

AUTHORITY OF GOVERNMENT GROUP REPORTTerms of Reference

1. We have interpreted our remit as calling on us to submit suggestions on two related questions:-

(1) How can a Government avoid getting into a situation in which its authority, even when backed by Parliament, is put at risk?

(2) If it cannot or does not succeed in avoiding such a situation, how can it deal with such a crisis of authority?

Summary of Recommendations

2. (A) The scope for constitutional reforms to strengthen the overstrained authority of government needs to be seriously investigated. Suggestions for doing so - even if only by circumscribing the powers of government - are not lacking but we have not felt ourselves competent to undertake the constitutional review that would be involved in their assessment (paragraphs 4 - 7).

(B) Above all a new attitude needs to be generated in the government machine. We believe that what would effectually be a new Unit needs to be established in Whitehall both to take steps to reduce the risk of a crisis before any crisis occurs and to deal with a crisis if it does occur (paragraphs 8 - 13).

(C) The Unit should be developed by building on the base of the two existing bodies - the Ministerial Committee on Emergencies and the Civil Contingencies Unit. For presentational reasons we believe this would be the best way to do so (paragraph 13).

(D) The Unit should be headed by a Senior Cabinet Minister with the requisite authority and preferably not too heavily burdened with other departmental duties (paragraph 11).

(E) The Unit should consist of a kernel of permanent staff of high calibre trained in crisis management and free to draw in from the Department high grade officials with the relevant experience and expertise as required (paragraphs 11 - 12).

(F) One of the Unit's first tasks would be identify the areas of vulnerability (paragraphs 14 - 15).

(G) The Minister in charge of the Unit should have access to intelligence reports about subversives (paragraph 16).

(H) The state of industrial relations in the areas of vulnerability are of crucial importance. Many of these are nationalised industries where industrial relations suffer from the confusion of the respective responsibilities of government and Board. As far as possible these responsibilities should be clarified and where the problems arise from government policies, scope for greater flexibility should be introduced into the government's negotiation procedures (paragraphs 17 - 18).

(J) The physical facilities in the key areas should be modified to reduce their vulnerability to strike action. In particular security of supply should be considered in every major investment decision. The cost should be weighed as an insurance premium against the risk (paragraphs 19 - 20).

(K) When a crisis occurs a greater part of the relevant responsibility for managing the crisis should be channelled through the Unit so as to secure a better co-ordinated single chain of command (paragraphs 21 - 23).

.../ (L) The

(L) The government must distinguish between strikes that may be economically damaging and those whose effects are so intolerable as to be a challenge to its authority. In the latter the whole government machine must be mobilised to ensure that the public is made fully aware of what is at stake and satisfied that every reasonable attempt has been made to meet any element of justice in the challengers' case (paragraphs 24 - 25).

(M) This task would be facilitated by improvements (which may be desirable in any case) in the organisation of the government information services. A Minister in charge of these services would probably have been able to avoid some of the mistakes of public presentation that occurred in 1973/4 and would obviously work closely with the Head of the Unit we propose (paragraph 26).

(N) Opinions are divided about the scope for the use of volunteers and troops. The main requirement is the creation of a climate of opinion where their use is unlikely to lead to an escalation of the conflict. The best use of volunteers is probably in supporting roles releasing police for more crucial duties (paragraphs 27 - 29).

(O) Although by no means a panacea, under certain conditions the authority of government in a crisis situation could be strengthened by a referendum on the issues (paragraphs 30 - 31).

Witnesses Consulted

3. In the course of some eighteen meetings we have met and discussed the problems with a number of people. These included Permanent Secretaries (since retired) who occupied key positions

in 1972-4 and also colleagues who (in common with several members of this Group) occupied Ministerial positions in the last Conservative Government intimately concerned with the emergencies of that period as well as representatives of the electricity supply, water, gas, docks and oil industries and the CBI.

The Constitutional Background

4. In our discussions and in this report we have concentrated on challenges to the authority of Government by organised groups of workers, since this was the form which the challenge took in this country in 1973/4 and since it poses the main credibility problem which will face the Conservative Party at the next General Election. But it would be misleading to suppose that it is only trade unions who could challenge the authority of Government. Recently there have been a series of confrontations with groups of protestors at planning enquiries (the leadership of which has been by no means solely working class) and if collective action by tax-payers or rate-payers were ever to achieve the degree of solidarity associated with official industrial action, the orderly collection of public revenue would become impossible. Events in Northern Ireland demonstrate an even more obvious challenge to the authority and legitimacy of government and it is not beyond the bounds of possibility that challenges to orderly government might occur in Scotland if the situation there should deteriorate. We are convinced that the government could win out in more challenges to its authority than it has done in the past and we suggest means of improving the government's performance in this type of crisis. But we also recognise that in a highly interdependent society with specialised roles, there will always be groups with the power successfully to challenge government. In these cases the only possible course is for government to avoid confrontations. In the last analysis,

the authority of Government in a civilised country rests on a thin shell of belief which lawyers call "legitimacy" and political theorists call "consent", but which in practice includes quite an element of bluff. Yet civilised Government depends upon maintaining the shell.

5. The responsibility for doing so rests primarily with politicians and, of course, political skills are crucial to the endeavour. Nonetheless it is sheer escapism to believe that the underlying problems would be magically resolved if only we had more charismatic political leaders or Governments more skilfull in the use of the media and of propaganda. These problems have much to do with the fact that the two-party system has been steadily crumbling over the years. From a situation in 1951 when nearly 80 per cent of the electorate voted for one or other of the two main parties, the proportion gradually declined from election to election until in October 1974 barely more than half the electorate so voted. As a result recent Governments have claimed authority to put through quite radical partisan measures on the basis of support at the polls by a third or less of the electorate. Partly because of the increased influence of political activists when Parties are in Opposition, and partly because of the mischievous doctrine of the mandate, the parties - and predominantly the Labour Party - have been committed to programmes and policies designed more to flatter their extreme supporters than to gain either general acceptance or public support. Government policies and the consequent legislation passed by Parliament have, therefore, come to look like partisan measures rather than reasonable new law to which "a deliberate assembly of judicious men" have consented. In these circumstances it is inevitable that increasing number of those affected by such laws will feel entitled to defy them.

6. Increasingly also Governments seem less concerned with legitimising their actions through Parliament than with securing the consent of the interests affected by private and confidential negotiations carried out by Ministers and officials in Whitehall with institutions whose claim to be representative are of varying degrees of validity.

7. Suggestions on how to deal with these underlying causes of the political malaise in Britain take us into fundamental constitutional questions. There is no shortage of ideas. These have included changing the voting system, strengthening the control of Parliament over the Executive, establishing some form of Bill of Rights and Supreme Court to administer it, importing the French practice of "droit administratif", reforming the House of Lords, making more frequent use of referendums, introducing some supra-national safeguard of fundamental human rights at European level, adopting a federal constitution with entrenched clauses - and a survey of the literature would probably yield several others. These constitutional remedies need to be examined and it is possible that the real answer to the question "how Governments can avoid crises of authority in the future" lies in fundamental reform of our political institutions. However, we have not felt competent to undertake the sort of constitutional review that such an examination would entail, and have confined ourselves to setting out a few practical guidelines.

1. Guidelines for avoiding a crisis of authority

1) Establish the appropriate machinery in Whitehall

8. The sort of economic disruption which we suffered in 1973/4 and which accompanied the three-day week should, with reasonable luck and good management, not occur more than once in a decade, but it is a risk which

cannot be wholly discounted. Reducing that risk requires that decisions taken when there is no immediate threat of crisis should be made with the reduction of that risk as a constant pre-occupation, that the development of potentially dangerous situations in key areas should be constantly monitored, and that contingency plans for dealing with an emergency should always be available.

Our principal recommendation is that the avoidance of this risk of paralysis from internal causes should be recognised as a primary objective and responsibility of government. The achievement of this objective will however require the creation of appropriate machinery for which we see two roles: first contingency planning in anticipation of an emergency and second dealing with an emergency when it occurs despite efforts to avoid it. We deal first (in paragraphs 9 - 20) with the work that needs to be done before an emergency and subsequently (in paragraphs 21 - 31) with the handling of an emergency once it occurs.

9. At present there are two relevant bodies in existence:- the Ministerial Committee on Emergencies and the Civil Contingencies Unit. Neither of these has worked satisfactorily in the past. The former is an unmanageably large committee chaired by the Home Secretary who may well have too many Departmental responsibilities to give this vital work the degree of priority which it requires. The latter is a smaller unit consisting essentially of officials, but chaired by a Minister during an emergency. Technically, it is a permanent body with a regular membership made up

of officials who are not full-time members of the Unit, but who occupy key positions in the relevant Departments.

10. We believe that the appropriate machinery requires a full-time staff both to monitor intelligence coming from the Departments (and other sources) and to prepare constantly up-dated contingency plans, somewhat analogous to the "War Book" kept by Lord Hankey which proved of considerable value in the General Strike of 1926. We believe that it should take the form of a high-powered Unit responsible to a Senior Minister, if only to demonstrate to the Civil Service the importance which the Government attaches to this aspect of its duties. The Minister in charge of the Unit would have to have the total confidence of the Prime Minister and be of sufficient standing to override inter-departmental rivalries. In consultation with the relevant Departments, the Unit should draw up contingency plans for the various key industries and the armed forces, the police and associated intelligence services should all contribute to these plans. We particularly emphasise the need for consultation with the police and co-ordination of their activities as there is some evidence that inadequate co-ordination of police activity was a contributory factor to the emergence of a crisis situation in 1972. Simply changing the atmosphere in Whitehall will make a material contribution to reducing the risk of a crisis and to dealing with a crisis should one prove inevitable.

11. Our view is that the existing machinery of Whitehall is weak on crisis management which incidentally

applies rather more widely than to the sort of crisis created by the coal miners' strike or other possibilities of confrontation with a powerful trade union. In our discussions we were struck by the difference in the attitude to contingency planning for a crisis situation between management in the public and private sectors (such as the oil industry). The representatives of private sector industries seemed to be more aware of the need and to have developed more careful plans for dealing with crisis situations of all kinds. Crisis management requires special skills and indeed there is almost a special technology applicable to it and we believe that it will require a special staff. One of the problems that would have to be resolved is the relationship of that staff to those officials dealing with the areas in which the crisis arose on a day to day normal basis. One of our witnesses maintained that in the 1973/74 coal miners crisis the shift to crisis management was too abrupt and left isolated not only the officials who had been dealing with relationships with the employers and unions concerned but also left in the dark the employers and union representatives with whom they had been in touch.

12. It is important to recognise that the establishment of a Unit of this sort will require staff of adequate calibre. Such a Unit would be useless unless it could attract civil servants of exceptional ability and to do this it must be clear to them that it will help rather than damage their career prospects. The sort of Unit we have in mind would have a small kernel of permanent staff but remain free to draw in from the departments additional staff with the relevant

experience as required. There is a chance that Departments might try to offload on to the Unit their less favoured officials and it would need to be made clear that the Unit was free to draw in high powered officials. The establishment of a Unit of this sort is likely to engender considerable opposition in Whitehall. However, it is of vital importance and the obstacles will not be overcome unless the Prime Minister attaches from the start sufficient priority to the objective.

13. We have given some thought to the public relations problems of establishing such a Unit. It would obviously be undesirable if one of the first things a new Conservative administration did was to set up special machinery to deal with another confrontation like that of 1973/4. At the same time it is quite unrealistic to expect that one could set up an entirely new and important unit and keep the fact secret. This is why we believe the right approach is to build on the existing machinery which, as mentioned in paragraph 11 above, can deal with a variety of different types of crisis. In effect what we propose would be quite different and much more far reaching in its implications than the existing Emergencies Committee and Civil Contingencies Unit and in this report we refer to it as a new Unit. Nonetheless it should be presented as no more than a strengthening of the existing machinery and thus attract less attention than setting up some totally new machinery from scratch.

.../ 2) Identify

2) Identify points of vulnerability

14. In order to be able to "hold the country to ransom" and thus exert sufficient power to challenge the authority of government, an organised group must have certain fairly specific characteristics. It must have an effective monopoly of some product or service that is essential to the life of the country. This means that the community as a whole must be vulnerable to a cessation of supplies within quite a short time. By far the most important of the groups having these characteristics are those in the power industries. The crucial role played by the Ballylumford power workers in the success or failure of the "loyalist" strikes in Ulster demonstrates this. However it would be a mistake to identify the areas of vulnerability solely with the power stations and their suppliers of fuel. A strike of the police force could in a different way create a comparable chaos. The threat will be greater if the group is largely impervious to the pressure of hostile public opinion, as, for example, the miners are but others are not. This is largely a function of the history, traditions and pattern of life of the group concerned. It must have special skills which are not available elsewhere in the community and which preclude the possibility of others - whether professionals or volunteers - being able to take over the work in an emergency. Although not invariably a necessary condition in challenging the authority of government many of these groups have the capacity either to resort to violence or to take action which can only be countered effectively by the use of an unacceptable level of force by the authorities. For example, senior

police officers at Saltley power station in 1972

decided in the interest of public order not to enforce the law against the NUM pickets.

15. Any modern industrial society is a highly inter-dependent organism, but all its parts are not equally vital or vulnerable. For example, a determined Government could resist a massive strike in the car industry, although with serious consequences for the balance of payments and future levels of import penetration, but it might have to capitulate to an all-out miners' strike or to a shut down of all power stations. The important thing is that all the vital and vulnerable points should be identified in advance and the fullest possible measures drawn up or implemented to safeguard their continued functioning or at least as far as this is possible. Some work on these lines has already been done but safeguarding the functioning of the whole organism needs to be seen as one of the primary responsibilities of government as important as the defence of the realm from foreign attack.

3) Make better use of the available material from intelligence sources

16 The Department of Employment already devotes considerable resources to the difficult and uncertain task of assessing overt political trends in the trade unions. Like any other form of political judgement, this can be wrong, but no special problems of secrecy or security are involved. Some secret intelligence work, however, is concerned with the activities of subversives.

The Government machine collects from both domestic and foreign sources intelligence reports about subversives in this country, but we understand that this material has not been used to any extent for over a decade now. While the use of this information clearly presents many problems both practical and constitutional we believe that it is necessary, at least, that the Minister in charge of the new Unit should have access to the information and be in a position to consider if necessary with his Cabinet colleagues how the information should be used.

4) Work for the best possible industrial relations

17. Methods of improving industrial relations are being considered by other policy groups and our concern can only be to emphasise the obvious point that in the key areas of vulnerability a good industrial relations climate is even more important than in industry as a whole and the Government has an even greater responsibility for seeing that it exists. We hope that the groups working on industrial relations will pay particular attention to these key areas including both positive measures and possible negative influences such as the effect of social security benefits to the families of strikers. In the cases with which we are concerned, the industrial relations position is generally complicated by there being three protagonists involved:- employers, trade unions and the Government representing the interests of the public as a whole. In nationalised industries the employer is often seen as a tool of government with the Board always threatened with

relegation to the role of go-between. Although this again takes us outside our terms of reference we hope that the policy groups considering the nationalised industries will consider whether there are any means of organising the finances of these industries so that the Boards have more independent responsibility for the conduct of wage negotiations at least in all but the minority of cases where a nationalised industry's settlement threatens the whole policy of the government. By its nature Cabinet government tends to generate inflexible bargaining positions. In cases where government departments are themselves the employer as in the Health and other public services (some of which are even now being threatened by trade union action to achieve political objectives) the conflict between government policy and industrial power could be even more difficult to resolve.

18. In industrial relations, as in foreign relations, danger arises when one or more of the protagonists gets locked into a position from which no movement is possible. The maximum flexibility therefore needs to be maintained for as long as possible, not least to permit adjustments to unexpected changes in the external circumstances, such as the dramatic change in energy costs of 1973/74, which affect the negotiating position of the parties concerned. Greater flexibility is facilitated if the Government's involvement can be graduated, so that negotiations do not collapse at the first obstacle. For example, it seems likely that in most cases the Prime Minister should remain detached from the earlier stages of negotiations in order to be free to step in at a later

stage if such an intervention seemed likely to help. However, the conduct of negotiations and how the protagonists should be deployed is itself a technical subject which our proposed Unit would need to master.

5) Modify key facilities to reduce vulnerability

19.

Physical and economic factors can also be adjusted to make key facilities less vulnerable to strike action. One of the most important functions of the Civil Emergency Contingency Unit should be to ensure that security of supply is considered in every major investment decision. This represents in itself a major change of policy. The risk of disruption could be reduced if planning and investment decisions in the public sector took insurance against that risk into account and the lead of the public sector would be likely to be followed in the private sector. Power stations can be designed to make picketing more difficult. For example a single point of entry for the fuel stocks makes picketing easier. More dual firing could be a worthwhile premium to pay for security of supply just as stocking policy should always have this as one of its major objectives. Firms and public utilities should be encouraged to invest in stand-by generation equipment and dual firing for heat processes.

20.

All these methods, which help to preserve a capacity to use alternative materials and equipment, involve additional costs. What is important is that the cost of possible disruption should always be included as a variable in assessing the criteria on which every

major investment decision is made. In the limiting case this becomes a matter of balancing the risk of disruption against savings from increased scale or more sophisticated technology.

II. Guidelines for dealing with a crisis of authority

1) Ensure a single chain of command

21. At the start of an industrial conflict the Government is often inhibited by the belief that it should remain neutral, while the employer is inhibited by the fear that taking up a public position will make subsequent negotiation more difficult. As a result the trade union case tends to get much more exposure than that of either the Government or the employer. This is peculiarly true in a nationalised industry. Throughout most of a typical dispute, trade union leaders are able to state their position freely and frequently, while the Government and the employer are each inhibited, partly through lack of opportunity for mutual consultation.

22. During a strike in a nationalised industry the lines of communication on the employer/Government side are usually long and involve several levels in both the industry and the Government. The chain runs from main line management within the industry and continues upwards through the industry to the Board, thence through several layers of the Government Department to the Minister concerned, and finally via his senior colleagues in Cabinet right up to the Prime Minister in

some cases. In a really serious situation it is difficult or impossible to cut out any of these links with the result that the trade union side enjoys the great advantage of a much shorter chain of command and can therefore change or modify its position both quickly and effectively.

23. To some extent this problem is inherent in our constitutional arrangements - the doctrine of collective responsibility and the semi-independent position of the nationalised industry boards - but the existing machinery would be improved by channelling the greater part of the relevant responsibilities for crisis management through the enhanced and revitalised Civil Emergency Contingencies Unit proposed in paragraphs 8 - 13 above. This Unit, responsible to a senior Minister, would be charged with the task of co-ordinating both the administrative work in a crisis (e.g. rota of power cuts) and the conduct of Government propaganda in a crisis. In 1973/74 these various necessary functions were never fully controlled by a single chain of command. Obviously the Minister in charge of the Unit would have to have the full authority of the Prime Minister behind him and have the authority to cut across departmental boundaries. Security, publicity and propaganda would all come within this purview although it would depend on the case whether he dealt with them himself or exercised a co-ordinating role in relation to the activities of other Ministers. He would act with the full authority of the Cabinet to whom major political decisions would almost certain have to be referred.

2) Seek to maximise public understanding and support

24. It is abundantly clear that it is always a necessary condition (although not always a sufficient condition) for the government to be able to resist a challenge to its authority that it should carry public opinion. With nationalised industries the dividing line between the industry's responsibility as an employer and the Government's as the custodian of the public interest is difficult to draw, but the situation where each is inhibited from putting across its case must be avoided. A distinction needs to be drawn between strikes which may be economically damaging and those which have become so intolerable in their effects as to be a challenge to the Government's authority. In the latter case, the whole Government machine must be mobilised to ensure that the public is made fully aware of what is at stake and of the paramount importance of victory for the interests of the whole community.

25. However, before such a decision is reached, every attempt at conciliation must have been made and been seen to have been made. This is because the Government must always try to operate within the limits of public tolerance and consent, so that if strikers proceed with their self-regarding action, the public remains satisfied that every reasonable attempt has been made to meet any element of justice in the sectional case. This means that during the course of the emergency the public must be kept fully informed of developments. But it also means that a Government should not put its authority in jeopardy in this complete way unless it is confident

that the central issues can be clearly and sympathetically presented to the public as a whole. It is no good starting out with a determination to present the issues in stark black and white shades if there are well founded doubts about the possibility of sustaining such a presentation of the facts. Far better in such cases to try and respond to the emergency in a lower key altogether. A special problem arises if the media themselves vote to come out on strike. In such a case it might be that some official broadcasting network had to be established as an emergency measure on the analogy of the Gazette published during General Strike.

27. We have also in this connection addressed ourselves to the question of the Government information services. There are obvious dangers in having a Ministry of Information in peace-time and indeed both parties, while in Opposition, have complained of the official information services being used for party political propaganda. Nonetheless there does seem to be a case for considerably greater co-ordination of the official information services along the lines set during the days of Charles Hill and William Deedes. A senior Minister in charge of these services could do much to avoid the mistakes of public presentation that occurred in 1973/74. The task would be different to that of the Minister in charge of the Civil Emergency Contingencies Unit, but obviously both would have to work closely together. In any case, the greater part of the information job would be carried out in "peacetime" quite apart from any crisis of authority. It might be

that if such a job were really well done, then the chances of avoiding a crisis would be greatly improved.

3) Use volunteers or troops only in exceptional circumstances or for very specific purposes

27. Those whom we consulted were divided in their views as to whether and, if so, to what extent volunteers or troops could or should be used to maintain essential services during an emergency. We were informed, for example, that whereas in 1949 the London Docks could be operated by troops, today some dock equipment is of such complexity that it can only be operated by people who have been specially trained to do so. Clearly the nature and degree of skill involved will vary from case to case. At one extreme, large nuclear power stations not only require highly skilled operation but also are vulnerable to technical mistakes which could be utterly disastrous in their consequences. At the other extreme volunteers or troops can quite easily collect and dispose of refuse as was demonstrated when the Army dealt with the odorous consequences of the Glasgow dustmen's strike in 1975. Some of us believe that both employers and unions have a tendency to exaggerate the mystery and craft involved in a particular occupation and that officials are so hypnotised by the limiting cases, such as nuclear power stations, that they discount unduly the scope for the use of volunteers or troops in cases where exceptional skills are not required. However, in practice the main constraint is probably not the availability of the required skills, but rather the fear that the use of

troops or volunteers will exacerbate the situation leading to an escalation of the conflict.

28. The main requirement for the use of volunteers is therefore the creation of a climate of opinion in which they are seen not simply as strike breakers but as performing a patriotic duty in maintaining essential supplies or services. In practice the development of such a strategy requires good intelligence not least about the internal politics of the trade union movement.

29. The best deployment of civilian volunteers is probably in activities where they can fulfil a useful supporting role, for example, directing traffic and so releasing police for other more crucial duties. This also has the psychological advantage of channelling in safe and productive directions the pent-up energies of certain over-enthusiastic citizens. What is required is a strategy that will enable those still at work to identify with the broader community interest and those who would like to help the authorities to do so in ways which would not prejudice the eventual resolution of the crisis. Identifying the best use for civilian volunteers would also be a task that could be undertaken by the Civil Emergency Contingencies Unit.

4) Consider the use of an official opinion poll or public referendum

30. In certain crisis circumstances there might be a case for using an advisory public referendum to secure

the general public's verdict on the issue. This involves something more than ensuring that over 50 per cent of the electorate are opposed to the action of the strikers. It is worth remembering that in 1974, on the evidence of the public opinion polls, the balance of public opinion was consistently against the coal miners and indeed in the General Election that followed nearly 60 per cent of the voters voted for parties (Conservative and Liberal) who were committed to the application of statutory incomes policies. If the public could be induced by effective Government propaganda to give an overwhelming vote of confidence to the Government of the day and against the claims of the threatening group, then this would be very conducive to the resolution of all but the most intractable conflicts and would also open the way for legitimising the use of force by the State in ways which would not have been contemplated, let alone accepted, in the absence of such demonstrable support. Of course, Government would have to weigh in advance the competing risks of an adverse public verdict, an indecisive result, or worst of all, a decisive vote of support for the government which could nevertheless be flouted by a sectional group that was sufficiently powerful to achieve its objective regardless of public opinion. Unless the government is prepared to contemplate the use of force and satisfied that such force is capable of being effective, then the use of referendums would merely undermine authority still further. However, there may be exceptional circumstances in the future in which such a course will seem both necessary and justified.

31. From a constitutional point of view, such an innovation would require well in advance the passage of enabling legislation to provide the necessary machinery for holding such a national ballot at very short notice, or it would require a Government to be able to conduct such a poll on its own administrative authority. It must be doubtful, however, whether the latter course would be acceptable to a majority in Parliament.

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