of a particular plant or the success of the company as a whole. Appeals relating to the well-being of the economy as a whole are inevitably less persuasive and this makes a reasoned management message all the more desirable. It should also be remembered that many middle and senior managers are not London-based and have never had Whitehall experience. They do not feel themselves so much part of central Government but rather alongside their staff operating often in areas identical with or analogous to private sector activities. Essentially the requirement is for a simple and clear message for the rank and file, and some well-argued briefing for managers designed both to convince them of the merits of the Government's case and to help them put the case across to their subordinates.

3.8 It should also be kept in mind that communications with the public and communications with staff during a dispute cannot be treated as two separate exercises. Although there may be differences of emphasis for the two purposes, the messages have to be kept consistent. Indeed it is likely, as the 1981 dispute demonstrated, that staff will hear first of important developments in the dispute from the media, although this can be supplemented quickly by notices and circulars. The lesson is that public statements, and not just those specifically designed for staff consumption, should be prepared with an eye to the effect on employee opinion as well as public opinion.

3.9 Finally, experience in the 1981 dispute suggests that the prompt dissemination to the staff of factual information about the Government's position, while necessary and valuable, will not be enough. The effect on employee opinion is likely to be greater if more use is made of the Ministerial and management chain to put across the arguments in support of the Government's position. As paragraph 3.6 and 3.7 above suggest, a precondition for this is that the message to be put across is one likely to be convincing to management. The task is of course much more difficult

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if the Government's position at a particular time has been determined primarily by its macro-economic objectives. It may also be unrealistic because of the grading structure in the Civil Service and the degree of unionisation, to expect some of the lower levels of management to view pay issues through the eyes of an employer rather than an employee. There are therefore limits to what better communication can achieve, but everything possible should be done within those limits. The process of communication should begin at the top with Ministers and work down through senior managers to the middle managers (EO to Principal level) managing operational units. If senior staff thoroughly understand the policies they are responsible for implementing they will be able to make a much more convincing job of getting them explained down the line in a way most likely to enlist the co-operation of staff at all levels. In the 1982 pay negotiations, for example, it is for consideration whether each Minister should, on the basis of a briefing note centrally prepared, explain to his staff in the Open Structure the Government's approach to the negotiations, and seek their co-operation in passing the message down the management chain. Moreover effective communication is a two-way process, and it is important for information to be fed back, during pay negotiations, about staff reaction to proposals put forward by the Government and the unions. Although the process of communication described above is not intended to be a consultative process, it might help to provide additional valuable feed-back about the development of staff opinion.

3.10 Our recommendations in Part 3 of the Report can be summarised as follows -

- a. Although the Government should continue to ensure the support of public opinion in future disputes in the Civil Service, strengthening the morale and loyalty of staff, particularly at middle management levels, is equally important both in avoiding disputes and, if disputes do occur, in ensuring a successful outcome.
- b. On the main issues affecting morale over the next year or two (eg the 1982 pay negotiations, future pay arrangements post-Megaw, pensions, manpower and new technology, the impression should be

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avoided that the Civil Service is being singled out for especially rigorous treatment, and the Government should seek to create confidence that it intends to deal fairly with its own employees.

c. Action should be taken, where possible, to improve morale in the longer-term by dealing with matters unconnected with the main pay issue.

d. If a dispute occurs it is essential to have a reasoned message, supported by arguments and evidence, which can be put across persuasively to staff.

e. Public statements should also be prepared with an eye to the effect on employee opinion.

f. More use should be made of the management chain from Ministers through senior management to middle managers, to put across the reasoning behind the Government's position, and this process could also provide valuable feed-back about the development of staff opinion.

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PART 4: ORGANISATION DURING A DISPUTE

4.1 The analysis in Part 2 of the Report underlined (paragraph 2.4) the need for effective organisation during a dispute. The main requirement is that all Departments should be aware of the Government's overall strategy for handling the dispute, should have a clear understanding of their own responsibilities and those of other Departments, should be ready to co-operate with other Departments when the need arises, should have up-to-date information, should be able to share experience, should have a ready means for obtaining guidance on problems of general application, and should be able to react promptly and flexibly to the changing needs of the situation.

4.2 This Group has not concerned itself with each Department's internal arrangements for handling a dispute as these will reflect particular circumstances and more properly form part of departmental contingency planning. We have also not sought to make recommendations about the arrangements which the Prime Minister might make for senior Ministers to consider collectively the strategy relating to Civil Service pay negotiations or the handling of a dispute. We have however looked into the machinery for day-to-day co-ordination between Departments in the light of experience during the 1981 dispute.

4.3 In 1981 day-to-day interdepartmental co-ordination was achieved by the Group in Industrial Action (GIA) chaired by the then Minister of State in the Civil Service Department and comprising officials from the main Departments. This replaced an earlier Committee which had official membership only, the Steering Committee on Industrial Action (SCIA). GIA met daily at first, and then, towards the end of the dispute, three times a week. The functions of GIA were to ensure that information on the conduct of the dispute came in regularly, that Departments were sufficiently informed of what was going on in other Departments, and that the response of Departments to the dispute was co-ordinated.

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4.4 We consider that similar arrangements should be made in a future dispute, with the following modifications: first that, although the Group will need to meet frequently, the frequency should be rigorously controlled to limit the demands on the time of senior officials with a key role in handling the dispute; secondly that, although it would be desirable for a Treasury Minister to chair the Group at some of the more important meetings, an official chairman should suffice for the more routine meetings; and thirdly that the Group would benefit from having clear and explicit terms of reference.

4.5 We therefore recommend that a standing group should be set up comprising the Principal Establishment Officers of the main Departments together with appropriate representatives from central Departments and advisers from the legal Departments. During industrial action this group would meet as frequently as circumstances warranted but not less than once a week. It would have a Treasury Minister as Chairman and a senior Treasury official as Deputy Chairman. Except when there was business of particular importance it would meet under the Deputy Chairman (as is the case with the Civil Contingencies Unit).

4.6 We recommend that during a period of industrial action the terms of reference of the Group might be -

- a. to monitor the progress of the dispute with the aid of regular and frequent reports from Departments on the extent and nature of industrial action, the effects of the action on the work of Government, and the efforts of Departments to counter the action;
- b. to facilitate the sharing of experience by Departments;
- c. to identify problems of general concern, to devise solutions and, where appropriate, to make proposals for dealing with them for consideration by Ministers collectively;

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d. to discuss and advise on changes in tactics in the light of the general strategy approved by Ministers; and to co-ordinate their implementation, where necessary;

e. to review the adequacy of action taken to communicate the Government's position publicly and to the staff to ensure that any necessary further action is put in hand;

f. to report to Ministers from time to time on the progress and effects of the dispute; and

g. to be available as a source of advice to Ministers, as required, about major issues relating to the handling of the dispute.

4.7 We recommend that this Group should also undertake the work proposed in Part 5 of the Report and the assessment of contingency plans proposed in Part 6 of the Report.

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PART 5: MANAGEMENT RESPONSES TO INDUSTRIAL ACTION

INTRODUCTION

5.1 In reviewing the lessons of the 1981 dispute, the Group devoted most time and attention to possible management responses to industrial action ie the action open to management to deter industrial action before it occurs, to counter it when it is in progress and to help bring it to an end. Departmental contingency planning is concerned with separate issues, namely how to circumvent industrial action or cope with its effects, and is dealt with in Part 6 of this report.

5.2 It is axiomatic that staff who do not work are not paid. Thus the fundamental response of management to industrial action is to face staff, individually or collectively, with a clear choice between working normally or losing pay, and to find ways of increasing the financial pressures on staff to return to normal working. It is also the case that staff who commit disciplinary offences can be punished under the established disciplinary procedures. However there are legal constraints on management's freedom of action which bite on all employers; and there are also important practical constraints which need to be weighed carefully.

The Legal and Practical Constraints

5.3 The legal constraints on management's responses in dealing with industrial action arise from statute, and from the contractual relationship at common law from which the sanctions themselves derive. The most important are -

- a. the statutory immunity of trade unions and their officials in organising industrial action (now to be restricted);
- b. the statutory provisions against unfair dismissal (notably the probability that selective dismissal would be found unfair);
- c. the common law contractual right of white collar (and some, but not all, manual) workers to be paid when willing to work;

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- d. the common law contractual right not to have conditions of service unilaterally changed; and
- e. the procedural safeguards attending disciplinary measures, case by case.

5.4 The practical constraints arise partly from the size, diversity and dispersion of the non-industrial Civil Service (for example the need to deal quickly with simultaneous industrial action in many separate local offices spread over a wide area) and partly from the multiplicity of the Government's objectives. Thus, in considering whether management should respond to industrial action in a particular way at a particular time and whether escalation may be advantageous at a particular stage, many factors will need to be considered, for example -

- a. what weight should be given to achieving a low pay settlement, which may have macro-economic as well as cost benefits, as opposed to maintaining continuity of Government services and avoiding cost penalties?
- b. what effect would escalation have on the provision of services to the public, and who would be regarded by the general public as responsible for any deterioration in services?
- c. how far may action which could have short-term tactical benefits have a disproportionately adverse effect on the long term relationship between the Government and its employees? (This may be particularly relevant in the case of those measures which would put civil servants in a less favourable position than other white collar employees)
- d. will middle managers be prepared to implement particular measures? (In some cases their co-operation is essential)
- e. will certain actions alienate the support of those who have hitherto been operating contingency plans, or disrupt services hitherto unaffected by the strike?

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The Broad Categories of Management Response

5.5 Against this background we have considered the range of options which might be available to management, as a response to industrial action, under the following main headings -

- a. ensuring that those who take industrial action lose pay either because it is reduced or withheld or, in the case of staff who refuse to work normally or as directed, through the application of Temporary Relief from Duty (TRD);
- b. disciplinary measures;
- c. relieving Government of the cost of paying those whose work is affected by the industrial action of others by laying them off without pay (and thus imposing costs on individuals and/or unions);
- d. penalties imposed generally on those who take industrial action (ie other than through individual disciplinary procedures, and going beyond the withholding of pay for work not done or affected by the industrial action of others); these might include dismissal, suspension without pay, reduced leave entitlement and diminished promotion prospects;
- e. actions directed at the trade unions - ie withdrawal of facilities, suspension of the arrangement whereby trade union subscriptions are deducted from pay ("check-off"), making strike pay taxable;
- f. tactics designed to end industrial action - ie unilateral implementation of a pay offer, no backdating, increases paid only to those who have not taken industrial action, management ballots; and
- g. restricting the freedom to take industrial action by law, by no-strike agreements or by contract. These options are examined in detail in the following paragraphs.

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Timing

5.6 It should be noted that some of these options are already available to management within certain limitations (for example TRD and disciplinary measures). Many other options could not, irrespective of their merits or demerits, be exercised without new legislation or other preliminary steps which would take time, and are not therefore likely to be available in 1982. It is, of course, also open to Ministers to seek injunctions against named individuals under existing industrial relations legislation for those types of industrial action which are illegal. Once the Government's Employment Bill is enacted it will be possible to seek injunctions against the trades unions in similar circumstances.

TEMPORARY RELIEF FROM DUTY

5.7 Temporary relief from duty (TRD), ie sending home without pay staff who refuse to work normally or as directed, was the main sanction used during the 1981 dispute. TRD is not a disciplinary procedure. By withholding pay, management is responding to a breach of contract by the staff. In bringing home the consequences of that breach of contract, management expects to terminate the breach and to deter similar breaches of contract. The procedure, which was significantly shortened during the 1981 dispute as we discuss below, involves a series of warnings to the staff concerned about the consequences of a continued refusal to work normally, with opportunities for the member of staff involved to review his position and consult his advisers.

Experience in 1981

5.8 During the 1981 dispute a number of problems were encountered in the application of TRD. In Departments with widely-dispersed local units local managers sometimes refused to initiate the TRD procedures and this task fell to regional managers who found difficulty in carrying it out effectively. In other cases staff, when warned by management of the consequences of failing to work normally (as the TRD procedures require), returned to work only to resume industrial action a short time afterwards,

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which meant that any further attempt to apply TRD had to be started from scratch. In the early stages of the dispute legal advice was that a clear refusal to work normally had to have been demonstrated and adequate time allowed by management for staff to reconsider before they could safely be relieved from duty. But once it became clear that a refusal to work normally on the part of certain staff was the result of deliberate and well-orchestrated trade union tactics and that the staff concerned were fully aware of the consequences of their actions, the TRD procedures could be simplified in a number of respects and the time taken to apply them significantly shortened. Thus warnings were sent to home addresses, the period for reflection reduced to as little as 4 hours and in some cases warnings were issued in advance of industrial action. In the case of Customs and Excise, Ministers authorised senior staff to apply TRD in defined circumstances which meant, at one crucial stage in the dispute, that it could be applied very quickly and was thus particularly effective. In the DHSS authority for the use of TRD by local management was issued and co-ordinated by a central unit so that legal advice was quickly available to them on whether TRD was applicable in particular circumstances and the best tactics to adopt in doing so discussed in the light of experience in other parts of the Department. The Inland Revenue followed broadly the same procedure as the DHSS, with reports back to Ministers on the results of each stage of the TRD operation before proceeding to the next.

Streamlining of procedures

5.9 A number of the modifications introduced into the TRD procedures during the dispute can safely be retained for the future. In other cases (eg embodying the first warning in a general notice or circular to staff) it will again be necessary to be able to demonstrate orchestrated trade union tactics and a clear awareness on the part of the staff concerned of the consequences of their actions before further simplification of the procedures is possible. But in the light of experience gained in

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the 1981 dispute it is possible to move more rapidly to the position where the TRD porcedures have been reduced to the legally-safe irreducible minimum; and TRD can be used more flexibly, to maximum effect.

Remaining limitations

5.10 There are, however, two important limitations on the use of TRD. First, a clear breach of contract must have been committed before it can be applied and TRD cannot be applied to individuals other than those in breach of contract. Thus by careful tactics the trades unions can limit the extent to which TRD can be applied. It is, therefore, an essential limitation of TRD that it cannot be used as a means of increasing the financial burden on the trades unions by relieving from duty substantially more staff than the trades unions are prepared to allow to take industrial action.

5.11 The second limitation is the willingness of middle management to apply TRD. It is an essential pre-requisite for the use of TRD that management can specify which staff are not working normally and in what respects; normally this can only be done by local management. In the 1981 dispute the reluctance of local management to apply TRD was a major problem for the Inland Revenue. TRD often had to be applied from their regional offices by senior managers, but the need for a specification of the breach of contract meant that TRD could not be effectively applied throughout the Inland Revenue by the limited number of mobile managers available.

5.12 A further difficulty is that it is not clear how far TRD can be applied to employees refusing to carry out the duties of those on strike (as against refusing to carry out their own duties normally). The practice of departments varied. The constraints are first, the qualifications, experience, etc necessary for the particular job - which is a question of fact for management - and second, the extent to which an employee is entitled to refuse to carry out the work of another employee by standing on the terms of his contract of employment - which is a question of law.

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5.13 The second question has not yet been authoritatively decided in relation to any Civil Service employee, although two litigations presently before the Court in Scotland (and arising out of an earlier dispute) may throw some light on the matter. In the meantime, in the light of experience gained during the 1981 dispute, (and subject to the results of any future decisions of the Courts) legal advice is that where it is essential to a Department that a particular job be carried out, any officer who is qualified, where necessary, and capable of carrying it out may be required to do so, if the work involved falls within the category or categories of work appropriate to his grade or the grades of those he supervises.

Trade Union tactics

5.14 No doubt the trade unions will also be considering how to cope with TRD in future disputes. They may seek to test in the courts the legality of TRD. There is judicial authority in Scotland (but not in England and Wales) supporting the principle underlying TRD, and it may be significant that no action to test the principle has (so far) been taken in connection with the recent dispute. The Law Officers have advised that the legality of TRD, if challenged, would be likely to be upheld. Even if no action questions the principle of TRD, however, it will always be possible for an employee to claim that its use was not justified in a particular case. In this way the unions might seek to limit the circumstances in which TRD could legally be used. The unions are likely also to be developing new tactics in the light of the experience they gained in 1981. We cannot usefully speculate on the tactics they might adopt in future disputes, but they will no doubt have recognised the part played by middle management in 1981 in countering the effects of the industrial action and they are therefore likely to seek to recruit as many more staff in these grades as possible.

Next steps

5.15 We have not identified any further modifications to the TRD procedures in themselves which would overcome the residual problems without a real risk of legal challenge. The main need is to overcome the operational difficulties where local managers are themselves withholding co-operation. We therefore recommend that departments, particularly

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those with numerous local offices, should consider carefully how the TRD procedures might be most effectively administered in the future. To ensure that information about new or particularly effective approaches adopted by individual departments in 1981 is generally disseminated we also recommend that the outcome of the above departmental reviews should be reported to the standing group of officials discussed in Part 4 of this report.

Reduced pay

5.16 When staff refuse to work either a full day or to perform their full range of duties it is also open to management to reduce their pay for that day. This approach, which can be viewed as a milder variant of TRD, has not so far been adopted in the Civil Service; it was seriously considered by at least one department early in the 1981 dispute, but rejected in favour of TRD. The administrative complications in doing so would be considerable and there would be substantial scope for legal challenge. Staff would have to be warned individually of management's intention to reduce or withhold pay and thus this approach would be no more flexible than TRD. Moreover, although an employer is entitled to withhold that proportion of an employee's pay which relates to the proportion of duties which have not been performed, the practical difficulties involved in assessing exactly what this proportion might be would be considerable; for example, it would be necessary to establish the importance of the work not done in relation to that which had been done. It would thus be difficult to establish rules of thumb for local managers and the opportunities for legal challenge to management's decisions on the proportion of pay to be withheld in individual cases, would be considerable. Moreover, this approach effectively sanctions selective working by staff when management's prime objective in future disputes is likely to be to face staff with a clear choice between working normally or going on strike.

5.17 We therefore do not recommend the option of reduced pay except in those circumstances where the use of TRD could not be justified and the practical problems with reduced pay could be overcome. In these limited circumstances reduced pay would be a useful addition to the options open to management.

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DISCIPLINARY MEASURES

5.18 It is clearly open to management to take disciplinary action against staff who commit a disciplinary offence during the course of industrial action and in any dispute there may be some individual cases of this kind. But the widespread use of disciplinary procedures as a means of seeking to end industrial action seems unlikely to be an effective tactic. The procedures have been designed to deal with individual cases and therefore contain a number of procedural safeguards which could not be set aside without the risk of legal challenge. Moreover, for this reason the procedures tend to take time and effort and their widespread use could therefore place an intolerable burden on management, whose attention can be expected to be fully taken up with coping with the consequences of industrial action. Furthermore, the use of the disciplinary procedures in this way could well give rise to new grievances and allegations of victimisation and thus intensify the industrial action by obscuring the real issues and alienating moderate opinion. It is also likely that the trade unions would insist as part of any agreement on return to work that any disciplinary measures which had been applied as a general response to industrial action should be rescinded.

5.19 We do not therefore recommend that further consideration should be given to the use of disciplinary procedures as a means of seeking to end widespread industrial action, although these procedures may, as in the past, be appropriately used to deal with some individual cases.

LAY OFF WITHOUT PAY

5.20 Common law does not allow employers to lay off without pay white-collar employees for whom, as a result of the industrial action of others, there is no work to do. Industrial civil servants can be laid off without pay immediately, if they are without work as a result of industrial action by other industrial civil servants, and after 28 days (under the Agreements on Guaranteed Payments) if they are without work as a result of industrial action by anyone else; similarly other blue-collar employees in the United Kingdom can usually be laid off when there is no work for them, subject to any guaranteed week agreements.

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5.21 The objectives of legislation to permit lay-off without pay might be -

- a. to exert financial pressure on staff willing to continue to work so that they in turn press the trades unions to settle;
- b. to relieve an employer of the cost of salaries paid to those who have no useful work;
- c. to increase the potential cost to the trade unions of continuing with industrial action; and
- d. to deter the trade unions and the staff from taking industrial action in the first place.

5.22 A number of Departments felt that a power of lay-off would be a useful addition to the sanctions available to management, principally to deal with those situations where a strike by a small number of staff can prevent large numbers from working usefully or at all. Such a situation arose in a number of locations during the 1981 and previous disputes. For example in 1980 a handful of IPCS staff at Bishopton virtually brought the Ordnance Factory to a standstill at a cost of £10 million. In 1981 at the DHSS Newcastle Central Office a strike by 230 staff employed on the Contributions Records computer and 100 staff on the Child Benefits computer led to nearly 200 staff being without any work, to some 4,000 staff working to half their normal capacity, and to 2,000 staff working to two-thirds of normal capacity. The strike action imposed a major burden on Employment and DHSS Local Offices who had to operate emergency procedures to replace the computer service.

5.23 Against this it should be noted that, even if this option were to be made available to the Government, there would be considerable practical constraints affecting its use. The main consideration as paragraph 5.4 above suggests, is that this would involve a considerable escalation of

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the dispute. It might alienate the support of various groups of staff: those who had so far been prepared to work normally; middle managers whose co-operation is essential in limiting the effects of industrial action and applying sanctions to staff below them; and staff with a key role in operating departmental contingency plans. While the Government's pay bill would be reduced, the disruption to the Government's services might be increased.

5.24 The advantages and disadvantages would need to be weighed carefully in the light of circumstances at the time. The legislation necessary to permit lay-off without pay either for civil servants or for employees generally has already been drafted on a contingency basis, but at no time during the 1981 dispute was it judged right to introduce this legislation, given the severe escalation of the dispute which would have resulted from doing so. Ministers also considered the introduction of general legislation along these lines in the context of the Employment Bill, but decided against it, although the issue may arise again during the Bill's passage through Parliament.

5.25 It might be argued that the Government should not merely have the legislation available on a contingency basis but should introduce it, on a basis limited to the Civil Service, as soon as possible. The justification would have to be the experience of the 1981 dispute and the intention would be primarily to deter in advance selective action designed to prevent large numbers of staff from working properly. The main argument against such a course of action is that it would constitute a deliberate restriction of the rights of civil servants as against other white-collar employees. In terms of the effect on Civil Service morale and loyalty, the Group concluded that it would do much more harm than good.

5.26 Moreover, the trade union movement generally might see even limited legislation of this sort as a potential threat to them and as a result they might well unite behind the Civil Service trade unions in a campaign of opposition to the legislation. In any case, a wide measure of public and Parliamentary support would be necessary for the passage of such

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radical powers and in the absence of a major industrial dispute in the Civil Service with significantly worse effects than in 1981 there must be some doubt as to whether sufficient support could be mustered.

5.27 We therefore recommend that the draft legislation to permit lay-off without pay should be retained as a contingency measure and its provisions reviewed from time to time in the light of experience, with a view to its speedy introduction if necessary.

GENERAL PENALTIES

Dismissal

5.28 Summary dismissal is a lawful response to industrial action, and if all strikers in a given dispute are treated alike there is no appeal to an industrial tribunal on a complaint of unfair dismissal (although an appeal to the Civil Service Appeal Board would be possible). However, if distinctions are made (eg to re-engage some but not all) an industrial tribunal may well judge the dismissals unfair. Since tribunals have drawn no distinction for this purpose between different times or degrees of involvement, it would have been necessary in the 1981 dispute to dismiss all who struck at any time (more than half the Civil Service) for any one dismissal to be judged fair, unless wholly exceptional circumstances were present to justify that particular dismissal.

5.29 Under the Government's new Employment Bill the employer will be immune from appeal if all who are actually on strike at the time of dismissal are treated alike provided that notice had been given that they might be dismissed if they did not return to work. Thus, all strikers could be threatened with dismissal, and the Government could retain those staff who returned to work by a certain time. In theory, this could be a powerful new sanction, particularly to counter cases where key workers only were brought out, because staff would probably be much more deterred by the prospect of losing their jobs than by loss of pay, which could be reimbursed by the unions. Its effectiveness in this sense might be even greater if the provisions of the Bill related to place of work rather than the employer, since the powers could then be used more selectively.

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However, this would make the measure far more contentious, and the present proposals have therefore been framed on the basis of employers; it would in any case be difficult in practice to use the powers discriminatorily between different groups of strikers in the same dispute.

5.30 Although the new Employment Bill will, if enacted, give the Government some additional flexibility in using the sanction of dismissal as a response to industrial action, some fundamental practical constraints should be borne in mind. If a large number of civil servants were on strike, the Government would have to be confident that the threat of dismissal would work, or that it could do without the services of the staff concerned. These risks would have to be assessed carefully at the time. The re-instatement of those dismissed would inevitably become an issue in the final settlement.

5.31 These considerations in paragraphs 5.29 and 5.30 above apply to the use of dismissal under the Government's new proposals. In any widespread and concerted industrial action before that (before, say, the summer of 1982) summary dismissal would be subject to the existing law and would be unlikely to be a useful sanction for the same reasons as in 1981.

Suspension without pay

5.32 Bearing in mind the practical constraints on dismissing large numbers of staff, the Group considered whether it would be feasible and desirable to seek to apply the less drastic but more flexible sanction of suspension without pay. The suspension without pay of those who have taken industrial action but are willing to return to normal working is not allowed under the common law. Nor would it be covered by the contingency legislation for lay-off referred to above unless the work of the person concerned were disrupted by the effects of the industrial action of others.

5.33 Suspension without pay is possible under the disciplinary procedures either as a penalty itself or as a precaution pending the completion of a disciplinary inquiry. However, these procedures could not be used to counter industrial action effectively for both legal and practical reasons.

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Legally, the use in this way of the disciplinary procedures could be challenged in the courts as an evident abuse of a provision intended to be either the penalty for a major individual offence which had been proved or a holding measure while such an offence was being investigated (eg where a civil servant was suspected of serious fraud). In practice the procedures could not be applied on the necessary scale or in a way which would avoid the charge of blatant discrimination. Moreover, to attempt to do so would almost certainly be counter-productive since, by creating new grievances which would attract a wide measure of support, it would divert attention from the real issues at the root of the industrial action. It would also be extremely time-consuming for management.

5.34 Legislation to permit suspension without pay would have to be drafted to allow suspension entirely at management's discretion without appeal, even in circumstances where staff were genuinely willing to work normally and their work was not affected by the industrial action of others. This would be a major step going far beyond even the contingency legislation on lay-off referred to above. It would be bound to be opposed vigorously by the trade union movement as a whole. Again, a wide degree of public and Parliamentary support for such a measure would be required before it could be enacted. Thus, for much the same reasons as apply to lay-off, we do not think that legislation of this kind would be practicable in advance of a major industrial dispute with effects going well beyond those felt in 1981. If, however, Ministers were to conclude in a future dispute that the circumstances justified such a radical step the necessary legislation could be prepared quickly.

Non-pay Sanctions: Promotion and Leave

5.35 Industrial action already leads to the loss of other benefits on top of the pay lost, in that increments are delayed and pension entitlement and leave are reduced in proportion to the time spent on strike. Whether or not a particular member of staff has taken industrial action or refused to carry out management directions is probably taken into consideration to some extent by line management in judging his or her fitness for promotion,

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at least at more senior levels. But it is not formally a criterion for promotion. The question arises whether it would be to management's advantage for willingness to take industrial action to be made a factor explicitly to be considered in assessing suitability for promotion.

5.36 At present the personal files of staff do not require a record of whether or not they took industrial action; the loss of pension and other benefits mentioned above can be calculated automatically, and since willingness to take industrial action is not a formal criterion considered in the context of promotion it would be difficult to justify annotating personal files. In any case, the trade unions normally insist that return-to-work agreements specifically rule out punitive measures. Any attempt to make industrial action a specific consideration in the context of promotion would not only make future pay settlements more difficult following industrial action but could also create additional areas of dispute between management and staff because of the alleged victimisation of particular individuals. Moreover, in some departments operating efficiency would be severely reduced if the eventual promotion of those who had taken industrial action were to be ruled out. The result could be to inhibit management from following current practice and to make it impossible for any consideration to be given in assessing suitability for promotion to the readiness of the particular individual to take industrial action.

5.37 For these reasons we do not recommend that the Government should seek to make a general rule under which the taking of industrial action or the refusal to obey management instructions during an industrial dispute would be explicitly and systematically considered as a criterion for promotion.

5.38 The amount of annual leave that may be taken is a legal entitlement, although when it may be taken is at management's discretion within reasonable limits. Following the 1981 dispute annual leave was not permitted in some departments until backlogs of work had been cleared up. For the Government to make clear that this would also be the case in future could well have some slight deterrent effect on the willingness of staff to take industrial action, particularly since any industrial action over pay

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would be likely to occur before or during the holiday season. However, there are limits on the extent to which the denial of annual leave as a punitive sanction would be in management's interests. After the 1981 dispute some departments encouraged staff to make good the leave they had lost through industrial action by working overtime and claiming leave in lieu as a means of quickly reducing backlogs of work. There is also the danger that to take too strict an attitude to leave could lead to the abuse of sick leave which could be very difficult for management to control.

5.39 We recommend that in those departments where it would be appropriate it should be made clear to staff either immediately before or early on in the course of a period of industrial action in the future that the need to deal with backlogs of work once normal working had been resumed would be given priority by management in deciding when annual leave might be taken.

ACTION AGAINST THE UNIONS

5.40 Industrial relations in the Civil Service are based on the direct involvement of serving civil servants as union representatives, and representatives are given paid time off (and limited additional facilities such as the use of accommodation and telephones) for this purpose. We have considered whether it would be a useful sanction on the unions in the event of industrial action to withdraw these facilities more generally, or to discontinue the check-off arrangements for transferring union subscriptions directly from their members' pay. The Group did not consider the wider issue, which has received some public and Parliamentary attention recently, of the extent to which union facilities should be provided in the Civil Service generally, but only the provision of such facilities in the event of industrial action.

Facilities

5.41 These facilities are provided under the non-industrial Civil Service Facilities Agreement of 1974, which provides for **one** year's notice to be given on termination. In practice facilities are not provided when they would be used to plan or carry out industrial action, and management's

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discretion in withholding them in those circumstances is understood and accepted by the unions at least at national level. The Agreement is being renegotiated and a revised draft agreement to provide for improvements which the Government wishes to see introduced is now with Ministers for approval. It would still provide for one year's notice of termination but would include an explicit statement of principle that facilities would not be provided for purposes connected with industrial action. Meanwhile, the 1974 Agreement continues to govern the provision of facilities until it is replaced by the revised Agreement or until notice of termination has been given and the one year's period of notice has elapsed.

5.42 In addition, employers are legally required by the Employment Protection (Consolidation) Act 1978 to provide reasonable paid time off for industrial relations duties, and time off (which may be paid or unpaid) for trade union activities, and failure to do so may be referred to an industrial tribunal. The Code of Practice covering what is to be considered reasonable time off says that there is no obligation on employers to permit time off for union activities which themselves consist of industrial action, but clearly does not envisage that industrial action would remove the employer's legal obligation to provide any facilities at all: it says, for instance, "where an official is not taking part in industrial action but represents members involved, normal arrangements for time off with pay for the official should apply".

5.43 Thus, particular facilities (except check-off: see below) are already withheld on particular occasions to avoid their being used in industrial action. To seek to exert greater pressure on unions by making industrial action the reason for withholding facilities more widely would again open the Government to the charge of terminating an agreement without giving the agreed notice, and would be illegal in respect of paid time off, which is by far the most important facility in question. Paid time off for activities to which the legal requirement does not apply is a small part of the whole, and is provided for activities like meetings of Committees or Conferences in which the Government would most wish to encourage wide attendance to avoid a bias toward more activist views. Another possibility, that of withholding

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all facilities from one individual, would be illegal because it would in effect be seeking to exercise control over the staff's choice of union representatives. There is therefore little to be gained, and the likelihood of disproportionate embarrassment, in attempting to bring added pressure to bear on unions by withholding facilities to a greater extent than is already provided for in existing instructions.

Check-off

5.44 Different considerations arise in relation to the facility known as "check-off". This is an arrangement agreed with the non-industrial Civil Service unions since 1966 for Departments to deduct union members' subscriptions from pay at source, on each member's authority, and to forward them monthly to each union. Since 1974, these arrangements have formed part of the wider central Facilities Agreement. Check-off is increasingly common in the private sector, and providing it is usually regarded as advantageous to employers, particularly as it reduces the opportunities provided for militant propaganda by other methods of collection. The Group considered whether it would be feasible and desirable, in the event of industrial action, to terminate the check-off facility.

5.45 It is important to note that, under the 1974 Facilities Agreement, the Government could not, without breach of the Agreement, withdraw the check-off facility unless 12 months notice of termination had previously been given. Although the Agreement is not enforceable under domestic law, and there is no general legal obligation on employers to provide check-off facilities, the breach of the main remaining procedural Agreement with the unions, following after the termination of the Pay Agreements in 1981, would clearly have serious consequences for industrial relations in the Civil Service. There would be scope for the unions to exploit this both domestically and internationally in the ILO. (Legal advice provided in the 1981 dispute that check-off might be terminated after 3 weeks notice was given on the assumption that Ministers might be prepared to breach the 1974 Agreement and that period of notice was chosen pragmatically on the basis that it might provide reasonable time for individuals to make alternative arrangements).

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5.46 If, therefore, the Government wishes to avoid a breach of the Facilities Agreement, but wishes nevertheless to be in a position to stop check-off in the event of industrial action, the right course would be to clarify, in the context of negotiations which are already in progress on a new Facilities Agreement, that the Government would be free to discontinue check-off at its discretion in the event of industrial action. The unions might then respond by preferring to abandon check-off altogether rather than continue with check-off "on sufferance". An alternative would be for the Government to propose a discontinuance of check-off in all circumstances, but this would be difficult to justify against the background of widespread provisions of check-off facilities in the private sector.

5.47 The question then arises of whether action to discontinue check-off in the event of industrial action would be desirable. The main advantage would be to put an end to the presentational embarrassment for the Government in continuing to facilitate union subscriptions while industrial action is in progress. The Government would also disrupt the flow of funds to the unions and, although industrial action is financed separately (either by special levies or from special funds to which only part of regular subscriptions are directed), the unions would undoubtedly suffer inconvenience at a time when their administrative resources were already stretched. Against this it must be acknowledged that there would be some time lag (perhaps 3-7 weeks) before the discontinuance of check-off took effect, even if preparations were made in advance by the Government on a contingency basis. There could also be some practical inconvenience for the Government in reinstating check-off after the industrial action had ended. Finally it should be borne in mind that if the unions were to withdraw from check-off altogether this might carry some disadvantages for the Government since other methods of collection could take up staff time and provide more scope for union propaganda.

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5.48 The Group concluded that the balance of advantage was marginally in favour of being able to exercise the option of discontinuing check-off in the event of prolonged industrial action. It is therefore recommended that, as a first step, the Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off at its discretion in the event of industrial action (paragraph 5.46 above), and that subsequently the necessary preparatory work on pay computer sub programmes and other practical aspects should be put in hand on a contingency basis. It should be noted that unless a new Facilities Agreement is concluded in which the unions agree to the clarification proposed, the option of discontinuing check-off would only be available in 1982 if the Government were to decide, notwithstanding the argument in paragraph 5.45 above, that it was prepared to contemplate a breach of the existing Facilities Agreement.

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Strike Pay

5.49 The Group also re-examined the issue of whether strike pay could be made taxable. As paragraph 1.3 above explains, those who took selective action during the 1981 dispute received strike pay amounting to 85 per cent of normal salary and, since this was not taxable, most of them in fact received more than their normal salary. However, this was wholly exceptional and only possible because of the limited numbers on strike at any one time and the fact that sufficient levy income was available to support this level of payments for a lengthy period. Most trades unions pay only a few pounds per week strike pay and some no strike pay at all.

5.50 As the law stands, strike pay is not taxable; it is not within the legal definition of income for tax purposes. It would in principle be possible to legislate (in a Finance Bill) so as to make it subject to tax, but although the issue has been examined several times (although not in detail in the recent past), it has not been thought feasible and desirable to do this. The difficulties are partly general: strike pay will often be to some degree the return to a union member of his own contributions, made out of his post-tax income. Also, and perhaps more important, there would be intractable practical problems in enforcing liability. The law could require trade unions to deduct tax from payments or to report payments to the Inland Revenue, but the arrangements for handling strike pay and its distribution could well be devolved to local strike committees whose structure might be very informal and whose existence and membership might be transitory. Faced with a natural unwillingness to co-operate, the Revenue could be left with no effective sanction to impose compliance.

5.51 Despite the difficulties which have already been identified, we nevertheless recommend that the case for legislation to make strike pay taxable should be reviewed. Any legislation would, of course, need to apply generally; we can see no case for legislation which applied only to the Civil Service.

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MANAGEMENT TACTICS FOR ACHIEVING A SETTLEMENT

5.52 In addition to the various forms of management action directed against employees or unions discussed above, the Group also considered a range of management tactics for achieving a settlement, ie -

- i. unilateral implementation of a pay offer by management;
- ii. dating the pay increase from the end of the dispute rather than backdating to the normal pay award date;
- iii. offering pay increases to staff on condition that they refrain from taking industrial action; and
- iv. a management ballot of employees.

Unilateral implementation of pay offer

5.53 The unilateral implementation by management of a pay offer has on occasion been used successfully in the private sector. Experience suggests that the circumstances in which this tactic is likely to be useful are as follows -

- i. most employees are thought likely to accept the offer;
- ii. it is generally recognised that the employer is fully resolved not to increase the offer and may indeed be prevented by circumstances from doing so;
- iii. industrial action has not yet broken out or is confined only to limited unofficial action.

The tactic is unlikely to be useful where extensive industrial action is already in progress and where most employees are determined to achieve a better settlement than management has offered. The tactic is likely to be

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particularly ineffective if industrial action is selective (as has tended not to be the case in the private sector when this tactic has been used). In such circumstances most employees have the best of both worlds; they can enjoy an immediate pay increase and still look forward to the possibility that selective action by some of their colleagues (financed more easily by levies from those receiving the increase) may eventually secure an even higher increase.

5.54 A variant would be to implement the pay offer unilaterally for certain grades only. This would be worth considering if there was evidence of marked divisions of view among unions and employees. The tactic would not be useful unless the Government was confident that employees in the grades affected would acquiesce in the offer as a final settlement for them and would desist from industrial action leaving the remaining grades to fight their battle alone.

5.55 It is unlikely that unilateral implementation would have prevented or curtailed the industrial action in 1981. In 1982 a pay settlement may well have to be implemented unilaterally, if Parliament were to set aside the arbitration award, but the circumstances would then be entirely different from those discussed above.

No backdating

5.56 In pay negotiations in the United Kingdom it has become common practice, whether or not there is a dispute, to make a new pay award operative from the normal annual pay date rather than the actual date of settlement. This removes some of the pressure for bringing a dispute to an end. In the USA on the other hand pay contracts specify new settlement date and it is understood by both parties that, if agreement on a new contract is not reached by then, there is no backdating. The introduction of similar understandings for the Civil Service might be worth considering when discussions take place with the unions on the new arrangements for determining Civil Service pay following the Megaw Inquiry.

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5.57 In present circumstances however the tactic of refusing backdating may be limited in effectiveness. The main problem is that if, when the normal pay date has passed and a dispute is already in progress, management then withdraws from backdating an offer which the unions are already unwilling to accept, this widens rather than narrows the area of disagreement, and could thus tend to prolong the dispute. The tactic would probably not bring pressure on those already on strike since they would not be receiving pay for the period in any case. The crucial consideration would be the effect on those not taking industrial action. To some extent it might encourage them to press the unions harder to stop the industrial action; but it could well be destructive of the morale of those who had hitherto worked loyally.

5.58 Our conclusion is, therefore, that this tactic should be kept in mind as a possible option, bearing in mind the advantages and disadvantages, but that the more fruitful line to pursue would be to consider a change in the understandings about the operative dates of new pay awards in the discussions with the unions following the Megaw Inquiry.

Pay increases conditional on not taking industrial action

5.59 In 1981 the Law Officers drew up a scheme for making pay increases conditional on not taking industrial action. It was thought that an initiative of this kind might bring to an end industrial action which could otherwise be long drawn out. It was accepted that it was not possible, unless disciplinary procedures were applied, for management to decide unilaterally to withhold pay increases from those who had taken industrial action. It was therefore envisaged that individual staff might be offered a monthly (or weekly) pay increase on condition that they had not taken part in industrial action during the preceding month (or week); it would be possible for staff to refuse to accept the pay increase on such conditions.

5.60 The usefulness of such a tactic depends, as always, on the circumstances, which we cannot predict in advance. Its aims are, first, to give loyal staff the increase the Government is willing to pay without further delay and, second, to add to the costs of taking industrial action. It

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would be unwise to attempt such an initiative so long as the majority of the staff were thought to be supporting the union (and therefore the chances of success slight), although its implementation would mean that staff would not receive the pay increase for any month during which they had taken part in industrial action, which would thereby force them to consider the matter in terms of their own financial position. The circumstances in which it might be an appropriate tactic are much the same as those in which the unilateral implementation of a pay settlement might prove effective.

Management ballots

5.61 Experience in the private sector suggests that a ballot of employees by management may sometimes help to prevent or resolve a dispute. This could arise in the following circumstances -

- i. where there was good reason to think that union views did not reflect the views of most of their members, and of non-union employees; and
- ii. where there was a reasonable chance that the outcome of the ballot would be favourable to management, and would prevent or resolve the dispute.

The ballot would be simply about acceptance of management's pay offer but the question could also relate to other issues - for example willingness to embark on or continue industrial action.

5.62 Before embarking on a management ballot, the Government would need to assess the risks carefully; the main risks are either that the vote would be unfavourable or that, possibly as a result of union pressure, the response rate would be low. An unsuccessful ballot would undoubtedly weaken the Government's position considerably and strengthen that of the unions. The mere setting in motion of the ballot could, in certain circumstances, tend to rally the employees behind their unions as a reaction against the apparent

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attempt to undermine the unions. The balance of advantage would need to be carefully assessed at the time. An important consideration (see below) might be the time taken by the ballot; a long time-lag would make it difficult to predict the result and might prolong rather than shorten the dispute.

5.63 A review of the 1981 dispute suggests that there was no time when a management ballot would have been helpful. In 1982 the special nature of the arrangements - access to arbitration and the possibility of Parliamentary override - suggests that there is unlikely to be a place for a management ballot in the current pay negotiations. This option should however be kept in mind for future years and the practical implications have therefore been examined.

5.64 The cost of a management ballot would fall on the Government as employer. (Under the Employment Act 1980 public funds may be provided to unions for carrying out ballots for certain purposes but not for ballots to be carried out by management.) The Government would have to decide whether to carry out the ballot itself, which would involve drawing up in advance detailed plans and earmarking staff for the purpose. The alternative would be to call on a third party, such as the Electoral Reform Society (ERS). The advantages of using the ERS or some other third party would be that the ballot would be more likely to be accepted as fair and authoritative and that the Government would be saved the trouble of posting the ballot papers and counting them. On the other hand the Government would surrender some control over the arrangements (for example the ERS would probably insist on its right to approve the question) and it might seem odd for the Government to turn such a task over to a small independent organisation, thus conceding apparently that its own conduct of the ballot might not command confidence. A Government ballot might also be quicker; the ERS has estimated that a management ballot of non-industrial civil servants might take six weeks and cost £300,000.

5.65 A pre-requisite for a management ballot, whether carried out by the Government or by a third party, is up-to-date and readily accessible information about the home addresses of all staff. We have considered whether the central National Insurance records could be used for this purpose.

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There are however some serious difficulties of principle (such records have been hitherto used for national insurance purposes only except in a few very exceptional cases which have been tightly defined) and some practical limitations (up to 25 per cent of the home addresses may not be up to date because they may not have been recently contacted on National Insurance matters; there may also be difficulties in an industrial dispute in securing the co-operation of the relevant National Insurance staff). It seems therefore that a management ballot would have to rely on Departments' own records of the home addresses of their staff. The extent to which this information is available in a form which could be readily used for purposes of a ballot requires detailed investigation.

5.66 We therefore recommend that the Treasury should undertake a study, with the help of Departments, to establish the cost and feasibility of conducting management ballots in the non-industrial Civil Service; in the light of this study Ministers would then need to consider whether plans should be made to carry out such ballots on a contingency basis and if so whether the Government would undertake the task itself or call on a third party.

RESTRAINTS ON THE FREEDOM TO TAKE INDUSTRIAL ACTION

5.67 The analysis in the earlier paragraphs of this part of the report has demonstrated that there are some legal constraints on the Government's freedom to counter industrial action by its employees. The Group therefore considered a more fundamental approach under which there might be some general restriction on the freedom of civil servants to take industrial action.

Three possible routes were considered -

- i. by legislation (following the model of some other countries where civil servants are forbidden to strike by law);
- ii. by collective agreement, ie a "no-strike" or "no industrial action" agreement;
- iii. by entering into new contractual arrangements with individual civil servants.

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"No-strike" legislation

5.68 In certain countries (for example the USA and Australia) civil servants are prohibited by law from going on strike. In the USA in particular all national government employees have been prohibited from striking since 1946. Most Federal Government employees who strike can be dismissed, since this is a breach of the Oath of Allegiance which forms part of their contract of employment; and those who organise a strike can face a prison sentence if the Government seeks an injunction against the strike. This was underlined recently in the US Air Traffic Control strike when all the Controllers were dismissed. It should however be noted that the sanction of dismissing all those on strike is already available to an employer under United Kingdom law (see paragraph 5.28 above). Moreover the particular tactic adopted by the US Government under which the Controllers were given time to return to work or be dismissed, will also become available to United Kingdom employers when the Employment Bill is enacted later this year (see paragraph 5.30 above). As the analysis of the dismissal sanction in paragraphs 5.28-5.30 above shows, the inhibitions about dismissing strikers are more practical than legal. The Government would be ill-advised to dismiss large numbers of striking civil servants unless it was confident that the threat would work or that they could do without the civil servants concerned. In the recent United States case it has been necessary to recruit and train thousands of new Air Traffic Controllers at considerable cost, although the United States Government may well judge that the benefits more than offset this cost.

5.69 Leaving aside these points about the dismissal sanction, the Group also identified some major difficulties. The first problem is that in countries where the right to strike is prohibited by law it has been thought unavoidable to balance this with some assured system of pay determination involving eg indexed pay, arbitration, or statutory comparability. The Government's evidence to the Megaw Inquiry has pointed in the direction of moving away from a system of pay determination of that kind. Secondly, it is notable that legislation to prohibit Civil Service strikes has not, in the USA and elsewhere, succeeded in preventing them, particularly in recent years. Finally it should be noted that in the US Federal Civil Service there has been increasing use of the tactic of "sick out", a form of industrial action under which everyone simultaneously reports sick, disrupting the work without openly defying the law.

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5.70 The Group therefore concluded that this approach is unlikely to be worth pursuing. The only circumstances in which it might deserve further consideration would be if, following the Megaw Inquiry, the Government were to contemplate introducing for the Civil Service some assured method of determining pay which was not available to employees generally, and which might justify some restriction on the right to take industrial action.

"No strike" agreement

5.71 An alternative approach would be for the Government to enter into an agreement with the Civil Service unions which provided for no strikes or restricted in various ways the scope for industrial action. There are however several major difficulties similar to those applying in the case of "no-strike" legislation. First there would have to be an inducement in the form of assured long term pay arrangements and the price would probably be too high. Secondly, the agreement might break down on just those occasions when there was a real prospect of industrial action. Finally, there would be a continuing difficulty about preventing forms of non-co-operation which fell short of industrial action as defined in the agreement.

5.72 A variant would be to introduce a "no-strike" agreement confined to staff engaged in particularly sensitive areas of work. There are however few grades confined solely to sensitive areas of work. Moreover the work concerned can often be disrupted by industrial action outside the sensitive area in general support services and maintenance. The unions might in any case be unwilling to reach an agreement which deprived them selectively of their more effective weapons. While staff in self-contained management areas might be more willing than their unions to make such agreements, it would be likely to be only on tough conditions and at a significant cost.

5.73 The Group's conclusions were, therefore, the same as those relating to "no-strike" legislation, ie that a "no-strike" agreement would be worth considering only if, contrary to current thinking, the Government was to contemplate, following the Megaw Inquiry, some particularly advantageous and assured method of determining Civil Service pay, in return for which the unions might be expected to accept, without further inducement, some restrictions on their right to take industrial action.

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Contracts

5.74 The Group also considered whether it would be feasible to limit the scope for industrial action by civil servants not by legislation or by collective agreement but by entering into new contractual obligations with individuals. It might, for example, be made a specific condition of service that no pay was due when no work was available, or that failure to work normally as directed might lead to suspension without pay for as long as the Department chose. An offer of a new contract to all existing civil servants simultaneously would in effect be much the same as entering into a new collective agreement, and similar considerations would arise. There would need to be a deal with the union for which some price would have to be paid. The option was therefore considered of offering new contracts to new entrants to the Civil Service or to existing staff on promotion or when a salary increase was awarded.

5.75 There are however some major difficulties. It would probably not be feasible to link the new contract with a salary increase without getting back into the same problems as would arise over a collective agreement. Action confined to new entrants and promotees would however take effect only over a very long period. During this period management would have a very difficult task of dealing with staff who had markedly different conditions of service. Moreover, although it might be strictly within the law to withhold promotion unless the promotee entered into a new contract, the Attorney General has advised that this would attract justifiable criticism on the grounds that those concerned had no real alternative to accept the restrictions in return for benefits which ought to have been theirs anyway. The Group therefore concluded that it would not be feasible to attempt to make major changes affecting the scope for civil servants to take industrial action by dealing with individual contracts.

5.76 There remains a more limited question of whether it would be desirable to clarify the obligations of managers in relation to industrial action. This would have the added advantages, if it could be carried through successfully, of bearing on the particular difficulties which arise when managers support industrial action (which are a serious problem for all counter-measures, whether sanctions or contingency plans), and of being likely to be

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welcome to at least some staff in the grades concerned. The idea would be to make it clear in writing to unions and staff that, while industrial action is always a fundamental breach of conditions of service, it is particularly inconsistent with the duties of higher levels of responsibility, say at the level of Senior Executive Officer and equivalent upwards or the holder of any post with management responsibilities, and would therefore be liable to downgrading or some other penalty. There are many difficulties to be considered further about this possible approach, and it would always be a difficult matter of judgement in what circumstances it might best be opened up with the unions and staff if it were not to be counterproductive. Nevertheless we recommend that this is an approach worth further detailed study.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

5.77 The conclusions and recommendations in this part of the report may be summarised as follows -

- a. Temporary relief from duty (TRD) remains, as in 1981, an important sanction where staff refuse to work normally or as directed. The procedures have been modified and, when applied in certain circumstances, simplified, in the light of experience in 1981. In order to overcome the operational difficulties where local managers are themselves withholding co-operation, Departments, particularly those with numerous local offices, should consider carefully how the TRD procedures might be most effectively administered in the future and the outcome of these reviews should be reported to the standing group of officials discussed in Part 4 of this report.
- b. The option of reduced pay should be considered only in limited circumstances where the practical problems could be overcome and the use of TRD could not be justified.
- c. The use of disciplinary procedures should not be considered as a means of seeking to end widespread industrial action, although these procedures may, as in the past, be appropriately used to deal with some individual cases.

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d. The draft legislation already prepared to permit lay-off without pay should be retained as a contingency measure and its provisions reviewed from time to time in the light of experience, with a view to its speedy introduction, if necessary.

e. Until the new Employment Bill has been enacted, summary dismissal is unlikely to be a useful sanction to deal with widespread and concerted industrial action; although the new Bill will provide additional flexibility, some practical constraints will remain and the risks would have to be assessed carefully at the time.

f. Legislation to permit suspension without pay, even in circumstances where staff were genuinely willing to work normally and their work was not affected by the industrial action of others, would be a major step going far beyond the contingency legislation on lay-off at (d) above. If however Ministers were to conclude in a future dispute that the circumstances justified such a radical step, the necessary legislation could be prepared quickly.

g. Although industrial action is taken into account to some extent in judging fitness for promotion, it would be disadvantageous to management to make it a general rule that this factor should be explicitly and systematically considered as a criterion for promotion.

h. In those Departments where it would be appropriate it should be made clear to staff either immediately before or early on in the course of a period of industrial action in the future that the need to deal with backlogs of work once normal working has resumed would be given priority by management in deciding when annual leave might be taken.

i. Union facilities (other than check-off) are already withheld on particular occasions to avoid their being used in industrial action and it would be disadvantageous to go beyond this.

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- j. The Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off in the event of industrial action, and the necessary preparatory work on implementation should be put in hand on a contingency basis.
- k. The possibility of making strike pay taxable should be considered in detail by the Inland Revenue.
- l. The unilateral implementation of a pay offer is unlikely to prove an effective tactic, except in special circumstances.
- m. Consideration should be given in the discussions following the Megaw Report to the possibility of introducing an explicit provision in the new Civil Service pay arrangements that pay settlements will not be backdated if agreement has not been reached by the due settlement date.
- n. The tactic of making pay offers conditional on not taking industrial action is worth considering only in certain limited circumstances.
- o. The option of a management ballot should be kept in mind in future disputes for use in certain circumstances but there are some practical problems. The Treasury should undertake a study in consultation with other Departments concerned to establish the cost and feasibility of conducting management ballots in the non-industrial Civil Service; in the light of this study Ministers would then need to consider whether plans should be made to carry out such ballots on a contingency basis and if so whether the Government should undertake the task itself or call on a third party.
- p. The approach of "no-strike" legislation or agreements is not worth pursuing unless, contrary to current thinking, the Government were to contemplate following the Megaw Inquiry some particularly advantageous and assured method for determining Civil Service pay in return for which the unions might be expected to accept without further inducement some restriction on their rights to take industrial action.

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q. It would not be feasible to make major changes affecting the scope for civil servants to take industrial action by dealing with individual contracts. Further study should however be given to the possibility of clarifying the obligations of managers in relation to industrial action.

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PART 6: DEPARTMENTAL CONTINGENCY PLANNING

6.1 Effective departmental contingency plans are clearly important, not only to cope with the effects and limit the costs of industrial action but also as a deterrent, by showing it to be ineffective. However, it is unlikely to prove possible to identify in advance precisely how industrial action will develop in the future or even to devise adequate solutions to all of those problems that can be foreseen.

6.2 Contingency planning is clearly a matter for individual Departments and the Group has not, therefore, considered this aspect in detail. Departments are currently reviewing their contingency plans in the light of the 1981 dispute. Their main coverage has been reported to the Treasury (via the MPO).

6.3 Examples of the adjustments to plans being made by Departments are as follows. The Inland Revenue have been reviewing and streamlining their banking arrangements, to make them less vulnerable to industrial action; and are setting up a "command centre" equipped with facsimile transmission machines and direct lines to senior regional staff (this will enable advice to be given rapidly to management in the field, and will also provide senior management and Ministers with up-to-date information about developments). DHSS are considering introducing further regulations to enable them to recover emergency payments made in lieu of supplementary benefit. They are also preparing possible procedures for the payment of emergency benefit payments by other bodies, particularly local authorities. These, and other similar arrangements are geared particularly to the possibility of local offices being closed to the public for more than just a day or two.

6.4 The most important plans are to be examined rigorously in bilateral discussions between central Departments and individual Departments. Particular attention will be paid to the following aspects -

- i. The extent to which problems which arose in 1981 have been overcome;

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ii. The limitations of the plans and, in particular the extent to which their effectiveness decreases the longer industrial action lasts;

iii. How far they depend on the voluntary co-operation of staff or of other organisations;

iv. How far they overcome the particularly important problem of ensuring that mail continues to be delivered to Departments (on the assumption that, as in 1981, all Post Office staff and some Government messengers would refuse to cross picket lines); and

v. Whether sufficient account has been taken of the ways in which trade union tactics might alter in future industrial action including in particular, the possibility that other public or private sector unions might co-operate with the Civil Service unions.

6.5 Attention will be paid in these discussions to the problems which can arise in specialised areas, such as computer operations, which can be particularly difficult to overcome and where problems may differ markedly between Departments. Central Departments will also be seeking to ensure that departmental contingency plans have been formulated on a consistent basis and are compatible with each other. The opportunity will also be taken in these discussions to disseminate information about any novel or particularly effective approaches which individual Departments may have developed to problems which are likely to be common to a number of Departments.

6.6 We think it is important that departmental Ministers should be aware of the contingency planning being undertaken by their Department. We therefore recommend that at least the main points in the contingency plans of each Department should be submitted to a departmental Minister and that their attention should be drawn to the limitations of the plans and to the assumptions on which they are based. We also recommend that an assessment

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of the overall position should be submitted to the Chancellor of the Exchequer once the bilateral discussions have been completed between central and individual Departments, which will probably be by about the end of February. This might most appropriately be considered first by the standing group of officials referred to in Part 4 of this report.

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PART 7: SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

7.1 The Report's conclusions and recommendations are summarised in the following paragraphs.

Origins, nature and outcome of the dispute

7.2 Part 1 of the report describes briefly the origins, nature and outcome of the dispute. This brings out the following main points -

a. For many staff, particularly in the middle and higher grades, the dispute was less about the level of pay increase in 1981 than about the suspension and termination of the Civil Service Pay Agreements and the fact that the Government did not feel able to offer any specific assurances about Civil Service pay arrangements in the longer term.

b. Although the industrial action lasted for 22 weeks, the financial cost of the dispute to the unions and their members was modest (£24 million); this is because, after the national one-day strike on 9 March 1981, the numbers on strike (or temporarily relieved from duty because they were not working normally or as directed) rarely exceeded 5,000, less than 1 per cent of the non-industrial Civil Service.

c. While the Government largely achieved its pay objectives, which were important both for public expenditure and because of the wider repercussions on the pay round, the financial cost of the dispute to the Government was considerable (notably an additional interest cost of £0.5 billion through delayed tax revenue), and there were many other penalties, both macro-economic (eg the distortion of the monetary aggregates) and managerial (eg the deferment of taxation of unemployment benefit and the delay in computerisation of Schedule D tax).

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d. The cost to the Government would have been much greater (eg an interest cost of £1 billion rather than £0.5 billion) but for the co-operation of a small number of key staff at middle and senior management level who took on duties beyond their normal work; the availability of similar co-operation in the future may be vital.

Analysis of the problem

7.3 Part 2 of the report analyses the nature of the problem and makes the following main points -

- a. If the Government is to prevent and deter industrial action in the future, and if such action occurs, to counter it satisfactorily, it must, like other employers, pursue two goals: one is to secure and retain the loyalty of at least a substantial majority of the staff; the other is to be, and be seen to be, sufficiently resolute and resourceful to withstand industrial action successfully.
- b. The Government, unlike other employers, has to take into account not only its responsibilities and objectives as an employer but also its responsibility for the management of the economy as a whole. This can make it more difficult for staff and management in the Civil Service to see themselves as having the same sort of community of interest as can sometimes arise in the private sector in ensuring that a business remains viable.
- c. If and when a dispute occurs, the Government may have to weigh conflicting considerations: the possibility of bringing the dispute to an earlier conclusion by increasing the cost to the unions against the risk of increasing the financial cost to the Government and worsening the disruption of services; and the short-term objective of bringing a particular dispute to a successful conclusion against the longer-term objective of improving industrial relations and thereby improving efficiency.

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d. For 1982 the unions themselves as yet have no particular plan and may hold their hand with the Megaw Report due in the summer. If there is industrial action, the most likely form is further selective strike action, although the unions' tactics may not be the same as in 1981.

Improving the climate of opinion

7.4 In order to improve the climate of opinion before and during pay negotiations and during a dispute it is recommended in Part 3 of the Report that -

- a. Although the Government should continue to ensure the support of public opinion in future disputes in the Civil Service, strengthening the morale and loyalty of staff, particularly at middle management levels, is important both in avoiding disputes and, if disputes do occur, in ensuring a successful outcome.
- b. On the main issues affecting morale over the next year or two (eg the 1982 pay negotiations, future pay arrangements post-Megaw, pensions, manpower, and new technology) the impression should be avoided that the Civil Service is being singled out for especially rigorous treatment, and the Government should seek to create confidence that it intends to deal fairly with its own employees.
- c. Action should be taken, where possible, to improve morale in the longer term by dealing with matters unconnected with the main pay issues.
- d. If a dispute occurs it is essential to have a reasoned message, supported by arguments and evidence, which can be put across persuasively to staff.
- e. Public statements should also be prepared with an eye to the effect on employee opinion.
- f. More use should be made of the management chain from Ministers through senior management to middle managers, to put across the reasoning behind the Government's position, and this process could also provide valuable feed-back about the development of staff opinion.

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Organisation during a dispute

7.5 On organisation during a dispute it is recommended in Part 4 of the Report that -

- a. A standing group should be set up, with the composition described in paragraph 4.5, to meet not less than once a week with a Treasury Minister as Chairman but with a senior Treasury official as Deputy Chairman under whom the Group would meet except when there was business of particular importance.
- b. The terms of reference of the group should be set out in paragraph 4.6.
- c. The group should also undertake the further work proposed in Part 5 of the Report and the assessment of departmental contingency plans proposed in Part 6 of the Report.

Management responses to industrial action

7.6 On the possible responses by management to industrial action, the group's conclusions and recommendations in Part 5 of the Report are as follows -

- a. Temporary relief from duty (TRD) remains, as in 1981, an important sanction where staff refuse to work normally or as directed. The procedures have been modified and, when applied in certain circumstances simplified, in the light of experience in 1981. In order to overcome the operational difficulties where local managers are themselves withholding co-operation, Departments, particularly those with numerous local offices, should consider carefully how the TRD procedures might be most effectively administered in the future and the outcome of these reviews should be reported to the standing group of officials discussed in Part 4 of this report.
- b. The option of reduced pay should be considered only in limited circumstances where the practical problems could be overcome and the use of TRD could not be justified.

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- c. The use of disciplinary procedures should not be considered as a means of seeking to end widespread industrial action, although these procedures may, as in the past, be appropriately used to deal with some individual cases.
- d. The draft legislation already prepared to permit lay-off without pay should be retained as a contingency measure and its provisions reviewed from time to time in the light of experience, with a view to its speedy introduction, if necessary.
- e. Until the new Employment Bill has been enacted, summary dismissal is unlikely to be a useful sanction to deal with widespread and concerted industrial action; although the new Bill will provide additional flexibility, some practical constraints will remain and the risks would have to be assessed carefully at the time.
- f. Legislation to permit suspension without pay, even in circumstances where staff were genuinely willing to work normally and their work was not affected by the industrial action of others, would be a major step going far beyond the contingency legislation on lay-off at d. above. If however Ministers were to conclude in a future dispute that the circumstances justified such a radical step, the necessary legislation could be prepared quickly.
- g. Although industrial action is taken into account to some extent in judging fitness for promotion, it would be disadvantageous to management to make it a general rule that this factor should be explicitly and systematically considered as a criterion for promotion.
- h. In those Departments where it would be appropriate it should be made clear to staff either immediately before or early on in the course of a period of industrial action in the future that the need to deal with backlogs of work once normal working has resumed would be given priority by management in deciding when annual leave might be taken.

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- i. Union facilities (other than check-off) are already withheld on particular occasions to avoid their being used in industrial action and it would be disadvantageous to go beyond this.
- j. The Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off in the event of industrial action, and the necessary preparatory work on implementation should be put in hand on a contingency basis.
- k. The possibility of making strike pay taxable should be considered in detail by the Inland Revenue.
- l. The unilateral implementation of a pay offer is unlikely to prove an effective tactic, except in special circumstances.
- m. Consideration should be given in the discussions following the Megaw Report to the possibility of introducing an explicit provision in the new Civil Service pay arrangements that pay settlements will not be backdated if agreement has not been reached by the due settlement date.
- n. The tactic of making pay offers conditional on not taking industrial action is worth considering only in certain limited circumstances.
- o. The option of a mangement ballot should be kept in mind in future disputes for use in certain circumstances but there are some practical problems. The Treasury should undertake a study in consultation with other Departments concerned to establish the cost and feasibility of conducting management ballots in the non-industrial Civil Service; in the light of this study Ministers would then need to consider whether plans should be made to carry out such ballots on a contingency basis and if so whether the Government should undertake the task itself or call on a third party.

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p. The approach of "no-strike" legislation or agreements is not worth pursuing unless, contrary to current thinking, the Government were to contemplate, following the Megaw Inquiry, some particularly advantageous and assured method for determining Civil Service pay in return for which the unions might be expected to accept without further inducement some restriction on their rights to take industrial action.

q. It would not be feasible to make major changes affecting the scope for civil servants to take industrial action by dealing with individual contracts. Further study should however be given to the possibility of clarifying the obligations of managers in relation to industrial action.

Departmental contingency planning

7.7. On contingency planning it is recommended in Part 6 of the Report that -

a. The main points in the contingency plans of each Department should be submitted to a Departmental Minister and his attention should be drawn to the limitations of the plans and to the assumptions on which they are based.

b. Once the bilateral discussions on the plans between central and individual departments have been completed an assessment of the overall position should be considered by the standing group of officials proposed in Part 4 of the Report, and should then be submitted to the Chancellor of the Exchequer.

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APPENDIX A

The Official Group on Lessons from the Civil Service Dispute (MISC 65) consisted of representatives of the following Departments under Cabinet Office chairmanship -

No 10 Policy Unit

HM Treasury

Management and Personnel Office

Lord Chancellor's Department

Ministry of Defence

Departments of the Environment and Transport

Scottish Office

Department of Health and Social Security

Department of Employment

Attorney General's Department

Lord Advocate's Department

Treasury Solicitor's Department

Board of Inland Revenue

HM Customs and Excise

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APPENDIX B

NON-INDUSTRIAL CIVIL SERVICE PAY DISPUTE 1981: MAIN EVENTS1980

- 1 August Lord President told CCSU (Council of Civil Service Unions) that cash limits would be main basis of non-industrial pay settlement due on 1 April 1981, and that Government wanted to see longer term changes in the pay research system.
- 27 October Lord President informed CCSU of suspension of Civil Service Pay Agreements for 1981 and that preparation of the pay research reports would be halted.
- 7 November Prime Minister announced that provision for pay in the rate support grant cash limit had been set at 6 per cent, and that in setting the other public service cash limits (including that for the Civil Service) pay would be dealt with broadly within the same financial disciplines.
- 24 November- Protest meetings organised by Unions at 22 centres throughout the country,
1 December attended by 30,000 non-industrial Civil Servants.

1981

- End January Special conferences of CPSA and SPCS at which industrial action failing satisfactory pay negotiations strongly endorsed.
- 5 February CCSA submitted joint claim for increase of 15 per cent from 1 April 1981 subject to minimum increase of £10 per week.
- 9 February Lord President offered a general increase of 6 per cent.
- 23 February Lord President increased Government's offer to 7 per cent through savings to be achieved in manpower and other administrative expenditure; he also told the Unions that the Government had decided that a thorough review of the pay arrangements was needed "with the objective of establishing as soon as practicable an ordered and agreed system which took account of all relevant factors and which would command the widest possible acceptance".
- 26 February CCSU rejected offer and gave notice of industrial action beginning with a one-day strike on 9 March.
- 3 March Minister of State, CSD met Unions to discuss proposed review of the pay system and possibility of assurances about the basis of the 1982 settlement but CCSU felt that no progress had been made.
- 9 March One-day strike involving 273,400 non-industrial Civil Servants.
- 10 March Beginning of selective action involving loss of 413,000 man days by 7 August 1981 (including days lost as a result of TRD action, but excluding the one-day and half-day strikes and other protest action).

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- 1 April Half-day strike to coincide with operative date of pay award involving loss of 53,000 man days.
- 14 April Half-day strike to protest at use of naval personnel to re-equip Polaris submarine involving loss of 125,000 man days.
- 23 April Lord President met Unions to offer an assurance that there would be scope for negotiations on the 1982 pay increase and proposing an independent inquiry into the longer term arrangements for Civil Service pay. Unions in reply called for genuine negotiations or arbitration in 1981; more positive assurances on the 1982 negotiations; and immediate proposals for reviewing the Pay Agreements.
- 21 May Lord President wrote to CCSU proposing further talks on the future pay system; proposal rejected by CCSU.
- 26 May CCSU proposed talks without preconditions on either side, threatening a major extension of the industrial action from 8 June unless such talks were held or there were a decision to go to arbitration.
- 29 May Lord President began talks with CCSU.
- 5 June Following consultation with Ministerial colleagues the Lord President told Unions that Government was not prepared to increase the offer of 7 per cent for 1981 and that no commitment could be offered about arbitration in 1982.
- 8 June Limited escalation of industrial action began.
- 11 June Government gave formal notice of Official Side's withdrawal from the 1974 and 1977 Civil Service Pay Agreements.
- 29 June Announcement of the independent Inquiry on Civil Service Pay.
- 17 July CSD made revised offer of increase of 7 per cent plus £30 per head from 1 April 1981 together with an assurance that there would be negotiations on the 1982 increase before cash limits were set and that failing agreement the Government would accept recourse to the Civil Service Arbitration Tribunal on the understanding that the Government had the right to ask the House of Commons to approve setting aside the Tribunal's award on grounds of overriding national policy.
- 31 July Revised offer accepted by CCSU after consultative meetings with members throughout the country by each union (230,000 attended these meetings and 67 per cent voted to settle. In the IRSF 53 per cent voted against; the remaining unions voted in favour).
- 3 August Return to work began, completed by 10 August.

11/2/82.

LESSONS FROM THE 1981 CIVIL SERVICE DISPUTE

The attached brief notes for Treasury Ministers the main points for further attention in the report of the Official Group on this subject (MISC 65). It does not attempt to summarise the report itself, which is already summarised in Sir Robert Armstrong's covering submission to the Prime Minister and in Section 7 of the report (immediately below that submission).

2 The Treasury (Industrial Relations line), Inland Revenue, Customs and Excise and Treasury Solicitor were represented on the Group, and support its conclusions and recommendations.

Responsibilities

3 The Chancellor has three rather different lines of responsibility for the subject matter of this report:

i he is responsible for the wider economic aspects of any dispute - eg effects on other pay negotiations or on the PSBR;

ii he is responsible for certain aspects of the central management of the civil service: they include pay (which was the reason for the industrial action and will remain the most likely issue for wide-spread action); industrial relations (eg the necessary degree of central co-ordination of counter-measures); and those other aspects of civil service conditions identified as specially important for the climate of opinion - pay post-Megaw, pensions, manpower, new technology and the expenditure approval (though not the policy) on working conditions;

iii he is responsible for the direct management of his own departments.

Chancellor's Initial Comments

4 MISC 65 considered a number of papers, including the Chancellor's minute of 9 November to the Prime Minister. The brief annexes a check-list of recommendations in that initial minute.

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1. Origins, Nature and Outcome of the 1981 Dispute (Section 1)

Summarised in 7.2

The three main points for Treasury Ministers are:-

a the disparity of the costs inflicted on government and unions - which would have been even worse without the loyal efforts of some middle managers;

b the importance of retaining the loyalty of managers. This arises here first, but runs through the whole report. It is crucial in getting communications right, applying sanctions and limiting damage. It is very precarious, both in the Chancellor's own departments and generally;

c the effect on the length and bitterness of the dispute of the unilateral setting aside of the pay procedures. The nature of future industrial relations in the civil service will depend on the Megaw recommendations and the Government's handling of them.

2. Analysis of the Problem (Section 2)

Summarised in 7.3

The points about conflicting objectives are particularly important for Treasury Ministers, and the conflicts in question are real conflicts which cannot be avoided. In particular, the conflict between the Government's responsibilities for its own business and its wider responsibilities means that its policies may alienate its staff in a way that does not arise for other employers.

For 1982, we expect no widespread official industrial action, at least before any possible Parliamentary override of an arbitration award. But that is largely because of the arbitration assurance, the depletion of unions' funds and the existence of Megaw. Industrial action may be more easily provoked in 1983 (when the Government's response to Megaw may also be an issue); the revenue, and government cash flow more generally, are bound to remain prime targets. In the next serious round the unions may also be driven to include social security benefits among their main targets.

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3. Climate of Opinion (Section 3)

Summarised in 7.4 and the Chancellor has already noted its special importance. The current pay round has not improved matters, particularly where the offer is seen as rewarding the computer staff who struck at the expense of those who worked so hard to counter the strike. Two crucial lessons here are:

- a to handle all issues with the effect on morale in mind. It is easy to take decisions one by one which seem necessary in isolation but whose cumulative effect creates very serious long-term problems;
- b to avoid the impression of singling out civil servants for hostile treatment by their own employers.

4. Organisation during a dispute (Section 4)

Summarised in 7.5

Departments' internal organisation can be important for such matters as using TRD to best effect. Inland Revenue and Customs have reviewed their arrangements. For the necessary degree of inter-departmental co-ordination, officials recommend the group under Treasury chairmanship and terms of reference in 4.5 and 4.6 of the report. If this recommendation is accepted the Treasury will set up the new body immediately.

5. Management Responses (Section 5)

Summarised in 7.6

- 7.6a The Group has already served a useful function in sharing working experience of ways of using TRD, and the Treasury will continue to promote this useful sharing of experience (handling mail is another area where it has also already been useful). Inland Revenue are taking steps to strengthen their position in dealing with the operational problem of local managers who themselves refuse to apply TRD, by designating an enlarged management team in Regional Offices who can be used to tackle this problem in local offices as and when it arises. Nevertheless, the possibility of a repetition of the problems of 1981 remains worrying. If the recommendations are accepted, the Treasury will instruct departments accordingly.

- 7.6b Lay-off without pay is now being reconsidered in the context of the Employment Bill. It would be a contentious change to provide what

Climate of Opinion (Section 3)

Summarised in 7.4 and the Chancellor has already noted its special importance. The current pay round has not improved matters, particularly where the offer is seen as rewarding the computer staff who struck at the expense of those who worked so hard to counter the strike. Two crucial lessons here are:

- a to handle all issues with the effect on morale in mind. It is easy to take decisions one by one which seem necessary in isolation but whose cumulative effect creates very serious long-term problems;
- b to avoid the impression of singling out civil servants for hostile treatment by their own employers.

4. Organisation during a dispute (Section 4)

Summarised in 7.5
Departments, internal organisation can be important for such matters as causing TRD to best effect. Inland Revenue and Customs have reviewed their arrangements. For the necessary degree of inter-departmental co-ordination, officials recommend the group under Treasury chairmanship and terms of reference in 4.5 and 4.6 of the report. If this recommendation is accepted the Treasury will set up the new body immediately.

5. Management Responses (Section 5)

Summarised in 7.6
The group has already served a useful function in sharing working experience of ways of using TRD, and the Treasury will continue to promote this useful sharing of experience (handing mail is another area where it has also already been useful). Inland Revenue are taking steps to strengthen their position in dealing with the operational problem of local managers who themselves refuse to apply TRD, by designating an enlarged management team in Regional Offices who can be used to tackle this problem in local offices as and when it arises. Nevertheless, the possibility of a repetition of the problems of 1981 remains worrying. If the recommendations are accepted, the Treasury will instruct departments accordingly.

Pay-off without pay is now being reconsidered in the context of the Employment Bill. It would be a contentious change to provide what

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

amounts to an immunity to employers to break contracts in this way. From the limited point of view of civil service management, however, it is preferable for the issue to be debated, and the immunity provided if that is the outcome, in the context of employment generally than as a discriminatory provision applying to civil servants' contracts but not to others'. To introduce a discriminatory power would clearly have a very damaging effect on precisely the loyal element which would inevitably be included among its targets.

- 7.6j It is recommended that the Government should clarify in the discussions about the new Facilities Agreement that it would be free to discontinue check-off in the event of industrial action. Treasury Ministers are still considering the whole redraft of the Facilities Agreement; the Treasury and Civil Service Committee may criticise the cost of the old, 1974 Agreement; and although the redraft meets the objectives Ministers laid down after reviewing the Agreement in 1979, there may be further points to raise. If the Prime Minister's meeting endorses this recommendation it will be right to raise check-off with the unions quickly and get into a position to terminate check-off if need be as soon as industrial action starts. It will be for consideration whether there are other aspects of the revision to be raised also, but they would not relate to industrial action.
- 7.6k Inland Revenue have set in hand a new consideration of the possibility of making strike pay taxable. But it has not proved feasible to do so in the past (and this has not been a large factor in other strikes) so it would be wrong to set great store by this.
- 7.6o The tactic of a management ballot is always double-edged. It will not arise in 1982, and could not have helped in 1981. For the longer-term, our exploration of the practicalities with departments and with the Electoral Reform Society has cast doubts on whether it would be sensible to use the ERS (though the alternative is not clear), and confirmed the importance of possessing home addresses. So further work is needed on these aspects (which the Treasury will put in hand).
- 7.6p The report recommends considering the possibility of no-strike arrangements after and in the light of the Megaw recommendations.

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7.6c

The report recommends considering the possibility of no-strike arrangements after and in the light of the Megaw recommendations.

7.6p

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

This is because no-strike arrangements (whether by agreement or by legislation) would raise the question of some countervailing assurance about the determination of pay, which the Government would presumably not itself wish to propose in the Megaw context but which might conceivably be recommended. By way of background, the United States has a statutory system of comparability; Australia has a system of indexation and arbitration; Germany has two layers of civil servants, the lower layer with comparability (and the right to strike), and the upper layer with pay determined by Parliament in relation to the pay of the others. It is also worth bearing in mind that the phrase "making strikes illegal" is not itself very meaningful, because strikes in this country are already illegal as breaches of contract, though there are legal and practical constraints about what sanctions can be applied. So the question is not whether to make strikes illegal but rather:

But TU's have immunities that make this a nonsense!

- a what criminal offence or civil wrong is to be created going beyond the breach of contract?
- b what penalty or sanction is to back it up?
- c whether any legal provision is to be taken to override the normal constraints (like appeal to the courts on the legality and fairness of particular cases) so as to make the penalty or sanction easier to apply?

7.6q The report proposes further study of the idea of clarifying the obligations of managers in relation to industrial action. The idea would be to make it clear in writing to unions and staff that, while industrial action is always a fundamental breach of conditions of service, it is particularly inconsistent with the duties of higher levels of responsibility and would therefore be liable to down-grading or some other penalty. There are many difficulties - both legal and practical - about this approach, but it is worth further consideration because it is directly addressed to the question of the loyalty of managers which is crucial to so many aspects of this whole problem. If this recommendation is approved, the Treasury will organise the necessary study.

SECRET AND PERSONAL
MANAGEMENT IN CONFLICT

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b what penalty or sanction is to back it up?

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6. Contingency Planning (Section 6)

Summarised in 7.7

Departments contingency plans generally worked well. All departments have reviewed them, and various improvements are in hand. The round of bilateral discussions between Treasury and departments is well advanced. One of its objectives is to provide the Chancellor with overall assessment of the strategic implications of the nature and limitations of the contingency plans as a whole.

Revenue and Customs will also put separate submissions to Treasury Ministers on their plans.

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Revenue and Customs will also put separate submissions to Treasury Ministers on their plans.

On the main points in the Chancellor's minute of 9 November to the Prime Minister -

i TRD

TRD has been thoroughly reviewed. It worked reasonably well except (as in Inland Revenue) where local managers withheld co-operation. The report recommends that departments with numerous local offices should consider how the TRD procedures might be administered in the future.

ii Suspension without pay

MISC 65 concluded that legislation of this kind would not be practicable in advance of a major industrial dispute with effects going well beyond those felt in 1981, but that the necessary legislation (in the form of amendments to the contingency legislation for lay-off? could be prepared quickly.

iii Other weapons

The Chancellor's minute made recommendations about check-off; and lay-off legislation. The report recommends that the question of check-off should be raised with the unions. It recommends that the draft lay-off legislation should be retained as a contingency measure a wider lay-off power is now being reconsidered in the context of the Employment Bill).

iv Coordination and cooperation

The Chancellor's point that departments in the front line should be given the support and cooperation of all parts of government is picked up in paragraph 4.1.

v Communications and publicity

Thoroughly reviewed in 3.6-3.9

ANNEX

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v Communications and publicity

Thoroughly reviewed in 3.6-3.9

24/2/82.

LESSONS FROM THE CIVIL SERVICE DISPUTE

1. The brief is a fair enough summary of how matters stand. But frankly it leaves one with a feeling that not very much has been accomplished or that we should be in better shape to fight another strike, should one occur. There is still, in Sir Robert Armstrong's covering minute, an excessive regard for the effectiveness of TRD - "a weapon well tried and refined ...". In fact where it mattered most - in the Inland Revenue - it was not all that effective in the sense that it neither seriously restricted the area of industrial action nor did it bring the revenue in. I agree we need to go on working away at improving it. But we would be foolish to put too much weight on it.

2. Some useful improvements have been made or proposed in the collection machinery for both the Revenue Departments. But they fall far short of ensuring that our position next time will be significantly better than last time. So far we have failed to find anything which could remotely be considered a breakthrough.

3. I suppose it is the inherent imbalance between the State and its employees, the extreme vulnerability of the State and the corresponding protection enjoyed by the employee because the State, even more than the nationalized industries, cannot simply fold up which leads so many other Governments in one way or another to outlaw strikes by their employees. I think we make far too much of the difficulties. We have at present no great difficulty in recruiting the great majority of staff we need and it should be perfectly feasible either by law or by contract to hire people only on a no strike basis (what is said in the brief that "strikes in this country are already illegal as breaches of contract" is right neither in law nor in fact -

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

incidentally some unions do in fact give proper notice of termination of agreements or refuse to enter into a new agreement).

Of course what does need to be recognised is that you cannot use a "no strike" provision to enforce unsatisfactory terms of service. It is only if the terms of service are satisfactory so that the job is an asset which the striker risks losing that it will work.

A C
24 February 1982

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

*For Thursday meeting with the
PM: You may like to read over the brief
(Good to read brief)*



FROM: Minister of State (C)
DATE: 26 February 1982

CHANCELLOR

cc Minister of State (L)
Sir D Wass
Mr Le Cheminant
Mr Gilmore
Mr Pearce
Mr Allan
Mr M Buckley

Sir L Airey
Mr Gracey
Sir D Lovelock

L. J. W.

LESSONS FOR THE CIVIL SERVICE DISPUTE

I commend the attached brief by Mr Gilmore for the meeting with the Prime Minister. This covers the ground thoroughly. I also attach comments by the Minister of State (L).

I would like to emphasise two points. First, the crucial importance of retaining the loyalty of middle and senior management. We risk losing this if they see us discriminating against the Civil Service either in terms of the amount of the pay awards we make or, no less important, if we seek legislative authority to impose new sanctions.

Secondly, I believe that no strike arrangements are mainly an illusion. A price has to be paid for them. When conditions of service are satisfactory they are unnecessary, and when conditions of service are unsatisfactory such arrangements will not hold. There is a great deal of difference between trying to introduce no strike arrangements where there is a tradition of strike action as a last resort and maintaining them in areas where they are long accepted, such as the police. Perhaps there is a limited place in areas where national security is involved but the emphasis must be on the limited character of such arrangements.

BH.

BARNEY HAYHOE

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

6
handy?
P-10
sent 1/3



EXCHEQUER	
REC.	1 MAR 1982
ACTION	Mr LE C... ..
COPIES TO	MS (c)
	MS (i)
	Sir DUA
	W
	Ph...

W HANSTON
A R... ..
Sir L. ARMY
Sir D

MO 20/17/6

1/3/82

PRIME MINISTER

LESSONS FROM THE 1981 CIVIL SERVICE DISPUTE

I welcome the discussion on 2nd March on the report by officials and Sir Robert Armstrong's covering minute.

2. Defence has its own special problems. By our organisation we are very dependant on civilians (110,000 industrials and 110,000 non industrials) across the whole defence spectrum including key operational areas. Such an arrangement has many merits, notably financial. But I am sure we need to take further steps to provide better insurance against industrial action.

3. Some we can do ourselves, including the use of Service personnel where possible. But these are limited. The papers before us mention two other areas to which, looked at in defence terms, I would attach more importance, notwithstanding the problems they entail, than is given:

a. firstly we have sharp experience of how the withdrawal of a few non-industrials can invalidate a large industrial force and the rest of the non-industrials. TRD is no solution. The power to lay off all the non-industrials without pay - as we can do for industrials - would pose the staff and Unions with a greatly heightened dilemma. I accept the dangers set out in Paragraph 7 of Sir Robert Armstrong's note but I suggest there are also advantages. I understand that the Australian Government took powers of this sort limited to Commonwealth employees in 1977;



b. there is a very strong case for a "no-strike" rule in defence. Legislation is one possible way. I would certainly not want to try to buy it by agreement as that simply opens the Department to blackmail. But I should like to see more thought given, in parallel with the invitation to the Megaw Committee, to a system whereby staff, when offered promotion to management level, had to accept as a condition of the higher rank a "no-strike" undertaking. In such circumstances the penalty could be reversion rather than dismissal.

I am copying this minute to those Ministers who are attending the meeting tomorrow.

JW.

Ministry of Defence

1st March 1982



•

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE



From: P S JENKINS
1 March 1982

cc Minister of State (L)
Sir D Wass
Mr Le Cheminant
Mr Gilmore
Mr Pearce
Mr Allan
Mr M Buckley

Sir L Airey
Mr Gracey
Sir D Lovelock

MINISTER OF STATE (C)

LESSONS FOR THE CIVIL SERVICE DISPUTE

The Chancellor has seen your minute of 26 February covering the brief prepared by Mr Gilmore for the meeting with the Prime Minister tomorrow on the report of the official group (MISC 65) and the Minister of State (L) minute of 24 February. He was most grateful, and found the brief useful and concise.

PS

P S JENKINS

SECRET

PERSONAL, MANAGEMENT IN CONFIDENCE

EXCHEQUER

part/ 2/3



10 DOWNING STREET

3 MAR 1982

ACTION	Mr Lfr C... ..
	MST (c)
	MST (i)

From the Private Secretary

2 March, 1982

Sir D. W.M.
 Mr B.T. G... ..
 Mr PHAN... ..
 Mr B... ..
 Sir C. An... ..
 Sir D. Lock... ..

Dear John,

Lessons from the 1981 Civil Service Dispute

I attach a note of a meeting held here this morning, at which Ministers discussed the report by the Official Group on Lessons from the Civil Service Dispute (MISC 65) circulated under cover of Sir Robert Armstrong's minute of 11 February.

I am sending copies of this letter to David Omand (Ministry of Defence), David Clark (DHSS), Jim Buckley (MPO), Barnaby Shaw (Department of Employment), Jim Nursaw (Attorney General's Office), Adrian Carter (Mr Hayhoe's Office, HM Treasury), Gerry Spence and David Wright (Cabinet Office).

Yours sincerely,

Michael Scholar

John Kerr, Esq
HM Treasury

10 DOWNING STREET,

WHITEHALL S.W.1

With apologies - this
should have been
attached to Michael
Scholar's letter of
2 March

*With the Private Secretary's
Compliments*

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

NOTE OF A MEETING HELD AT 10 DOWNING STREET ON TUESDAY 2 MARCH 1982 AT 10.30AM
TO DISCUSS THE LESSONS FROM THE 1981 CIVIL SERVICE DISPUTE

Present

The Prime Minister
Chancellor of the Exchequer
Secretary of State for Defence
Secretary of State for Social Services
Chancellor of the Duchy of Lancaster
Secretary of State for Employment
Attorney General
Minister of State, Treasury (Mr Hayhoe)
Mr Ibbs

Sir Robert Armstrong
Mr P L Gregson

The meeting had before it the report by the Official Group on Lessons from the Civil Service Dispute (MISC 65) circulated under cover of Sir Robert Armstrong's minute of 11 February.

The Chancellor of the Exchequer said that the report contained lessons both about avoiding industrial conflict in the Civil Service and about preparing for and dealing with such conflict if and when it occurred. Under the first heading there were some useful strategic insights, notably the need for Ministers to give adequate attention to their role as employer and manager of the Civil Service. Under the second heading there were recommendations which he supported about organisation during a dispute and about the review of departmental contingency planning, and also some detailed conclusions and recommendations about management responses to industrial action, which he endorsed. In particular there was a need to overcome the operational difficulties where local managers were unwilling to apply the procedures for Temporary Relief from Duty (TRD). It would not be right to introduce

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

Cabinet Office

Whole Document

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

legislation to permit lay-off without pay for the Civil Service alone. It was desirable to consider the discontinuance of check-off facilities in the event of industrial action. There should also be further study of taxing strike pay, management ballots and clarifying the obligations of managers. He agreed that "no-strike" agreements were not worth pursuing, with the possible exception of certain specialised groups of staff, for example in the Ministry of Defence.

The following points were made in discussion:

a. Although it was undesirable to introduce legislation about lay-off without pay for the Civil Service alone, further consideration should be given to introducing such legislation on a general basis. It was however a radical step since it would enable employers to override contracts which had been freely entered into. It would be necessary to consider whether lay-off without pay should apply only when staff were without work because of industrial action taken against their own employer or when they were without work because of any industrial action. There was also a problem of timing; it might on balance be better to introduce such legislation as an act of deliberate policy rather than on an emergency basis in response to a major industrial dispute. The merits of the proposal, and the precise provisions of the Bill which had been drafted on a contingency basis last year ought to be re-examined.

b. A major lesson of the report was the key role played by middle managers. It was not only desirable to redefine obligations and conditions of service; there had to be a major effort to capture the loyalty of staff at all levels. The Treasury and the Management and Personnel Office would be tackling the different aspects of the problem.

c. The report (paras 5.36 and 5.37 and recommendation 5.77(g)) had proposed no change in the practice of not recording on the personal files of staff whether or not they took industrial action. It was however important that this consideration should be borne in mind in

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE

considering candidates for promotion, at any rate to posts with managerial responsibilities. On the other hand the settlement of the 1981 dispute, like most settlements of disputes, included a "no victimisation" clause. This issue needed to be looked at further; the best course might be to ensure that the personal files of those who had performed particularly well during an industrial dispute should be noted appropriately.

The Prime Minister, summing up the discussion, said that the MISC 65 report was generally endorsed and in particular the recommendations on morale and communications in part 3 (which were in part already being implemented), the recommendations on organisation in part 4, the recommendations in part 5 for further action on the discontinuance of "check-off" facilities, the taxation of strike pay, management ballots, and clarifying the obligations of managers, and the recommendations in part 6 about the review of departmental contingency plans. The Treasury, in consultation with the Management and Personnel Office, should re-examine the case for including in personal files information about whether an individual had taken industrial action, or had performed particularly well during an industrial dispute. Ministers would need to look again at the case for legislation to permit the lay-off without pay of those who were without work because of industrial action.

The meeting -

1. Invited the Chancellor of the Exchequer, in consultation with other Ministers as necessary, to arrange for the implementation of the proposals in the MISC 65 report, in the light of the Prime Minister's summing up.
2. Invited the Secretary of State for Employment to circulate a paper reviewing the case for legislation on lay-off without pay in the event of industrial action, (to apply generally, and not to the Civil Service alone), and explaining the detailed scope of the draft legislation prepared in 1981.

2 March 1982

3

SECRET AND PERSONAL
MANAGEMENT IN CONFIDENCE



Permanent Secretary
H M TREASURY

Chancellor

The paper does not deal
with who the non-executive
members of the board should
be. But we thought, in a
board of six, they might be

Jack Vander Weegen
Sidney Proctor
Douglas Mervin

I have asked Tony Wilson
to have a word with David
Hobson in the Policy Unit
who was asking about
the proposals on auditors.

Em
24/10.

The key papers are in the 181
3 orange folders, both reads.



Ch/

Richard's aide memoire
on housing is in the
Keith Joseph folder.

Note there is some
uncertainty about whether
the Fri's 5:45 meeting will
be a break-up meeting for
Celmer (+ B housing) or a
plenary. Presumably the former
unless you register a strong
vote. Rh. 5/11



PRIVATE SECRETARIES TO MINISTERS)
PERMANENT SECRETARIES)
DEPUTY SECRETARIES) Copy to each
UNDER SECRETARIES)
MR P. G. DAVIES)

SPECIAL ADVISERS

1. Although the arrangements for the organisation of the Special Advisers' activities are working well, it may help the Department to have a little more detail about their respective responsibilities. The Chancellor has approved this notice and would be grateful if it could be brought to the attention of all divisional officers.
2. In some cases papers are being copied unnecessarily, in others not sufficiently. On many specified issues suitable arrangements have already been worked out ad hoc e.g. Mr. Cropper has primary responsibility for liaising with Mr. Macrae and Mr. Unwin about the Chancellor's speeches. Mr. Ridley has a special interest in PAYE computerisation, and Mr. Cardona in BNOC. This note is intended to supplement rather than to replace such arrangements.
3. Broadly speaking the division of labour and interests amongst the Advisers is as follows.

Mr. Ridley

Major strategic issues of particular concern to the Chancellor. Liaison with Conservative Party Central Office and Research Department over matters of publicity and presentation.



Mr. Cropper

Tax and related policies. Liaison with Private Offices and officials on Ministerial tours and speeches. Relations with the Westminster and European Parliaments.

Mr. Cardona

Expenditure and related policies.

4. The presumption should be that at least one Adviser should receive a copy of any submissions to Ministers, and any outside correspondence. In doubtful cases the copies of submissions should be directed to them on the basis indicated in the attached table, which is not intended to be exhaustive. "Staff-in-Confidence" and similar papers are obvious exceptions to these provisions. Where issues of political or presentational interest arise, it is, of course, very helpful if Advisers can receive some kind of early warning, whether on paper or by word of mouth, before submissions are made to Ministers. In effect -

(a) All three Advisers should receive submissions to Ministers on broad macro-economic questions, forecasts and on major Treasury initiatives. Obvious examples are the Budget as a whole (as opposed to the details of a particular tax change), or the Public Expenditure White Paper (as opposed to a single expenditure programme).

(b) Submissions on monetary policy, overseas financial questions and the sale of assets should be copied to Mr. Ridley and Mr. Cardona.

(c) Detailed submissions on taxation and the Finance Bill should go only to Mr. Cropper except where they raise major questions of principle.



(d) Submissions on the more detailed aspects of particular public expenditure programmes should go only to Mr. Cardona, except that papers on arts and heritage and National Health Service should also go to Mr. Cropper, while those on Social Security should, as a rule, go to all three Advisers.

(e) Papers on institutional questions (e.g. pension funds, financial institutions, Wilson Committee, Stock Exchange, etc.) should go to Mr. Cropper and Mr. Cardona.

(f) Parliamentary matters (Luxembourg and Westminster) should go to Mr. Cropper.

5. The Special Advisers have asked me to remind Divisions that they are always happy to be consulted about submissions before they are made. They are, of course, able to advise on the technical interpretation of the Manifesto and other policy statements, provide relevant quotations and in general help with background guidance on policy work undertaken in opposition. There are sometimes occasions on which a careful consideration of the political background to an issue can greatly affect or even short-cut time-consuming work on matters of substance.

A handwritten signature in dark ink, appearing to be 'M.A.H.', written in a cursive style.

M. A. HALL
15th January 1980



	<u>Ridley</u>	<u>Cropper</u>	<u>Cardona</u>
Macro-economic - Strategy and forecasting	*	*	*
- Detail	*		*
Major initiatives, eg Budget as a whole, Public Expenditure White Paper	*	*	*
Social Security	*	*	*
Taxation - Strategy	*	*	*
- Detail incl wider share ownership		*	
- Finance Bill		*	
Arts and Heritage		*	
EEC fiscal affairs incl Budget		*	
Parliamentary matters incl Select Committees; European Parliament		*	
Industrial policy	*		
Nationalised industries	*		
Overseas finance, Exchange Control and EEC non-fiscal	*		*
Monetary policy and pay	*		*
Sale of assets	*		*
Public expenditure - Detail			*
Local Authority issues and rates			*
Financial institutions, Wilson Committee, etc		*	*

11

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data.

In the second section, the author outlines the various methods used to collect and analyze the data. This includes both primary and secondary data collection techniques. The primary data was gathered through direct observation and interviews with key stakeholders. Secondary data was obtained from existing reports and databases.

The analysis phase involved using statistical software to identify trends and correlations within the data. The results show a clear upward trend in the number of transactions over the period studied. This is attributed to several factors, including increased market activity and improved infrastructure.

The final section provides a summary of the findings and offers recommendations for future research. It suggests that further studies should focus on the long-term sustainability of the current trends and the impact of external factors on the data.

10, I VNING STREET,
WHITEHALL S.W.1

Circulation please

*With the Private Secretary's
Compliments*



10 DOWNING STREET

From the Private Secretary

5 March 1980

CH/EXCHEQUER	
REC.	- 5 MAR 1980
ACTION	
COPIES	
10	

I told you on the telephone that the Prime Minister would like to have a word with the Chancellor, the Home Secretary, Mr. Channon and Sir Robert Armstrong this afternoon about Civil Service pay and manpower. I enclose a copy of a minute from Mr. Channon which the Prime Minister would like the Home Secretary and the Chancellor to see before the meeting.

I am sending copies of this letter to John Wiggins (with enclosure) and Geoffrey Green (without enclosure), with the request that the Chancellor and Mr. Channon should come to No. 10 at 3.20. The Home Secretary and Sir Robert Armstrong will already be here on other business.

A copy of this letter also goes to David Wright (Cabinet Office).

W. A. PATTISON

J.A. Chilcot, Esq
Home Office.



SECRET

PRIME MINISTER

CIVIL SERVICE PAY AND MANPOWER

At Cabinet last Thursday I was asked to explore the scope for avoiding a breakdown over pay with the Civil Service Unions.

Yesterday I had very private and separate consultations with Mr Kendall (Secretary General of the National Staff Side), Mr Gillman (Chairman of the National Staff Side and General Secretary of the SCPS, representing junior and middle management grades) and Mr Thomas (General Secretary of the CPSA, representing Clerks and other junior office staff). These two Unions are the largest in the Civil Service, comprising some 60% of the non-industrial Civil Service. They had all read the article in last Friday's Economist and were assuming that the cash limit would not differ markedly from the 14% already established for other public service groups. They were critical of what they assumed to be our action in setting such a cash limit. It was pointed out that we had said in our Manifesto that we would reconcile pay research with cash limits. How was this reconciliation to be done? They urged me strongly to bridge any gap with a manpower squeeze. Although they obviously cannot say this publicly, and will make ritual protests, it is clear that, in the circumstances, this is their preferred course. They may well brief the press privately that we have been soft on numbers.

As you know, we estimate that the minimum average overall increase we could hope to defend, if need be at Arbitration, as consistent with the pay research evidence, is about 18 $\frac{3}{4}$ %. The Union pay targets are, of course, somewhat higher. Those I have consulted, however, recognise the difficulties we face and privately agree that they would have to make some contribution to a solution. That explains their lack of hostility to manpower cuts.

All three Union leaders were opposed to staging to a greater or lesser degree, Mr Thomas in particular contemplating the possibility of a marginally smaller settlement if staging could be avoided.

None of them could guarantee to deliver their committees and member-

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ship. My impression was that if we do have to impose some modest degree of staging they are unlikely to try to mount a real trial of strength with the Government. But we shall certainly have to refuse them arbitration on the staging point, though not on the amount. We can only speculate about the attitude of the other Unions. If I had consulted more widely, it would almost inevitably have leaked.

We must accept, however, that the IPCS, with whom we had a major arbitration battle last year, will cause difficulties. Christopher Soames and I spent a great deal of time last summer urging them to arbitration on pay levels. This summer, we will be stopping any Unions who want to go to arbitration on staging!

The Prison Officers Association may also be a sensitive area. They were disappointed with the pay outcome of the May Committee last year and may not readily accept staging this year. The Home Secretary may have views on this.

Even a modest degree of staging is of course a breach of the Pay Agreements. It is impossible to be precise about the point at which the row about breaking the Agreements would be accompanied by serious industrial action. With even a minor breach, the Unions would make a moral issue of our failure to honour our Agreements with them.

In the light of these talks, I am clearer than ever that we should go for the largest possible manpower squeeze we can get. I would like to go for more but it seems to me from the Cabinet discussion last week that $2\frac{1}{2}\%$, with some small exceptions, is the most we can get - ie rather less than $2\frac{1}{4}\%$ net. This is significantly short of the 3% squeeze that I told Cabinet would offer any real hope of a negotiated settlement though the outcome would be uncertain even at that figure. Some degree of staging is therefore almost certain to be necessary and we must be prepared to accept the consequences.

We must now not delay further in making a decision about the manpower squeeze. I hope we can avoid a situation in which all our colleagues

argue that they should be exempted. Otherwise we shall get nowhere.

No
More
Complete exemption is probably necessary for Home Office and Scottish Office prison staff, and for the Northern Ireland Office. It might be sensible to restrict the cut in DHSS and Department of Employment to 2%. This would reduce the net reductions to about 2 $\frac{1}{4}$ %. In addition, there may be a case for restricting the squeeze on the Foreign Office to about 1%. (Because extra staff are needed in the Passport Office, this would mean a cut approaching 2 $\frac{1}{2}$ % in the rest of the Foreign Office.) We should also need to exempt a number of small departments mainly in the law and order field. In total this would reduce the overall squeeze to 2.2%.

We need to get on urgently with the detailed negotiations with the Unions. Subject to your agreement I will authorise my officials to begin negotiations with the Unions on the basis of the pay research evidence, but within the cash limits agreed at Cabinet last week. The Unions will need to be told what these are. It will also be necessary to make clear at the outset that if some degree of staging proves necessary to keep within the cash limits arbitration will be denied on that issue but not on the amounts. The usual undertaking that pension entitlements will be protected from the effects of staging may help to diminish the potential row about the breach of the Pay Agreement.

I should be grateful to know whether you are content that I should proceed on this basis. Would you perhaps like to discuss this again with the Home Secretary, the Chancellor of the Exchequer and myself, as we did last week?

I am sending a copy of this minute at present to Sir Robert Armstrong only.

P.C.

PAUL CHANNON
4 March 1980

*In M. Her. LHM
a water negotiator*

FROM: P LE CHEMINANT
21 December 1982

CHANCELLOR OF THE EXCHEQUER

cc Chief Secretary
Minister of State(C)
Sir Douglas Wass
Mr Bailey
Mr Wilding
Mr Pearce
Miss Sinclair

CIVIL SERVICE PAY IN 1983

✓ This note sets out some preliminary thoughts on how we might handle the non-industrial Civil Service pay settlement due on 1 April next. When we have a "Treasury" view you will need to consult colleagues. But as a first step you may care to discuss with us on the basis of this note.

The Union Attitude

2. With the special pay conferences out of the way the shape of the Unions' pay claim is becoming clearer. It is likely to be for an across-the-board increase of £12 per week or 12 per cent whichever gives the best result to the individual (though an alternative version is in currency stating the aim as £8 per week plus 5 per cent). The final shape of the claim will not be known until after the meeting of the Council of Civil Service Unions scheduled for 6 January.

3. It goes without saying that the leaders of the individual Unions do not expect to reach a settlement at anything like these levels. But a high claim is necessary to bind the disparate elements together; a significant proportion of the elected Executives of the Unions (on which the militants are more than adequately represented) actively want to pose a challenging claim which alone can justify their rhetoric about the past; and the Trots among them actively want confrontation and dispute for its own sake.

4. It is relevant that some (otherwise quite sane) Union activists assume that the Government, too, is positively seeking confrontation and dispute in 1983. On their reading the Government deliberately chose the $3\frac{1}{2}$ per cent cash factor and applied it only to the Civil Service in order to provoke trouble

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and to provide a means of hanging another Union scalp on its belt before the election.

5. The mood of the troops is jumpy and uncertain. The silent majority would (as always) prefer a quiet life. But many civil servants regard their employer as actively and aggressively hostile to them. There are also signs that, as inflation falls, the focus of disaffection is shifting from pay to job security, increasing burdens placed on staff by cuts in manning levels and, to a lesser extent, the loss of prospects for promotion. These are more emotive issues than pay as DHSS' current experience in Birmingham is showing.

6. Putting all these factors together in an election year would normally provide us with an explosive mixture. On the other hand few Union activists believe they could actually win a confrontation with Government and, I suspect, even fewer believe the mass of the Service would follow them if they tried. The recent concentration of the moderates on the procedures for consulting members before strike action is particularly relevant here. And, of course, if the worst comes to the worst we are better placed to win than we were in 1981. Not only have we overhauled our contingency plans (though these can never be more than a palliative) but we now have available the new powers of this year's Employment Act and, because of the changes on which we insisted in the Facilities Agreement earlier this year, we will have, from 30 April next, the right to stop "check-off" of Union dues in any major industrial dispute.

The Government's Position

7. We have a $3\frac{1}{2}$ per cent cash limit which might perhaps, in the event, accommodate a settlement around 5 per cent on average. On the other hand, given that the 1983-84 component of the NHS settlement is $4\frac{1}{2}$ per cent it would be presentationally difficult to settle with the Civil Service above this figure. And whatever happens we must have a settlement below last year's 5.9 per cent. At the same time we need to recognise that this year the repercussions of a Civil Service pay settlement on the rest of the public services will be minimal - and in cash terms half percentage points either way are of relatively little significance.

Tactics

8. It is too soon to decide our tactics in detail - not least because we do not yet know how the pay round is shaping nor will we have, until mid-January, the results of the work which Hay is doing for us (and which could be of major importance in shaping, and justifying, our pay offer). Nevertheless in my view certain basic elements are clear. First, we need to be actively and sensibly in business with our Unions over a wide front while the pay negotiations are in progress. We need also to be showing a "human face" to the troops. The importance of the 1983 pay settlement in a "pre-Megaw" year must be diminished. We have quite a lot going for us here. For example:-

- a. We have reached a negotiated settlement on London Weighting.
- b. We have launched the season ticket loan scheme and the "buy out" of weekly pay.
- c. We are nearly ready to launch the private medical insurance scheme on quite attractive terms.
- d. We may be just about to conclude an agreement with the Unions on revised, and much simplified, arrangements to determine eligibility for annual leave, subsistence allowances and so on.
- e. We have "accepted" Megaw as a basis for negotiation and will be heavily involved in those negotiations as the pay argument unfolds.
- f. We will soon be making proposals to Ministers about shifting the Civil Service pension scheme to a contributory basis. There is a real possibility that we may have entered into negotiations on this too before the crunch arrives on pay in 1983.
- g. We will be, hopefully, announcing in January our willingness to spend more on Civil Service catering in the context of a post-Rayner reorganisation of CISCO.

9. Taken together these elements represent a formidable commitment of management input to improving and revising the terms and conditions of service of civil servants. Some of them will keep the Union officials very busy in detailed negotiations with us over the months ahead. And all of them should show our staffs that there is useful and fruitful business to be done with their

employer outside the confrontational framework of pay bargaining.

10. The second judgment I would make is that it would be highly desirable this year for our pay offer to be as simple as the circumstances allow. Not only are we in an interim phase with Megaw but the sum of money available to us does not leave much scope for sophistication. Moreover, if the aim is for a quiet settlement within the limits of the possible the less divisive the offer the better.

11. Third, and despite the overall need for simplicity, there are at least two small, but useful, "goodies" which we could throw into the pot. These are:-

a. An offer to promote "unified pay" at Assistant Secretary and Senior Principal level across professional boundaries. At the moment we have some 8,000 staff at these levels sharing some 150 different rates of pay between them. The differences are not large (the Scientists fare worst) and there are strong management reasons for a radical simplification. We are discussing the possibilities with departments and will be making specific recommendations soon. The cost would be minimal (perhaps as little as £200,000 in the first year) and the gains in terms of management flexibility, simplification and - perhaps most important - opening the way to later unified grading (on open structure lines) would be considerable. And in terms of the 1983 pay settlement action here would be very attractive to the IPCS whose members are the main "losers" from the present arrangements.

b. A similar offer to move towards rationalisation of the present age-related pay points on which many youngsters are recruited. There are some notable absurdities in the present system - legal assistants have age-related pay up to the age of 31! - and while it may not be possible to achieve total rationality an expressed willingness to consider reform could usefully engage the interest of the Unions and some of their members.

The Options

12. A final decision on the shape and size of the pay offer we make, and the settlement we seek, depends critically on two things: the Hay study (which may show that the pay of some of our

full year?

employees is markedly out of line with the market); and the development of the pay round over the next 6 weeks or so. But subject to this the options open to us are:-

a. Straightforward old-fashioned free collective bargaining where both sides try and reach acceptable middle ground in the light of outside developments, an assessment of each other's relative strengths and weaknesses in a punch-up and, at the end of the day, cold calculation of costs and benefits.

b. The same process with the addition of recourse to arbitration (with or without Parliamentary override).

c. A "dummy run" on Megaw where we would seek to establish the inter-quartiles of current private sector pay increases (perhaps with the help of consultants) and then offer to allow arbitration within those limits but not outside them. We could not of course do a full-scale "Megaw" operation (with 15 pay bands and all that) but a simplified "one-off" operation might be possible. Whether this route might be desirable would depend very much on how soft a touch the private sector proves to be in the period up to, say, March.

13. In all of this we would also need to bear in mind the possibility of launching a management ballot at the appropriate moment. Judgments on this possibility must however be reserved until we see how matters develop.

Assum



P LE CHEMINANT



FROM: H J BUSH

DATE: 22 DECEMBER 1982

PS/CHANCELLOR OF THE EXCHEQUER

cc: PS/Chief Secretary
Sir Douglas Wass
Mr Bailey
Mr Le Cheminant (o.r)
Mr Wilding
Mr Pearce
Miss Sinclair

CIVIL SERVICE PAY IN 1983

The Minister of State (C) has seen Mr Le Cheminant's minute of 21 December and is attracted to option C in para 12 as the general basis of our 1983 approach. However, it needs to be examined and discussed.

? L.P.S
to Com


H J BUSH

